

OREGON BULLETIN

Supplements the 2007 *Oregon Administrative Rules Compilation*

Volume 46, No. 12
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For October 16, 2007–November 15, 2007



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BILL BRADBURY
Secretary of State
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INFORMATION AND PUBLICATION SCHEDULE

General Information

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

Background on Oregon Administrative Rules

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

How to Cite

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

Understanding an Administrative Rule’s “History”

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

Locating the Most Recent Version of an Administrative Rule

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

Locating Administrative Rules Unit Publications

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

2006–2007 Oregon Bulletin Publication Schedule

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

Submission Deadline — Publishing Date

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

Reminder for Agency Rules Coordinators

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

Publication Authority

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

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EXECUTIVE ORDERS

EXECUTIVE ORDER NO. 07 - 18

DETERMINATION OF A STATE OF DROUGHT EMERGENCY IN GRANT COUNTY DUE TO DROUGHT AND LOW WATER CONDITIONS

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

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

A timely response to this situation is vital to the well being and economic security of the citizens and businesses of Grant County, therefore I am declaring a "state of drought emergency" in Grant County and directing the following activities.

IT IS HEREBY ORDERED AND DIRECTED:

1. The Oregon Department of Agriculture shall coordinate and provide assistance in seeking available federal resources to mitigate conditions and affect agricultural recovery in Grant County.
2. The Department of Water Resources shall coordinate and provide assistance and regulation for Grant County as it determines is necessary in accordance with ORS 536.700 to 536.780.
3. The Office of Emergency Management shall coordinate and assist as needed with assessment and mitigation activities to address current and projected conditions in Grant County.
4. All other departments shall coordinate with the above agencies to provide appropriate essential state resources to assist affected political subdivisions in Grant County.
5. This Executive Order expires on December 31, 2007.

Done at Salem, Oregon this 31 day of October, 2007.

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

ATTEST

/s/ Bill Bradbury
Bill Bradbury
SECRETARY OF STATE

EXECUTIVE ORDER NO. 07 - 19

AUTHORIZATION FOR ACCESS TO LAW ENFORCEMENT DATA SYSTEM

ORS 181.010(6) and OAR 257-010-0025(1)(b) authorize the Governor to allow Law Enforcement Data System access to designated state and local agencies that require such information "for agency employment purposes, licensing purposes or other demonstrated needs when designated by order of the Governor." Executive Order No. 90-05 grants such access to a number of state agencies and establishes the conditions under which such access is authorized. Subsequent Executive Orders have authorized access for additional state and local agencies for various purposes.

The Oregon State Board of Nursing requires access to the Oregon State Police criminal offender information system in order to conduct background investigations on prospective employees.

THEREFORE, IT IS ORDERED AND DIRECTED:

1 Pursuant to ORS 181.010(6) and OAR 257-010-0025(1)(b), I hereby authorize the Oregon State Police to provide the Oregon State Board of Nursing with access to the Oregon State Police criminal offender information system for purpose of conducting background investigations on prospective employees of the Board of Nursing.

2. Executive Order No. 90-05 continues to govern the compilation, maintenance and dissemination of criminal offender information as defined in ORS 181.010(3), and that Order governs the access to the Oregon State Police criminal offender information system authorized by this Order.

Done at Salem, Oregon, this 6 day of November, 2007.

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

ATTEST

/s/ Bill Bradbury
Bill Bradbury
SECRETARY OF STATE

EXECUTIVE ORDER NO. 07 - 20

COLLECTIVE BARGAINING WITH RELATIVE ADULT FOSTER HOME PROVIDERS

The availability of adult foster homes enables seniors and persons with disabilities to live in the community in homelike settings when they are unable to live on their own. These homes allow vulnerable populations to live safely and securely while avoiding institutional care. In adult foster homes, medical and personal care services are provided in a manner that encourages independence and improves the quality of life of elderly persons and persons with disabilities. An important component in the range of adult foster homes is relative adult foster homes, where seniors and persons with disabilities are provided care by a family member. Like other adult foster homes, relative adult foster homes offer residents room, meals, laundry and other basic services as well as services directly related to their individual needs, such as incontinence care, assistance with eating, diabetic care, mobility and transfers, skilled nursing tasks, and dementia care. The quality of the care provided by relative adult foster homes depends upon many factors, including the care provider's training and the continuity of the relationship between the resident(s) and the care provider.

Relative adult foster homes play an important role in the continuum of adult foster homes and other long term care services in Oregon and help to reduce the institutionalization of the elderly and persons with disabilities.

The Oregon Department of Human Services ("DHS") is the executive agency authorized to administer and direct all regulated adult foster homes in Oregon and administers state-subsidized care for eligible seniors and persons with disabilities. DHS, the elderly, persons with disabilities, their families, and relative adult foster home providers all will benefit from a process that allows for collective input from relative adult foster home providers on how the State can improve stability among providers and the quality of care provided.

EXECUTIVE ORDERS

On June 1, 2007, the Governor signed Executive Order No. 07-07, granting collective bargaining rights to Eligible Adult Foster Home Providers and recognizing that this group had presented cards to the Employment Relations Board (“ERB”) and that ERB had certified that the cards represented a request to be represented by SEIU Local 503 by more than fifty percent of eligible adult foster Home Providers. The Executive Order excluded persons “who operate only a Relative Adult Foster Home as defined in OAR 411-050-0400(53).

On July 27, 2007 SB 858 was signed by the Governor into Law. SB 858 gives adult foster home providers the right to be certified or recognized as a union and collectively bargain with the State. The bill allows that “an appropriate bargaining unit for adult foster care home providers is any bargaining unit recognized by the Governor in an executive order issued prior to the effective date of this 2007 Act.” The effective date for the legislation is 1/1/2008.

SEIU Local 503 has presented cards to the Employment Relations Board (“ERB”) and ERB has certified that the cards represent a request to be represented by SEIU Local 503 by more than fifty percent of Eligible Relative Adult Foster Home Providers who receive service fees from the State.

For purposes of this Executive Order, an “Eligible Relative Adult Foster Home Provider” is a person who is licensed by DHS to operate a relative adult foster home as defined by OAR 411-050-0400(53) and who receives fees or payments from the state for providing adult foster care home services to a relative or family member. “Eligible Relative Adult Foster Home Provider” does not include a person whose participation in collective bargaining is determined by the Department of Human Services to be inconsistent with this Executive Order or in violation of state or federal law.

THEREFORE, IT IS HEREBY ORDERED AND DIRECTED:

1. DHS shall engage in collective bargaining negotiations and attempt to reach an agreement with SEIU Local 503, on behalf of Eligible Relative Adult Foster Home Providers, concerning all terms and conditions of the relationship between the State and Eligible Relative Adult Foster Home Providers that are within the State’s control. DHS may negotiate jointly on behalf of Eligible Adult Foster Home Providers and Eligible Relative Foster Home Providers with SEIU Local 503. Such terms and conditions shall include those that would be deemed to be mandatory subjects of bargaining under the Public Employee Collective Bargaining Act, ORS 243.650 et seq., as if that law applied, including but not limited to service fees and the provision of health care coverage.
2. If collective negotiations fail to result in an agreement with SEIU Local 503 after a 150-calendar-day period of good faith negotiations, then DHS shall agree that either party to the negotiations may demand appointment of an arbitrator for binding arbitration, subject to the conditions set forth below. Either party to the negotiations may request from ERB a list of seven qualified, disinterested, unbiased persons to serve as a potential arbitrator so that each party can alternatively strike three names from the list. The order of striking should be determined by lot. DHS shall agree that the arbitration process shall follow generally the procedures and timelines of ORS 243.746(3), (5) and (6) (except that the

arbitrator’s opinion and order shall not be filed with ERB) and require that the arbitrator’s findings and opinion be based on the criteria of ORS 243.746(4). It is the State’s intent that judicial review of the arbitrator’s findings and opinion be available under the Uniform Arbitration Act, ORS 36.600 et seq., and that an arbitration award may be vacated by a court for the reasons contained in ORS 36.705.

3. To the extent that DHS may not implement an agreement or an arbitrator’s findings and opinion under this Executive Order without first undertaking rule-making under the Administrative Procedures Act, ORS chapter 183, then the state will not be obligated to implement such agreement or arbitrator’s findings and opinion until the necessary rule-making is completed.

4. Any arbitrator’s findings or opinion that has budgetary impact upon DHS shall be subject to the affected agency obtaining an appropriation to fund those impacts unless and until the Legislative Assembly enacts legislation to apply ORS 243.742, ORS 243.752, or similar provisions, to adult foster home collective bargaining.

5. This Executive Order is not intended to create any contractual rights or obligations, although it is expected that negotiations will result in a written agreement between parties. It is intended solely as executive direction to the State agencies identified herein. Nothing in this Executive Order is intended to give to relative adult foster home providers, or imply that relative adult foster home providers have, any right to engage in a strike or a collective cessation of the delivery of relative foster home services. Nothing in this Executive Order is intended to authorize the execution of fair-share agreements, or to infringe upon the non-association rights of adult foster home providers. Nothing in this Executive Order is intended to provide SEIU Local 503 or any other individual or entity with third-party beneficiary rights.

6. Nothing in this Executive Order is intended to directly or indirectly limit choice in the selection by consumers or their families of relative foster home providers, or cause financial loss to them, including those not eligible for assistance from the State.

7. Relative adult foster home providers are not employees or agents of the State. Nothing in this Executive Order is intended to alter the existing relationship between relative adult foster home providers and the State or in any way imply an employer-employee or principal-agent relationship.

8. This Executive Order is effective immediately.

Done at Salem, Oregon, this 6 day of November, 2007.

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

ATTEST

/s/ Bill Bradbury
Bill Bradbury
SECRETARY OF STATE

OTHER NOTICES

NOTICE OF SELECTED CLEANUP ACTION OWENS BROCKWAY GLASS CONTAINER INC./ JOHNSON LAKE SITE

PROJECT LOCATION: 5850 NE 92nd Drive, Portland, OR
REMEDIAL ACTION: The Department of Environmental Quality (DEQ) has selected the cleanup action for contaminated soil on the Owens Brockway Glass Container Inc. ("Owens") site and contaminated sediment in nearby Johnson Lake. The selected approach includes excavation of contaminated soil and sediment, confinement in an upland portion of the Owens property, and long-term management.

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

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

The selected remedial action consists of the following:

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

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

NEXT STEPS: The Record of Decision (ROD) describing the selected cleanup action is available for review at the downtown Portland Public Library and Park Rose High School library, and DEQ's Northwest Region Office in Portland. The ROD will also be placed on DEQ's web page for the project: www.deq.state.or.us/lq/cu/nwr/johnsonlake/index.htm. To schedule an appointment to review files in DEQ's Northwest Region office, call (503) 229-6729. Questions should be directed to the DEQ Project Manager, Jennifer Sutter, at (503) 229-6148 or sutter.jennifer@deq.state.or.us by October 1, 2007.

Owens is preparing remedial action work plan documents for DEQ review and initiating permitting coordination for lake dredging with the goal of implementing the remedy in the summer 2008.

DEQ DETERMINES NO FURTHER ACTION REQUIRED HOY RESIDENCE (FORMER) SITE TOLEDO, OREGON

PROJECT LOCATION: Hoy Residence (Former), 1429 South Bay Road, Toledo,

HIGHLIGHTS: An above-ground storage tank leaked in 2004 and the leak was not discovered for some time because the site was vacant. A subsequent investigation found contamination of diesel fuel and heavy-range organics in soil at the site above DEQ's risk-based standards.

During the summer of 2006, approximately 139 cubic yards of soil were removed from the site. Subsequent sampling showed that remaining soil does not contain petroleum contaminants. Sampling of groundwater from two nearby wells did not show any effect of contamination. As there is no unacceptable risk based on contaminants at this site, DEQ has issued a No Further Action (NFA) determination.

A file containing detailed information for the site is available for review in DEQ's Eugene office located at 1102 Lincoln St., Suite 210, Eugene, Oregon 97401. Questions concerning this site should be directed to Seth Sadofsky at DEQ's Eugene office or by calling him at 541-687-7329 or toll-free in Oregon at 1-800-844-8467, extension 7329.

NO FURTHER ACTION DETERMINATION FOR BLOCK 38 AT PACIFIC RICHLAND SITE, PORTLAND, OREGON

PROJECT LOCATION: Corner of SW Bond Avenue and SW Gaines Street

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 38 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 38 for development was conducted between June 2006 and July 2007 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 38 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 38 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 ALTERNATIVE REMEDY BNSF MIDLAND MARKET RAIL YARD KLAMATH FALLS, OREGON

COMMENTS DUE: December 31, 2007

PROJECT LOCATION: BNSF Midland Market Rail Yard, Klamath Falls, OR

OTHER NOTICES

PROPOSAL: The Department of Environmental Quality is proposing an amendment to the Record of Decision dated July 21, 2006 for the BNSF Railway Company's Midland Market Rail Yard Site located at 1800 Laverne Avenue in Klamath Falls, Oregon.

HIGHLIGHTS: Based on additional information provided to DEQ on the site's storm water collection system, DEQ is proposing to eliminate the Record of Decision's requirement that a plan to control storm water discharges be included as part of the Remedial Design/Remedial Action work plan. In addition, DEQ is proposing to amend the Record of Decision to accept the locality of the facility originally proposed by BNFS.

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 or via e-mail at robertson.katie@deq.state.or.us. Written comments should be sent by December 31, 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 proposed amendment to the Record of Decision.

NOTICES OF PROPOSED RULEMAKING

Notices of Proposed Rulemaking and Proposed Rulemaking Hearings

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

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

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

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

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

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Board of Architect Examiners
Chapter 806

Rule Caption: IDP and ARE.

Date:	Time:	Location:
1-8-08	9 a.m.	OBAE Conference Rm. 205 Liberty St. NE #A Salem, OR 97301

Hearing Officer: Kim Arbuckle

Stat. Auth.: ORS 670, 671 & 671.125

Stats. Implemented: ORS 671.010, 671.020, 671.041, 671.050, 671.060, 671.065, 671.080, 671.085

Proposed Amendments: 806-010-0010, 806-010-0020, 806-010-0033, 806-010-0035

Proposed Repeals: 806-010-0015

Last Date for Comment: 1-8-08, 1 p.m.

Summary: The purpose of these rule amendments is to allow candidates to begin taking the architect Registration Examination (ARE) as soon as they establish an NCARB Intern Develop Program (IDP) record. These rules do not eliminate either requirement, but changes the current process that restricts the ARE to those candidates who have completed IDP. These rule amendments also provide for a transition to the newest version the ARE (4.0). In addition, these rules amend the list of jurisdictions recognized by the Oregon Board.

Rules Coordinator: Carol Halford

Address: Oregon Board of Architect Examiners, 205 Liberty St. NE, Suite A, Salem, OR 97301

Telephone: (503) 763-0662

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Rule Caption: Renewals and CPE.

Date:	Time:	Location:
1-8-08	9:30 a.m.	OBAE Conference Rm. 205 Liberty St. #A Salem, OR 97301

Hearing Officer: Kim Arbuckle

Stat. Auth.: ORS 670, 671.125 & 183.705

Stats. Implemented: ORS 671.080, 671.085, 671.125, 671.090 & 183.705

Proposed Amendments: 806-010-0090, 806-010-0105, 806-010-0145

Last Date for Comment: 1-8-08, 1 p.m.

Summary: The purpose of these rule amendments is to change the annual renewal cycle to a staggered two-year renewal cycle. It is anticipated that these rules would begin in 2009, with odd-numbered licenses renewing in odd-numbered years and even-numbered licenses renewing in even-numbered years. This will mean half the Board's licensees will renew every year. In addition, these rules change the type of continuing professional education (CPE) that is required for each renewal; allowing only health, safety and welfare subjects. This is in line with current national model regulations.

Rules Coordinator: Carol Halford

Address: Oregon Board of Architect Examiners, 205 Liberty St. NE, Suite A, Salem, OR 97301

Telephone: (503) 763-0662

.....
Board of Medical Examiners
Chapter 847

Rule Caption: Add reference to COMVEX exam in fees rules.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.265

Proposed Amendments: 847-005-0005

Last Date for Comment: 12-28-07

Summary: Proposed rule amendment adds reference to the Comprehensive Osteopathic Medical Variable-Purpose Examination (COMVEX) wherever the Special Purpose Examination (SPEX) is referenced, as the Board has added the COMVEX as an exam that may be required of DOs to demonstrate current medical competency.

Rules Coordinator: Diana M. Dolstra

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

Telephone: (971) 673-2713

.....
Rule Caption: Add podiatric physician to Administrative Medicine status and delete requirement for reactivation.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.265

Proposed Amendments: 847-008-0037, 847-008-0055

Last Date for Comment: 12-28-07

Summary: Proposed rule amendments add podiatric physicians to the Administrative Medicine status and delete a requirement for reactivation of licensure that corresponds with a previous administrative rules amendment regarding streamlining of initial licensure.

Rules Coordinator: Diana M. Dolstra

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

Telephone: (971) 673-2713

.....
Rule Caption: Add reference to COMVEX exam and amend reporting requirements per SB 337.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.265, 677.415

Proposed Amendments: 847-010-0060, 847-010-0064, 847-010-0070, 847-010-0073

Last Date for Comment: 12-28-07

Summary: Proposed rule amendments add reference to the Comprehensive Osteopathic Medical Variable-Purpose Examination (COMVEX) wherever the Special Purpose Examination (SPEX) is referenced, as the Board has added the COMVEX as an exam that may be required of DOs to demonstrate current medical competency. Proposed amendments to OAR 847-010-0073 were drafted to reflect statutory changes to ORS 677.415, as the result of SB 337 becoming law on July 17, 2007 when the Governor signed the bill.

Rules Coordinator: Diana M. Dolstra

NOTICES OF PROPOSED RULEMAKING

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

Rule Caption: Require fingerprints of licensees reactivating and add reference to COMVEX exam.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.190, 677.265

Proposed Amendments: 847-020-0155, 847-020-0183

Last Date for Comment: 12-28-07

Summary: Proposed rule amendment adds requirement that licensee reactivating their license submit a fingerprint card to determine their fitness to practice. Current rule regarding criminal records checks includes applicants for initial licensure, licensees renewing their license, and licensees under investigation. Proposed rule amendment also adds reference to the Comprehensive Osteopathic Medical Variable-Purpose Examination (COMVEX) wherever the Special Purpose Examination (SPEX) is referenced, as the Board has added the COMVEX as an exam that may be required of DOs to demonstrate current medical competency.

Rules Coordinator: Diana M. Dolstra

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

Telephone: (971) 673-2713

Rule Caption: Add reference to COMVEX exam in Volunteer Emeritus physician rules.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.265

Proposed Amendments: 847-023-0005

Last Date for Comment: 12-28-07

Summary: Proposed rule amendment adds reference to the Comprehensive Osteopathic Medical Variable-Purpose Examination (COMVEX) wherever the Special Purpose Examination (SPEX) is referenced, as the Board has added the COMVEX as an exam that may be required of DOs to demonstrate current medical competency.

Rules Coordinator: Diana M. Dolstra

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

Telephone: (971) 673-2713

Rule Caption: Establish attempt limits for the PANCE exam.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.265

Proposed Amendments: 847-050-0020

Last Date for Comment: 12-28-07

Summary: The proposed rule amendment establishes attempt limits for the Physician Assistant National Certifying Examination (PANCE).

Rules Coordinator: Diana M. Dolstra

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

Telephone: (971) 673-2713

Board of Tax Practitioners Chapter 800

Rule Caption: 2007 overhaul of OARs based on recommendations made by the Rules Advisory Committee and voted on by the Board.

Date:	Time:	Location:
12-21-07	9 a.m.	3218 Pringle Rd. SE, #120 Salem, OR 97302

Hearing Officer: Monica J. Walker

Stat. Auth.: ORS 673.605, 673.740 & 673.990

Stats. Implemented: ORS 673.605, 673.740 & 673.990

Proposed Adoptions: 800-015-0015

Proposed Amendments: 800-010-0015, 800-010-0017, 800-010-0025, 800-010-0030, 800-010-0041, 800-015-0005, 800-015-0010, 800-015-0030, 800-020-0015, 800-020-0020, 800-020-0022, 800-020-0025, 800-020-0026, 800-020-0030, 800-020-0031, 800-020-0035, 800-025-0020, 800-025-0023, 800-025-0025, 800-025-0030, 800-025-0060, 800-025-0070, 800-030-0025, 800-030-0050

Last Date for Comment: 12-21-07, 5 p.m.

Summary: The amendments to the OARs were recommended by the Board's Rules Advisory Committee and are for general "house-keeping" & "maintenance" as well as to change language to better reflect the "norm" in industry standards and the practices of other state agencies.

The adoption of OAR 800-015-0015 allows for the implementation of a continuing education audit process for licensees.

The amendment(s) to OAR 800-020-0025 propose to increase the fees of the Board. The fee increases include the fees for licenses, examinations, business registrations and late fees. The increased revenues will be used to cover the agencies; Department of Administrative Services assessments, Department of Justice assessments, inflation, salary increases and rent. The remaining revenues will be used to; upgrade the agency's database and include a compliance program and replace the agency's computer hardware per the Department of Administrative Service's schedule.

The amendment(s) to OAR 800-030-0050 provide the Board guidance when processing requests and assessing charges for board materials. These amendments also assist tax practitioners and the general public by clarifying the services available from the Board for purchase as well as the Board's intentions and practice in processing requests and assessing charges for board materials.

Rules Coordinator: Monica J. Walker

Address: Board of Tax Practitioners, 3218 Pringle Rd. SE, # 120, Salem, OR 97302

Telephone: (503) 378-4034

Bureau of Labor and Industries Chapter 839

Rule Caption: Description of elements of discrimination in retaliation for opposing unlawful practice.

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 659A.030(1)(f)

Proposed Adoptions: 839-005-0033

Last Date for Comment: 12-21-07

Summary: This proposed rule would describe the elements of discrimination in retaliation for opposing unlawful practices.

Rules Coordinator: Marcia Ohlemiller

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

Telephone: (971) 673-0784

Rule Caption: Clarifies requirements for out-of-state attorneys appearing in contested cases and duties of sponsoring attorneys.

Stat. Auth.: ORS 183 & 651.060(4)

Stats. Implemented: ORS 279.361, 279.370, 652.332(3), 653.065(1), 658.407(3), 658.820, 659A.845 & 659A.850

Proposed Amendments: 839-050-0020

Last Date for Comment: 12-21-07

Summary: The proposed rule amendments would clarify statutory and regulatory requirements for out-of-state attorneys to appear in agency contested cases. The proposed rule would define the duty of a sponsoring local attorney to participate meaningfully in the contested case.

Rules Coordinator: Marcia Ohlemiller

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

Telephone: (971) 673-0784

NOTICES OF PROPOSED RULEMAKING

Rule Caption: Proposing rules to implement and clarify newly enacted statutes SB 2 and HB 2007.

Stat. Auth.: ORS 659A.805

Other Auth.: SB2 & HB 2007

Stats. Implemented: Oregon Laws 2007, Ch. 100 & Ch. 99

Proposed Adoptions: 839-005-0016

Proposed Amendments: 839-005-0000, 839-005-0003, 839-005-0010, 839-005-0021, 839-005-0026, 839-005-0030

Last Date for Comment: 12-24-07

Summary: The proposed rules would implement and clarify newly enacted statutory provisions making discrimination based on sexual orientation an unlawful practice under Chapter 259A (SB2) and add "domestic partner" to the rights and protections under the appropriate rules (SB 2007). The proposed rules also correct grammatical and technical errors.

Rules Coordinator: Marcia Ohlemiller

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

Telephone: (971) 673-0784

Rule Caption: Repealing rules from 839-006 and relocating them to 839-005.

Stat. Auth.: ORS 659A.805

Other Auth.: SB 725

Stats. Implemented: Oregon Laws 2007, Ch. 908

Proposed Repeals: 839-006-0400, 839-006-0405, 839-006-0410, 839-006-0415, 839-006-0425

Last Date for Comment: 12-24-07

Summary: The rules cited above related to discrimination in real property transactions based on disability are being relocated to division 839-005 where proposed rule amendments would implement statutory changes conforming state housing discrimination law with federal law.

Rules Coordinator: Marcia Ohlemiller

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

Telephone: (971) 673-0784

Rule Caption: Adopts a new rule clarifying law pertaining to Farm Labor Contractors.

Stat. Auth.: ORS 658.407

Stats. Implemented: ORS 658.405 - 658-503

Proposed Adoptions: 839-015-0509

Last Date for Comment: 12-26-07

Summary: The proposed new rule clarifies under what circumstances a person will be considered to have violated the provisions of ORS 658.437(2) relating to the duties of persons to whom workers are provided by a farm labor contractor.

Rules Coordinator: Marcia Ohlemiller

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

Telephone: (971) 673-0784

Rule Caption: Amends rules regulating the payment of prevailing wage rates on public works projects.

Stat. Auth.: ORS 651.060(4), 279C

Stats. Implemented: ORS 279C.800 - 279C.870

Proposed Adoptions: 839-025-0315

Last Date for Comment: 12-26-07

Summary: The proposed new rule establishes a procedure by which authorization to use multiple wage determinations on public works projects subject to the prevailing wage rate (PWR) law may be requested from and authorized by the Commissioner of the Bureau of Labor and Industries.

Rules Coordinator: Marcia Ohlemiller

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

Telephone: (971) 673-0784

Rule Caption: Proposed amendments to implement new statutory protections for making wage complaints and clarifying revisions.

Stat. Auth.: ORS 659A.805, 652, 653

Other Auth.: HB 2255, 2007 Oregon Legislature

Stats. Implemented: Chapter 278, Oregon Laws 2007

Proposed Amendments: 839-010-0000, 839-010-0010, 839-010-0020, 839-010-0040, 839-010-0100

Proposed Repeals: 839-010-0110

Last Date for Comment: 12-21-07

Summary: The rules proposed to be amended would implement HB 2255, which makes discrimination or retaliation against employees who complain about or inquire about wages an unlawful employment practice under ORS chapter 659A. Because this is a new civil rights protection, rules are necessary to insure employers and employees are aware of and understand the details of the new law.

Revisions to other Division 10 rules and repeal of one rule would reorganize and clarify the rules.

Rules Coordinator: Marcia Ohlemiller

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

Telephone: (971) 673-0784

Columbia River Gorge Commission Chapter 350

Rule Caption: Amendments to Commission Rules for Open Meetings, Public Records, and Administrative Procedure.

Date:	Time:	Location:
2-12-08	9 a.m.	Hood River Co. Admin. Bldg. 601 State St. Hood River, OR

Hearing Officer: Columbia River Gorge Commission

Stat. Auth.: ORS 196.150

Other Auth.: RCW 43.97.015, 16 U.S.C. 544c(b)

Stats. Implemented: ORS 196.150, RCW 43.97.015, 16 U.S.C. 544c(b), 544d(h)

Proposed Adoptions: 350-011-0011

Proposed Amendments: 350-011-0003, 350-012-0007, 350-012-0008, 350-016-0009

Last Date for Comment: 2-5-08

Summary: The purpose of the proposed amendments to Commission Rules 350-011, 012, and 016 is to conform these rules to the more restrictive of Oregon's and Washington's statutes as required by the Scenic Area Act. These proposed amendments are necessary due to changes made during the 2008 legislative sessions. There are no anticipated effects to the public from these changes; the changes are procedural to the Commission.

Rules Coordinator: Nancy A. Andring

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

Telephone: (509) 493-3323

Department of Administrative Services Chapter 125

Rule Caption: Amendment changing the comment period for responses to neighbor notices, draft staff reports, from 10 to 15 days.

Stat. Auth.: ORS 293.295 - 293.515

Other Auth.: OAR 125-145

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

Proposed Amendments: 125-145-0080, 125-145-0100

Last Date for Comment: 12-21-07, 5 p.m.

Summary: The recommended amendments to Measure 37 OAR 125-145-0080 and 125-145-0100 change the comment period for responses to neighbor notices, and for responses to draft staff reports, from 10 to 15 days. The amendment provides additional time for claimants, neighbors and other interested parties to comment on these critical elements of the M37 waiver consideration process. This

NOTICES OF PROPOSED RULEMAKING

rule change does not impact the total time allowed to process any individual claim; it would run within the statutorily defined time period.

Rules Coordinator: Yvonne Hanna

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

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

.....
**Department of Administrative Services,
Oregon Educators Benefit Board
Chapter 111**

Rule Caption: Establishes Oregon Educators Benefit Board's rule-making authority, powers and duties of the Board and procurement and contracting authority.

Date:	Time:	Location:
12-19-07	8 a.m.	Basement Hearing Rm. Agriculture Bldg. 635 Capitol St. NE Salem, OR 97301

Hearing Officer: Denise Hall

Stat. Auth.: Ch. 00007, Oregon Laws 2007

Stats. Implemented: Sec. 1 - 14, 19, ch. 00007, OL 2007, ORS 183.310 - 183.550, 192.660 & 292.051

Proposed Adoptions: 111-001-0000, 111-001-0005, 111-002-0005, 111-002-0010, 111-005-0010, 111-005-0015, 111-005-0020, 111-005-0040, 111-005-0042, 111-005-0044, 111-005-0046, 111-005-0048, 111-005-0050, 111-005-0060, 111-005-0070

Last Date for Comment: 12-28-07

Summary: Establishes procedures to be used for rulemaking, powers and duties of the Board and procurement and contracting processes and requirements for the Oregon Educators Benefit Board (OEBB).

Rules Coordinator: Rose Mann

Address: Department of Administrative Services, Oregon Educators Benefit Board, 775 Court St. NE, Salem, OR 97301

Telephone: (503) 378-4606

.....
Rule Caption: Provides definitions of terms used for the Oregon Educators Benefit Board benefits program.

Date:	Time:	Location:
12-19-07	8 a.m.	Basement Hearing Rm. Agriculture Bldg. 635 Capitol St. NE Salem, OR 97301

Hearing Officer: Denise Hall

Stat. Auth.: Ch. 00007, Oregon Laws 2007

Stats. Implemented: Sec. 1, Ch. 00007, Oregon Laws 2007

Proposed Adoptions: 111-010-0015

Last Date for Comment: 12-28-07

Summary: Provides definitions of terms used for the Oregon Educators Benefit Board benefits program.

Rules Coordinator: Rose Mann

Address: Department of Administrative Services, Oregon Educators Benefit Board, 775 Court St. NE, Salem, OR 97301

Telephone: (503) 378-4606

.....
Rule Caption: Establishes Oregon Educators Benefit Board's policy for effective dates for employee group phase-in for Non-subject Districts.

Date:	Time:	Location:
12-19-07	8 a.m.	Basement Hearing Rm. Agriculture Bldg. 635 Capitol St. NE Salem, OR

Hearing Officer: Denise Hall

Stat. Auth.: Ch. 00007, Oregon Laws 2007

Stats. Implemented: Sec. 14(2) & 16(5)&(6), ch. 0007, Oregon Laws 2007

Proposed Adoptions: 111-020-0005

Last Date for Comment: 12-28-07

Summary: Establishes Oregon Educators Benefit Board's policy for effective dates for employee group phase-in for Non-subject Districts.

Rules Coordinator: Rose Mann

Address: Department of Administrative Services, Oregon Educators Benefit Board, 775 Court St. NE, Salem, OR 97301

Telephone: (503) 378-4606

.....
**Department of Agriculture
Chapter 603**

Rule Caption: Creation of Potato Disease control area in northern Union County.

Date:	Time:	Location:
1-16-08	10 a.m.	Ag. Service Center 10507 N McAlister Rd. LaGrande, OR 97850

Hearing Officer: Dan Sharatt

Stat. Auth.: ORS 561.190, 570.305, 570.405

Stats. Implemented: ORS 570.405

Proposed Adoptions: 603-052-0395

Last Date for Comment: 1-25-08

Summary: The proposed rule would establish a potato disease control area in northern Union County. Its purpose would be to protect the seed potato industry in northern Union County from the introduction and spread of potato diseases, including viruses and pests. Seed potatoes entering the area would have to be inspected and certified. Cull potatoes would have to be destroyed within 30 days. Late blight and other diseases would have to be controlled. Farm equipment used for potatoes would have to be cleaned prior to entering the control area.

Rules Coordinator: Sue Gooch

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

Telephone: (503) 986-4583

.....
Rule Caption: Adds two weeds to weed quarantine, modifies restrictions on English ivy, butterfly bush, and Scotch broom.

Date:	Time:	Location:
1-14-08	1:30 p.m.	Dept. of Ag., Rm. D 635 Capitol St. NE Salem, OR 97301

Hearing Officer: Jim LaBonte

Stat. Auth.: ORS 561.020, 561.190, 561.510 & 570.305

Stats. Implemented: ORS 561.510

Proposed Amendments: 603-052-1200

Last Date for Comment: 1-15-08

Summary: The proposed amendment to the noxious weed quarantine (603-052-1200) would update the list of prohibited plants. Two new weeds, parrots feather (*Myrophyllum aquaticum*) and perennial peavine (*Lathyrus latifolius*) would be added to the list. Restrictions would be modified for English Ivy (*Hedera helix/hibernica*), butterfly bush (*Buddleia davidii/varabilia*), and Scotch broom (*Cytisus sopparius*). These changes would bring the noxious weed quarantine in line with the State Noxious Weed List maintained by the State Weed Board.

Rules Coordinator: Sue Gooch

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

Telephone: (503) 986-4583

.....
Rule Caption: Repeal of quarantine against European Pine Shoot Moth, updates to other insect quarantines.

Stat. Auth.: ORS 561, 570

Stats. Implemented: ORS 561.510, 570.305

Proposed Amendments: 603-052-0127, 603-052-0129, 603-052-0260, 603-052-0360, 603-052-1221

Proposed Repeals: 603-052-0130 - 603-052-0145

NOTICES OF PROPOSED RULEMAKING

Last Date for Comment: 12-31-07

Summary: The proposed changes update various insect quarantines:

1. Repeal the external quarantine against European pine shoot moth. This insect is now widely distributed in Oregon and the quarantine has outlived its usefulness.
2. Add British Columbia to the area under quarantine for European chafer.
3. Add Michigan to the area under quarantine for exotic phytophagous snails.
4. Update scientific name of codling moth.
5. Update reference to 2005 Insect Control Handbook.
6. Deletes reference to glassy-winged sharpshooter quarantine review in 2003.

Rules Coordinator: Sue Gooch

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

Telephone: (503) 986-4583

Department of Agriculture, Oregon Blueberry Commission Chapter 670

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

Stat. Auth.: ORS 576.304

Other Auth.: Motion made by Commission at September 25, 2007 Commission meeting.

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

Proposed Adoptions: 670-020-0010, 670-020-0020, 670-020-0030

Last Date for Comment: 12-28-07, 12 p.m.

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

Rules Coordinator: Lisa Ostlund

Address: Department of Agriculture, Oregon Blueberry Commission, 4093 12th St. Cutoff, SE, Salem, OR 97302

Telephone: (503) 364-2944

Department of Agriculture, Oregon Clover Commission Chapter 664

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

Stat. Auth.: ORS 292.495, 576.051 - 576.595

Stats. Implemented: ORS 292.495, 576.051 - 576.595

Proposed Adoptions: 664-020-0010, 664-020-0020, 664-020-0030

Last Date for Comment: 2-6-08, 7 a.m.

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

Rules Coordinator: John H. McCulley

Address: Department of Agriculture, Oregon Clover Commission, PO Box 2042, Salem, OR 97308

Telephone: (503) 370-7019

Department of Agriculture, Oregon Highland Bentgrass Commission Chapter 641

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

Stat. Auth.: ORS 576.304

Other Auth.: Motion made by Commission at September 20, 2007 Commission meeting.

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

Proposed Adoptions: 641-020-0010, 641-020-0020, 641-020-0030

Last Date for Comment: 12-28-07, 12 p.m.

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

Rules Coordinator: Lisa Ostlund

Address: Department of Agriculture, Oregon Highland Bentgrass Commission, 4093 12th St. Cutoff, SE, Salem, OR 97302

Telephone: (503) 364-2944

Department of Agriculture, Oregon Mint Commission Chapter 642

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

Stat. Auth.: ORS 576.304

Other Auth.: Motion made by Commission at November 8, 2007 Commission meeting.

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

Proposed Adoptions: 642-020-0010, 642-020-0020, 642-020-0030

Last Date for Comment: 12-28-07, 12 p.m.

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

Rules Coordinator: Lisa Ostlund

Address: Department of Agriculture, Oregon Mint Commission, 4093 12th St. Cutoff, SE, Salem, OR 97302

Telephone: (503) 364-2944

Department of Agriculture, Oregon Orchardgrass Seed Producers Commission Chapter 655

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

Stat. Auth.: ORS 292.495, 576.051 - 576.595

Stats. Implemented: ORS 292.495, 576.051 - 576.595

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

Last Date for Comment: 1-9-08, 6 p.m.

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

Rules Coordinator: John H. McCulley

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

Telephone: (503) 370-7019

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

Rule Caption: Clarifies procedures to assume responsibility for a building inspection program from the state.

Date:	Time:	Location:
12-18-07	10:30 a.m.	1225 Ferry St. SE Mt. Neahkahnie Conf. Rm. Salem, OR

Hearing Officer: Richard Y. Blackwell

Stat. Auth.: ORS 455.148

Stats. Implemented: ORS 455.148

Proposed Adoptions: 918-020-0094

Last Date for Comment: 12-18-07, 5 p.m.

Summary: This proposed rule clarifies the processes and procedures to request and assume responsibility to administer and enforce the

NOTICES OF PROPOSED RULEMAKING

state building code from state administered building inspection programs.

Rules Coordinator: Nicole Jantz

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

Telephone: (503) 378-4130

.....

Rule Caption: Implementation for licensing consistency in electrical, elevator, plumbing and boiler programs.

Date:	Time:	Location:
12-18-07	9:30 a.m.	1225 Ferry St. SE Mt. Neahkahnee Rm. Salem, OR 97301

Hearing Officer: Chris Huntington

Stat. Auth.: ORS 183.335, 447.020, 455.117, 460.085, 479.730, 480.545, 480.630, 693.103 & 693.135

Other Auth.: Ch. 271 (2007 Oregon Laws)

Stats. Implemented: ORS 183.335, 460.165, 479.730, 480.630 & 693.103

Proposed Amendments: Rules in 918-030, 918-225, 918-282, 918-400, 918-780

Last Date for Comment: 12-18-07, 5 p.m.

Summary: These proposed rules implement HB 2219 by eliminating licensing examination fees, establishing consistent terminology for "application" and "renewal" fees and adjusting without increasing fee amounts to reflect the new 3-year licensing cycles. These rules also implement license terms for reciprocating mechanic and restricted reciprocating conveyor mechanic licenses consistent with established elevator trade license terms. These rules also correct the electrical and elevator contractor license term, which was overlooked during HB 2181 license consistency rules implementation in October 2006.

Rules Coordinator: Nicole Jantz

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

Telephone: (503) 378-4130

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Rule Caption: Allows residential inspectors to inspect all types of residential structures during construction.

Date:	Time:	Location:
12-18-07	11:30 a.m.	1225 Ferry St. SE Mt. Neahkahnee Conf. Rm. Salem, OR

Hearing Officer: Celina Patterson

Stat. Auth.: ORS 455.720, 455.730

Stats. Implemented: ORS 455.622, 455.720, 455.730

Proposed Amendments: Rules in 918-098

Last Date for Comment: 12-18-07, 5 p.m.

Summary: These proposed rules expand the scope of work allowed for residential inspector certifications to include all types of residential structures including manufactured dwellings.

Rules Coordinator: Nicole Jantz

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

Telephone: (503) 378-4130

.....

Rule Caption: Defines "domestic" tankless water heater exempted from boiler safety law under HB 3360 (2007).

Date:	Time:	Location:
12-18-07	10 a.m.	1225 Ferry St. SE Mt. Neahkahnee Conf. Rm. Salem, OR

Hearing Officer: Casey Hoyer

Stat. Auth.: ORS 455.030

Stats. Implemented: Ch. 386 (2007 Oregon Laws)

Proposed Adoptions: 918-225-0345

Last Date for Comment: 12-18-07, 5 p.m.

Summary: This proposed rule defines a "domestic" tankless water heater for purposes of the exemption from the boiler and pressure vessel law under House Bill 3360 (2007).

Rules Coordinator: Nicole Jantz

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

Telephone: (503) 378-4130

.....

Rule Caption: Implements statewide certificate of occupancy requirements for residential structures (HB 2478)

Date:	Time:	Location:
12-18-07	11 a.m.	1225 Ferry St. SE Mt. Neahkahnee Rm. Salem, OR 97301

Hearing Officer: Richard Blackwell

Stat. Auth.: Or Laws 2007, ch. 549, sec. 2 (HB 2478)

Stats. Implemented: Or Laws 2007, ch. 549, sec. 2 (HB 2478)

Proposed Adoptions: 918-480-0140

Last Date for Comment: 12-18-07, 5 p.m.

Summary: This proposed rule implements HB 2478, enacted by the 2007 legislature, by establishing certificate of occupancy requirements for residential structures.

Rules Coordinator: Nicole Jantz

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

Telephone: (503) 378-4130

.....

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

Rule Caption: Set fees for banking, credit union, and consumer finance programs.

Date:	Time:	Location:
1-10-08	9 a.m.	Rm. 260, L & I Bldg. 350 Winter St. NE Salem, OR

Hearing Officer: Patricia Locnikar

Stat. Auth.: ORS 705.620, 706.544, 723.012, 723.032, 723.102, 725.185

Other Auth.: Ch. 343 2007, Oregon Laws

Stats. Implemented: ORS 706.530, 706.544, 723.114, 725.185

Proposed Amendments: 441-500-0020, 441-500-0030, 441-710-0500, 441-730-0030

Last Date for Comment: 1-17-08, 5 p.m.

Summary: These proposed rules amendments revise the annual licensing or assessment and examination fees assessed by the Director against state chartered banks, state chartered credit unions, and consumer finance licensees.

Rules Coordinator: Shelley Greiner

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

Telephone: (503) 947-7484

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Department of Consumer and Business Services, Insurance Division Chapter 836

Rule Caption: Small Employer Health Benefit Plans.

Date:	Time:	Location:
1-10-08	2 p.m.	Conference Rm. F (basement) 350 Winter St. NE Salem, OR

Hearing Officer: Lewis Littlehales

Stat. Auth.: ORS 731.244, 743.731, 746.240

Stats. Implemented: ORS 743.730, 743.731, 743.733, 743.734, 743.736, 743.737, 746.240, 743.650 & sec. 3, ch. 389, OL 2007 (Enrolled HB 2002)

NOTICES OF PROPOSED RULEMAKING

Proposed Amendments: 836-053-0021, 836-053-0030, 836-053-0040, 836-053-0050, 836-053-0060, 836-053-0065

Proposed Repeals: 836-053-0016, 836-053-0026

Last Date for Comment: 1-16-08

Summary: This rulemaking proposes to implement chapter 389, Oregon Laws 2007 (Enrolled House Bill 2002) by permanently adopting temporary rules that are currently in effect for that purpose. The legislation makes several changes to the statutes governing small employer health benefit plans. The proposed rules add specifics and clarifications to these changes. For example, the rules phase in the rate band changes from the legislation.

Rules Coordinator: Sue Munson

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

Telephone: (503) 947-7272

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Rule Caption: Repeal of rules Governing Reporting of Claims on Professional Liability Insurance Covering Health Care Providers.

Stat. Auth.: ORS 731.244 & 742.400

Stats. Implemented: ORS 742.400 as amended by ch. 803, OL 2007

Proposed Repeals: 836-054-0050 – 836-054-0065

Last Date for Comment: 12-21-07

Summary: This rulemaking proposes to repeal Department of Consumer and Business Services-Insurance Division rules governing the reporting of claims against professional liability insurance covering licensed health care practitioners. By statute, the reporting is to be made to the appropriate state licensing board. Legislation enacted in the 2007 regular session of the Oregon Legislative Assembly deleted the Department's authority to prescribe the reporting forms and requirements.

Rules Coordinator: Sue Munson

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

Telephone: (503) 947-7272

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Department of Consumer and Business Services, Oregon Medical Insurance Pool Board Chapter 443

Rule Caption: To clearly update rules with current legislation and to identify the most recent edition of the OMIP Contracts.

Stat. Auth.: ORS 735.600 - 735.650

Stats. Implemented: ORS 735.600 - 735.650

Proposed Amendments: 443-002-0010, 443-002-0060, 443-002-0070, 443-002-0100

Proposed Repeals: 443-002-0095

Last Date for Comment: 12-23-07

Summary: • 0010 (definitions) removed definitions already defined by statute and added definitions.

• 0060 (eligibility) revised section to accurately reflect who and how members are eligible for OMIP with clear plain language.

• 0070 (benefit, benefit limitations, exclusions and claims admin) this section is required to be updated to refer to the current OMIP benefit year.

• 0100 (member suspension) revise and put in order that is easy to understand and that follows the procedures of the program more closely.

• 0095 (special exception to the 12 month waiting period) this section was repealed and renumbered under 0100. This section was also revised in clear plain language.

Rules Coordinator: Linnea Saris

Address: Department of Consumer and Business Services, Oregon Medical Insurance Pool, 250 Church St. SE, Suite 200, Salem, OR 97301

Telephone: (503) 378-5672

Department of Corrections Chapter 291

Rule Caption: Prohibited Inmate Conduct and Processing Disciplinary Actions.

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

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

Proposed Amendments: 291-105-0010, 291-105-0021, 291-105-0026, 291-105-0028, 291-105-0041, 291-105-0046, 291-105-0056, 291-105-0064, 291-105-0066, 291-105-0069, 291-105-0071, 291-105-0081, 291-105-0085, 291-105-0100

Last Date for Comment: 12-28-07

Summary: The rule modifications are necessary to update and clarify the standardized process for handling inmate misconduct in Department of Corrections facilities and to reflect operational changes that have occurred since the previous amendments. The amendments expand the time an inmate may be ordered loss of leisure activities to address misconduct from 24 hours to 72 hours; define the parameters for calculating restoration of earned time credits or statutory good time as a result of adjustments to the final order for an inmate's significant positive behavior change; and require inmates to use a specific department form when filing a petition for administrative review to the Inspector General.

Rules Coordinator: Janet R. Worley

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

Telephone: (503) 945-0933

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Department of Energy Chapter 330

Rule Caption: Amend Business Energy Tax Credit (BETC) program rules.

Date:	Time:	Location:
1-15-08	9:30 a.m.	Dept. of Energy 625 Marion St. NE Salem, OR

Hearing Officer: John Kaufmann

Stat. Auth.: ORS 469.040(1)(d), 469.185 - 469.225

Stats. Implemented: ORS 469.185 - 469.225

Proposed Adoptions: Rules in 330-090

Proposed Amendments: 330-090-0105, 330-090-0110, 330-090-0120, 330-090-0130, 330-090-0135, 330-090-0140, 330-090-0150

Last Date for Comment: 1-22-08

Summary: The proposed rules implement provisions of HB 3201, sections 14 - 27, which expand the BETC program. The proposed rules would:

• Establish rules for taxpayer and applicant to be consistent with Oregon tax law.

• Establish rules for renewable energy manufacturing facility eligibility.

• Establish rules for energy facility site.

• Establish rules for renewable energy resource facilities eligibility.

• Make other changes as needed to effectively implement BETC program statutes.

• Make editorial and housekeeping changes to OAR 330-090-0105 to 330-090-0150, as needed.

Rules Coordinator: Kathy Stuttaford

Address: Department of Energy, 625 Marion St. NE, Salem, OR 97301

Telephone: (503) 378-4128

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Department of Fish and Wildlife Chapter 635

Rule Caption: Establish Average Market Values of Food Fish for Determining Damages Related to Commercial Fishing Violations.

NOTICES OF PROPOSED RULEMAKING

Date: 1-11-08
Time: 8 a.m.
Location: Oxford Suites
12226 N. Jantzen Dr.
Portland, OR 97217

Hearing Officer: Fish & Wildlife Commission

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.109 & 506.720

Proposed Amendments: 635-006-0232

Last Date for Comment: 1-11-08

Summary: Amend rule to establish the average market value of food fish species used to determine damages for commercial fishing violations.

Rules Coordinator: Casaria Tuttle

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

Telephone: (503) 947-6033

Rule Caption: Adoption and Amendment of Rules for the Issuance and Management of Limited Entry Sardine Permits.

Date: 1-11-08
Time: 8 a.m.
Location: Oxford Suites
12226 N. Jantzen Dr.
Portland, OR 97217

Hearing Officer: Fish & Wildlife Commission

Stat. Auth.: ORS 496.146, 506.036, 506.109 & 506.119

Stats. Implemented: ORS 506.036, 506.109, 506.119 & 506.129

Proposed Adoptions: Rules in 635-006

Proposed Amendments: Rules in 635-006

Proposed Repeals: Rules in 635-006

Last Date for Comment: 1-11-08

Summary: Adopt and amend rules as necessary to modify the Limited Entry Sardine Permit renewal deadline date and implement changes as prescribed in Oregon Senate Bill 241.

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, Administrative Services Division and Director's Office Chapter 407

Rule Caption: Establishment of Security Standards for Access to Department Information Assets, Networks, and Systems.

Date: 12-21-07
Time: 9:30-10:30 a.m.
Location: Human Services Bldg.
Rm. 137-A
500 Summer St. NE
Salem, OR 97301

Hearing Officer: Jennifer Bittel

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 182.122

Proposed Adoptions: 407-014-0300, 407-014-0305, 407-014-0310, 407-014-0315, 407-014-0320

Last Date for Comment: 12-27-07, 5 p.m.

Summary: This rule applies to anyone who seeks access to the Department of Human Services' information assets, systems, and networks. It establishes access controls for all users and requires entities to establish a risk management plan addressing common safeguards and HIPAA compliance. This rule allows for audits of entities handling Department information assets, addresses privilege changes, and establishes requirements for reporting incidents and resolutions.

Proposed rules are available on the DHS Website: <http://www.oregon.gov/DHS/admin/dwssrules/index.shtml>

For hardcopy requests, call: (503) 947-5250.

Rules Coordinator: Jennifer Bittel

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

Telephone: (503) 947-5250

Rule Caption: Electronic Date Transmission (EDT) Rule Move and Amendment.

Date: 12-26-07
Time: 3-4 p.m.
Location: Human Services Bldg.
Rm. 137-A
500 Summer St. NE
Salem, OR 97301

Hearing Officer: Jennifer Bittel

Stat. Auth.: ORS 409.050, 414.065

Stats. Implemented: ORS 414.065

Proposed Ren. & Amends: 410-001-0100 to 407-120-0100, 410-001-0110 to 407-120-0110, 410-001-0120 to 407-120-0120, 410-001-0130 to 407-120-0130, 410-001-0140 to 407-120-0140, 410-001-0150 to 407-120-0150, 410-001-0160 to 407-120-0160, 410-001-0170 to 407-120-0170, 410-001-0180 to 407-120-0180, 410-001-0190 to 407-120-0190, 410-001-0200 to 407-120-0200

Last Date for Comment: 12-28-07, 5 p.m.

Summary: The Department of Human Services needs to amend these rules to ensure the Department's EDT rules compliment the new functionality of the Oregon Replacement Medicaid Management Information System (MMIS) in conjunction with the Health Insurance Portability and Accountability Act (HIPAA) transactions and codes set standards for the exchange of electronic data. The rules are also being moved to the Department-wide administrative rule chapter because they are agency-wide in nature.

Proposed rules are available on the DHS Website: <http://www.oregon.gov/DHS/admin/dwssrules/index.shtml>

For hardcopy requests, call: (503) 947-5250.

Rules Coordinator: Jennifer Bittel

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

Telephone: (503) 947-5250

Rule Caption: DHS Medicaid Management Information System (MMIS) Provider Enrollment and Claiming.

Date: 12-26-07
Time: 11 a.m.-12 p.m.
Location: Human Services Bldg.
Rm. 137-A
500 Summer St. NE
Salem, OR 97301

Hearing Officer: Jennifer Bittel

Stat. Auth.: ORS 409.010, 409.050, 409.060, 409.070, 409.093 - 409.160, 411.060

Other Auth.: 42 CFR 433.111

Stats. Implemented: ORS 414.115, 414.125, 414.135

Proposed Adoptions: 407-120-0300, 407-120-0310, 407-120-0320, 407-120-0330, 407-120-0340, 407-120-0350, 407-120-0360, 407-120-0370, 407-120-0380

Last Date for Comment: 12-28-07, 5 p.m.

Summary: In June 2008, the Department of Human Services will implement a new Medicaid Management Information System (MMIS). All states operate a MMIS to support Medicaid business functions and maintain information in areas such as provider enrollment; client eligibility, including third party liability; benefit package maintenance; managed care enrollment; claims processing; and prior authorization. These proposed rules support those processes necessary for provider enrollment and claiming procedures.

Proposed rules are available on the DHS Website: <http://www.oregon.gov/DHS/admin/dwssrules/index.shtml>

For hardcopy requests, call: (503) 947-5250.

Rules Coordinator: Jennifer Bittel

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

Telephone: (503) 947-5250

NOTICES OF PROPOSED RULEMAKING

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

Rule Caption: Hospital Provider Tax Rate Reduction.

Date:	Time:	Location:
12-21-07	10:30–11:30 a.m.	Human Services Bldg. Rm. 137-A 500 Summer St. NE Salem, OR 97301

Hearing Officer: Jennifer Bittel

Stat. Auth.: ORS 409.050, 410.070, 411.060

Stats. Implemented: Oregon Laws 2003, ch. 736; Oregon Laws 2007, ch. 780 (HB 3057) (2007)

Proposed Amendments: 410-050-0861

Last Date for Comment: 12-27-07, 5 p.m.

Summary: The proposed hospital provider tax rule change reduces the tax rate from .82% to .63%, effective January 1, 2008.

Proposed rules are available on the DHS Website: <http://www.oregon.gov/DHS/admin/dwssrules/index.shtml>

For hardcopy requests, call: (503) 947-5250.

Rules Coordinator: Jennifer Bittel

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

Telephone: (503) 947-5250

Department of Human Services, Public Health Division Chapter 333

Rule Caption: Oregon public water systems sanitary survey fees, and lead and copper revisions.

Date:	Time:	Location:
1-10-08	1 p.m.	Douglas Co. Health 621 W. Madrone Roseburg, OR
1-14-08	9 a.m.	Portland State Office Bldg. 800 NE Oregon St. Suite 1C Portland, OR
1-15-08	1 p.m.	Deschutes Services Center 1300 NW Wall Barnes Rm. 1&2 Bend, OR

Hearing Officer: Jana Fussell, Shannon O'Fallon

Stat. Auth.: ORS 443.110, 448.131, 448.150 & 448.273

Other Auth.: US Environmental Protection Agency under the federal Safe Drinking Water Act. (40 CFR Part 141 National Primary Drinking Water Regulations)

Stats. Implemented: ORS 431.110, 431.150, 448.119, 448.123, 448.131, 448.150, 448.175, 448.268, 448.271, 448.273, 448.279, 448.285, 448.295, 448.300, 448.407, 448.450, 448.455, 448.460, 448.465, 448.994, HB 2187 (Ch. 447, 2007 OL ef. 1-1-08)

Proposed Amendments: 333-061-0030, 333-061-0032, 333-061-0034, 333-061-0036, 333-061-0040, 333-061-0043, 333-061-0045, 333-061-0050, 333-061-0061, 333-061-0070, 333-061-0072, 333-061-0076, 333-061-0215, 333-061-0245, 333-061-0250, 333-061-0260, 333-061-0265

Last Date for Comment: 1-17-08, 5 p.m.

Summary: The Department of Human Services, Public Health Division is proposing to amend specified rules in OAR 333-061 relating to Oregon's public water systems. Actions taken by the 2007 Legislature (HB 2187, Chapter 447 2007 Laws, ef. Jan. 1, 2008) authorize DHS to impose new fees on water suppliers to recover the costs of conducting periodic sanitary surveys. Other revisions include housekeeping changes and short-term regulatory revisions and clarifications to the lead and copper rules: Groundwater Under the Direct Influence (GWUDI) determination criteria and monitoring requirements.

Rules Coordinator: Judy Murdza

Address: Department of Human Services, Public Health Division, 800 NE Oregon St., Suite 930, Portland, OR 97232
Telephone: (971) 673-0561

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

Rule Caption: Comprehensive In Home Support for Adults with Developmental Disabilities.

Date:	Time:	Location:
12-18-07	2 p.m.	Human Services Bldg. 500 Summer St. NE, Rm. 137BC Salem, OR 97301

Hearing Officer: Staff

Stat. Auth.: ORS 409.050, 410.070

Other Auth.: HB 5031 (2007)

Stats. Implemented: ORS 417.340 - 417.348, 427.005, 437.007, 430.610 - 430.670

Proposed Amendments: 411-330-0020, 411-330-0030

Proposed Repeals: 411-330-0020(T), 411-330-0030(T)

Last Date for Comment: 12-21-07, 5 p.m.

Summary: The Department of Human Services, Seniors and People with Disabilities Division is proposing to permanently adopt the July 1, 2007 temporary amendments to the rules relating to Comprehensive In Home Support Services for adults with developmental disabilities to reflect the Cost of Living Adjustments awarded by the 2007–2009 Oregon Legislature.

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

Rule Caption: Temporary Absence from Community-Based Facilities.

Date:	Time:	Location:
1-4-08	10 a.m.	Human Services Bldg. 500 Summer St. NE Rm. 137AB Salem, OR 97301

Hearing Officer: Staff

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070

Proposed Adoptions: 411-027-0125

Last Date for Comment: 1-9-08, 5 p.m.

Summary: The Department of Human Services, Seniors and People with Disabilities Division is proposing to adopt OAR 411-027-0125 to allow for payment to community-based facilities during temporary absence of individuals for medical and other reasons.

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

Department of Justice Chapter 137

Rule Caption: Amends the administrative rules relating to legal sufficiency review of state contracts.

Date:	Time:	Location:
12-17-07	9 a.m.	1215 State St. NE 3rd Flr. Conference Rm. Salem, OR

Hearing Officer: Sharman Meiners

Stat. Auth.: ORS 291.045, 291.047, 291.049

Stats. Implemented: ORS 291.045, 291.047, 291.049

Proposed Amendments: 137-045-0010, 137-045-0015, 137-045-0020, 137-045-0030, 137-045-0035, 137-045-0050, 137-045-0055, 137-045-0060, 137-045-0070, 137-045-0080, 137-045-0090

Last Date for Comment: 12-17-07

NOTICES OF PROPOSED RULEMAKING

Summary: Rules concerning the Attorney General's review of state contracts for legal sufficiency are being amended to align them with 2007 revisions to the Oregon Public Contracting Code, and to clarify certain approval requirements, exemptions and exceptions. Definitions of terms, including "agency," "agency contract administration," "grant" and "procurement document" are being amended. The amendments add authority to approve multiple similar contracts as a group. They clarify that legal sufficiency approval does not include a determination that there are court-enforceable remedies under a contract with another sovereign. They clarify what multi-party contracts, loan agreements and amendments require approval. They exempt confirmation statements from approval requirements and clarify other exemptions. They expand the prohibition on fragmenting transactions to circumvent approval requirements.

Rules Coordinator: Carol Riches

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

Telephone: (503) 947-4700

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Rule Caption: Amends Attorney General's Model Public Contract Rules, Division 46-49, to implement 2007 legislation.

Date:	Time:	Location:
12-17-07	9 a.m.	1215 State St. 3rd Flr. Conference Rm. Salem, OR

Hearing Officer: Sharman Meiners

Stat. Auth.: ORS 279A.065, 279B.055, 279B.060, 279B.065, 279B.070, 279B.075, 279C.135, 279B.400, 279B.405, 279B.410, 279C.335, 279C.340, 279C.405, 279C.845, 351.086

Other Auth.: Oregon Laws 2007, Ch. 70 & 764

Stats. Implemented: ORS 200.035, 200.065, 200.075, 279A.015, 279A.030, 279A.050, 279A.055, 279A.065, 279A.105, 279A.110, 279A.120, 279A.125, 279A.180, 279A.205, 279A.210, 279A.215, 279A.220, 279A.225, 279B.015, 279B.050, 279B.055, 279B.060, 279B.065, 279B.070, 279B.075, 279B.080, 279B.085, 279B.100, 279B.110, 279B.115, 279B.120, 279B.130, 279B.135, 279B.140, 279B.400, 279B.405, 279B.410, 279B.415, 279B.425, 279C.110, 279C.115, 279C.125, 279C.300, 279C.305, 279C.315, 279C.320, 279C.335, 279C.340, 279C.345, 279C.360, 279C.365, 279C.370, 279C.375, 279C.380, 279C.385, 279C.390, 279C.395, 279C.400, 279C.405, 279C.410, 279C.430, 279C.435, 279C.440, 279C.445, 279C.450, 279C.460, 279C.505-580, 279C.585, 279C.590, 279C.605, 279C.650, 279C.655, 279C.660, 279C.665, 279C.670, 279C.800, 279C.830, 279C.835, 279C.870, 305.385, 351.086, 468A.720, 671.530, 701.005, 701.420, 701.055

Proposed Amendments: 137-046-0100, 137-046-0110, 137-046-0120, 137-046-0130, 137-046-0200, 137-046-0210, 137-046-0300, 137-046-0310, 137-046-0320, 137-046-0400, 137-046-0410, 137-046-0420, 137-046-0430, 137-046-0440, 137-046-0450, 137-046-0460, 137-046-0470, 137-046-0480, 137-046-0500, 137-047-0000, 137-047-0100, 137-047-0250, 137-047-0255, 137-047-0257, 137-047-0260, 137-047-0261, 137-047-0262, 137-047-0263, 137-047-0265, 137-047-0270, 137-047-0275, 137-047-0280, 137-047-0285, 137-047-0290, 137-047-0300, 137-047-0310, 137-047-0320, 137-047-0330, 137-047-0400, 137-047-0410, 137-047-0420, 137-047-0430, 137-047-0440, 137-047-0450, 137-047-0460, 137-047-0470, 137-047-0480, 137-047-0490, 137-047-0500, 137-047-0525, 137-047-0550, 137-047-0575, 137-047-0600, 137-047-0610, 137-047-0620, 137-047-0630, 137-047-0640, 137-047-0650, 137-047-0660, 137-047-0670, 137-047-0700, 137-047-0710, 137-047-0720, 137-047-0730, 137-047-0740, 137-047-0745, 137-047-0750, 137-047-0760, 137-047-0800, 137-047-0810, 137-048-0100, 137-048-0110, 137-048-0120, 137-048-0130, 137-048-0200, 137-048-0210, 137-048-0220, 137-048-0230, 137-048-0240, 137-048-0250, 137-048-0260, 137-048-0300, 137-048-0310, 137-048-0320, 137-049-0100, 137-049-0110, 137-049-0120, 137-049-0130, 137-049-0140, 137-049-0150, 137-049-0160, 137-049-0200, 137-049-0210, 137-049-0220, 137-049-0230, 137-049-0240, 137-049-0250, 137-049-0260,

137-049-0270, 137-049-0280, 137-049-0290, 137-049-0300, 137-049-0310, 137-049-0320, 137-049-0330, 137-049-0340, 137-049-0350, 137-049-0360, 137-049-0370, 137-049-0380, 137-049-0390, 137-049-0395, 137-049-0400, 137-049-0410, 137-049-0420, 137-049-0430, 137-049-0440, 137-049-0450, 137-049-0460, 137-049-0470, 137-049-0490, 137-049-0600, 137-049-0610, 137-049-0620, 137-049-0630, 137-049-0640, 137-049-0645, 137-049-0650, 137-049-0660, 137-049-0670, 137-049-0680, 137-049-0690, 137-049-0800, 137-049-0810, 137-049-0815, 137-049-0820, 137-049-0830, 137-049-0840, 137-049-0850, 137-049-0860, 137-049-0870, 137-049-0880, 137-049-0890, 137-049-0900, 137-049-0910

Last Date for Comment: 12-17-07

Summary: The rule changes amend the Attorney General's model public contract rules applicable to state and local contracting agencies.

Division 46 has been revised to address any 2007 legislative changes to public procurements in general. Several unnecessary definitions have been deleted from Division 46. Division 46 has also been revised to simplify and clarify several provisions.

Division 47 has been revised to address 2007 legislative changes affecting public procurements of goods and services. Clarifications have been added to rules dealing with Emergency Procurements, Bids or Proposals are Offers, and Offer Submission. Division 47 has also been revised to simplify and clarify other provisions.

Division 48 has been revised to address 2007 legislative changes affecting public procurements of Architectural, Engineering and Land Surveying Services, and Related Services. Clarifications have been added to rules dealing with Disclosure of Proposals, Solicitation Delay or Suspension and Rejection of All Solicitation Proposals or Responses. Division 48 has also been revised to clarify and simplify several provisions.

Division 49 has been revised to address 2007 legislative changes affecting public improvement and public works contracting. Revisions have been made to provide clarity regarding Emergency Contracts, Offer Submissions, multiple contract awards, Cost Savings, and Public Works Contracts. Division 49 has also been revised to provide other clarifications to existing rules.

Rules Coordinator: Carol Riches

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

Telephone: (503) 947-4700

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Rule Caption: Sets Charitable Report Fees at Existing Rate and Restructures Delinquency fees to Implement 2007 Legislation.

Date:	Time:	Location:
1-3-08	10 a.m.	Oregon Bldg. 800 NE Oregon Portland, OR

Hearing Officer: Elizabeth Grant

Stat. Auth.: ORS 128.670

Other Auth.: SB 109 (2007)

Stats. Implemented: ORS 128.670 & SB 109 (2007)

Proposed Amendments: 137-010-0030, 137-010-0033

Last Date for Comment: 1-11-08

Summary: The proposed amendments implement SB 109 (2007), which requires the Department to set by rule the annual report fees paid by charitable organizations. The Department proposes to adopt the same base reporting fees previously set by statute without an increase, but to revise the delinquency fees for late reports or payments. The Department proposes to adopt an escalating delinquency fee structure as follows: \$20 if a report or payment is late, but made within 13 months after the close of the organizations report year; \$50 if the delinquency is corrected between 13 and 16 months after the report year; and \$100 if the delinquency extends more than sixteen months after the report period. The proposed amendments also reincorporate language inadvertently deleted in a prior rule-making clarifying the calculation of fees.

Rules Coordinator: Carol Riches

NOTICES OF PROPOSED RULEMAKING

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

Telephone: (503) 947-4700

Department of Public Safety Standards and Training Chapter 259

Rule Caption: Eliminates duplicative credit for training hours which have been converted to educational credits.

Stat. Auth.: ORS 181.640, 181.644, 181.651, 181.652, 181.653, 181.654 & 181.655

Stats. Implemented: ORS 181.640, 181.644, 181.651, 181.652, 181.653, 181.654 & 181.655

Proposed Amendments: 259-008-0060

Last Date for Comment: 12-26-07, Close of Business

Summary: Amend language relating to public safety officer certification to provide for the exclusive use of training or education credits, whichever is to the advantage of the applicant, when an applicant receives educational credit from a college for "prior learning experience" based on previous training received and the training is also included as training hours completed on an applicant's official training record.

Rules Coordinator: Bonnie Salle

Address: 4190 Aumsville Hwy SE Salem, OR 97317

Telephone: (503) 378-2431

Rule Caption: Amend Rules relating to Denial or Revocation of Fire Certification(s).

Stat. Auth.: ORS 181.640, 181.661, 181.662, 181.664 & 181.664

Stats. Implemented: ORS 181.640, 181.661, 181.662 & 181.664

Proposed Amendments: 259-009-0070

Last Date for Comment: 12-26-07, Close of Business

Summary: Amends rule relating to mandatory and discretionary criminal disqualifiers based on convictions of crimes for fire service professionals and includes provision for reapplication process when a fire service professional or instructor has had a certification denied or revoked for discretionary disqualifying misconduct.

Rules Coordinator: Bonnie Salle

Address: 4190 Aumsville Hwy SE Salem, OR 97317

Telephone: (503) 378-2431

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

Rule Caption: Treating domestic partner equal to spouse, and enhancing proofs of residence address.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 803.350, 803.370, 806.010, 806.245, 807.050, 807.062, 807.150, 807.240, 807.270, 807.400, 809.380, 809.450 & 821.080

Stats. Implemented: ORS 802.500, 802.520, 803.200, 803.300, 803.325, 803.350, 803.355, 803.360, 803.370, 806.010, 806.245, 807.010, 807.040, 807.050, 807.062, 807.150, 807.160, 807.220, 807.230, 807.240, 807.270, 807.280, 807.400, 809.380, 809.450, 813.520, 821.080 & 826.033

Proposed Amendments: 735-016-0030, 735-016-0040, 735-050-0000, 735-050-0060, 735-050-0062, 735-050-0064, 735-062-0030, 735-064-0005

Last Date for Comment: 12-21-07

Summary: Chapter 99, Oregon Laws 2007 (HB 2007) affords the same rights to a "domestic partner" as are granted to a spouse. A "domestic partnership" is a civil contract entered into in person between two individuals of the same sex that are at least 18 years of age, who are otherwise capable and at least one of whom is a resident of Oregon. The law defines "partner" as an individual joined in a domestic partnership. These proposed rule amendments implement the requirements of HB 2007.

OAR 735-062-0030, which includes the proof DMV will accept from a person to prove residence address when applying for a driv-

er license, driver permit or identification card, is also being amended to further strengthen DMV requirements to help prevent fraudulent activity while also allowing appropriate options for a person to comply with the requirements. The additional amendments simply clarify the requirements. Other changes are made for clarity.

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

Rules Coordinator: Lauri Salsbury

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

Telephone: (503) 986-3171

Rule Caption: Hardship or Probationary Permit Restrictions.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.240, 807.270, 809.600 & 813.510

Stats. Implemented: ORS 807.240, 807.270, 813.100, 813.510, 813.602, 813.608, 813.610, 813.612 & 813.614

Proposed Amendments: 735-064-0100

Last Date for Comment: 12-21-07

Summary: Chapter 867, Oregon Laws 2007 (HB 2740) amends ORS 809.600(1) to include the offense of aggravated vehicular homicide. OAR 735-064-0100 lists things a person driving on a hardship or probationary permit must not do, including being convicted or forfeiting bail for an offense listed in ORS 809.600(1). As the offenses in ORS 809.600(1) are listed in OAR 735-064-0100(1)(c), DMV proposes to amend the rule to include the offense of aggravated vehicular homicide. Also the term IID installer is being changed to IID provider to make the terminology consistent with the administrative rules in OAR Chapter 735 Division 118 which describe approved ignition interlock devices.

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

Rules Coordinator: Lauri Salsbury

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

Telephone: (503) 986-3171

Rule Caption: Emergency Driver Permit.

Stat. Auth.: ORs 184.616, 184.619, 802.010, 807.120 & 807.220

Stats. Implemented: ORS 807.220

Proposed Amendments: 735-064-0230

Last Date for Comment: 12-21-07

Summary: Chapter 359, Oregon Laws 2007 (HB 2147) amends ORS 809.260 to require courts to send to DMV an order of denial of driving privileges for persons between 13 and 20 years of age convicted of an offense involving the possession, use or abuse of alcohol. Previously ORS 809.260 only applied to persons between 13 and 17 years of age. ORS 807.220 allows DMV to issue an emergency driver permit to a person whose driving privileges are suspended by a court ordered denial of driving privileges under ORS 809.260. OAR 735-064-0230 needs to be amended to expand the age of persons that are eligible for emergency driver permits, and to make other amendments to clarify those sections that only apply to persons under 18 years of age, not those over 18 years of age.

The rule is also amended to require that a person provide documented proof when applying for an emergency driver permit to drive the person or a member of the person's immediate family to medical appointments and treatment. Documented proof must include the need for the appointments and treatment, plus the routes and times of travel needed. Other changes are made for clarity.

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

Rules Coordinator: Lauri Salsbury

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

Telephone: (503) 986-3171

NOTICES OF PROPOSED RULEMAKING

Economic and Community Development Department Chapter 123

Rule Caption: Amend rules related to ad hoc committees, as well as clarifying contested case proceedings language.

Stat. Auth.: ORS 285A.075

Other Auth.: SB 350 (2007 Legislature)

Stats. Implemented: ORS 285A.060, 183.413 - 183.470, 285C.500

Proposed Amendments: 123-001-0050, 123-001-0300, 123-001-0500, 123-001-0520, 123-001-0700, 123-001-0725, 123-001-0750

Last Date for Comment: 12-21-07

Summary: The proposed administrative rule change addresses the statutory changes implemented in SB 350 (2007 Legislature) regarding the Oregon Economic Development Commission and advisory committees under its charge, as well as making technical correction regarding the Finance Committee to reflect current practice. In addition, the proposed rule clarifies the language regarding contested case proceedings for rejected applications for certain programs.

Rules Coordinator: Paul J. Grove

Address: Economic and Community Development Department, 775 Summer St. NE, Suite 200, Salem, OR 97301

Telephone: (503) 986-0192

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Rule Caption: Amend rules related to the Community Development Fund.

Stat. Auth.: ORS 285A.075, 285A.227(2)

Other Auth.: SB 350 (2007 Legislature)

Stats. Implemented: ORS 285A.227

Proposed Amendments: 123-009-0060, 123-009-0080, 123-009-0090

Last Date for Comment: 12-21-07

Summary: The proposed amendments to administrative rule address the statutory changes implemented in SB 350 (2007 Legislature) regarding the Community Development Fund. The amendments also remove reference to the OECD Commission establishing initial, biennial targets for allocation of the fund. This proposed change is consistent with the statutory direction established in SB 350, to provide the Commission and Department with the flexibility necessary to implement programs and policies in the most effective manner possible to advance Oregon's economy. Furthermore, the OECD Commission was not bound by these preliminary targets, and the practice ultimately proved to be an inefficient use of time and resources.

Rules Coordinator: Paul J. Grove

Address: Economic and Community Development Department, 775 Summer St. NE, Suite 200, Salem, OR 97301

Telephone: (503) 986-0192

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Employment Department Chapter 471

Rule Caption: Pertaining to Division 41 - Appeals - Higher Appeals Procedure - Application for Review.

Stat. Auth.: ORS 657.270, 657.685

Stats. Implemented: ORS 657.270

Proposed Amendments: 471-041-0060

Last Date for Comment: 12-22-07

Summary: Proposed rule removes reference to the Office of Administrative Hearings from the Employment Appeals Board's request for reopening of an Unemployment Insurance hearing and cites the statute as the authority for considering the request for reopening as opposed to the rule.

Rules Coordinator: Janet Orton

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

Telephone: (503) 947-1724

Landscape Contractors Board Chapter 808

Rule Caption: Adds fee for initial landscape contracting business license, clarifies charges, refunds and amends penalty for improper bond amount.

Date:
12-14-07

Time:
9 a.m.

Location:
Roth's IGA
Santiam Rm.
1130 Wallace Rd.
Salem, OR

Hearing Officer: Matt Triplett

Stat. Auth.: ORS 670.310 & 671.670

Stats. Implemented: ORS 183, 192.430, 293.445 & 671.650

Proposed Amendments: 808-001-0020, 808-003-0130, 808-005-0020

Last Date for Comment: 12-14-07, Close of Hearing

Summary: 808-001-0020 - Deletes fee for "Avoiding landscaping problems" brochure and "You Get What You Pay For" DVD, adds fee for vehicle stickers, plant CD, and "Landscape Construction" book, clarifies refund will not be provided for overpayments of \$20 or less unless requested in writing within three years of payment.

Adds \$75 fee for initial landscape contracting business application, \$50 fee for probationary landscape construction professional license application and \$30 initial exam fee for owners or managing employee and \$15 retake fee.

808-005-0020 - Amends penalty for improper bond amount.

Rules Coordinator: Kim Gladwill-Rowley

Address: Landscape Contractors Board, 2111 Front Street NE, Suite 2-101, Salem, OR 97301

Telephone: (503) 378-5909

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Oregon Criminal Justice Commission Chapter 213

Rule Caption: Amends Oregon sentencing guidelines in light of 2007 legislative actions.

Stat. Auth.: ORS 137.667

Stats. Implemented: ORS 137.667; SB 331 § 2 (2007); SB 464 § 1 (2007); SB 578 § 2, 3 (2007); HB 2740 § 1 (2007); HB 2843 § 2, 3 (2007); HB 3092 § 21, 22 (2007); HB 3379 § 1 (2007); HB 3515 § 2, 3 (2007)

Proposed Adoptions: 213-018-0068

Proposed Amendments: 213-003-0001, 213-017-0002, 213-017-0003, 213-017-0004, 213-017-0006, 213-017-0007, 213-017-0008, 213-017-0009, 213-017-0010, 213-018-0050

Last Date for Comment: 12-24-07, 5 p.m.

Summary: The Oregon legislature enacted legislation creating new crimes (and modifying existing crimes) during the 2007 legislative session. The Criminal Justice Commission is required under ORS 137.667 to review all legislation creating new crimes or modifying existing crimes, and to adopt by rule necessary changes to the crime seriousness scale. CJC also may classify the offenses as person felonies or person misdemeanors for purposes of the rules it is required to adopt. These rules are necessary to comply with that legislative directive.

The rule changes accomplish the following:

Sets the crime seriousness category at 6 for the new crime of online sexual corruption of child in the second degree, and at 8 for the new crime of online sexual corruption of a child in the first degree, and classifies both crimes as person felonies—in response to HB 3515 § 2, 3 (2007).

Sets the crime seriousness category at 6 for the new crime of luring a minor and classifies the crime as a person felony; classifies new crime of furnishing sexually explicit material to a child as a class A person misdemeanor—in response to HB 2843 § 2, 3 (2007).

Sets the crime seriousness category at 10 for the new crime of aggravated vehicular homicide and classifies the crime as a person felony—in response to HB 2740 § 1 (2007).

NOTICES OF PROPOSED RULEMAKING

Sets the crime seriousness category at 4 for the new crime of organized retail theft—in response to SB 331 § 2 (2007).

Sets the crime seriousness category at 5 for the new crime of aggravated identity theft—in response to SB 464 § 1 (2007).

Sets the crime seriousness category at 9 (if the offender threatened to cause death or serious physical injury to a person) and at 6 (if the offender physically restrained or threatened to restrain a person) for the new crime of Subjecting Another Person to Involuntary Servitude I, classifies the crime as a person felony, and adopts rule identifying crime as one divided into different subcategories; sets the crime seriousness category at 5 for the new crime of Subjecting Another Person to Involuntary Servitude II, and classifies the crime as a person felony; classifies the new crime of Trafficking in Persons as a person felony—in response to SB 578 § 2, 3 (2007).

Sets the crime seriousness category at 5 for the new crime of Purchase or Sale of a Body Part for Transplantation or Therapy, and classifies the crime as a person felony; sets the crime seriousness category at 4 for the new crime of Alteration of a Document of Gift, and classifies the crime as a person felony—in response to HB 3092 § 21, 22 (2007).

Sets the crime seriousness category at 6 (if vehicle worth \$50,000 or more, excluding theft of motor vehicle used primarily for personal rather than commercial transportation), at 5 (if vehicle worth \$10,000 or more but less than \$50,000, excluding the theft of a motor vehicle used primarily for personal rather than commercial transportation), at 4 (if vehicle worth \$5,000 or more but less than \$10,000, or if vehicle worth \$10,000 or more and used primarily for personal rather than commercial transportation), at 3 (if vehicle worth \$1,000 or more but less than \$5,000, or if vehicle worth more than \$1,000 but less than \$10,000 and used primarily for personal rather than commercial transportation), and at 2 (if vehicle worth \$1,000 or less) for the new crime of Criminal Possession of a Rented or Leased Motor Vehicle; amends corresponding rule identifying this crime as one divided into different subcategories—in response to HB 3379 § 1 (2007).

Rules Coordinator: Craig Prins

Address: Oregon Criminal Justice Commission, 885 Summer St. NE, Salem, OR 97301

Telephone: (503) 378-4830

Oregon Department of Education Chapter 581

Rule Caption: Deletes specific references to Program Budget and Accounting Manual edition used by school districts.

Date:	Time:	Location:
12-19-07	1 p.m.	Oregon Dept. of Education Basement B Salem, OR

Hearing Officer: Cindy Hunt

Stat. Auth.: ORS 326.051 & 327.125

Stats. Implemented: ORS 327.125

Proposed Amendments: 581-023-0035, 581-023-0041

Last Date for Comment: 12-19-07, 5 p.m.

Summary: Amendment deletes references to 2006 edition of program budget and Accounting Manual published by Oregon Department of Education.

Rules Coordinator: Paula Merritt

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

Telephone: (503) 947-5746

Rule Caption: Updates categories for criteria for adoption of instructional materials.

Date:	Time:	Location:
12-19-07	1 p.m.	Oregon Dept. of Education Basement B Salem, OR

Hearing Officer: Cindy Hunt

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 337.035

Proposed Amendments: 581-011-0140

Last Date for Comment: 12-19-07, 5 p.m.

Summary: The rule specifies that the State Board of Education adopts by reference the Criteria for the Adoption of Instructional Materials for Mathematics for which publishing companies will submit instructional materials. The categories for which the criteria has been adopted have been updated for the 2009–2015 cycle.

Rules Coordinator: Paula Merritt

Address: 255 Capitol St NE, Salem, OR 97310

Telephone: (503) 947-5746

Rule Caption: Amendment of adequate yearly progress substantive appeals process.

Date:	Time:	Location:
12-19-07	1 p.m.	Oregon Dept. of Education Basement B Salem, OR

Hearing Officer: Cindy Hunt

Stat. Auth.: ORS 326.051

Other Auth.: NCLB Section 1116

Stats. Implemented: ORS 326.051

Proposed Amendments: 581-022-1065

Last Date for Comment: 12-19-07, 5 p.m.

Summary: The rule directs the Superintendent of Public Instruction to appoint a committee to hear substantive appeals from schools relating adequate yearly progress (AYP) determinations. The amendment modifies when the committee will consider an appeal and updates outdated references to school years.

Rules Coordinator: Paula Merritt

Address: 255 Capitol St NE, Salem OR 97310

Telephone: (503) 947-5746

Rule Caption: Rule define requirements for teacher/administrator mentoring, including process for awarding grants authorized by HB 2574.

Date:	Time:	Location:
12-19-07	1 p.m.	Dept. of Education Basement Rm. B Salem, OR

Hearing Officer: Cindy Hunt

Stat. Auth.: ORS 326.051, 2007 Oregon Laws, Ch. 863

Stats. Implemented: 2007 Oregon Laws, Ch. 863

Proposed Amendments: 581-020-0085, 581-020-0090

Last Date for Comment: 12-19-07, 5 p.m.

Summary: In 2007, HB 2574 directed the Oregon Department of Education to establish requirements for teacher and administrator mentoring programs. Proposed amendments will define requirements for mentoring programs and the process for awarding of grants.

Rules Coordinator: Paula Merritt

Address: 255 Capitol St NE, Salem, OR 97310

Telephone: (503) 947-5746

Rule Caption: Amendment of adequate yearly progress substantive appeals process.

Date:	Time:	Location:
12-19-07	1 p.m.	Oregon Dept. of Education Basement B Salem, OR

Stat. Auth.: ORS 326.051

Other Auth.: NCLB Section 1116

Stats. Implemented: ORS 326.051

Proposed Amendments: 581-022-1065

Last Date for Comment: 12-12-07, 5 p.m.

Summary: The rule directs the Superintendent of Public Instruction to appoint a committee to hear substantive appeals from schools relating adequate yearly progress (AYP) determinations. The amendment modifies when the committee will consider an appeal and updates outdated references to school years.

Rules Coordinator: Paula Merritt

Address: 255 Capital St NE, Salem, OR 97310

Telephone: (503) 947-5746

NOTICES OF PROPOSED RULEMAKING

Rule Caption: Deletes specific references to Program Budget and Accounting Manual edition used by school districts.

Stat. Auth.: ORS 326.051, 327.125

Stats. Implemented: ORS 327.125

Proposed Amendments: 581-023-0035, 581-023-0041

Last Date for Comment: 12-12-07, 5 p.m.

Summary: Amendment deletes references to 2006 edition of Program Budget and Accounting Manual published by Oregon Department of Education.

Rules Coordinator: Paula Merritt

Address: 255 Capitol St. NE, Salem, OR 97310

Telephone: (503) 947-5746

Rule Caption: Updates categories for criteria for adoption of instructional materials

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 337.035

Proposed Amendments: 581-011-0140

Last Date for Comment: 12-12-07, 5 p.m.

Summary: The rule specifies that the State Board of Education adopts by reference the Criteria for the Adoption of Instructional Materials for Mathematics for which publishing companies will submit instructional materials. The categories for which the criteria has been adopted have been updated for the 2009–2015 cycle.

Rules Coordinator: Paula Merritt

Address: 255 Capitol St NE, Salem, OR 97310

Telephone: (503) 947-5746

Oregon Public Employees Retirement System Chapter 459

Rule Caption: New rule addressing review and appeal process for employers to follow in agency disputes.

Date:	Time:	Location:
1-22-08	2 p.m.	Boardroom PERS Headquarters 11410 SW 68th Parkway Tigard, OR

Hearing Officer: Daniel Rivas

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 183.413 - 183.470

Proposed Adoptions: 459-001-0032

Last Date for Comment: 2-22-08

Summary: New rule modifies the administrative review and hearing processes to include addressing disputes raised by PERS participating employers in connection with staff determinations made in regards to their obligations (e.g., paying contributions for prior years, being charged for associated earnings, etc.).

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

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

Rules Coordinator: Daniel Rivas

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

Telephone: (503) 603-7713

Oregon State Lottery Chapter 177

Rule Caption: Amends Scratch-it(SM) ticket game rules to allow for multi-page Scratch-it(SM) tickets.

Date:	Time:	Location:
1-16-08	10–11 a.m.	Oregon Lottery 500 Airport Rd. SE Salem, OR

Hearing Officer: Larry Trott

Stat. Auth.: ORS 461

Other Auth.: OR Constitution, Article XV, sec. 4(4)

Stats. Implemented: ORS 461.010, 461.030, 461.040, 461.050, 461.210, 461.230, 461.240, 461.250, 461.260

Proposed Amendments: 177-046-0110, 177-046-0170, 177-050-0002, 177-050-0020, 177-050-0024, 177-050-0025, 177-050-0027, 177-050-0037, 177-050-0070

Last Date for Comment: 1-16-08, 5 p.m.

Summary: The Lottery plans to introduce a multi-page Scratch-it(SM) ticket. The current rules are specific to single page Scratch-it(SM) tickets. The amendments address the differences between single page and multi-page Scratch-it(SM) tickets. Other changes include updating trade and service mark references, and clarifying the Director's authority to pay prizes on Scratch-it(SM) tickets.

Rules Coordinator: Mark W. Hohlt

Address: Oregon State Lottery, 500 Airport Rd. SE, Salem, OR 97301

Telephone: (503) 540-1417

Oregon State Treasury Chapter 170

Rule Caption: Election to Issue Bonds Under Laws Prior to 2008.

Stat. Auth.: Ch. 783 Oregon Laws 2007 (HB 3265)

Stats. Implemented:

Proposed Adoptions: 170-061-0200

Last Date for Comment: 12-24-07

Summary: A state agency may request that the State Treasurer elect, or other public body may itself elect, to issue bonds under laws prior to 2008 (Prior Laws), and without regard to the provisions of HB 3265, if it demonstrates the following:

(a) an approving opinion of bond counsel cannot be provided under HB 3265 but may be provided under the Prior Laws;

(b) the bonds may be issued at a substantially lower cost under the Prior Laws than under HB 3265;

(c) a credit enhancement or other financing mechanism that would substantially improve the overall financing structure of the bond sale may be used under the Prior Laws but not under HB 3265;

(d) any other reason that would result in the bonds being issued at a substantially lower cost or under a structure or terms that are substantially better if the bonds are issued under the Prior Laws rather than HB 3265.

Rules Coordinator: Sally Furze

Address: Oregon State Treasury, 350 Winter St. NE, Suite 100, Salem, OR 97301

Telephone: (503) 378-4990

Oregon Student Assistance Commission Chapter 575

Rule Caption: This rule is needed to implement the Student Child Care Grant Program formerly administered by the Department of Human Services and transferred to the Oregon Student Assistance Commission. These rules determine new awarded processes.

Date:	Time:	Location:
12-18-07	10 a.m.	Student Assistance Commission 1500 Valley River Dr. Suite 100 Eugene, OR 97401

Hearing Officer: Bridget Burns, Commission Chair

Stat. Auth.: ORS 348

Stats. Implemented: ORS 348

Proposed Adoptions: 575-095-0005, 575-095-0010, 575-095-0015

Last Date for Comment: 12-18-07

Summary: The Student Child Care Grant has been formerly administered by the Oregon Department of Human Services and has been transferred in the 2007–2009 budget to the Oregon Student Assistance Commission. Rule 575-095 establishes the program at the Oregon Student Assistance Commission.

Rules Coordinator: Susanne D. Ney

NOTICES OF PROPOSED RULEMAKING

Address: Oregon Student Assistance Commission, 1500 Valley River Dr., Suite 100, Eugene, OR 97401
Telephone: (541) 687-7394

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Oregon University System
Chapter 580

Rule Caption: To establish 2008 summer session tuition and fee rates, including room and board.

Date:	Time:	Location:
12-5-07	10-11 a.m.	Rm. B214 Kerr Admin. Bldg. Corvallis, OR
12-20-07	10-11 a.m.	Rm. B214 Kerr Admin. Bldg. Corvallis, OR

Hearing Officer: Tiffany Corbett

Stat. Auth.: ORS 351.070

Stats. Implemented:

Proposed Amendments: 580-040-0035

Last Date for Comment: 12-21-07

Summary: To establish tuition and fees for the summer session 2008, 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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Rule Caption: To meet the legislative goal of maximizing contributions to technology development.

Stat. Auth.: ORS 592 sec. 1, 2

Other Auth.: OR Laws 2005, ch. 592

Stats. Implemented:

Proposed Adoptions: 580-043-0100

Proposed Amendments: 580-043-060, 580-043-065, 580-043-070, 580-043-075, 580-043-085, 580-043-090, 580-043-095

Last Date for Comment: 12-17-07

Summary: The 2005 Legislative Assembly enacted SB 853, which enabled each institution to establish a venture development fund to provide qualified grant applicants with monies to facilitate the commercialization of the institutions research; OSBHE adopted rules effective July 2006. However, the Dept. of Revenue interpreted certain tax credit provisions of the bill differently from OUS, and the Chancellor sought an opinion from DOJ. This delayed the establishment of venture development funds by the institutions. In addition, there were other concerns about SB 853 that delayed implementation, including that the institutions' affiliated foundations could not hold and manage contributions made to a venture development fund. Ultimately, the Board determined that clarifying amendments should be pursued in the 2007 Legislative Assembly. That assembly enacted SB 582, which amended portions of SB 853. These rules implement the changes made by SB 582.

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,
Portland State University
Chapter 577

Rule Caption: Use and safety rules for University-business travel in state-owned or controlled, hired and borrowed vehicles.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.277, 283.305, 283.310 & 283.340

Proposed Adoptions: 577-070-0100, 577-070-0110

Last Date for Comment: 12-28-07

Summary: Rule adopts University policies and procedures for vehicular use of state-owned or controlled vehicles, or other vehicles used for the purposes of University-business travel.

Rules Coordinator: Tanja Dill

Address: Oregon University System, Portland State University, Portland State University, PO Box 751, Portland, OR 97207

Telephone: (503) 725-3701

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Parks and Recreation Department
Chapter 736

Rule Caption: Amend/repeal existing, adopt new rules re: criminal records checks in accordance with HB 2157, 2005 Legislative Session.

Stat. Auth.: ORS 181.534, 390.124, 390.131, 390.140, 565.060, 565.071

Other Auth.: Engrossed HB 2157, 2005 Legislative Session

Stats. Implemented: ORS 181.534

Proposed Adoptions: 736-002-0032, 736-002-0038, 736-002-0042, 736-002-0050, 736-002-0052, 736-002-0058, 736-002-0082, 736-002-0092, 736-002-0102, 736-002-0150, 736-002-0160

Proposed Amendments: 736-002-0010, 736-002-0020, 736-002-0030, 736-002-0070

Proposed Repeals: 736-002-0040, 736-002-0060, 736-002-0080, 736-002-0090, 736-002-0100

Last Date for Comment: 12-28-07

Summary: Amend, repeal existing rules and adopt new rules in accordance with provisions of HB 2157, 2005 Legislative Session, to incorporate additional provisions for doing criminal records checks on subject individuals applying for employment or to contract, be licensed, or volunteer with the agency. The rules incorporate provisions for making preliminary fitness determinations, final fitness determinations, and assessing fees not to exceed actual costs of obtaining criminal records information from appropriate sources.

Rules Coordinator: Colleen Rogers

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

Telephone: (503) 986-0730

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Public Utility Commission
Chapter 860

Rule Caption: In the Matter of a Rulemaking to Amend Timeframes for Audits of Fees Due.

Date:	Time:	Location:
1-9-08	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, 192, 756, 757, 759, Ch. 290 OL 1987

Stats. Implemented: ORS 756.040, 756.310, 756.320, 756.350, 759.015, 759.030, 759.425, Ch. 290, OL 1987

Proposed Amendments: 860-021-0033, 860-021-0034, 860-021-0036, 860-032-0095, 860-032-0640, 860-033-0008, 860-034-0095, 860-036-0095, 860-037-0095

Last Date for Comment: 1-9-08, 5 p.m.

Summary: The proposed rule amendments allow the Commission an unlimited time to audit a company's fee records and supporting documentation if the company operated without a certificate of authority when a certificate is required; or if the Commission discovers fraud, negligence or misrepresentation or misappropriation of funds. The proposed amendments are intended to maintain the protection of programs and customers and to allow the Commission to collect the fees that support the PUC programs. There are also house-keeping changes to update rule references.

Rules Coordinator: Diane Davis

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

Telephone: (503) 378-4372

NOTICES OF PROPOSED RULEMAKING

Secretary of State, Corporation Division Chapter 160

Rule Caption: Updating the Oregon Central Filing System for Farm Products rules to conform with 2007 HB 2090.

Stat. Auth.: ORS 80.160

Stats. Implemented: ORS 80

Proposed Amendments: 160-050-0180 – 160-050-0280

Last Date for Comment: 12-24-07, Close of Business

Summary: These rules are updated to conform citations to the new chapter of statutes for the CFS system, ORS Ch. 80, and to meet new requirements under 2007 HB 2090.

Rules Coordinator: Tom Wrosch

Address: 255 Capitol St. NE, Suite 151, Salem, OR 97310

Telephone: (503) 986-2371

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Rule Caption: Clarifies that notaries public may have only one journal for entering new information at a time.

Stat. Auth.: ORS 194.152

Stats. Implemented: ORS 194.152

Proposed Amendments: 160-100-0200

Last Date for Comment: 12-24-07, Close of Business

Summary: This rule clarifies that concurrent journals are prohibited, so that a notary may only make entries into one book during that commission, until that book is full or otherwise unavailable.

Rules Coordinator: Tom Wrosch

Address: 255 Capitol St. NE, Suite 151 Salem, OR 97310

Telephone: (503) 986-2371

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Secretary of State, Elections Division Chapter 165

Rule Caption: Schedule and fees for providing statewide and less than statewide voter lists.

Stat. Auth.: ORS 192.440 & 246.150

Other Auth.: Ch. 570 Oregon Laws 2007

Stats. Implemented: ORS 192.440 & 247.945

Proposed Amendments: 165-002-0020

Last Date for Comment: 12-26-07

Summary: This rule sets forth the schedule and fees for providing statewide and less than statewide voter lists. This rule is proposed for amendment to update the fees for special formatting of less than statewide voter lists and to incorporate changes to election law made by the 2007 Legislative Assembly.

Rules Coordinator: Brenda Bayes

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

Telephone: (503) 986-1518

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Rule Caption: Updating the forms to petition for creation of a city through incorporation or consolidation.

Stat. Auth.: ORS 221.031, 222.230, 246.120, 246.150

Stats. Implemented: ORS 221.031, 221.040, 222.210, 222.220, 222.225, 222.230

Proposed Amendments: 165-004-0005, 165-004-0020

Last Date for Comment: 12-26-07

Summary: 165-004-0005 adopts the forms to be used to petition for incorporation of a city.

165-004-0020 adopts the forms to be used to petition for incorporation of a city through consolidation.

Rules Coordinator: Brenda Bayes

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

Telephone: (503) 986-1518

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Rule Caption: Prescribes when a residence address disclosure exemption may be granted by the county elections official.

Stat. Auth.: ORS 246.150, 247.969

Stats. Implemented: ORS 192.501 & 247.965

Proposed Amendments: 165-005-0130

Last Date for Comment: 12-26-07

Summary: This rule is being revised to incorporate procedures for county elections officials to process residence address disclosure exemptions from district attorneys, deputy district attorneys or assistant attorneys general, as provided in sections 1 and 2, Chapter 687 Oregon Laws 2007.

Rules Coordinator: Brenda Bayes

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

Telephone: (503) 986-1518

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Rule Caption: Remove reference to the 1998 Election Board Manual.

Stat. Auth.: ORS 246.150, 254.465, 254.470

Stats. Implemented: ORS 254.465, 254.470

Proposed Amendments: 165-007-0030

Last Date for Comment: 12-26-07

Summary: The 1998 Election Board Manual and associated forms were adopted in the event an election were to be conducted at a polling place. The 2007 Legislative Assembly repealed all statutes authorizing an election to be conducted at polling places. Therefore references in this rule to this manual can be deleted.

Rules Coordinator: Brenda Bayes

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

Telephone: (503) 986-1518

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Rule Caption: Adopts the 2008 State Candidates Manuals, County Candidate's Manual and forms.

Stat. Auth.: ORS 246.120, 246.150, 249.009

Stats. Implemented: ORS 246.120, 246.150, 249.009, Ch. 848, 314 & 155 Oregon Laws 2007

Proposed Amendments: 165-010-0005

Last Date for Comment: 12-26-07

Summary: This proposed rule amendment designates the *2008 Candidate's Manual: Major Political Party*; *2008 State Candidate's Manual: Nonpartisan*; *2008 State Candidate's Manual: Minor Political Party*; *2008 State Candidate's Manual: Assembly of Electors*; *2008 State Candidate's Manual: Individual Electors*; and the *2008 County Candidate's Manual* and associated forms as the procedures and forms used by candidates filing and running for elected office. In addition this rule designates the *2008 State Candidate's Manual: Minor Political Party* to be used for the formation of a Minor Party.

To request a copy of the draft *2008 Candidate's Manual: Major Political Party*; *2008 State Candidate's Manual: Nonpartisan*; *2008 State Candidate's Manual: Minor Political Party*; *2008 State Candidate's Manual: Assembly of Electors*; *2008 Candidate's Manual: Individual Electors*; or the *2008 State County Candidate's Manual* please contact Summer Davis, Compliance Specialist, phone 503-986-1518; fax 503-373-7414; or e-mail summer.s.davis@state.or.us

Rules Coordinator: Brenda Bayes

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

Telephone: (503) 986-1518

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Rule Caption: Adopts forms for major party nominees to indicate willingness to serve.

Stat. Auth.: ORS 246.150

Stats. Implemented: ORS 171.060

Proposed Adoptions: 165-010-0085

Last Date for Comment: 12-26-07

Summary: This proposed rule designates the SEL 145a, Democratic Nominee's Willingness to Serve Form, and the SEL 145b Republican Nominee's Willingness to Serve from, as the forms to be used

NOTICES OF PROPOSED RULEMAKING

by a Democratic or Republican nominee to a legislative vacancy to indicate their willingness to serve if appointed to fill the vacancy.

Rules Coordinator: Brenda Bayes

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

Telephone: (503) 986-1518

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Rule Caption: Adoption of the 2008 Campaign Finance Manual.

Stat. Auth.: ORS 246.120, 246.150, 260.156 & 260.200

Stats. Implemented: ORS 246.120, 246.150, 260.156 & 260.200

Proposed Amendments: 165-012-0005

Last Date for Comment: 12-26-07

Summary: This proposed rule amendment designates the *2008 Campaign Finance Manual* and associated forms as the procedures and forms used for compliance with campaign finance regulation.

To request a copy of the draft *2008 Campaign Finance Manual*, please contact Summer Davis, Compliance Specialist, phone 503-986-1518; fax 503-378-3-7414; or e-mail summer.s.davis@state.or.us

Rules Coordinator: Brenda Bayes

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

Telephone: (503) 986-1518

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Rule Caption: Penalty matrix for other campaign financing violations.

Stat. Auth.: ORS 246.150, 260.200

Stats. Implemented: ORS 260.200, 260.215, 260.232, 260.995

Proposed Amendments: 165-013-0010

Last Date for Comment: 12-26-07

Summary: This rule amendment is proposed to incorporate into the Penalty Matrix for Campaign Finance Civil Penalty Election Law Violations, civil penalties for chief petitioner committees failing to file a statement of organization within three business days of first receiving a contribution or making an expenditure. The penalty for violating ORS 260.054 was incorporated into the penalty for ORS 260.039(1) and ORS 260.042(1) to remove redundant references.

Rules Coordinator: Brenda Bayes

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

Telephone: (503) 986-1518

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Rule Caption: Update of the penalty matrix for Non-Campaign finance civil penalty election law violations.

Stat. Auth.: ORS 246.150

Stats. Implemented: ORS 260.995, Ch. 154, 314, 848 & 881 Oregon Laws 2007

Proposed Amendments: 165-013-0020

Last Date for Comment: 12-26-07

Summary: This rule describes the penalty matrix and mitigating circumstances for non-campaign finance election law violations. The amendments incorporate the changes made by the 2007 Legislative Assembly.

Rules Coordinator: Brenda Bayes

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

Telephone: (503) 986-1518

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Rule Caption: Adopts the 2008 State and County Initiative, Referendum, and Recall Manuals and Referral Manual.

Stat. Auth.: ORS 264.120, 246.150 & 250.015

Stats. Implemented: ORS 246.120, 246.150, 250.015 & ch. 848 Oregon Laws 2007

Proposed Amendments: 165-014-0005

Last Date for Comment: 12-26-07

Summary: This proposed rule amendment designates the *2008 State Initiative and Referendum Manual*; *2008 Recall Manual*; and the

2008 County Initiative and Referendum Manual and associated forms as the procedures and forms to be used for the initiative, referendum and recall processes. In addition this proposed rule amendment designates the *2008 County, City and District Referral Manual* to be used for the local referral process.

To request a copy of the draft *2008 State Initiative and Referendum Manual*; *2008 Recall Manual*; *2008 County Initiative and Referendum Manual*, or the *2008 County, City and District Referral Manual* please contact Summer Davis, Compliance Specialist, phone 503-986-1518; fax 503-373-7414; or e-mail summer.s.davis@state.or.us

Rules Coordinator: Brenda Bayes

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

Telephone: (503) 986-1518

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Rule Caption: Repeals the draft ballot title process rule; contents are included in Initiative and Referendum Manuals.

Stat. Auth.: ORS 192.440, 246.150, 250.067

Stats. Implemented: ORS 192.440, 246.150, 250.067

Proposed Repeals: 165-014-0027

Last Date for Comment: 12-26-07

Summary: This rule designated the process for enrolling in the Secretary of State's Initiative, Referendum and Referral subscription service. Additionally, the rule set forth the timelines for when the notice of receipt of ballot title must be sent by, as well as how comments were to be received. This rule is no longer necessary as all of the information is wholly contained within the *State Initiative and Referendum Manual* and the *County, City and District Referral Manual*.

Rules Coordinator: Brenda Bayes

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

Telephone: (503) 986-1518

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Rule Caption: Updating the statistical sampling procedures for state and local initiative, referendum and recall petitions.

Stat. Auth.: ORS 246.150, 250.105, 250.215, 250.315 & 255.175

Stats. Implemented: ORS 250.105, 250.215, 250.315, 255.175

Proposed Amendments: 165-014-0030, 165-014-0110

Last Date for Comment: 12-26-07

Summary: These rules are proposed for amendment to modify the criteria for which the Secretary of State's staff or local elections officials will remove cover and signature sheets prior to signature verification. Technical updates are proposed to the rule to allow for the use of Oregon Centralized Voter Registration System.

Rules Coordinator: Brenda Bayes

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

Telephone: (503) 986-1518

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Rule Caption: Adopting signature verification procedures for petitions submitted under Section 33A Chapter 848 Oregon Laws 2007.

Stat. Auth.: ORS 246.150, 250.105

Stats. Implemented: ORS 250.045, 250.105, Ch. 848 Oregon Laws 2007

Proposed Adoptions: 165-014-0031

Last Date for Comment: 12-26-07

Summary: This rule is proposed for adoption to allow for the processing of signatures submitted in accordance with Section 33a, Chapter 848 Oregon Laws 2007. For petitions that are being circulated prior to January 1, 2008, the chief petitioners must submit signatures collected to date no later than January 4, 2008. This rule adopts the procedures used for verifying these petitions, including statistical sampling and circulator certification.

Rules Coordinator: Brenda Bayes

NOTICES OF PROPOSED RULEMAKING

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

Telephone: (503) 986-1518

Rule Caption: Adopting signature verification procedures for sponsorship signatures.

Stat. Auth.: ORS 246.150, 250.045, 250.105

Stats. Implemented: ORS 250.045, 250.105, Ch. 848 Oregon Laws 2007

Proposed Adoptions: 165-014-0032

Last Date for Comment: 12-26-07

Summary: This rule is proposed for adoption to allow for the processing of sponsorship signatures submitted for a state prospective initiative petition intended for the 2010 General Election or any election thereafter submitted on or after January 1, 2008. Sponsorship signatures will be processed using the statistical sampling formula set forth in Appendix 1.

Rules Coordinator: Brenda Bayes

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

Telephone: (503) 986-1518

Rule Caption: Adopting schedule of review of specified chief petitioner accounts.

Stat. Auth.: ORS 246.150, 260.262

Stats. Implemented: ORS 260.262

Proposed Adoptions: 165-014-0100

Last Date for Comment: 12-26-07

Summary: Each chief petitioner of an initiative or referendum petition who pays any person money or other valuable consideration to obtain signatures on the petition shall keep detailed accounts in accordance with ORS 260.262. This rule is proposed for adoption to set forth the schedule of review of chief petitioner accounts.

Rules Coordinator: Brenda Bayes

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

Telephone: (503) 986-1518

Rule Caption: Prohibits paying or receiving money based on number of signatures or voter registration cards obtained.

Stat. Auth.: ORS 246.150

Other Auth.: Article IV, Sec. 1b Oregon Constitution

Stats. Implemented: ORs 250.045, 260.995, Ch. 314, Oregon Laws 2007

Proposed Amendments: 165-014-0260

Last Date for Comment: 12-26-07

Summary: This rule is amended to interpret Chapter 314 Oregon Laws 2007 and Article IV, section 1b of the Oregon Constitution, by providing guidance about the petitions subject to the measure, describing allowable practices for signature collection and providing for penalties for violations.

Rules Coordinator: Brenda Bayes

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

Telephone: (503) 986-1518

Rule Caption: Revises rule on insufficient and sufficient circulator certifications.

Stat. Auth.: ORS 246.150, 249.008, 250.105, 250.215, 250.315, 255.175

Stats. Implemented: ORS 249.008, 249.875, 250.105, 250.215, 250.315, 255.175, Ch. 848 OL 2007

Proposed Amendments: 165-014-0270

Last Date for Comment: 12-26-07

Summary: This proposed rule amendment updates the source of the primary exemplar for a person who is required to be registered under Section 2 of Chapter 848 Oregon Laws 2007 from the Oregon Voter

Registration Card to the signature provided on the Circulator Registration (SEL 308) on file at the time the signature sheet was circulated. The signature provided on the Circulator Registration will be the only exemplar for persons required to be registered. For a person who is not required to be registered under Section 2 of Chapter 848 Oregon Laws 2007 the primary source for an exemplar remains the Oregon Voter Registration Card and the chief petitioners have the opportunity to provide an alternative exemplar for those circulators not registered to vote.

Rules Coordinator: Brenda Bayes

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

Telephone: (503) 986-1518

Rule Caption: Completion of optional information on petition sheets.

Stat. Auth.: ORS 246.150

Stats. Implemented: ORS 260.567

Proposed Adoptions: 165-014-0275

Last Date for Comment: 12-26-07

Summary: This proposed rule adopts specific standards for what an Elections Official will review a petition sheet to determine if there has been a violation of ORS 260.567.

Rules Coordinator: Brenda Bayes

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

Telephone: (503) 986-1518

Rule Caption: Adoption of the 2008 City Elections Manual and the 2008 District Elections Manual.

Stat. Auth.: ORS 246.120 & 246.150

Stats. Implemented: ORS 246.120, 246.150, Ch. 848 Oregon Laws 2007

Proposed Amendments: 165-020-0005

Last Date for Comment: 12-26-07

Summary: This proposed rule amendment designates the *2008 City Elections Manual* and the *2008 District Elections Manual* and associated forms as the procedures and forms used for in the city and district elections process.

To request a copy of the draft *2008 City Elections Manual* and the *2008 District Elections Manual* please contact Summer Davis, Compliance Specialist, phone 503-986-1518; fax 503-373-7414; or e-mail summer.s.davis@state.or.us.

Rules Coordinator: Brenda Bayes

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

Telephone: (503) 986-1518

Rule Caption: Periodic review of Division 20 and updates to reflect changes in election law.

Stat. Auth.: ORS 246.120, 246.150, 255.245 & 255.305

Stats. Implemented: ORS 246.179, 251.365, 254.046, 255.069, 255.075, 255.245 & 255.305

Proposed Adoptions: 165-020-0021

Proposed Amendments: 165-020-0020, 165-020-0035, 165-020-0050, 165-020-0055

Proposed Repeals: 165-020-0045

Last Date for Comment: 12-26-07

Summary: 165-020-0021 - This proposed rule sets forth the procedures used to prepare the notice of election of board members for special districts.

165-020-0020 - This rule adopts by reference Form SEL 815, the form used for filing a notice of election of board members for special district elections as well as prescribing the timelines to prepare the SEL 815 and deliver to each district elections authority, and how the notice required by ORS 255.075 shall be prepared. OAR 165-021-0005 and OAR 165-021-0010 have been incorporated into this rule.

NOTICES OF PROPOSED RULEMAKING

165-020-0035 - This rule has been updated to incorporate language in OAR 165-020-0045 and to streamline and make clearer the process for filing a vacancy that occurs in office of board member of a district.

165-020-0050 and 165-020-0055 are updated to remove a reference to SEL 952PP, Allocated Cost Worksheet for Polling Place Elections.

165-020-0045 is proposed for repeal as being wholly incorporated into OAR 165-020-0035.

Rules Coordinator: Brenda Bayes

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

Telephone: (503) 986-1518

Rule Caption: Repeals all rules in Division 21, Publication of Special District Election Notices.

Stat. Auth.: ORS 246.150

Stats. Implemented: ORS 255.069, 255.075, 255.085 & 255.095

Proposed Repeals: 165-021-0000, 165-021-0005, 165-021-0010

Last Date for Comment: 12-26-07

Summary: The following rules will be repealed:

165-021-0000 - This rule sets forth the definitions to be used in OAR 165-021-0000 through 165-021-0010. Once the other rules in this Division are incorporated into other rules, this rule no longer is necessary.

165-021-0005 - This rule describes the procedures for maintaining records for preparation of notice of election of special district directors. This rule will be incorporated into OAR 165-020-0020.

165-021-0010 - This rule describes the procedure for preparing notices of election for publication in a newspaper. This rule will be incorporated into a new OAR 165-020-0021 and existing OAR 165-020-0020.

Rules Coordinator: Brenda Bayes

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

Telephone: (503) 986-1518

Teacher Standards and Practices Commission Chapter 584

Rule Caption: Adopt, amend and repeal rules regarding Licensure, Program Approval and other housekeeping clarifications.

Date:
1-4-08

Time:
1-3 p.m.

Location:
TSPC Office
465 Commercial St. NE
Salem, OR 97301

Hearing Officer: Victoria Chamberlain

Stat. Auth.: ORS 342, 183

Stats. Implemented: ORS 183, 342.120 - 342.143, 342.147, 342.153, 342.165, 342.173, 342.175 - 342.180, 342.223 - 342.232, 342.400, 342.455 - 342.495, 342.985

Proposed Adoptions: 584-010-0001, 584-010-0006, 584-017-0201

Proposed Amendments: 584-005-0005, 584-010-0010, 584-010-0015, 584-010-0020, 584-010-0025, 584-010-0030, 584-010-0035, 584-010-0045, 584-010-0050, 584-010-0055, 584-010-0060, 584-010-0080, 584-010-0090, 584-010-0100, 584-010-0140, 584-017-0130, 584-017-0175, 584-017-0355, 584-021-0175, 584-036-0067, 584-038-0004, 584-044-0011, 584-044-0015, 584-044-0023, 584-046-0020, 584-046-0024, 584-048-0040, 584-048-0105, 584-052-0015, 584-060-0002, 584-060-0012, 584-060-0014, 584-060-0052, 584-060-0062, 584-060-0071, 584-060-0210, 584-065-0070, 584-065-0080, 584-070-0132

Proposed Repeals: 584-010-0040, 584-010-0065, 584-010-0070, 584-010-0120, 584-010-0130, 584-017-0442, 584-017-0452, 584-070-0320

Last Date for Comment: 2-7-08, 4:30 p.m.

Summary: Amends rules related to program approval procedures; removes obsolete language from several rules; clarifies when academic program required for teaching license endorsements; adds language to require evidence of preparation for emergency licenses; repeals conditional assignment permits for student services.

Rules Coordinator: Victoria Chamberlain

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

Telephone: (503) 378-6813

ADMINISTRATIVE RULES

Appraiser Certification and Licensure Board Chapter 161

cert. ef. 7-27-94; ACLB 3-1996, f. & cert. ef. 2-13-96; ACLB 1-1998, f. 6-24-98, cert. ef. 7-1-98; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 4-2005, f. & cert. ef. 11-2-05; ACLB 1-2007, f. & cert. ef. 2-9-07; ACLB 4-2007, f. 11-1-07, cert. ef. 1-1-08

Rule Caption: Adoption and implementation of agency's 2007–2009 biennium budget.

Adm. Order No.: ACLB 3-2007

Filed with Sec. of State: 11-1-2007

Certified to be Effective: 11-1-07

Notice Publication Date: 10-1-2007

Rules Amended: 161-006-0025

Subject: Permanently amends Oregon Administrative Rule Chapter 161, Division 6 regarding the Board's budget.

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

161-006-0025

Budget

The Board hereby adopts by reference the Board's 2007-2009 Biennium Budget of \$1,426,474 covering the period from July 1, 2007 through June 30, 2009. The Board will amend budgeted accounts as necessary within the approved budget of \$1,426,474 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)(2). Copies of the budget are available from the Board's office.

Stat. Auth.: ORS 674.305(8) & 674.310
Stats. Implemented: ORS 674

Hist.: ACLB 4-2001(Temp), f. & cert. ef. 9-12-01 thru 3-1-02; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 1-2003(Temp), f. & cert. ef. 1-14-03 thru 7-11-03; ACLB 3-2003, f. & cert. ef. 5-1-03; ACLB 4-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03; ACLB 5-2003, f. & cert. ef. 11-10-03; ACLB 2-2005(Temp), f. 6-16-05, cert. ef. 7-1-05 thru 12-28-05; ACLB 4-2005, f. & cert. ef. 11-2-05; ACLB 2-2007(Temp), f. 6-6-07, cert. ef. 7-1-07 thru 11-30-07; ACLB 3-2007, f. & cert. ef. 11-1-07

Rule Caption: Permanent changes regarding license fees, licensing of Appraisers and supervision of Registered Appraiser Assistants.

Adm. Order No.: ACLB 4-2007

Filed with Sec. of State: 11-1-2007

Certified to be Effective: 1-1-08

Notice Publication Date: 10-1-2007

Rules Amended: 161-003-0020, 161-010-0055, 161-010-0085, 161-015-0030, 161-025-0025

Subject: Permanently amends Oregon Administrative Rule Chapter 161, Division 3 regarding fees, Division 10 regarding licensure and certification requirements; Division 15 regarding application and examination process; and Division 25 regarding scope of practice and procedures.

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

161-003-0020

Fees

The Board shall charge and collect the following fees:

- (1) Examination Fee — \$125;
- (2) Application Fee — \$75;
- (3) Fee for Certificate or License Issued (two years) — \$550;
- (4) Fee for Certificate of License Renewed (two years) — \$500;
- (5) Fee for Duplicate Certificate/License — \$10;
- (6) Fee for Inactive Certificate or License (two years) — \$100;
- (7) Fee for Renewal of Inactive Certificate or License (two years) — \$100;

- (8) Fee for Reactivation of Inactive Certificate or License — \$60;
- (9) Fee for Late License/Certificate Renewal (in addition to renewal fee) — \$50;
- (10) Fee for Temporary Registration — \$100;
- (11) Annual Federal Registry Fee (set by the ASC of the FFIEC) — Actual Fee;
- (12) Appraiser Assistant Registration — \$75;
- (13) Appraiser Assistant Registration Renewal — \$75;
- (14) FBI Criminal Background Check — Actual Fee;
- (15) Fee for a certified copy of a certificate-of-good-standing — \$20;
- (16) Application Fee for Qualifying Education Course — \$100;
- (17) Application Fee for Continuing Education Course — \$50.

Stat. Auth.: ORS 674.305 & 674.310

Stats. Implemented: ORS 674

Hist.: ACLB 2-1991(Temp), f. & cert. ef. 7-1-91; ACLB 3-1991(Temp), f. & cert. ef. 8-29-91; ACLB 7-1991, f. & cert. ef. 12-23-91; ACLB 4-1993(Temp), f. & cert. ef. 6-25-93; ACLB 1-1994, f. & cert. ef. 2-1-94, Renumbered from 161-001-0020; ACLB 4-1994, f. &

161-010-0055

Prerequisite Experience and Education Requirements for State Licensed Appraisers

(1) As a prerequisite to taking the examination for licensure as a state licensed appraiser, an applicant shall present evidence satisfactory to the Administrator that the applicant has completed at least 2,000 hours of acceptable appraisal experience.

(2) As a prerequisite to taking the examination for licensure as a state licensed appraiser, an applicant shall present evidence satisfactory to the Administrator that the applicant has successfully completed not less than 105 classroom hours of acceptable appraisal courses as set forth in OAR 161-020-0110. Included within these requirements, each applicant shall have successfully completed the 15-hour Appraisal Foundation's National USPAP Course, or its equivalent, within two (2) years preceding the date of application and have successfully passed an examination thereon.

(3) Effective January 1, 2008, as a prerequisite to taking the examination for licensure as a State Licensed Appraiser, an applicant shall present evidence satisfactory to the Administrator that the applicant has:

(a) At least 2,000 cumulative hours of acceptable appraisal experience. Cumulative hours must be acquired over at least twelve (12) months.

(b) Completed not less than 150 classroom hours of acceptable appraisal courses as set forth in OAR 161-020-0110.

(4) Effective January 1, 2010 the Board will no longer accept new applications for State Licensed Appraiser. Therefore, the education and experience requirements for State Licensed Appraiser will be moot.

[Publications referenced are available from the agency.]

Stat. Auth.: ORS 674.305 & 674.310

Stats. Implemented: ORS 674

Hist.: ACLB 2-1991(Temp), f. & cert. ef. 7-1-91; ACLB 5-1991(Temp), f. & cert. ef. 11-18-91; ACLB 7-1991, f. & cert. ef. 12-23-91; ACLB 1-1994, f. & cert. ef. 2-1-94, Renumbered from 161-010-0050 & 161-010-0060; ACLB 1-1998, f. 6-24-98, cert. ef. 7-1-98; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 3-2003, f. & cert. ef. 5-1-03; ACLB 3-2005, f. & cert. ef. 7-22-05; ACLB 4-2007, f. 11-1-07, cert. ef. 1-1-08

161-010-0085

Pre-Requisite Experience and Education for Supervising Appraiser Endorsement

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

(1) Be licensed or certified with the Board for a minimum of 24 months, be in good standing, and not be otherwise prohibited from supervising appraiser assistants. Effective January 1, 2010, State Licensed Appraisers may not supervise registered appraiser assistants and, therefore, are not eligible for a supervising appraiser endorsement.

(2) Attend a Board approved Supervising Appraiser/Appraiser Assistant Training Course and successfully pass the final exam prior to making application. A prior Supervising Appraiser/Appraiser Assistant Training Course and exam completed for purposes of registering as an appraiser assistant will not count towards obtaining a Supervising Appraiser Endorsement.

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

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

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

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

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

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

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

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

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

Hist.: ACLB 2-2006, f. & cert. ef. 7-26-06; ACLB 1-2007, f. & cert. ef. 2-9-07; ACLB 4-2007, f. 11-1-07, cert. ef. 1-1-08

ADMINISTRATIVE RULES

161-015-0030

Submission of License or Certificate Application

(1) Each application must be accompanied by a non-refundable application fee.

(2) An application that is not properly completed, does not contain all the required information, or is not accompanied by the required fee will be deferred. An application will also be considered incomplete if the check for payment of the required fees is dishonored;

(3) The application will be reviewed to determine whether the applicant has sufficient education and experience and is otherwise qualified to sit for the examination;

(4) Upon application approval, the applicant is notified that they are approved to sit for the examination. Upon successful completion of the examination, the Board will notify the appraiser and within one year of the notification, the applicant must submit the ACLB Certificate or License Request form with the appropriate licensing/certification and national registry fees, requesting that their license/certificate be issued. The Administrator issues the certificate or license to the applicant. The appraiser's name is submitted to the FFIEC Appraisal Subcommittee for inclusion on the Federal Registry.

(5) Upon issuance of a license or certificate, consistent with the scope of practice as provided in OAR 161-025-0000, 161-025-0005 and 161-025-0010, the appraiser is authorized to conduct real estate appraisal activity between the date of the issuance of the license or certificate, and the renewal date of the license or certificate, unless sooner revoked or suspended. No more than one license or certificate shall be issued and outstanding to, or in favor of, any appraiser at one time.

(6) An applicant who is not a resident of the State of Oregon must submit with the application, an irrevocable consent to service form appointing the Administrator of the Board as agent for service of process as provided in these rules, if, in an action against the applicant in a court of this state arising out of the applicant's activities as a licensed or certified appraiser, the plaintiff cannot, in the exercise of due diligence, effect personal service upon the applicant.

(7) An applicant must be a citizen of the United States or have the legal authority to work in the United States.

(8) An applicant who has been licensed or certified in other states must have successfully passed an examination approved by the AQB or they will be required to take the approved Board examination. The examination must be at a level consistent with the appraiser category applied for in the State of Oregon. The examination results must be sent directly from the testing service to the Board office.

(9) Applicants for licensure or certification must have a license history submitted directly to the Board office from each state in which he or she has ever been licensed or certified, or the Board may obtain a National Registry Appraiser License History report. Applicants must be in good standing in all states in which they are licensed or certified, or the application will be denied.

(10) Effective January 1, 2010, new applications for State Licensed Appraiser will no longer be accepted by the Board.

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

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

Stats. Implemented: ORS 674

Hist.: ACLB 4-1991(Temp), f. & cert. ef. 8-29-91; ACLB 8-1991(Temp), f. & cert. ef. 12-31-91; ACLB 2-1992, f. & cert. ef. 4-30-92; ACLB 1-1994, f. & cert. ef. 2-1-94; ACLB 1-1998, f. 6-24-98, cert. ef. 7-1-98; ACLB 2-1999, f. & cert. ef. 4-20-99; ACLB 1-2000, f. & cert. ef. 2-29-00; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 6-2003, f. & cert. ef. 11-24-03; ACLB 4-2005, f. & cert. ef. 11-2-05; ACLB 1-2007, f. & cert. ef. 2-9-07; ACLB 4-2007, f. 11-1-07, cert. ef. 1-1-08

161-025-0025

Supervising Appraiser (SA)

(1) A State Licensed Appraiser may have no more than one registered appraiser assistant at a time. Effective January 1, 2010, only qualified State Certified Residential Appraisers and State Certified General Appraisers may supervise Registered Appraiser Assistants.

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

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

(A) Define the appraisal problem.

(i) Identify and locate the real estate;

(ii) Identify the property rights to be valued;

(iii) Identify the use of the appraisal

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

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

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

(vii) Identify and describe limiting conditions or limitations.

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

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

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

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

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

(i) Site/improvements;

(ii) Size;

(iii) Costs;

(iv) Elements of comparison; and

(v) Units of comparison.

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

(i) Land as if vacant and available; and

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

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

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

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

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

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

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

(d) Make a clear and prominent disclosure of real estate appraisal assistance in each appraisal report by identifying each individual category of experience that the appraiser assistant provided as outlined in OAR 161-025-0025(2)(a)(A through H); and

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

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

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

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

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

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

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

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

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

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

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

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

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

Stats. Implemented: ORS 674

ADMINISTRATIVE RULES

Hist.: ACLB 4-2005, f. & cert. ef. 11-2-05; ACLB 2-2006, f. & cert. ef. 7-26-06; ACLB 1-2007, f. & cert. ef. 2-9-07; ACLB 4-2007, f. 11-1-07, cert. ef. 1-1-08

Rule Caption: Temporary rule adopting 2008 Edition of Uniform Standards of Professional Appraisal Practice (USPAP).

Adm. Order No.: ACLB 5-2007(Temp)

Filed with Sec. of State: 11-1-2007

Certified to be Effective: 1-1-08 thru 6-27-08

Notice Publication Date:

Rules Amended: 161-002-0000, 161-025-0060

Subject: Amends Oregon Administrative Rule 161, Division 002, Rule 0000 regarding definitions, and Division 25, Rule 0060 regarding Appraisal Standards and USPAP.

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

161-002-0000

Definitions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Reviewing the appraiser assistant’s appraisal report(s) to ensure research of general and specific data has been adequately conducted and properly reported, application of appraisal principles and methodologies has been properly applied, that any analysis is sound and adequately report-

ed, and that any analysis, opinions, or conclusions are adequately developed and reported so that the appraisal report is not misleading; and

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

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

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

(16) **“Federal Financial Institution Regulatory Agency”** means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(36) **“Transaction Value”** means:

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

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

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

ADMINISTRATIVE RULES

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

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

(37) “Uniform Standards of Professional Appraisal Practice” or “USPAP” means the standards adopted and published by the Appraisal Standards Board of the Appraisal Foundation dated April 27, 1987, as amended January 1, 2008.

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

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

Stat. Auth.: ORS 674.305 & 674.310

Stats. Implemented: ORS 674

Hist.: ACLB 2-1991(Temp), f. & cert. ef. 7-1-91; ACLB 7-1991, f. & cert. ef. 12-23-91; ACLB 1-1993(Temp), f. & cert. ef. 3-3-93; ACLB 1-1994, f. & cert. ef. 2-1-94, Renumbered from 161-010-0000; ACLB 4-1994, f. & cert. ef. 7-27-94; ACLB 4-1994, f. & cert. ef. 7-27-94; ACLB 2-1996, f. & cert. ef. 2-13-96; ACLB 1-1997(Temp), f. 10-13-97, cert. ef. 1-1-98; ACLB 1-1998, f. 6-24-98, cert. ef. 7-1-98; ACLB 1-1999, f. 1-28-99, cert. ef. 3-31-99; ACLB 1-2000, f. & cert. ef. 2-29-00; ACLB 1-2001(Temp), f. & cert. ef. 1-26-01 thru 7-25-01; ACLB 2-2001, f. 4-11-01, cert. ef. 4-12-01; ACLB 3-2001(Temp), f. & cert. ef. 7-12-01 thru 1-8-02; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 2-2002, f. & cert. ef. 5-30-02; ACLB 2-2003, f. & cert. ef. 1-27-03; ACLB 1-2004, f. & cert. ef. 2-3-04; ACLB 2-2004, f. 5-25-04, cert. ef. 6-1-04; ACLB 1-2005, f. & cert. ef. 1-12-04; ACLB 4-2005, f. & cert. ef. 11-2-05; ACLB 1-2006(Temp), f. 6-29-06, cert. ef. 7-1-06 thru 12-28-06; ACLB 2-2006, f. & cert. ef. 7-26-06; ACLB 5-2007(Temp), f. 11-1-07, cert. ef. 1-1-08 thru 6-27-08

161-025-0060

Appraisal Standards and USPAP

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

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

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

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

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

(6) The “Uniform Standards of Professional Appraisal Practice”, 2008 Edition, approved and adopted by the Appraisal Standards Board of the Appraisal Foundation, dated April 27, 1987, as amended on January 1, 2008, are incorporated into the Administrative Rules of the Appraiser Certification and Licensure Board as the standards of professional conduct which shall guide the behavior of licensed and certified appraisers in the State of Oregon. Copies of the Uniform Standards of Professional Appraisal Practice may be obtained from the Appraisal Foundation located at 1155 15TH Street NW, Suite 1111, Washington D.C. 20005.

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

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

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

(a) Board member;

(b) Employee; or

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

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

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

Stats. Implemented: ORS 674

Hist.: ACLB 1-1992(Temp), f. & cert. ef. 1-23-92; ACLB 2-1992, f. & cert. ef. 4-30-92; ACLB 4-1993(Temp), f. & cert. ef. 6-25-93; ACLB 1-1994, f. & cert. ef. 2-1-94; ACLB 4-1994, f. & cert. ef. 7-27-1994; ACLB 2-1996, f. & cert. ef. 2-13-96; ACLB 1-1997(Temp), f. 10-13-97, cert. ef. 1-1-98; ACLB 1-1998, f. 6-24-98, cert. ef. 7-1-98; ACLB 1-1999, f. 1-28-99, cert. ef. 3-31-99; ACLB 3-1999, f. 9-23-99, cert. ef. 1-1-00; ACLB 1-2000, f. & cert. ef. 2-29-00; ACLB 3-2000(Temp), f. 11-9-00, cert. ef. 11-9-00 thru 5-8-01; ACLB 1-2001(Temp), f. & cert. ef. 1-26-01 thru 7-25-01; ACLB 2-2001, f. 4-11-01, cert. ef. 4-12-01; ACLB 3-2001(Temp), f. & cert. ef. 7-12-01 thru 1-8-02; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 2-2002, f. & cert. ef. 5-30-02; ACLB 2-2003, f. & cert. ef. 1-27-03; ACLB 1-2004, f. & cert. ef. 2-3-04; ACLB 1-2005, f. & cert. ef. 1-12-04; ACLB 4-2005, f. & cert. ef. 11-2-

05; ACLB 1-2006(Temp), f. 6-29-06, cert. ef. 7-1-06 thru 12-28-06; ACLB 2-2006, f. & cert. ef. 7-26-06; ACLB 5-2007(Temp), f. 11-1-07, cert. ef. 1-1-08 thru 6-27-08

Board of Medical Examiners

Chapter 847

Rule Caption: Remove obsolete references and detail criteria for granting and canceling Limited License, Postgraduate.

Adm. Order No.: BME 19-2007

Filed with Sec. of State: 10-24-2007

Certified to be Effective: 10-24-07

Notice Publication Date: 6-1-2007

Rules Amended: 847-070-0018, 847-070-0022, 847-070-0036, 847-070-0037, 847-070-0050

Subject: The proposed rule amendments remove references to fees and requirements that are no longer required by the Board, update a reference to another rule within the Division to be consistent with the current numbering, specify that the Limited License, Postgraduate expires if the licensee fails the acupuncture certification examination given by the National Certification Commission on Acupuncture and Oriental Medicine (NCCAOM), and remove specifications for committee member term ending dates that are now in the past.

Rules Coordinator: Diana M. Dolstra—(503) 673-2713

847-070-0018

Use of Name

(1) Every acupuncturist licensed by this Board to practice acupuncture shall be licensed under the applicant’s legal name and shall practice acupuncture under that legal name.

(2) When a name is changed, the following must be submitted so that the Board’s records may reflect the new name:

(a) A signed change of name notification affidavit provided by this Board.

(b) A copy of the legal document showing the name change.

(c) The returned original Oregon engrossed certificate.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.759

Hist.: ME 8-1990, f. & cert. ef. 4-25-90; ME 6-1993, f. & cert. ef. 4-22-93; BME 19-2007, f. & cert. ef. 10-24-07

847-070-0022

Documents to be Submitted for Licensure

The documents submitted must be no larger than 8 1/2” x 11”. All documents will be retained by the Board as a permanent part of the application file. If original documents are larger than 8 1/2” x 11”, the copies must be reduced to the correct size with all wording and signatures clearly shown. The following documents are required for an applicant:

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

(2) Birth Certificate: A copy of birth certificate for proof of name and birth date, and a copy of Change of Name documentation, Marriage Certificate, or Divorce Decree if the applicant’s name has been changed by court order, adoption, marriage, divorce, etc.

(3) Acupuncture School Diploma: A copy of a diploma showing graduation from an approved school of acupuncture, for those applicants who qualify under OAR 847-070-0016(1).

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

(5) A letter from the Dean of the applicant’s program of acupuncture, for those applicants who qualify under OAR 847-070-0016(1).

(6) A letter from the National Certification Commission for Acupuncture and Oriental Medicine (N.C.C.A.O.M.) verifying current certification in acupuncture by the N.C.C.A.O.M., for those applicants who qualify under OAR 847-070-0016(2).

(7) A letter verifying licensure in good standing from the state or states of all prior and current health related licensure.

(8) A letter from the Director or other official for practice and employment to include an evaluation of overall performance and specific beginning and ending dates of practice and employment, for the past five (5) years only. For acupuncturists who have been or are in solo practice, three reference letters from acupuncturists in the local treatment community who

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are familiar with the applicant's practice and who have known the applicant for more than six months.

Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.275, 677.759
Hist.: BME 21-2006, f. & cert. ef. 10-23-06; BME 19-2007, f. & cert. ef. 10-24-07

847-070-0036

Limited License, Special

An applicant applying for a license to practice acupuncture may be issued a Limited License, Special until the next regularly scheduled Board meeting if the applicant meets the following criteria:

- (1) The applicant meets the qualifications of OAR 847-070-0015;
- (2) The applicant has satisfactorily completed an application as described in OAR 847-070-0015(1).
- (3) The applicant has submitted the appropriate form and fee for a Limited License, Special.

Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.132
Hist.: ME 6-1993, f. & cert. ef. 4-22-93; ME 8-1993(Temp), f. & cert. ef. 7-12-93; ME 11-1993, f. & cert. ef. 7-27-93; BME 19-2007, f. & cert. ef. 10-24-07

847-070-0037

Limited License, Postgraduate

(1) An acupuncturist who meets all requirements for Oregon acupuncture licensure but has not yet passed the acupuncture certification examination given by the National Certification Commission on Acupuncture and Oriental Medicine (N.C.C.A.O.M.) may be issued a Limited License, Postgraduate for the purpose of obtaining clinical training in Oregon under the supervision of a Board approved clinical supervisor for a period of one year if the following criteria are met:

- (a) The application file is complete.
- (b) Certification by the N.C.C.A.O.M. is pending.
- (c) The clinical supervisor approved to supervise the applicant meets the qualifications in OAR 847-070-0017 and is on-site and available to supervise at all times when the applicant is training.
- (d) The applicant has submitted the appropriate form and fee prior to being issued a Limited License, Postgraduate.

(2) Any person obtaining clinical training under a Limited License, Postgraduate must identify themselves to patients as an acupuncture trainee and wear a name tag identifying themselves as a trainee.

(3) A Limited License, Postgraduate may be granted for one year and may not be renewed.

(4) Upon receipt of verification that the applicant has passed the acupuncture certification examination given by the N.C.C.A.O.M., and if the applicant's application file is otherwise satisfactorily complete, the applicant shall be scheduled for approval of permanent licensure.

(5) The Limited License, Postgraduate will automatically be canceled if the applicant fails the acupuncture certification examination given by the N.C.C.A.O.M..

Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.759
Hist.: BME 5-1999, f. & cert. ef. 4-22-99; BME 19-2007, f. & cert. ef. 10-24-07

847-070-0050

Acupuncture Advisory Committee

(1) There is established an Acupuncture Advisory Committee which shall consist of six members appointed by the Board of Medical Examiners for the State of Oregon. The Board shall appoint one of its members, two physicians, and three acupuncturists licensed by the board. The acupuncture members may be appointed from nominations of the Oregon Acupuncture Association, the Acupuncture and Oriental Medicine Society of Oregon, and other professional acupuncture organizations.

(2) The term of office of a member of the committee shall be four years and members may be reappointed to serve not more than two terms. Vacancies in the committee shall be filled by appointment by the board for the balance of the unexpired term and each member shall serve until a successor is appointed and qualified.

(3) The Board of Medical Examiners for the State of Oregon may remove any member from the committee.

Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.265, 677.759, 677.780
Hist.: ME 4-1995, f. & cert. ef. 5-3-95; ME 10-1996, f. & cert. ef. 10-29-96; BME 15-1998, f. & cert. ef. 10-26-98; BME 14-2001, f. & cert. ef. 10-30-01; BME 19-2007, f. & cert. ef. 10-24-07

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

Adm. Order No.: BME 20-2007

Filed with Sec. of State: 10-24-2007

Certified to be Effective: 10-24-07

Notice Publication Date: 9-1-2007

Rules Adopted: 847-020-0183

Rules Amended: 847-020-0130, 847-020-0150, 847-020-0170, 847-020-0180

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

Rules Coordinator: Diana M. Dolstra—(503) 673-2713

847-020-0130

Basic Requirements for Licensure of a Foreign Medical School Graduate

(1) The following requirements must be met in lieu of graduation from a school of medicine approved by the Liaison Committee on Medical Education of the American Medical Association or the Committee on the Accreditation of the Canadian Medical Schools of the Canadian Medical Association in order to qualify under ORS 677.100.

(2) The requirements for licensure of the foreign medical school graduate are as follows:

- (a) Must speak English fluently and write English legibly.
- (b) Must have graduated from a foreign school of medicine that is chartered in the country in which the school is located, after attendance of at least four full terms of instruction of eight months each, with all courses having been completed by physical on-site attendance in the country in which the school is chartered. This requirement may be waived for any applicant for licensure who has graduated from a foreign school of medicine, and has substantially complied with the attendance requirements provided herein, and has been certified by a specialty board recognized by the American Board of Medical Specialties. If any of the clinical clerkships were taken in an institution in a country other than that in which the school is chartered, the institutions in which the clerkships were served must provide a certificate to prove the time spent and the satisfactory completion of the clerkships. After June 30, 1988, clinical clerkships served in the U.S. or Canada shall be taken only in institutions which conduct residencies approved by the Accreditation Council for Graduate Medical Education or the College of Family Physicians of Canada or the Royal College of Physicians and Surgeons of Canada or the American Osteopathic Association in the specific subject of the clerkship. The applicant must provide the Board with documentation to substantiate that the medical school from which the applicant graduated provided a resident course of professional instruction equivalent to that provided in a medical school approved by either the Liaison Committee on Medical Education of the American Medical Association or by the Committee on Accreditation of Canadian Medical Schools of the Canadian Medical Association.

(c) Must have obtained the Standard Educational Commission for Foreign Medical Graduates Certificate issued by the Educational Commission for Foreign Medical Graduates. This requirement may be waived if accredited postgraduate training was completed in Canada, or prior to the enforcement of the ECFMG certification, or if the applicant has been certified by a specialty board recognized by the American Board of Medical Specialties. In lieu of the ECFMG certificate, Fifth Pathway applicants shall show evidence of passing the examination pursuant to Oregon standards.

(d) Must have satisfactorily completed an approved internship and/or residency (or clinical fellowship) in the United States or Canada of not less than three years of progressive training in not more than two specialties in not more than two training programs accredited for internship, residency or fellowship training by the Accreditation Council for Graduate Medical Education or the College of Family Physicians of Canada or the Royal College of Physicians and Surgeons of Canada or the American Osteopathic Association.

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(A) The following may be used in lieu of the three years of post graduate training:

(I) A valid certificate issued by a specialty board recognized by the American Board of Medical Specialties; or

(II) Successful completion of four years of practice in Oregon under a Limited License, Medical Faculty, in accordance with OAR 847-020-0140(1)(b)–(c), or

(III) Successful completion of four years of practice in another state or the District of Columbia under a license substantially similar to the Board's Limited License, Medical Faculty.

(B) If the applicant is unable to satisfy the requirement in section (d) of this rule for postgraduate training, and the applicant has been granted a dispensation by a specialty board of the American Board of Medical Specialties (ABMS) whereby the ABMS specialty board has granted credit to the applicant for postgraduate training completed abroad toward fulfillment of the specialty board's requirements for admission to a future specialty board's certification examination, the Board may consider the ABMS specialty board's dispensation as fulfilling that same portion of the Board's requirement for postgraduate training.

(e) A graduate of a school of medicine approved by the Oregon Board of Medical Examiners pursuant to OAR 847-031-0001, 847-031-0010, 847-031-0020, 847-031-0030 and 847-031-0040 must have satisfactorily completed not less than one year of approved training in the United States or Canada in not more than one hospital accredited for internship, residency or fellowship training by the Accreditation Council for Graduate Medical Education or the Canadian Medical Association or the Royal College of Physicians and Surgeons of Canada.

(f) Must pass a written licensure examination as provided in ORS 677.110 and OAR 847-020-0170.

(3) If a foreign medical graduate has met the basic requirements for licensure and wishes to pursue further postgraduate training beyond the postgraduate level (3) three year, or wishes to practice medicine in this state, an unlimited license must be applied for and obtained.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.100, 677.265

Hist. BME 9-2001, f. & cert. ef. 7-24-01; BME 8-2002, f. & cert. ef. 7-17-02; BME 10-2004(Temp), f. & cert. ef. 4-22-04 thru 10-15-04; BME 15-2004, f. & cert. ef. 7-13-04; BME 8-2005, f. & cert. ef. 7-20-05; BME 4-2006(Temp), f. & cert. ef. 2-8-06 thru 7-7-06; BME 10-2006, f. & cert. ef. 5-8-06; BME 20-2007, f. & cert. ef. 10-24-07

847-020-0150

Documents and Forms to be Submitted for Licensure

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

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

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

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

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

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

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

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

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

(9) An applicant shall be required to pass an open-book examination on the Medical Practice Act (ORS Chapter 677) and an open-book examination on the Drug Enforcement Administration's regulations governing the use of controlled substances. If an applicant fails one or both examinations three times, the applicant's application will be reviewed by the Administrative Affairs Committee of the Board of Medical Examiners. An applicant who has failed one or both open-book examinations three times must also attend an informal meeting with a Board member, a Board investigator and/or the Medical Director of the Board to discuss the applicant's failure of the examination(s), before being given a fourth and final attempt to pass the examination(s). If the applicant does not pass the examination(s) on the fourth attempt, the applicant may be denied licensure.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.110

Hist. BME 9-2001, f. & cert. ef. 7-24-01; BME 3-2006, f. & cert. ef. 2-8-06; BME 15-2007, f. & cert. ef. 7-23-07; BME 20-2007, f. & cert. ef. 10-24-07

847-020-0170

Written Examination

(1) After complying with OAR 847-020-0110 through 847-020-0200 the applicant applying for licensure must have passed one of the following examinations or combinations of examinations:

(a) Federation Licensing Examination (FLEX) Component I and FLEX Component 2.

(b) National Board of Medical Examiners (NBME) Part I and Part II and Part III.

(c) National Board of Medical Examiners (NBME) Part I or United States Medical Licensing Examination (USMLE) Step 1, and NBME Part II or USMLE Step 2 and NBME Part III or USMLE Step 3.

(d) NBME Part I or USMLE Step 1, and NBME Part II or USMLE Step 2, and FLEX Component 2.

(e) FLEX Component 1 and USMLE Step 3. A score of 75 or above must be achieved on FLEX Component 1 and the score achieved on USMLE Step 3 must be equal to or exceed the figure established by the Federation as a recommended passing score.

(f) The score achieved on each Step, Part or Component must equal or exceed the figure established by the USMLE Program, the National Board of Medical Examiners or the Federation of State Medical Boards as a passing score. All Steps, Parts or Components listed in OAR 847-020-0170(1)(a)–(f) must be administered prior to January 2000, except for applicants who participated in and completed a combined MD/DO/PhD program; or

(g) The National Board of Osteopathic Medical Examiners (NBOME) examination or the Comprehensive Osteopathic Medical Licensing Examination (COMLEX) or any combination of their parts; or

(h) USMLE Steps 1, 2, and 3. All three Steps of USMLE, or all three Levels of the NBOME examination or COMLEX or any combination of the two, must be passed within a seven-year period which begins when the first Step or Level, either Step 1 or Step 2 or Level 1 or Level 2, is passed. The score achieved on each Step must equal or exceed the figure established by the Federation as a recommended passing score, and the score achieved on each Level must equal or exceed the figure established by the National Board of Osteopathic Medical Examiners.

(A) An applicant who has not passed all three Steps or Levels within the seven-year period may request an exception to the seven-year requirement if he/she:

(I) Has current certification by the American Board of Medical Specialties or the American Osteopathic Association's Bureau of Osteopathic Specialists; or

(II) Suffered from a documented significant health condition which by its severity would necessarily cause a delay to the applicant's medical or osteopathic study; or

(III) Participated in a combined MD/DO/PhD program; or

(IV) Completed continuous post-graduate training with the equivalent number of years to an MD/DO/PhD program.

(B) Except as noted in section (1)(h)(C) of this rule, effective April 23, 2004, to be eligible for licensure, an applicant must have passed USMLE Step 3 or NBOME's COMLEX Level 3 within four attempts whether for Oregon or any other state. After the third failed attempt, the applicant must have completed one additional year of postgraduate training in the United States or Canada prior to readmission to the examination. The Board must approve the additional year of training to determine whether the applicant is eligible for licensure. The applicant, after completion of the

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required year of training, must have passed USMLE Step 3 or COMLEX Level 3 on their fourth and final attempt. If the fourth attempt of USMLE Step 3 is failed, the applicant is not eligible for Oregon licensure. If the applicant did not complete a year of training approved by the Board between the third and fourth attempt to pass USMLE Step 3 or COMLEX Level 3, the applicant is not eligible for licensure.

(C) An applicant who has passed USMLE Step 3 or COMLEX Level 3, but not within the four attempts required by OAR 847-020-0170(1)(h)(B), may request a waiver of this requirement if he/she has current certification by a specialty board recognized by the American Board of Medical Specialties or the American Osteopathic Association's Bureau of Osteopathic Specialists.

(2) USMLE Step 3 may be taken during the first year of postgraduate training, or after the first year of postgraduate training has been completed. A Limited License, Postgraduate will be required for training beyond the postgraduate 1 level if the USMLE is not yet passed.

(3) The applicant will not be allowed to take the USMLE for this state nor apply for licensure in this state if the FLEX has been previously failed four or more times.

(4) The applicant must have passed the written examination (FLEX) under the following conditions:

(a) The applicant who has taken the FLEX examination (Day I, II, and III) administered between June 1968 and December 1984 must have taken the entire examination at one sitting. The applicant who has taken the FLEX examination (Component 1 and Component 2), first administered in June 1985, was not required to take both Components 1 and 2 of the FLEX examination at one sitting. Both must have been passed within seven years of the first attempt.

(b) The applicant may not have taken the FLEX examination more than a total of four times, whether in Oregon or other states, whether the components were taken together or separately. After the third failed attempt, the applicant must have satisfactorily completed one year of approved training in the United States or Canada prior to having taken the entire FLEX examination at one sitting on the fourth and final attempt.

(c) Only the applicant's scores on the most recently taken FLEX examination will be considered to determine eligibility.

(5) If the applicant has ceased the practice of medicine for a period of 12 or more consecutive months, the applicant may be required to further demonstrate clinical competency.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.110, 677.265

Hist. BME 9-2001, f. & cert. ef. 7-24-01; BME 5-2003, f. & cert. ef. 1-27-03; BME 10-2003, f. & cert. ef. 5-2-03; BME 14-2003(Temp), f. & cert. ef. 9-9-03 thru 3-1-04; BME 3-2004, f. & cert. ef. 1-27-04; BME 7-2004, f. & cert. ef. 4-22-04; BME 15-2004, f. & cert. ef. 7-13-04; BME 8-2005, f. & cert. ef. 7-20-05; BME 3-2006, f. & cert. ef. 2-8-06; BME 4-2006(Temp), f. & cert. ef. 2-8-06 thru 7-7-06; BME 10-2006, f. & cert. ef. 5-8-06; BME 20-2007, f. & cert. ef. 10-24-07

847-020-0180

Endorsement or Reciprocity

(1) After complying with OAR 847-020-0110 through 847-020-0200, the applicant may base an application upon certification by the National Board of Medical Examiners of the United States of America, the National Board of Osteopathic Medical Examiners, the Medical Council of Canada, or upon reciprocity with a license obtained by FLEX examination, USMLE examination, or written examination from a sister state. The FLEX and USMLE examination must have been taken in accordance with OAR 847-020-0170. The examination grades must meet Oregon standards pursuant to ORS 677.110(1). In order to reciprocate with a lapsed license, such license must have been in good standing while registered in that state and that board must furnish a current, original certification of grades to the Oregon Board.

(2) If the applicant has ceased the practice of medicine for a period of 12 or more consecutive months, the applicant may be required to further demonstrate clinical competency.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.100, 677.265

Hist. BME 9-2001, f. & cert. ef. 7-24-01; BME 10-2003, f. & cert. ef. 5-2-03; BME 3-2004, f. & cert. ef. 1-27-04; BME 3-2006, f. & cert. ef. 2-8-06; BME 12-2007, f. & cert. ef. 4-26-07; BME 20-2007, f. & cert. ef. 10-24-07

847-020-0183

SPEX or COMVEX Examination and Personal Interview

(1) The applicant may also be required to pass the Special Purpose Examination (SPEX) or Comprehensive Osteopathic Medical Variable-Purpose Examination (COMVEX). This requirement may be waived if:

(a) The applicant has within ten years of filing an application with the Board, completed one year of an accredited residency, or an accredited or Board approved clinical fellowship; or

(b) The applicant has within ten years of filing an application with the Board, been certified or recertified by a specialty board recognized by the American Board of Medical Specialties or the American Osteopathic Association; or

(c) The applicant has received an appointment as Professor or Associate Professor at the Oregon Health and Science University; and

(d) Has not ceased the practice of medicine for a period of 12 or more consecutive months. The SPEX or COMVEX examination may be waived if the applicant, after ceasing practice for a period of 12 or more consecutive months, has subsequently:

(A) Completed one year of an accredited residency, or

(B) Completed one year of an accredited or Board approved clinical fellowship, or

(C) Been certified or recertified by a specialty board recognized by the American Board of Medical Specialties or the American Osteopathic Association, or

(D) Obtained continuing medical education to the Board's satisfaction.

(2) The applicant who fails the SPEX or COMVEX examination three times, whether in Oregon or other states, shall successfully complete one year of an accredited residency or an accredited or approved clinical fellowship before retaking the SPEX or COMVEX examination.

(a) After the first or second failed attempt, the Board may allow the applicant to take an oral specialty examination, at the applicant's expense, to be given by a panel of physicians in such specialty. The applicant shall remit the cost of administering the oral examination prior to the examination being scheduled.

(b) If an oral specialty examination is requested by the applicant, an Examination Panel of at least three physicians shall be appointed.

(c) The examination shall include questions which test basic knowledge and also test for knowledge expected of a physician with a practice similar in nature to the examinee's practice. The panel shall establish a system for weighing their score for each question in the examination. After it is prepared, the examination shall be submitted to the Board for review and approval.

(d) The Board shall require a passing grade of 75 on the oral specialty examination.

(e) If such oral examination is passed, the applicant would be granted a license limited to the applicant's specialty. If failed, the license would be denied and the applicant would not be eligible for licensure.

(3) The Limited License, SPEX may be granted for a period of 6 months and permits the licensee to practice medicine only until the grade results of the Special Purpose Examination are available, and the applicant completes the initial registration process. The Limited License, SPEX would become invalid should the applicant fail the SPEX examination and the applicant, upon notification of failure of the examination, must cease practice in this state as expeditiously as possible, but not to exceed two weeks after the applicant receives notice of failure of the examination.

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

(5) All of the rules, regulations and statutory requirements pertaining to the medical school graduate shall remain in full effect.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.100, 677.110, 677.120, 677.265

Hist.: BME 20-2007, f. & cert. ef. 10-24-07

Rule Caption: Add podiatric physicians to Administrative Medicine license status.

Adm. Order No.: BME 21-2007(Temp)

Filed with Sec. of State: 10-24-2007

Certified to be Effective: 10-24-07 thru 4-7-08

Notice Publication Date:

Rules Amended: 847-008-0037

Subject: Proposed rule adds podiatric physicians to Administrative Medicine license status.

Rules Coordinator: Diana M. Dolstra—(503) 673-2713

847-008-0037

Administrative Medicine

(1) A physician or podiatric physician who proposes to practice Administrative Medicine within the State shall apply for and obtain a license.

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(2) A physician or podiatric physician with an Administrative Medicine license may not examine, care for or treat patients. A physician or podiatric physician with an Administrative Medicine license may advise organizations, both public and private, on healthcare matters; authorize and deny financial payments for care; organize and direct research programs; review care provided for quality; and other similar duties that do not require direct patient care.

(3) Physicians or podiatric physicians granted Active — Administrative Medicine status must register and pay a biennial active registration fee.

(4) The licensee with Active — Administrative Medicine status desiring to have Active status to practice in Oregon must file an Affidavit of Reactivation.

Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.265
Hist.: BME 2-2007, f. & cert. ef. 1-24-07; BME 21-2007(Temp), f. & cert. ef. 10-24-07 thru 4-7-08

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

Adm. Order No.: BME 22-2007

Filed with Sec. of State: 10-24-2007

Certified to be Effective: 10-24-07

Notice Publication Date: 9-1-2007

Rules Amended: 847-080-0001, 847-080-0018

Subject: Proposed amendment to OAR 847-080-0018 adds waivers to the podiatrist rules similar to waivers in the physician administrative rules: Board certification waives the requirement to pass the National Board of Podiatric Medical Examiners (NBPME) Parts I, II and III within seven years and the requirement to pass Part III of this examination within four attempts. The spelling of a word is corrected in OAR 847-080-0001.

Rules Coordinator: Diana M. Dolstra—(503) 673-2713

847-080-0001

Definitions

(1) “Ankle” means the tibial plafond and its posterolateral border or posterior malleolus, the medial malleolus, the distal fibula or lateral malleolus, and the talus.

(2) “Board” means the Board of Medical Examiners of the State of Oregon.

(3) “Podiatric physician and surgeon” means a podiatric physician and surgeon whose practice is limited to treating ailments of the human foot, ankle, and tendons directly attached to and governing the function of the foot and ankle.

Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.805
Hist.: ME 6-1986, f. & ef. 4-23-86; BME 11-2000, f. & cert. ef. 7-27-00; BME 8-2007, f. & cert. ef. 1-24-07; BME 22-2007, f. & cert. ef. 10-24-07

847-080-0018

Endorsement, Competency Examination and Personal Interview

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

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

(b) An applicant who took the NBPME examination on or after January 1, 1987 and who has not passed all three Parts within the seven-year period may request an exception to the seven-year requirement if he/she:

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

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

(c) Except as noted in Section (1)(d) of this rule, effective July 25, 2005, to be eligible for licensure, the applicant who took the NBPME examination on or after January 1, 1987 must have passed NBPME Part III within four attempts whether for Oregon or for any other state. After the third failed attempt, the applicant must have completed one additional year of postgraduate training in the United States prior to readmission to the

examination. The Board must approve the additional year of training to determine whether the applicant is eligible for licensure. The applicant, after completion of the required year of training, must have passed Part III on their fourth and final attempt. If the fourth attempt of Part III is failed, the applicant is not eligible for Oregon licensure. If the applicant did not complete a year of training approved by the Board between the third and fourth attempt to pass Part III, the applicant is not eligible for licensure.

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

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

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

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

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

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

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

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

Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.825, 677.830
Hist.: ME 6-1986, f. & ef. 4-23-86; ME 17-1987, f. & ef. 8-3-87; ME 23-1989(Temp), f. & cert. ef. 10-20-89; ME 3-1990, f. & cert. ef. 1-29-90; ME 13-1992, f. & cert. ef. 10-22-92; ME 8-1994, f. & cert. ef. 4-29-94; ME 11-1996, f. & cert. ef. 10-29-96; BME 2-1999, f. & cert. ef. 1-26-99; BME 4-1999, f. & cert. ef. 2-17-99; BME 10-2005, f. & cert. ef. 7-20-05; BME 19-2006, f. & cert. ef. 7-25-06; BME 17-2007, f. & cert. ef. 7-23-07; BME 18-2007(Temp), f. & cert. ef. 7-23-07 thru 1-8-08; BME 22-2007, f. & cert. ef. 10-24-07

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

Adm. Order No.: BME 23-2007

Filed with Sec. of State: 10-24-2007

Certified to be Effective: 10-24-07

Notice Publication Date: 9-1-2007

Rules Amended: 847-050-0031, 847-050-0035

Rules Repealed: 847-050-0045

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

Rules Coordinator: Diana M. Dolstra—(503) 673-2713

847-050-0031

Use of Name

(1) Every physician assistant licensed by this Board shall be licensed under the applicant’s legal name and shall function as a physician assistant under that name.

(2) When a name is changed, the following must be submitted so that the Board’s records may reflect the new name:

(a) A signed change of name notification affidavit provided by this Board.

(b) A copy of the legal document showing the name change.

(c) The returned original Oregon engrossed certificate.

Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.184
Hist.: ME 7-1990, f. & cert. ef. 4-25-9; ME 10-1992, f. & cert. ef. 7-17-92; BME 23-2007, f. & cert. ef. 10-24-07

847-050-0035

Grounds for Discipline

(1) The performance of unauthorized medical services by the physician assistant constitutes a violation of the Medical Practice Act. The supervising physician and/or agent is responsible for the acts of the physician assistant and may be subject to disciplinary action for such violations by the physician assistant. The physician assistant is also subject to disciplinary

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action for violations. Proceedings under these rules shall be conducted in the manner specified in ORS 677.200 or 677.510(2).

(2) In addition to any of the reasons cited in ORS 677.190, the Board may refuse to grant, or may suspend or revoke a license to practice as a physician assistant for any of the following reasons:

(a) The physician assistant has held himself/herself out, or permitted another to represent the physician assistant to be a licensed physician.

(b) The physician assistant has in fact performed medical services without the direction or under the supervision of a supervising physician or agent.

(c) The physician assistant has performed a task or tasks beyond the physician assistant's competence as defined in OAR 847-050-0040(1).

Stat. Auth.: ORS 677.190, 677.205, 677.265

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

Hist.: ME 23(Temp), f. & ef. 10-12-71; ME 25, f. 1-20-72, ef. 2-1-72; ME 1-1979, f. & ef. 1-29-79; ME 5-1979, f. & ef. 11-30-79; ME 4-1980(Temp), f. 8-5-80, ef. 8-6-80; ME 7-1980, f. & ef. 11-3-80; ME 4-1981(Temp), f. & ef. 10-20-81; ME 2-1982, f. & ef. 1-28-82; ME 2-1990, f. & cert. ef. 1-29-90; BME 23-2007, f. & cert. ef. 10-24-07

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

Adm. Order No.: BME 24-2007

Filed with Sec. of State: 10-24-2007

Certified to be Effective: 10-24-07

Notice Publication Date: 9-1-2007

Rules Amended: 847-035-0030

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

Rules Coordinator: Diana M. Dolstra—(503) 673-2713

847-035-0030

Scope of Practice

(1) The Board of Medical Examiners has established a scope of practice for emergency and nonemergency care for First Responders and EMTs. First Responders and EMTs may provide emergency and nonemergency care in the course of providing prehospital care as an incident of the operation of ambulance and as incidents of other public or private safety duties, but is not limited to "emergency care" as defined in OAR 847-035-0001(5).

(2) The scope of practice for First Responders and EMTs is not intended as statewide standing orders or protocols. The scope of practice is the maximum functions which may be assigned to a First Responder or EMT by a Board-approved supervising physician.

(3) Supervising physicians may not assign functions exceeding the scope of practice; however, they may limit the functions within the scope at their discretion.

(4) Standing orders for an individual EMT may be requested by the Board or Section and shall be furnished upon request.

(5) No EMT may function without assigned standing orders issued by Board-approved supervising physician.

(6) An Oregon-certified First Responder or EMT, acting through standing orders, shall respect the patient's wishes including life-sustaining treatments. Physician supervised First Responders and EMTs shall request and honor life-sustaining treatment orders executed by a physician, nurse practitioner or physician assistant if available. A patient with life-sustaining treatment orders always requires respect, comfort and hygienic care.

(7) The scope of practice for emergency and nonemergency care established by the Board for First Responders is intended as authorization for performance of procedures by First Responders without direction from a Board-approved supervising physician, except as limited by subsection (2) of this rule. A First Responder may perform the following emergency care procedures without having signed standing orders from a supervising physician:

(a) Conduct primary and secondary patient examinations;

(b) Take and record vital signs;

(c) Utilize noninvasive diagnostic devices in accordance with manufacturer's recommendation;

(d) Open and maintain an airway by positioning the patient's head;

(e) Provide external cardiopulmonary resuscitation and obstructed airway care for infants, children, and adults;

(f) Provide care for soft tissue injuries;

(g) Provide care for suspected fractures;

(h) Assist with prehospital childbirth; and

(i) Complete a clear and accurate prehospital emergency care report form on all patient contacts and provide a copy of that report to the senior EMT with the transporting ambulance.

(8) A First Responder may perform the following procedures only when the First Responder is providing emergency care as part of an agency which has a Board-approved supervising physician who has issued written standing orders to that First Responder authorizing the following:

(a) Administration of medical oxygen;

(b) Open and maintain an airway through the use of a nasopharyngeal and a noncuffed oropharyngeal and pharyngeal suctioning devices;

(c) Operate a bag mask ventilation device with reservoir;

(d) Provision of care for suspected medical emergencies, including administering liquid oral glucose for hypoglycemia; and

(e) Administer epinephrine by automatic injection device for anaphylaxis;

(f) Perform cardiac defibrillation with an automatic or semi-automatic defibrillator, only when the First Responder:

(A) Has successfully completed a Section-approved course of instruction in the use of the automatic or semi-automatic defibrillator; and

(B) Complies with the periodic requalification requirements for automatic or semi-automatic defibrillator as established by the Section.

(9) An Oregon-certified EMT-Basic may perform emergency and nonemergency procedures. Emergency care procedures shall be limited to the following basic life support procedures:

(a) Perform all procedures that an Oregon-certified First Responder can perform;

(b) Ventilate with a non-invasive positive pressure delivery device;

(c) Insert a cuffed pharyngeal airway device in the practice of airway maintenance. A cuffed pharyngeal airway device is:

(A) A single lumen airway device designed for blind insertion into the esophagus providing airway protection where the cuffed tube prevents gastric contents from entering the pharyngeal space; or

(B) A multi-lumen airway device designed to function either as the single lumen device when placed in the esophagus, or by insertion into the trachea where the distal cuff creates an endotracheal seal around the ventilatory tube preventing aspiration of gastric contents.

(d) Provide external cardiopulmonary resuscitation and obstructed airway care for infants, children, and adults;

(e) Provide care for suspected shock, including the use of the pneumatic anti-shock garment;

(f) Provide care for suspected medical emergencies, including:

(A) Obtaining a capillary blood specimen for blood glucose monitoring;

(B) Administer epinephrine by subcutaneous injection or automatic injection device for anaphylaxis;

(C) Administer activated charcoal for poisonings; and

(D) Administer aspirin for suspected myocardial infarction.

(g) Perform cardiac defibrillation with an automatic or semi-automatic defibrillator;

(h) Transport stable patients with saline locks, heparin locks, foley catheters, or in-dwelling vascular devices;

(i) Perform other emergency tasks as requested if under the direct visual supervision of a physician and then only under the order of that physician;

(j) Complete a clear and accurate prehospital emergency care report form on all patient contacts;

(k) Assist a patient with administration of sublingual nitroglycerine tablets or spray and with metered dose inhalers that have been previously prescribed by that patient's personal physician and that are in the possession of the patient at the time the EMT-Basic is summoned to assist that patient; and

(l) In the event of a release of military chemical warfare agents from the Umatilla Army Depot, the EMT-Basic who is a member or employee of an EMS agency serving the DOD-designated Immediate Response Zone who has completed a Section-approved training program may administer atropine sulfate and pralidoxime chloride from a Section-approved pre-loaded auto-injector device, and perform endotracheal intubation, using protocols promulgated by the Section and adopted by the supervising physician. 100% of EMT-Basic actions taken pursuant to this section shall be reported to the Section via a copy of the prehospital emergency care report and shall be reviewed for appropriateness by Section staff and the Subcommittee on EMT Certification, Education and Discipline.

(m) In the event of a release of organophosphate agents the EMT-Basic, who has completed Section-approved training, may administer atropine sulfate and pralidoxime chloride by autoinjector, using protocols approved by the Section and adopted by the supervising physician.

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(10) An Oregon-certified EMT-Intermediate may perform emergency and nonemergency care procedures. The emergency care procedures shall be limited to the following:

(a) Perform all procedures that an Oregon-certified EMT-Basic can perform;

- (b) Initiate and maintain peripheral intravenous (I.V.) lines;
- (c) Initiate and maintain an intraosseous infusion;
- (d) Initiate saline or similar locks;
- (e) Draw peripheral blood specimens;

(f) Administer the following medications under specific written protocols authorized by the supervising physician, or direct orders from a licensed physician:

(A) Physiologic isotonic crystalloid solution.

(B) Vasoconstrictors:

- (i) Epinephrine
 - (ii) Vasopressin;
- (C) Antiarrhythmics:
- (i) Atropine sulfate,
 - (ii) Lidocaine,
 - (iii) Amiodarone;

(D) Antidotes:

(i) Naloxone hydrochloride;

(E) Antihypoglycemics:

(i) Hypertonic glucose,

(ii) Glucagon;

(F) Vasodilators:

(i) Nitroglycerine;

(G) Nebulized bronchodilators:

(i) Albuterol,

(ii) Ipratropium bromide;

(H) Analgesics:

(i) Morphine,

(ii) Nalbuphine Hydrochloride,

(iii) Ketorolac tromethamine,

(iv) Fentanyl;

(I) Antihistamine:

(i) Diphenhydramine;

(J) Diuretic:

(i) Furosemide;

(g) Administer immunizations in the event of an outbreak or epidemic as declared by the Governor of the state of Oregon, the State Public Health Officer or a county health officer, as part of an emergency immunization program, under the agency's supervising physician's standing order;

(h) Administer routine or emergency immunizations, as part of an EMS Agency's occupational health program, to the EMT's EMS agency personnel, under the supervising physician's standing order.

(i) Insert an orogastric tube;

(j) Maintain during transport any intravenous medication infusions or other procedures which were initiated in a medical facility, and if clear and understandable written and verbal instructions for such maintenance have been provided by the physician, nurse practitioner or physician assistant at the sending medical facility;

(k) Initiate electrocardiographic monitoring and interpret presenting rhythm;

(l) Perform cardiac defibrillation with a manual defibrillator.

(11) An Oregon-certified EMT-Paramedic may perform emergency and nonemergency care procedures. The emergency care procedures shall be limited to:

(a) Perform all procedures that an Oregon-certified EMT-Intermediate can perform;

(b) Initiate the following airway management techniques:

(A) Endotracheal intubation;

(B) Tracheal suctioning techniques;

(C) Cricothyrotomy; and

(D) Transtracheal jet insufflation which may be used when no other mechanism is available for establishing an airway.

(c) Initiate a nasogastric tube;

(d) Provide advanced life support in the resuscitation of patients in cardiac arrest;

(e) Perform emergency cardioversion in the compromised patient;

(f) Attempt external transcutaneous pacing of bradycardia that is causing hemodynamic compromise;

(g) Initiate needle thoracentesis for tension pneumothorax in a pre-hospital setting;

(h) Initiate placement of a femoral intravenous line when a peripheral line cannot be placed;

(i) Initiate placement of a urinary catheter for trauma patients in a pre-hospital setting who have received diuretics and where the transport time is greater than thirty minutes; and

(j) Initiate or administer any medications or blood products under specific written protocols authorized by the supervising physician, or direct orders from a licensed physician.

(12) The Board has delegated to the Section the following responsibilities for ensuring that these rules are adhered to:

(a) Designing the supervising physician and agent application;

(b) Approving a supervising physician or agent; and

(c) Investigating and disciplining any EMT or First Responder who violates their scope of practice.

(d) The Section shall provide copies of any supervising physician or agent applications and any EMT or First Responder disciplinary action reports to the Board upon their request.

(13) The Section shall immediately notify the Board when questions arise regarding the qualifications or responsibilities of the supervising physician or agent of the supervising physician.

Stat. Auth.: ORS 677.265, 682.245

Stats. Implemented: ORS 682.245

Hist.: ME 2-1983, f. & ef. 7-21-83; ME 3-1984, f. & ef. 1-20-84; ME 12-1984, f. & ef. 8-2-84; ME 7-1985, f. & ef. 8-5-85; ME 12-1987, f. & ef. 4-28-87; ME 27-1987(Temp), f. & ef. 11-5-87; ME 5-1988, f. & cert. ef. 1-29-88; ME 12-1988, f. & cert. ef. 8-5-88; ME 15-1988, f. & cert. ef. 10-20-88; ME 2-1989, f. & cert. ef. 1-25-89; ME 15-1989, f. & cert. ef. 9-5-89, & corrected 9-22-89; ME 6-1991, f. & cert. ef. 7-24-91; ME 10-1993, f. & cert. ef. 7-27-93; ME 3-1995, f. & cert. ef. 2-1-95; ME 1-1996, f. & cert. ef. 2-15-96; ME 3-1996, f. & cert. ef. 7-25-96; BME 6-1998, f. & cert. ef. 4-27-98; BME 13-1998(Temp), f. & cert. ef. 8-6-98 thru 2-2-99; BME 14-1998, f. & cert. ef. 10-26-98; BME 16-1998, f. & cert. ef. 11-24-98; BME 13-1999, f. & cert. ef. 7-23-99; BME 14-2000, f. & cert. ef. 10-30-00; BME 11-2001, f. & cert. ef. 10-30-01; BME 9-2002, f. & cert. ef. 7-17-02; BME 10-2002, f. & cert. ef. 7-22-02; BME 1-2003, f. & cert. ef. 1-27-03; BME 12-2003, f. & cert. ef. 7-15-03; BME 4-2004, f. & cert. ef. 1-27-04; BME 11-2004(Temp), f. & cert. ef. 4-22-04 thru 10-15-04; BME 12-2004(Temp), f. & cert. ef. 6-11-04 thru 12-8-04; BME 21-2004(Temp), f. & cert. ef. 11-15-04 thru 4-15-05; BME 2-2005, f. & cert. ef. 1-27-05; BME 5-2005, f. & cert. ef. 4-21-05; BME 9-2005, f. & cert. ef. 7-20-05; BME 18-2006, f. & cert. ef. 7-25-06; BME 22-2006, f. & cert. ef. 10-23-06; BME 7-2007, f. & cert. ef. 1-24-07; BME 11-2007, f. & cert. ef. 4-26-07; BME 24-2007, f. & cert. ef. 10-24-07

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

Adm. Order No.: BME 25-2007

Filed with Sec. of State: 10-24-2007

Certified to be Effective: 10-24-07

Notice Publication Date: 9-1-2007

Rules Amended: 847-015-0025

Subject: The proposed rule amendment adds podiatric physician to licensees who can dispense drugs.

Rules Coordinator: Diana M. Dolstra—(503) 673-2713

847-015-0025

Dispensing Physicians and Podiatric Physicians

(1) Any actively licensed physician or podiatric physician who dispenses drugs shall register with the Board on the appropriate form before beginning to dispense drugs.

(2) A physician who supervises a physician assistant who is applying for emergency dispensing privileges, or monitors/supervises any other health care provider with emergency dispensing privileges, must be registered with the Board of Medical Examiners as a dispensing physician.

(3) Dispensing of samples, without charge, will not constitute dispensing under this rule.

(4) Administering drugs in the physician's or podiatric physician's office will not constitute dispensing under this rule.

(5) At the time of biennial medical license registration renewal, all actively licensed physicians or podiatric physicians who dispense shall so indicate on the registration renewal form.

(6) Any physician or podiatric physician who dispenses drugs after January 1, 1988, without first registering with the Board will be fined \$100, and may be subject to further disciplinary action by the Board.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.010, 677.089

Hist.: ME 22-1987, f. & ef. 10-29-87; ME 9-1993, f. & cert. ef. 7-27-93; BME 1-2005, f. & cert. ef. 1-27-05; BME 25-2007, f. & cert. ef. 10-24-07

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

Adm. Order No.: BME 26-2007

Filed with Sec. of State: 10-24-2007

ADMINISTRATIVE RULES

Certified to be Effective: 10-24-07

Notice Publication Date: 9-1-2007

Rules Amended: 847-008-0065

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

Rules Coordinator: Diana M. Dolstra—(503) 673-2713

847-008-0065

Use of Name

(1) Each licensee of the Board shall be licensed, certified, or registered under licensee's legal name and shall practice under that legal name.

(2) When a name is changed, all of the following must be submitted so that the Board's records may reflect the new name:

(a) A signed change of name notification affidavit provided by this Board;

(b) A copy of the legal document showing the name change;

(c) The returned original Oregon license and license card, or engrossed certificate whichever is applicable.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.265

Hist.: ME 5-1990, f. & cert. ef. 4-25-90; BME 26-2007, f. & cert. ef. 10-24-07

Bureau of Labor and Industries Chapter 839

Rule Caption: Amends the prevailing rates of wage for the period beginning July 1, 2007.

Adm. Order No.: BLI 30-2007

Filed with Sec. of State: 11-1-2007

Certified to be Effective: 11-2-07

Notice Publication Date:

Rules Amended: 839-025-0750

Subject: The rule adopts the prevailing rates of wage as determined by the Commissioner for the Bureau of Labor and Industries for specified residential projects for the dates specified.

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

839-025-0750

Residential Prevailing Wage Rate Determinations

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

(a) *Special Prevailing Wage Rate Determination Extension for Residential Project, New Winds Project*, Project #2006-02, dated August 15, 2006, for the period of July 1, 2007 through December 31, 2007.

(b) *Special Prevailing Wage Rate Determination for Residential Project, Lava Court Project*, Project #2007-01, dated October 30, 2007, for the period of November 2, 2007 through June 30, 2008.

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

Stat. Auth.: ORS 279C.815

Stats. Implemented: ORS 279C.815

Hist.: BLI 5-1999, f. 6-30-99, cert. ef. 7-1-99; BLI 7-1999, f. 8-26-99, cert. ef. 9-15-99; BLI 8-1999, f. & cert. ef. 9-8-99; BLI 10-1999, f. 9-14-99, cert. ef. 9-17-99; BLI 11-1999, f. 9-22-99, cert. ef. 9-27-99; BLI 6-2000, f. 2-14-00, cert. ef. 2-15-00; BLI 12-2000, f. 5-24-00, cert. ef. 7-1-00; BLI 18-2000, f. & cert. ef. 9-1-00; BLI 21-2000, f. 9-15-00, cert. ef. 9-22-00; BLI 23-2000, f. & cert. ef. 9-25-00; BLI 24-2000, f. 10-30-00, cert. ef. 11-1-00; BLI 2-2001, f. & cert. ef. 1-24-01; BLI 6-2001, f. 6-21-01, cert. ef. 7-1-01; BLI 7-2001, f. 7-20-01, cert. ef. 7-24-01; BLI 9-2001, f. 7-31-01, cert. ef. 8-1-01; BLI 10-2001, f. 8-14-01, cert. ef. 8-15-01; BLI 11-2001, f. & cert. ef. 8-22-01; BLI 13-2001, f. 9-26-01, cert. ef. 10-1-01; BLI 6-2002, f. 3-14-02, cert. ef. 3-15-02; BLI 7-2002, f. 3-22-02, cert. ef. 3-25-02; BLI 11-2002, f. & cert. ef. 5-23-02; BLI 13-2002, f. 6-26-02, cert. ef. 7-1-02; BLI 14-2002, f. 8-23-02, cert. ef. 10-1-02; BLI 2-2003, f. & cert. ef. 3-28-03; BLI 2-2004, f. 4-23-04, cert. ef. 5-1-04; BLI 3-2004, f. 5-18-04, cert. ef. 5-19-04; BLI 4-2004, f. & cert. ef. 5-24-04; BLI 5-2004, f. 6-23-04, cert. ef. 6-24-04; BLI 7-2004, f. 7-14-04, cert. ef. 7-15-04; BLI 13-2004, f. & cert. ef. 10-19-04; BLI 14-2004, f. 10-29-04, cert. ef. 11-1-04; BLI 16-2004, f. 11-8-04, cert. ef. 11-10-04; Renumbered from 839-016-0750, BLI 7-2005, f. 2-25-05, cert. ef. 3-1-05; BLI 9-2005, f. 4-15-05, cert. ef. 4-18-05; BLI 10-2005, f. & cert. ef. 5-2-05; BLI 11-2005, f. 5-31-05, cert. ef. 6-1-05; BLI 12-2005, f. & cert. ef. 6-21-05; BLI 13-2005, f. 6-30-05, cert. ef. 7-1-05; BLI 14-2005, f. & cert. ef. 7-22-05; BLI 15-2005, f. 8-9-05, cert. ef. 8-10-05; BLI 17-2005, f. 8-26-05, cert. ef. 8-29-05; BLI 23-2005, f. 10-26-05, cert. ef. 10-28-05; BLI 25-2005, f. 12-22-05, cert. ef. 12-23-05; BLI 6-2006, f. 3-9-06, cert. ef. 3-13-06; BLI 22-2006, f. 6-16-06, cert. ef. 7-1-06; BLI 27-2006, f. 7-17-06, cert. ef. 7-18-06; BLI 30-2006, f. 8-16-06, cert. ef. 8-18-

06; BLI 31-2006, f. 9-8-06, cert. ef. 9-11-06; BLI 44-2006, f. 12-18-06, cert. ef. 1-1-07; BLI 17-2007, f. & cert. ef. 7-2-07; BLI 30-2007, f. 11-1-07, cert. ef. 11-2-07

Columbia River Gorge Commission Chapter 350

Rule Caption: Amendments to Commission Land Use Ordinance for Klickitat County.

Adm. Order No.: CRGC 1-2007

Filed with Sec. of State: 11-1-2007

Certified to be Effective: 1-1-08

Notice Publication Date: 8-1-2007

Rules Adopted: 350-081-0231

Rules Amended: 350-081-0020, 350-081-0032, 350-081-0042, 350-081-0050, 350-081-0052, 350-081-0060, 350-081-0074, 350-081-0082, 350-081-0108, 350-081-0112, 350-081-0126, 350-081-0190, 350-081-0200, 350-081-0232, 350-081-0270, 350-081-0280, 350-081-0340, 350-081-0370, 350-081-0380, 350-081-0420, 350-081-0490, 350-081-0520, 350-081-0530, 350-081-0540, 350-081-0550, 350-081-0560, 350-081-0580, 350-081-0590, 350-081-0600, 350-081-0630

Subject: The purpose of this rulemaking is to put into effect recent amendments to the Management Plan for the Columbia River Gorge National Scenic Area. This rulemaking incorporates the recent amendments into the Commission's land use ordinance for Scenic Area land within Klickitat County. The Commission did not adopt any substantive changes to the provisions already adopted into the Management Plan.

Rules Coordinator: Nancy A. Andring—(509) 493-3323

350-081-0020

Definitions

As used in Commission Rule 350-81, unless otherwise noted, the following words and their derivations shall have the following meanings:

(1) Accepted agricultural practice: A mode of operation that is common to farms or ranches of similar nature, necessary for the operation of such farms or ranches to obtain a profit in money and customarily utilized in conjunction with agricultural use.

(2) Accessory structure/building: A structure or detached building whose use is incidental and subordinate to that of the main use of the property, and that is located on the same parcel as the main building or use. The term "detached" means that the main building and accessory building do not share a common wall. An accessory building connected to the main building by a breezeway is a detached building.

(3) Active wildlife site: A wildlife site that has been used within the past 5 years by a sensitive wildlife species.

(4) Addition: An extension or increase in the area or height of an existing building.

(5) Agency official: The federal, state, or local agency head or designee who has authority over a proposed project.

(6) Agricultural specialist (SMA): A person such as a county extension agent with a demonstrated knowledge of farming operations, and a demonstrated ability to interpret and recommend methods to implement regulations pertaining to agriculture. Such abilities are usually obtained through a combination of higher education and experience.

(7) Agricultural structure/building: A structure or building located on a farm or ranch and used in the operation for the storage, repair, and maintenance of farm equipment and supplies or for the raising and/or storage of crops and livestock. These include, but are not limited to: barns, silos, workshops, equipment sheds, greenhouses, wind machines (orchards), processing facilities, storage bins and structures.

(8) Agricultural use: The current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting, and selling crops; or by the feeding, breeding, management, and sale of, or production of, livestock, poultry, fur-bearing animals or honeybees; or for dairying and the sale of dairy products; or any other agricultural or horticultural use, including Christmas trees. Current employment of land for agricultural use includes:

(a) The operation or use of farmland subject to any agriculture-related government program.

(b) Land lying fallow for 1 year as a normal and regular requirement of good agricultural husbandry.

(c) Land planted in orchards or other perennials prior to maturity.

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(d) Land under buildings supporting accepted agricultural practices. Agricultural use does not include livestock feedlots.

(9) Anadromous fish: Species of fish that migrate upstream to fresh-water after spending part of their life in the ocean (saltwater).

(10) Anaerobic: A condition in which molecular oxygen is absent (or effectively so) from the environment.

(11) Aquaculture: The cultivation, maintenance, and harvesting of aquatic species.

(12) Aquatic area: The water area of a stream, pond, or lake measured at the ordinary high water mark.

(13) Archaeological resources: See cultural resource.

(14) Archival research: Research in primary documents that is likely to yield information regarding human occupation of the area in question, including but not limited to deed, census, cartographic, and judicial records.

(15) Bed and breakfast inn: An establishment located in a structure designed as a single-family dwelling where more than two rooms but fewer than six rooms are rented on a daily basis. Bed and breakfast inns are clearly incidental to the use of a structure as a single-family dwelling and are owner occupied and operated. Bed and breakfast inns operate as transient accommodations, not as rooming or boarding houses.

(16) Best management practices: Conservation techniques and management measures that (1) control soil loss and reduce water quality degradation caused by nutrients, animal waste, toxins, and sediment; (2) minimize adverse affects to groundwater and surface-water flow and circulation patterns; and (3) maintain the chemical, biological, and physical characteristics of wetlands, ponds, streams, and riparian areas.

(17) Biodiversity (SMA): A diversity of biological organisms at the genetic, species, ecosystem, and landscape levels.

(18) Boat landing: Cleared area or developed structure used to facilitate launching or retrieving watercraft.

(19) Buffer zone: An area adjacent to a wetland, stream, pond, or other sensitive area that is established and managed to protect sensitive natural resources from human disturbance. In instances that involve a wetland, stream, or pond, the buffer zone includes all or a portion of the riparian area.

(20) Building: Any structure used or intended for supporting or sheltering any use or occupancy. Buildings have a roof supported by columns or walls. They include, but are not limited to, dwellings, garages, barns, sheds and shop buildings.

(21) Camping or recreational vehicle: A vacation trailer, camper, self-propelled vehicle, or structure equipped with wheels for highway use that is intended for recreational purposes, but not for residential purposes, and is equipped with plumbing, sink, or toilet. A camping or recreational vehicle shall be considered a dwelling unit if it is connected to a sewer system (including septic tank), water, and electrical lines or is occupied on the same parcel for more than 60 days in any consecutive 12-month period.

(22) Campsite: Single camping unit, that usually consists of a cleared, level area for a tent, and may include a parking spur, fire ring, table, and other amenities.

(23) Capability: The ability of land to produce forest or agricultural products due to characteristics of the land itself, such as soil, slope, exposure, or other natural factors.

(24) Canopy closure (SMA): For forest practices, the percentage measuring the degree to which one layer of a tree canopy blocks sunlight or obscures the sky as measured from below.

(25) Cascadian architecture (SMA): Architectural style using native rock work, large timber, and steeply pitched roofs in a rustic manner.

(26) Catastrophic situations (SMA): Forces such as fire, insect and disease infestations, and earth movements.

(27) Childcare center: A facility providing daycare to three or more children, but not including:

(a) The provision of care that is primarily educational, unless provided to a preschool child for more than 4 hours a day.

(b) The provision of care that is primarily supervised training in a specific subject, including but not limited to dancing, gymnastics, drama, music or religion.

(c) The provision of short-term care related to or associated with group athletic or social activities.

(d) The provision of daycare in the provider's home in the family living quarters for less than 13 children.

(28) Columbia River Gorge National Scenic Area Graphic Signing System: Sign design standards developed for the Scenic Area for public signs in and adjacent to public road rights-of-way.

(29) Commercial development/use: Any facility or use of land or water whose function is primarily retail buying or selling of goods or services or both. This does not include fruit or produce stands.

(30) Commercial forest products: These include timber for lumber, pulp, and firewood for commercial purposes.

(31) Commercial recreation: Any private (non-governmental) recreational activity or facility on privately owned land, excluding nonprofit facilities. This does not include operation of a public recreation facility by a private vendor.

(32) Community facility: Basic utilities and services necessary to support public service needs, including but not limited to water and power utilities, sanitation facilities, public microwave stations and communication facilities, schools, roads and highways. This does not include sanitary landfills.

(33) Consulting parties (cultural resources): Organizations or individuals who submit substantive written comments to a local government in a timely manner because they are concerned with the effects of a proposed use on cultural resources.

(34) Contiguous land: Parcels or other lands that are under the same ownership and have a common boundary, regardless of whether or not portions of the parcels have separate tax lot numbers, lie in different counties, lie in different sections or government lots, lie in different land use or zoning designations, or are separated by public or private roads. Contiguous land does not include parcels that meet only at a single point.

(35) Counties: The six counties within the Scenic Area: Hood River, Multnomah, and Wasco in Oregon, and Clark, Skamania, and Klickitat in Washington.

(36) Created opening (SMA): A created forest opening with less than 40 percent average canopy closure of overstory trees and less than 60 percent average canopy closure of understory trees averaging less than 5 inches diameter at breast height for coniferous forests and less than 25 percent total canopy cover for oak woodlands. This definition does not include agricultural fields.

(37) Creation (wetlands): A human activity that converts an upland into a wetland. This definition presumes that the area to be converted has not been a wetland in recent times (100 to 200 years).

(38) Cultivation: Any activity that prepares land for raising crops by turning, breaking, or loosening the soil. Cultivation includes plowing, harrowing, leveling, and tilling.

(39) Cultural resource: Evidence of human occupation or activity that is important in the history, architecture, archaeology or culture of a community or region. Cultural resources include, but are not limited to, the following:

(a) Archaeological resources. Physical evidence or ruins of human occupation or activity that are located on or below the surface of the ground and are at least 50 years old. Archaeological resources include, but are not limited to, the remains of houses, villages, camp and fishing sites, and cave shelters; rock art such as petroglyphs and pictographs; artifacts such as arrowheads, utensils, tools, fragments of tools and utensils, obsidian flakes or other material byproducts from tool and utensil-making activities; and graves, human remains, and associated artifacts.

(b) Historic buildings and structures. Standing or above-ground buildings and structures that are at least 50 years old. Historic buildings and structures include, but are not limited to, log cabins, barns, canals, flumes, pipelines, highways, and tunnels.

(c) Traditional cultural properties. Locations, buildings, structures, and objects that are associated with cultural beliefs, customs, or practices of a living community that are rooted in that community's history and are important in maintaining the continuing cultural identity of the community. Traditional cultural properties include, but are not limited to, a location associated with the traditional beliefs of a Native American group about its origins or its cultural history; a location where a community has traditionally carried out artistic or other cultural practices important in maintaining its historical identity; and a location where Native American religious practitioners have historically gone, and go today, to perform ceremonial activities. Objects may include petroglyphs, pictographs, rock cairns or other rock structures, trees, and rock outcrops.

(40) Cumulative effects: The combined effects of two or more activities. The effects may be related to the number of individual activities, or to the number of repeated activities on the same piece of ground. Cumulative effects can result from individually minor but collectively significant actions taking place over a period of time.

(41) Cut: An area where soil or earth is excavated or removed in conjunction with development activities.

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(42) Dedicated site: An area actively devoted to the current use and as delineated on the site plan.

(43) Deer and elk winter range: Areas normally used, or capable of being used, by deer and elk from December through April.

(44) Destruction of wetlands: Loss of the wetlands or any of its component parts, including the filling, draining, or other adverse effect to the sustainable functioning of the wetland.

(45) Developed recreation: Recreational opportunities characterized by high-density use on specific sites and requiring facilities installation. Density of use, amount of site development, and type of recreation site can vary widely across the spectrum of recreation activities.

(46) Developed road prism (SMA): The area of the ground associated with a particular road and containing the road surface, ditch, shoulder, retaining walls, or other developed features. Does not include the natural appearing portions of cut and fill slopes.

(47) Development: Any land division or structure, including but not limited to new construction of buildings and structures, and mining, dredging, filling, grading, paving, and excavation.

(48) Diameter at breast height (dbh): The diameter of a tree as measured at breast height.

(49) Duplex: A building containing two dwelling units and designed for occupancy by two families.

(50) Dwelling, single-family: A detached building containing one dwelling unit and designed for occupancy by one family only.

(51) Dwelling unit: A single unit designed for occupancy by one family and having not more than one cooking area or kitchen.

(52) Earth materials: Any rock, natural soil or any combination thereof. Earth materials do not include non-earth or processed materials, including, but not limited to, construction debris (e.g., concrete, asphalt, wood), organic waste (e.g., cull fruit, food waste) and industrial byproducts (e.g., slag, wood waste).

(53) Effect on treaty rights: To bring about a change in, to influence, to modify, or to have a consequence to Indian treaty or treaty-related rights in the Treaties of 1855 with the Nez Perce, Umatilla, Warm Springs and Yakima tribes executed between the individual Indian tribes and the Congress of the United States and as adjudicated by the Federal courts.

(54) Emergency/disaster: A sudden unexpected occurrence, either the result of human or natural forces, necessitating immediate action to prevent or mitigate significant loss or damage to life, health, property, essential public services, or the environment.

(55) Emergency/disaster response: Actions involving any development (such as new structures, grading, or excavation) or vegetation removal that must be taken immediately in response to an emergency/disaster event (as defined above). Emergency/disaster response actions not involving any structural development or ground-disturbance (such as use of emergency transport vehicles, communications activities or traffic control measures) are not included in this definition and are not affected by these provisions.

(56) Endemic: Plant and animal species that are found only in the vicinity of the Columbia River Gorge area.

(57) Enhancement (natural resources): A human activity that increases one or more functions of an existing wetland, stream, lake, riparian area, or other sensitive area. Enhancement is generally limited to a wetland, stream, lake, riparian area, or other sensitive area that is degraded. Enhancing an area that is in good or excellent condition may reduce biological diversity and eliminate other natural functions and may not be desirable.

(58) Ephemeral streams (SMA): streams that contain flowing water only during, and for a short duration after, precipitation events.

(59) Ethnography: The descriptive and analytic study of the culture of particular groups. An ethnographer seeks to understand a group through interviews with its members and often through living in and observing it.

(60) Existing use or structure: Any use or structure that was legally established. "Legally established" means: (1) the landowner or developer obtained applicable land use and building permits and complied with land use regulations and other laws that were in effect at the time the use or structure was established, or that were in effect at the time the landowner or developer corrected an improperly established use or structure; (2) the use or structure was initially operated or constructed according to those applicable permits, land use regulations and other laws, or has been operated or constructed according to permits obtained to correct an improperly established use or structure; and (3) any changes to the original use or structure must comply with all applicable permit requirements, land use regulations and other laws that were in effect at the time the change was established.

(61) Exploration, development (extraction and excavation), and production of mineral resources: Includes all or any part of the process of surface, underground, or submerged mining of mineral resources. Minerals include soil, coal, clay, stone, sand, gravel, metallic ore, oil and gases and any other material or substance excavated for commercial, industrial or construction use. For the Management Plan, this definition includes all exploration and mining, regardless of area disturbed or volume mined. Production of mineral resources means the use of portable crushing, onsite stockpiling, washing, milling, screening, or sorting equipment or other similar methods of initial treatment of a mineral resource to transport to another site for use or further processing. Secondary processing such as concrete or asphalt batch plants are considered industrial uses.

(62) Fill: The placement, deposition, or stockpiling of sand, sediment, or other earth materials to create new uplands or create an elevation above the existing surface.

(63) Finished grade: The final elevation of the ground level of a property after construction is completed.

(64) Fire break: A break in ground cover fuels, adjacent to and surrounding buildings.

(65) Footprint: The area that falls directly beneath and shares the same perimeter as a structure.

(66) Forbs: Broad-leaved herbs, in contrast to ferns, fern allies, and grasses and grasslike plants.

(67) Foreground (SMA): One-half mile on either side of a traveled road or trail.

(68) Forest health (SMA): A measure of the robustness of forest ecosystems. Forests are deemed healthy when they have capacity across the landscape for renewal, for the maintenance of wildlife habitats, for recovery from a wide range of disturbances, and for retention of their resilience.

(69) Forest practice (SMA): Any activity conducted on or directly pertaining to forested land and relating to forest ecosystem management including but not limited to growing, thinning, or removing live or dead forest tree or shrub species, road and trail construction, reforestation, fertilizing, brush control, prevention of wildfire, and suppression of diseases and insects. The removal of hazardous trees is excluded. Uses that include establishment, management or harvest of Christmas trees, nursery stock, or fiber producing tree species requiring intensive cultivation (irrigation, fertilization, etc.) and a harvest rotation of 12 years or less are considered agricultural uses.

(70) Forest practice (GMA): Those activities related to the growing and harvesting of forest tree species, as defined by the Oregon Forest Practices Act or the Washington Forest Practices Act.

(71) Forest products: Commodities produced from a forest, including, but not limited to, timber products, boughs, mushrooms, pine cones, and huckleberries.

(72) Forest stand structure (SMA): The number, types and spacing of tree species, tree sizes, and canopy layers contained in a stand of trees.

(73) Forest use: The growing, propagation, and harvesting of forest tree species and other forest products.

(74) Fully screened: A description of the relative visibility of a structure where that structure is not visible as viewed from a specified vantage point (generally a key viewing area, for the purpose of the Management Plan).

(75) Grade (ground level): The average elevation of the finished ground elevation as defined by the Uniform Building Code.

(76) Grading: Any excavating or filling of earth materials or any combination thereof, including the land in its excavated or filled condition.

(77) Hazard tree (SMA): A tree with a structural defect that will predictably result in whole or partial failure within 1.5 tree lengths of a road or maintained development. A defective tree is hazardous only when its failure could result in danger to people or damage to structures, vehicles, or other property.

(78) Height of building: The greatest vertical distance between the point of lowest finished grade adjoining any exterior wall of a building and the highest point of the roof, such as the highest coping or parapet of a flat roof, the highest deck line of a mansard roof, or the highest ridge of a hip, gable, gambrel, shed or other pitched roof.

(79) Herbaceous: A plant with no persistent woody stem above the ground, with characteristics of an herb.

(80) Herbs: Nonwoody (herbaceous) plants, including grasses and grasslike plants, forbs, ferns, fern allies, and nonwoody vines. (Note: Seedlings of woody plants that are less than 3 feet tall shall be considered part of the herbaceous layer.)

(81) Historic buildings and structures: See cultural resource.

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(82) Historic survey: Actions that document the form, style, integrity, and physical condition of historic buildings and structures. Historic surveys may include archival research, architectural drawings, and photographs.

(83) Horses, boarding of (GMA): The stabling, feeding, and grooming, or the use of stalls for and the care of horses not belonging to the owner of the property, and related facilities, such as training arenas, corrals, and exercise tracks. These facilities are either operated for a fee or by a non-profit organization.

(84) Hydric soil: A soil that is saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part.

(85) In-lieu sites: Sites acquired by the Army Corps of Engineers and transferred to the Bureau of Indian Affairs for treaty fishing, in lieu of those usual and accustomed fishing areas lost by inundation from reservoir construction. These sites were acquired under the provisions of Public Law 14 and Public Law 100-581, Section 401. Additional in-lieu sites will be provided for.

(86) Indian tribal government: The governing bodies of the Nez Perce Tribe (Nez Perce Tribal Executive Committee), the Confederated Tribes of the Umatilla Indian Reservation (Board of Trustees), the Confederated Tribes of the Warm Springs Reservation of Oregon (Tribal Council), and the Confederated Tribes and Bands of the Yakama Indian Nation (Tribal Council).

(87) Indian tribes: The Nez Perce Tribe, the Confederated Tribes and Bands of the Yakama Indian Nation, the Confederated Tribes of the Warm Springs Reservation of Oregon, and the Confederated Tribes of the Umatilla Indian Reservation.

(88) Industrial uses: Any use of land or water primarily involved in:

(a) Assembly or manufacture of goods or products,

(b) Processing or reprocessing of raw materials, processing of recyclable materials or agricultural products not produced within a constituent farm unit,

(c) Storage or warehousing, handling or distribution of manufactured goods or products, raw materials, agricultural products, forest products, or recyclable materials for purposes other than retail sale and service, or

(d) Production of electric power for commercial purposes.

(89) Interpretive displays: Signs and structures that provide for the convenience, education, and enjoyment of visitors, helping visitors understand and appreciate natural and cultural resources and their relationship to them.

(90) Key components: The attributes that are essential to maintain the long-term use and productivity of a wildlife site. The key components vary by species and wildlife site. Examples include fledgling and perching trees, watering sites, and foraging habitat.

(91) Key viewing areas: Those portions of important public roads, parks, or other vantage points within the Scenic Area from which the public views Scenic Area landscapes. These include:

Historic Columbia River Highway
Crown Point
Highway I-84, including rest stops
Multnomah Falls
Washington State Route 14
Beacon Rock
Panorama Point Park
Cape Horn
Dog Mountain Trail
Cook-Underwood Road
Rowena Plateau and Nature Conservancy Viewpoint
Portland Women's Forum State Park
Bridal Veil State Park
Larch Mountain
Rooster Rock State Park
Bonneville Dam Visitor Centers
Columbia River
Washington State Route 141
Washington State Route 142
Oregon Highway 35
Sandy River
Pacific Crest Trail
SMA only:
Old Washington State Route 14 (County Road 1230)
Wyeth Bench Road
Larch Mountain Road
Sherrard Point on Larch Mountain

(92) Land division: The division or redivision of contiguous land(s) into tracts, parcels, sites or divisions, regardless of the proposed parcel or tract size or use. A land division includes, but is not limited to, short subdivisions, partitions, and subdivisions.

(93) Landscape setting: The combination of land use, landform, and vegetation patterns that distinguish an area in appearance and character from other portions of the Scenic Area.

(94) Livestock feedlot: Stockyards and commercial livestock finishing yards for cattle, sheep, swine, and fur bearers. Feedlots do not include winter pasture or winter hay-feeding grounds.

(95) Lot line adjustment: Relocation of one or more common boundary lines between two contiguous parcels that does not create additional parcels.

(96) Maintenance: Ordinary upkeep or preservation of a serviceable structure affected by wear or natural elements. Maintenance does not change the original size, scope, configuration or design of a structure. Maintenance includes, but is not limited to, painting and refinishing, regrouting masonry, patching roofs, grading gravel roads and road shoulders, cleaning and armoring ditches and culverts, filling potholes, controlling vegetation within rights-of-way, removing trees and other roadside hazards within rights-of-way, and testing and treating utility poles.

(97) Mitigation: The use of any or all of the following actions:

(a) Avoiding the impact altogether by not taking a certain action or parts of an action.

(b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.

(c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.

(d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.

(98) Mosaic (SMA): The dispersal of overstory and understory leave trees in irregularly spaced clumps of varying sizes throughout an irregularly shaped created forest opening.

(99) Multifamily dwelling: A dwelling constructed or modified into two or more single-family units.

(100) Native species: Species that naturally inhabit an area.

(101) Natural grade: The undisturbed elevation of the ground level of a property before any excavation or construction operations.

(102) Natural resources: Naturally occurring features including land, water, air, plants, animals (including fish), plant and animal habitat, and scenery.

(103) Natural resource specialist: A person with professional qualifications, including an academic degree or sufficient professional experience, in the subject matter the specialist is being asked to analyze or evaluate.

(104) Natural resource-based recreation (SMA): Recreation activities, uses, or facilities that essentially depend on the unique natural, scenic, or cultural resources found within the Scenic Area. Campgrounds, trails, boating and windsurfing facilities, swimming beaches, picnic sites, viewpoints, interpretive parks, and similar outdoor recreation facilities are considered resource-based; golf courses, tennis courts, and rental cabins are not.

(105) Nonprofit organization: An organization whose nonprofit status has been approved by the U.S. Internal Revenue Service.

(106) Not visually evident (SMA): A visual quality standard that provides for development or uses that are not visually noticeable to the casual visitor. Developments or uses shall only repeat form, line, color, and texture that are frequently found in the natural landscape, while changes in their qualities of size, amount, intensity, direction, pattern, etc., shall not be noticeable.

(107) Old growth (SMA): A forest stand usually at least 180-220 years old with moderate to high canopy closure; a multi-layered, multi-species canopy dominated by large overstory trees; high incidence of large trees, some with broken tops and other indications of old and decaying wood (decadence); numerous large snags, and heavy accumulations of wood, including large logs on the ground.

(108) Operational (SMA): For new agricultural use, an agricultural use shall be deemed operational when the improvements and investments described in the Stewardship Plan are in place on the parcel.

(109) Ordinary high water mark: The mark on all streams, ponds, and lakes that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a vegetative character distinct from that of the abutting upland. In any area where the ordinary high water mark cannot be found, the line of mean high water shall substitute.

(110) Other related major structure (SMA): A structure related to a dwelling on a parcel in the SMA that is less than 40 acres in size, which is not incidental and subordinate to the main use of the property. A building or structure that satisfies the definition of "accessory building" is not an "other related major structure" or a "major development action."

(111) Overstory (SMA): For forest practices, the tall or mature trees that rise above the shorter or immature understory trees.

(112) Parcel:

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(a) Any unit of land legally created by a short division, partition, or subdivision that was legally recognized under all state laws and local ordinances in effect on November 17, 1986. A unit of land that is eligible for consolidation as provided in the Management Plan shall not be considered a parcel.

(b) Any unit of land legally created and separately described by deed, sales contract, or record of survey prior to November 17, 1986, if the unit of land complied with all planning, zoning, and land division ordinances or regulations applicable at the time of creation and up through November 16, 1986.

(c) A unit of land legally created and separately described by deed or sales contract after November 17, 1986 if the unit was approved under the Final Interim Guidelines or a land use ordinance consistent with the Management Plan, or by the Forest Service Office prior to the Final Interim Guidelines.

(d) A unit of land shall not be considered a separate parcel simply because the subject tract of land:

- (A) Is a unit of land solely created to establish a separate tax account;
- (B) Lies in different counties;
- (C) Lies in different sections or government lots;
- (D) Lies in different land use or zoning designations; or
- (E) Is dissected by a public or private road.

(113) Practicable: Able to be done, considering technology and cost.

(114) Preexisting: Existing prior to the adoption of the Columbia River Gorge National Scenic Area Management Plan.

(115) Previously disturbed: An area of land where the natural surface has been graded, excavated, paved and/or graveled.

(116) Project area: The geographic area or areas within which new development and uses may cause changes in the character or use of cultural resources, if any such resources exist.

(117) Public use facility: Recreation development(s) that meet the definition of "recreation facility" in the Management Plan and are open for use by the general public. Private clubs and other facilities limited to members or otherwise restricted in availability shall not be considered public use facilities.

(118) Rare plant species: Used in a generic sense to refer to various categories of sensitive plants cited in federal and state programs.

(119) Recreation facility: A cluster or grouping of recreational developments or improvements located in relatively close proximity to one another, and that are not separated in distance by more than 1/4 mile of land that does not contain any such developments or improvements, except for roads and/or pathways.

(120) Reconnaissance survey: Actions conducted to determine if archaeological resources are present in an area that would be affected by a proposed use. Reconnaissance surveys may include archival research, surface surveys, subsurface testing, and ethnographic research.

(121) Recreation opportunity spectrum (ROS): A means of classifying areas in relation to the types of recreation opportunities and experiences they provide or are appropriate for. The spectrum ranges from primitive (wilderness areas) to urban (highly modified areas).

(a) Primitive: Remote, inaccessible areas with a high degree of solitude and with resources essentially unmodified.

(b) Semiprimitive: Areas accessible only by primitive transportation routes, with low to moderately infrequent human encounters and with only subtle modifications to the natural setting.

(c) Roaded Natural: Roaded areas with moderately frequent human encounters and with resource modifications evident.

(d) Rural: Roaded areas with moderate to highly frequent human encounters and with the natural setting dominated by cultural modifications.

(e) Suburban: Areas representing the rural-urban interface, with urban-like roads, structures, highly frequent human encounters, and dominant resource modifications encroaching into the rural landscape.

(f) Urban: Highly accessible, roaded areas dominated by human encounters and human-related structures.

(122) Recreation resources: Areas and facilities that provide recreation opportunities and experiences. Recreation resources include semiprimitive areas with few facilities and developed sites.

(123) Regularly maintained: An area of land that has been previously disturbed and where periodic actions have been taken to (1) keep the area clear of vegetation (e.g., shoulders, utility yards), (2) limit the height and type of vegetation (e.g., utility rights-of-way), and/or (3) establish and retain non-native vegetation (e.g., landscaped medians, rest area grounds).

(124) Rehabilitation (natural resources): A human activity that returns a wetland, stream, buffer zone, or other sensitive area that was disturbed

during construction of a permitted use to its natural or preconstruction condition.

(125) Remnant old forest (SMA): Large trees in the overstory that are well into the mature growth state (older than 180 years).

(126) Repair: Replacement or reconstruction of a part of a serviceable structure after damage, decay or wear. A repair returns a structure to its original and previously authorized and undamaged condition. It does not change the original size, scope, configuration or design of a structure, nor does it excavate beyond the depth of the original structure. Repair includes, but is not limited to, reroofing a building, replacing damaged guardrails, reconstructing a rotten deck or porch, replacing a broken window or door, replacing a utility pole and associated anchors, replacing a section of broken water or sewer line, replacing a damaged or defective utility line, reconstructing a portion of a building damaged by fire or a natural event, and replacing railroad ties or rails.

(127) Resource-based recreation: Those recreation uses that are essentially dependent upon the natural, scenic, or cultural resources of the Scenic Area and that do not adversely affect those resources upon which they depend.

(128) Restoration (wetlands): A human activity that converts an area that was formerly a wetland back into a wetland. This definition presumes that the area to be restored no longer qualifies as a wetland because of past activities, alterations, or catastrophic events.

(129) Review uses: Proposed uses and developments that must be reviewed by a county planning department, the Gorge Commission, or the Forest Service to determine if they comply with the policies and guidelines in the Management Plan.

(130) Riparian area: The area immediately adjacent to streams, ponds, lakes, and wetlands that directly contributes to the water quality and habitat components of the water body. This may include areas that have high water tables and soils and vegetation that exhibit characteristics of wetness, as well as upland areas immediately adjacent to the water body that directly contribute shade, nutrients, cover, or debris, or that directly enhance water quality within the water body.

(131) Road: The entire right-of-way of any public or private way that provides ingress to or egress from property by means of vehicles or other means or that provides travel between places by means of vehicles. "Road" includes, but is not limited to:

(a) Ways described as streets, highways, throughways, or alleys.

(b) Road-related structures that are in the right-of-way, such as tunnels, culverts, or similar structures.

(c) Structures that provide for continuity of the right-of-way, such as bridges.

(132) Scenic Area: The Columbia River Gorge National Scenic Area.

(133) Scenic travel corridor: Those portions of Interstate 84, the Historic Columbia River Highway, Oregon Highway 35, and Washington State Routes 14, 141, and 142 located in the Scenic Area and specifically designated to be managed as scenic and recreational travel routes.

(134) Secretary: The Secretary of Agriculture.

(135) Sensitive plant species: Plant species that are (1) endemic to the Columbia River Gorge and vicinity, (2) listed as endangered or threatened pursuant to federal or state endangered species acts, or (3) listed as endangered, threatened or sensitive by the Oregon or Washington Natural Heritage Program. In the SMA, sensitive plant species also include plant species recognized by the Regional Forester as needing special management to prevent them from being placed on federal or state endangered species lists.

(136) Sensitive wildlife species: Animal species that are (1) listed as endangered or threatened pursuant to federal or state endangered species acts, (2) listed as endangered, threatened, sensitive, or candidate by the Washington Wildlife Commission, (3) listed as sensitive by the Oregon Fish and Wildlife Commission, or (4) considered to be of special interest to the public, limited to great blue heron, osprey, mountain goat, golden eagle, and prairie falcon. In the SMA, sensitive wildlife species also include animal species recognized by the Regional Forester as needing special management to prevent them from being placed on federal or state endangered species lists.

(137) Service station: A business operated for the purpose of retailing and delivering motor vehicle fuel into the fuel tanks of motor vehicles.

(138) Serviceable: Presently useable.

(139) Shall: Action is mandatory.

(140) Should: Action is encouraged.

(141) Shrub: A woody plant usually greater than 3 feet but less than 20 feet tall that generally exhibits several erect, spreading, or prostrate stems and has a bushy appearance. (Note: For the Management Plan,

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seedlings of woody plants that are less than 3 feet tall shall be considered part of the herbaceous layer.)

(142) Sign: Any placard, poster, billboard, advertising structure or inscribed surface, pattern or artificial lighting, pictorial or symbolic ornament, emblematic structure, banner, fluttering apparatus, statue, model, ornamental figure, or other visually communicative or expressive device that is visible from an out-of-doors position and is used to advertise or call the public's attention to any public, business, commercial, industrial, recreational or any other activity, object for sale or lease, person or place, or to bear any kind of message. It includes any surface on which a name, text, device, signal, ornament, logotype, or advertising matters is made visible. The meaning of "sign" shall also include any sign currently in disuse, but still visible from an out-of-doors position, and any frame or support structure erected specifically to bear or uphold a sign.

(143) Significant cultural resource (SMA): A cultural resource that is included in, or eligible for inclusion in, the National Register of Historic Places. (The criteria for evaluating the eligibility of properties for the National Register of Historic Places appear in "National Register Criteria for Evaluation".)

(144) Skyline: The line that represents the place at which a landform, such as a cliff, bluff or ridge, meets the sky, as viewed from a specified vantage point (generally a key viewing area, for the purpose of the Management Plan). In areas with thick, unbroken tree cover, the skyline is generally formed by the top of the vegetative canopy. In treeless areas or areas with more open tree cover, the skyline is generally formed by the surface of the ground.

(145) Soil capability class: A classification system developed by the U.S. Department of Agriculture, Natural Resources Conservation Service to group soils as to their capability for agricultural use.

(146) Special habitat area: Wetlands, mudflats, shallow water, and riparian vegetation that have high values for waterfowl, shorebirds, raptors, songbirds, upland game, and reptiles.

(147) Special streams: Streams that are primary water supplies for fish hatcheries and rearing ponds.

(148) Stand: A group of trees possessing uniformity in regard to type, age, vigor, or size.

(149) Story: A single floor level of a structure, as defined by the Uniform Building Code.

(150) Streams: Areas where surface water produces a defined channel or bed, including bedrock channels, gravel beds, sand and silt beds, springs and defined-channel swales. The channel or bed does not have to contain water year-round. This definition is not meant to include irrigation ditches, canals, storm or surface water runoff structures, or other artificial watercourses unless they are used to convey streams naturally occurring prior to construction of such watercourses. For the Management Plan, streams are categorized into two classes: perennial streams and intermittent streams. Perennial stream means a stream that flows year-round during years of normal precipitation. Intermittent stream means a stream that flows only part of the year, or seasonally, during years of normal precipitation.

(151) Structure: That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner. This includes, but is not limited to, buildings, walls, fences, roads, parking lots, signs, and additions/alterations to structures.

(152) Submit: To deliver a document (e.g., land use application, written comment) to a reviewing agency's office by personal delivery, commercial delivery, mail, fax, or E-mail. When a document must be submitted within a specified period, it must arrive at the reviewing agency's office by the close of business on the last day of the specified period.

(153) Subsurface testing: Any procedure that removes material from beneath the ground surface for the purpose of identifying cultural resources, such as shovel tests, posthole digger tests, and auger borings.

(154) Suitability: The appropriateness of land for production of agricultural or forest products or for recreation, considering its capability for production; surrounding uses and features associated with development; compatibility with scenic, cultural, natural and recreation resources; compatibility among uses; and other cultural factors, such as roads, powerlines, dwellings, and size of ownership.

(155) Thinning (SMA): A forest practice intended to create favorable conditions for the continued growth of trees within an existing stand of trees. A thinning becomes a forest opening in coniferous forests when the average canopy closure of the overstory layer is zero or less than 40 percent and the understory layer is less than 60 percent average canopy closure of trees averaging less than 5 inches diameter at breast height. A thinning

becomes a forest opening in oak woodlands when the total average canopy closure is less than 25 percent.

(156) Total canopy closure (SMA): For forest practices, the percentage measuring the degree to which all layers of the tree canopy combine together to block sunlight or obscure the sky as measured from below.

(157) Travelers accommodations: Any establishment having rooms rented or kept for rent on a daily or weekly basis to travelers or transients for a charge or fee paid or to be paid for rental use or use of facilities.

(158) Treatment (SMA): For forest practices, a site-specific operation that carries out the forest management objectives for an area.

(159) Treaty rights or other rights: Rights reserved by the Indian tribes through the Treaties of 1855. These include the right of fishing at all usual and accustomed places, as well as the privilege of pasturing livestock and hunting and gathering on open and unclaimed lands in common with the citizens of the states.

(160) Tributary fish habitat: Streams that are used by anadromous or resident fish for spawning, rearing and/or migration.

(161) Understory (SMA): For forest practices, the shorter or immature trees below the tall or mature overstory trees.

(162) Undertaking: Any project, activity, program or development or change in land use that can result in changes in the character or use of a cultural resource, if any such cultural resources are located in the area of potential effects. For federal undertakings, the project, activity, or program must be under the direct or indirect jurisdiction of a federal agency or licensed or assisted by a federal agency. Undertakings include new and continuing projects, activities, or programs and any of their elements.

(163) Unimproved lands: Lands that generally do not have developments such as buildings or structures.

(164) Upland: Any area that does not qualify as a wetland because the associated hydrologic regime is not sufficiently wet to elicit development of vegetation, soils, and/or hydrologic characteristics associated with wetlands.

(165) Uses allowed outright: New uses and developments that may occur without being reviewed by a county planning department, the Gorge Commission, or the Forest Service to determine if they are consistent with the Management Plan.

(166) Utility facility: Any structure that provides for the transmission or distribution of water, sewer, fuel, electricity, or communications.

(167) Vested right: The right to develop or continue to develop a use, development or structure that was reviewed and approved pursuant to this Management Plan.

(168) Viewshed: A landscape unit seen from a key viewing area.

(169) Visual quality objective (VQO): A set of visual management goals established by the Forest Service to achieve a desired visual objective. These objectives include retention (not visually evident) and partial retention (visually subordinate), and others in the Mt. Hood and Gifford Pinchot National Forest Plans.

(170) Visually subordinate: A description of the relative visibility of a structure or use where that structure or use does not noticeably contrast with the surrounding landscape, as viewed from a specified vantage point (generally a key viewing area, for the Management Plan). As opposed to structures that are fully screened, structures that are visually subordinate may be partially visible. They are not visually dominant in relation to their surroundings. Visually subordinate forest practices in the SMA shall repeat form, line, color, or texture common to the natural landscape, while changes in their qualities of size, amount, intensity, direction, pattern, etc., shall not dominate the natural landscape setting.

(171) Water-dependent: Uses that absolutely require, and cannot exist without, access or proximity to, or siting within, a water body to fulfill their basic purpose. Water-dependent uses include, but are not limited to, docks, wharfs, piers, dolphins, certain fish and wildlife structures, boat launch facilities, and marinas. Dwellings, parking lots, spoil and dump sites, roads, restaurants, trails and paths, trailer parks, resorts, and motels are not water-dependent.

(172) Water-related: Uses not directly dependent upon access to a water body, but whose presence facilitates public access to and enjoyment of a water body. In the GMA, water-related uses shall be limited to boardwalks, trails and paths, observation decks, and interpretative aids, such as kiosks and signs.

(173) Wetlands: Areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. This does not include riparian areas, rivers, streams, and lakes.

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(174) Wetlands functions: The beneficial roles that wetlands serve, including storage, conveyance, and attenuation of floodwaters and stormwaters; groundwater recharge and discharge; protection of water quality and reduction of sediment and erosion; production of waterfowl, game and nongame birds, mammals, and other living resources; protection of habitat for endangered, threatened, and sensitive species; food chain support for a broad range of wildlife and fisheries; educational, historical, and archaeological value protection; and scenic, aesthetic, and recreational amenities.

(175) Winery: An agricultural facility used for processing grapes into wine, including laboratories, processing areas, offices, and storage areas. A winery is distinct from a wine sales/tasting room; each of these uses must be explicitly reviewed and approved.

(176) Wine sales/tasting room: A facility that is accessory to a winery and used for tasting and retail sales of wine, including interior space (e.g., wine bar, sitting room) and exterior space (e.g., patio, veranda). A wine sales/tasting room shall not be used for preparing or serving meals or hosting weddings, receptions or other commercial events, unless allowed, reviewed and approved under the "Commercial Events" provisions in 350-081-0108. A wine sales/tasting room is distinct from a winery; each of these uses must be explicitly reviewed and approved.

(177) Woody plant: A seed plant (gymnosperm or angiosperm) that develops persistent, hard, fibrous tissues.

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

Stats. Implemented: ORS 196.150

Hist.: CRGC 1-2005, f. 5-17-05, cert. ef. 7-1-05; CRGC 1-2007, f. 11-1-07, cert. ef. 1-1-08

350-081-0032

Application for Review and Approval

(1) Prior to initiating any use or development which requires review and approval by the Executive Director, an application shall be completed pursuant to 350-081-0032.

(2) The Executive Director shall accept and review the application pursuant to 350-081-0030 through 350-081-0046 for consistency with the appropriate guidelines of this rule.

(3) The Commission may charge a fee for review of applications after a public hearing. The Gorge Commission shall set the fee.

(4) Standard application forms shall be available at the Commission Office, and shall be provided to county and city planning offices and the Forest Service.

(5) Applications for the review and approval of a proposed use or development shall provide the following information:

(a) The applicant's name, address and telephone number;

(b) The land owner's name, address and telephone number (if different from applicant's);

(c) The county in which the proposed use or development would be located;

(d) The section, quarter section, township and range in which the proposed development would be located;

(e) The street address of the proposed use or development;

(f) The tax lot number(s) and size in acres of the parcel(s) involved;

(g) A description of the current land use for the parcel(s) involved and adjoining lands;

(h) A written description of the proposed use or development, including details on the height, exterior color(s), and construction materials of the proposed structures.

(i) A list of Key Viewing Areas from which the proposed use would be visible.

(j) A map of the project area. The map shall be drawn to scale. The scale of the map shall be large enough to allow the Executive Director to determine the location and extent of the proposed use or development and evaluate its effects on scenic, cultural, natural, and recreation resources. The map shall be prepared at a scale of 1 inch equals 200 feet (1:2,400), or a scale providing greater detail. If a parcel is very large, the map does not need to show the entire parcel. Rather, it can show only those portions of the parcel affected by the proposed use. The map shall include the following elements:

(A) North arrow.

(B) Map scale.

(C) Boundaries, dimensions, and size of the subject parcel.

(D) Significant terrain features or landforms.

(E) Groupings and species of trees or other vegetation on the parcel.

(F) Location and species of vegetation that would be removed or planted.

(G) Bodies of water and watercourses.

(H) Location and width of existing and proposed roads, driveways, and trails.

(I) Location and size of existing and proposed structures.

(J) Location of existing and proposed services including wells or other water supplies, sewage disposal systems, power and telephone poles and lines, and outdoor lighting.

(K) Location and depth of all proposed grading and ditching.

(k) Elevation drawings, which shall show the appearance of proposed structures and shall include natural grade, finished grade, and the geometrical exterior of at least the length and width of structures as seen from a horizontal view. Elevation drawings shall be drawn to scale.

(l) A list of names and addresses of the adjacent property owners within a distance of the subject parcel as determined in 350-081-0630.

(m) Any additional information that the applicant feels will assist in the evaluation of the proposal, including but not limited to, maps, drawings, and development plans.

(n) The signature of the applicant and property owner or a statement from the property owner indicating that he is aware of the application being made on his property.

(o) The signature of the property owner on a statement that authorizes the Executive Director or the Executive Director's designee reasonable access to the site in order to evaluate the application.

(6) Applications for the following uses or developments shall include additional information as required by the appropriate guidelines in Commission Rule 350-81 or by the Executive Director:

(a) In the General Management Area, for all buildings visible from key viewing areas, pursuant to 350-081-0520(2)(n).

(b) In the General Management Area, production and/or development of mineral resources and expansion of existing quarries pursuant to 350-081-0520(1)(f), (2)(o), and (2)(bb).

(c) A grading plan that complies with the requirements of 350-081-0520(2)(aa)(A) and (B) is required for the following:

(A) In the General Management Area, all applications for structural development involving more than 100 cubic yards of grading with slopes over 10 percent shall include a grading plan;

(B) In the General Management Area, all proposed structural development on sites visible from key viewing areas and involving more than 200 cubic yards of grading, regardless of slope; and

(C) In the Special Management Area, all applications for structural development involving more than 100 cubic yards of grading with slopes greater than 10 percent (except trails) shall include a grading plan.

(d) In the General Management Area, vegetation management projects in public rights of way along Scenic Travel Corridors, pursuant to 350-081-0520(4)(d).

(e) Large-scale uses as defined by guideline 350-081-0540(1)(c)(C) shall include reconnaissance survey reports, pursuant to 350-081-0540(1)(c)(F), and (G).

(f) Proposed uses that would alter the exterior architectural appearance of buildings and structures that are 50 years old or older, or would compromise features of the surrounding area that are important in defining the historic or architectural character of buildings that are 50 years old or older, pursuant to 350-081-0540(1)(c)(H)(iii).

(g) In the General Management Area, new uses located in, or providing recreational access to the Columbia River or its fishbearing tributaries, pursuant to 350-081-0084(1)(a)(A).

(h) In the General Management Area, any review use in a wetland or within a wetland buffer zone, pursuant to 350-081-0560(1)(b).

(i) In the General Management Area, any review use in a stream, pond, lake, or within their buffer zones, pursuant to 350-081-0570(1)(b).

(j) In the General Management Area, any review use within 1000 feet of a sensitive wildlife area or site, pursuant to 350-081-0580(1)(b). Large-scale uses as defined by 350-081-0580(2) shall also include field survey information, pursuant to 350-081-0580(2)(e).

(k) In the General Management Area, any review use within 1000 feet of a sensitive plant, pursuant to 350-081-0590(1)(b). Large-scale uses as defined by 350-081-0590(2) shall also include field survey information, pursuant to Commission Rule 350-081-0590(2)(e).

(l) In the General Management Area, on lands designated Large-Scale Agriculture, a single-family dwelling in conjunction with agricultural use, pursuant to 350-081-0190(1)(h), and if applicable, 350-081-0190(1)(i).

(m) In the General Management Area, on lands designated Large-Scale Agriculture, a single-family dwelling not in conjunction with agricultural use, pursuant to Commission Rule 350-081-0190(1)(q).

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(n) In the General Management Area, on lands designated Large-Scale Agriculture, a single-family dwelling for an agricultural operator's relative, pursuant to Commission Rule 350-081-0190(1)(k).

(o) In the General Management Area, on lands designated Large-Woodland, a single-family dwelling, pursuant to 350-081-0270(1)(a).

(p) In the Special Management Area, on lands designated Agriculture, Forest, or Public Recreation, a single-family dwelling, pursuant to 350-081-0270(2)(j).

(q) In the Special Management Area, on lands designated Agriculture, Forest, Residential, or Public Recreation, clearing trees for new agricultural use, pursuant to 350-081-0270(2)(x).

(r) In the Special Management Area, on lands designated Agriculture, Forest, Residential, or Public Recreation, forest practices, pursuant to 350-081-0270(2)(y).

(s) In the Special Management Area, on lands designated Open Space, any new use or development, pursuant to 350-081-0340(4).

(t) In the General Management Area, on lands designated Agriculture-Special, a single-family dwelling pursuant to 350-081-0232(1)(g).

(u) In the Special Management Area, on lands designated Agriculture, Forest, or Public Recreation, a single-family dwelling necessary and accessory to agricultural use, pursuant to 350-081-0190(2)(c).

(v) In the Special Management Area, on lands designated Agriculture, Forest, or Public Recreation, farm labor housing, pursuant to 350-081-0190(2)(d).

(w) In the General Management Area, on lands designated Small Woodland, a single-family dwelling pursuant to 350-081-0270(1)(b).

(x) In the General Management Area, on lands designated Commercial Forest, Large Woodland, or Small Woodland, a single-family dwelling in conjunction with agricultural use pursuant to 350-081-0270(1)(c).

(y) In the General Management Area, on lands designated Commercial Forest, Large Woodland, or Small Woodland, agricultural labor housing, pursuant to 350-081-0270(1)(s) and on lands designated Large-Scale Agriculture or Small-Scale Agriculture, pursuant to 350-081-0190(1)(p).

(z) In the General Management Area, on lands designated Agriculture-Special, new livestock grazing, new fences, livestock watering facilities, and corrals; or soil, water, and vegetation conservation activities, pursuant to 350-081-0240.

(aa) In the General Management Area and Special Management Area, agricultural buildings, pursuant to 350-081-0090(2).

(bb) Other uses as deemed necessary by the Executive Director.

(7) Completed application forms shall be submitted directly to the office of the Columbia River Gorge Commission.

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

Stats. Implemented: ORS 196.150

Hist.: CRGC 1-2005, f. 5-17-05, cert. ef. 7-1-05; CRGC 1-2007, f. 11-1-07, cert. ef. 1-1-08

350-081-0042

Decision of the Executive Director

(1) In making a decision on a proposed use or development the Executive Director shall:

(a) Consult with the applicant and such agencies as the Executive Director deems appropriate;

(b) Consider information submitted by the applicant and all other relevant information available;

(c) Consider all comments submitted pursuant to Commission Rule 350-081-0040; and

(d) Solicit and consider the comments of the Forest Service.

(2) The Executive Director shall approve a proposed use or development only if it is consistent with the standards of section 6 and the purposes of P.L. 99-663 and Commission Rule 350-081.

(a) In approving a proposed development action, the Executive Director may impose conditions as necessary to ensure consistency with the guidelines of Commission Rule 350-81.

(b) Conditions attached to approval of a proposed development action shall be recorded in county deeds and records to ensure notice of the conditions to successors in interest. The Executive Director's decision shall include this requirement.

(3) The Executive Director shall issue a decision on a proposed use or development including findings of fact and conclusions of law and any conditions to ensure consistency with the standards of section 6 and the purposes of P.L. 99-663 and Commission Rule 350-81 within 72 days after acceptance of the application except in one or more of the following situations:

(a) The applicant consents to an extension of time.

(b) The Executive Director determines that additional information is required pursuant to Commission Rule 350-081-0040.

(c) The Executive Director determines that additional information is necessary to evaluate land use issues and the impacts of the proposed use to scenic, cultural, natural, and recreation resources.

(d) Unforeseen circumstances including, but not limited to, weather, illness, etc.

(4) The Executive Director shall send a copy of the decision to the applicant, the Forest Service, the applicable state, the four Indian tribal governments, the applicable county and/or city and each person who submitted comments under Commission Rule 350-081-0040. The decision shall set forth the rights of appeal under Commission Rule 350-70.

(5) The decision of the Executive Director shall be final unless a Notice of Appeal is filed in accordance with Commission Rule 350-70. An applicant who chooses to proceed with an approved development during the appeal period shall assume all associated risks and liabilities.

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

Stats. Implemented: ORS 196.150

Hist.: CRGC 1-2005, f. 5-17-05, cert. ef. 7-1-05; CRGC 1-2007, f. 11-1-07, cert. ef. 1-1-08

350-081-0050

Development Eligible for Expedited Review

The following developments may be reviewed using the expedited development review process, provided they comply with the resource protection and procedural guidelines contained in this section.

(1) Except in Open Space and Agriculture-Special, accessory structures between 60 and 200 square feet in area and 10 feet or less in height. Only one accessory building per parcel may be allowed under this guideline, regardless of whether the parcel already includes an accessory building(s). Additional accessory buildings shall be subject to full review. This category does not include signs, decks, fences, outdoor lights, retaining walls, transportation facilities, or utility facilities.

(2) Additions and covered decks for existing buildings, provided the existing building is at least 500 square feet in area and the addition or covered deck is no larger than 200 square feet in area and no taller than the height of the existing building. Only one addition and one covered deck per parcel may be allowed under this guideline, regardless of whether the parcel already includes an addition or covered deck.

(3) Rail, solid or semi-solid fences accessory to existing dwellings less than or equal to 6 feet in height and less than or equal to 100 feet in length.

(4) Wire-strand fences other than those allowed outright, provided the fence complies with 350-081-0580(6) if it is inside deer and elk winter range as delineated in the Gorge Commission/USDA Forest Service natural resource inventories or determined by an appropriate federal or state agency.

(5) In the General Management Area, woven-wire fences for agricultural use that would enclose 80 acres or less.

(6) Decks that are:

(a) Uncovered;

(b) Attached and accessory to existing dwellings; and

(c) 500 square feet or less in area and 30 inches or less in height above existing grade.

(6) Road closure gates.

(7) Signs, other than those allowed outright.

(8) Outdoor lights.

(9) Air, weather, water and other similar research and monitoring facilities, provided the facilities are attached to existing structures or are less than or equal to 120 square feet in size and less than or equal to 12 feet in height.

(10) Lot line adjustments in the General Management Area that would not result in the potential to create additional parcels through subsequent land divisions, subject to 350-081-0126(1), except all lot line adjustments for parcels designated Open Space, Agriculture-Special, Public Recreation, or Commercial Recreation shall be reviewed through the full development review process.

(11) Lot line adjustments in the Special Management Area, subject to 350-081-0126(2).

(12) Removal/demolition of structures that are less than 50 years old, including wells, septic tanks and fuel tanks.

(13) Decommission non-paved roads, including ripping the road surface, barriers, and revegetation.

(14) Trail reconstruction involving up to 1,000 feet of trail re-route.

(15) The following transportation facilities, provided they are not a part of larger construction or reconstruction projects (which shall be reviewed as a whole):

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(a) New guardrails and guardrail ends, other than those allowed outright, and new wire-strand and woven-wire access control fences. This category does not include jersey barriers.

(b) New traffic detection devices, vehicle weighing devices, and signal boxes less than or equal to 120 square feet in size and less than or equal to 12 feet in height. This category does not include signs.

(c) Pave existing dirt and gravel roads, provided the activity does not increase the width of the road or disturb the toe of adjacent embankments, slopes or cut banks.

(d) New weather, air, traffic or other monitoring equipment attached to existing structures or that are less than or equal to 120 square feet in size and less than or equal to 12 feet in height.

(16) Except in Agriculture-Special, the following underground utility facilities:

(a) New underground utility facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past, provided (1) No ditch for linear facilities would be more than 36 inches wide and (2) No excavation for non-linear facilities would exceed 20 cubic yards.

(b) The following aboveground and overhead utility facilities:

(A) Modify existing aboveground and overhead utility facilities or, except in Agriculture-Special, develop new aboveground and overhead utility facilities including building and equipment foundations, poles, transformers, conduit, fencing, pumps, valves, pipes, and water meters, provided the development would be less than or equal to 120 square feet in area and less than or equal to 12 feet in height.

(B) Replace existing aboveground and overhead utility facilities including building and equipment foundations, poles, transformers, conduit, fencing, pumps, valves, pipes, and water meters, provided the replacement facilities would be in the same location as and no more than 15 percent larger than the physical size of the existing facilities.

(C) New antennas and associated support structures necessary for public service on existing wireless communication poles and towers other than those allowed outright, provided the size is the minimum necessary to provide the service.

(17) Replace an existing mobile home in a mobile home space within a mobile home park, provided:

(a) The mobile home to be replaced, the mobile home space and the mobile home park shall be existing, lawful uses according to the definition of existing use or structure and 350-81-082(1) through (4);

(b) The replacement mobile home shall be in the same location as the mobile home to be replaced;

(c) The height of the replacement mobile home shall be no more than 20 percent greater than the mobile home to be replaced; and

(d) The mass and footprint of the replacement mobile home shall be no more than 100 percent greater than a single-wide mobile home to be replaced or no more than 25 percent greater than a double-wide mobile home to be replaced.

(18) Retaining walls accessory to existing dwellings less than or equal to 2 feet in height and less than or equal to 100 feet in length.

(19) In the Special Management Area, wind machines for frost control in conjunction with agricultural use.

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

Stats. Implemented: ORS 196.150

Hist.: CRGC 1-2005, f. 5-17-05, cert. ef. 7-1-05; CRGC 1-2007, f. 11-1-07, cert. ef. 1-1-08

350-081-0052

Resource and Treaty Rights Protections Guidelines

(1) Proposed developments reviewed using the expedited review process shall comply with the following resource protection guidelines:

(a) Scenic:

(A) In the General Management Area, the scenic resource protection guidelines shall not apply to woven-wire fences for agricultural use that would enclose 80 acres or less.

(B) Except signs, the colors of structures topographically visible from key viewing areas shall be dark earth-tones found at the specific site or the surrounding landscape. The specific colors or list of acceptable colors shall be included as a condition of approval. This guideline shall not apply to additions, which may match the color of existing buildings.

(C) Except signs, structures topographically visible from key viewing areas shall use low or non-reflective building materials, including roofing, gutters, vents, and chimneys.

(D) Outdoor lights shall be directed downward and sited, hooded, and shielded such that they are not highly visible from key viewing areas. Shielding and hooding materials shall be composed of non-reflective, opaque materials.

(E) Signs shall comply with 350-81-112.

(F) Structures within one-half mile of a key viewing area and topographically visible from the key viewing area shall be sited, screened and/or designed to achieve the applicable scenic standard (e.g., visual subordination, not visually evident).

(b) Cultural:

(A) The expedited development review process shall only be used to review proposed development that does not require a reconnaissance survey, pursuant to 350-81-540(1)(c)(A) or historic survey, pursuant to 350-81-540(1)(c)(B).

(B) The GMA guidelines that protect cultural resources and human remains discovered during construction shall be applied as conditions of approval for all development approved under the expedited development review process.

(c) Recreation:

(A) The development shall not detract from the use and enjoyment of established recreation sites on adjacent parcels.

(d) Natural:

(A) Wetlands, Streams, Rivers, Ponds, and Lakes:

(i) The development is outside buffer zones for wetlands, streams, rivers, ponds, and lakes. This guideline shall not apply to lot line adjustments or development located inside road, utility or railroad rights-of-way or easements that have been previously disturbed and regularly maintained.

(B) Sensitive Wildlife and Sensitive Plants

(i) The development meets one of the following:

(I) The development is at least 1,000 feet from known sensitive wildlife areas or sites (excluding sensitive aquatic species, deer winter range, and turkey habitat) and known sensitive plants; or

(II) The development does not disturb the ground or is inside road, utility or railroad rights-of-way or easements or other areas that have been previously disturbed and regularly maintained; or

(III) For sensitive wildlife, the development is within 1,000 feet of known sensitive wildlife areas or sites (excluding sensitive aquatic species, deer winter range and turkey habitat), but an appropriate federal or state wildlife agency determines (1) the sensitive wildlife area or site is not active or (2) the proposed development would not compromise the integrity of the wildlife area or site or occur during the time of the year when wildlife species are sensitive to disturbance. For sensitive plants, the development is within 1,000 feet of known sensitive plants, but the Oregon or Washington Natural Heritage Program or a person with recognized expertise in botany or plant ecology hired by the applicant has determined that the development would be at least 200 feet from the sensitive plants.

(ii) Development eligible for expedited review shall be exempt from the field survey requirements for sensitive wildlife or sensitive plants.

(2) Proposed developments reviewed using the expedited review process shall comply with the following treaty rights protection guidelines:

(a) Proposed developments shall not affect or modify any treaty or other rights of any Indian tribe.

(b) The expedited development review process shall cease and the proposed development shall be reviewed using the full development review process if an Indian tribe submits substantive written comments during the comment period that identify the treaty rights that exist in the project vicinity and explain how they would be affected or modified by the proposed development.

(c) Except as provided in 2.b above, the GMA and SMA treaty rights and consultation goals, policies and guidelines in Chapter 3, Section IV of the Management Plan shall not apply to proposed developments reviewed under the expedited review process.

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

Stats. Implemented: ORS 196.150

Hist.: CRGC 1-2005, f. 5-17-05, cert. ef. 7-1-05; CRGC 1-2007, f. 11-1-07, cert. ef. 1-1-08

350-081-0060

Emergency/Disaster Response Actions

(1) General Guidelines:

(a) Actions taken in response to an emergency/disaster event, as defined in Commission Rule 350-081-0020(54), are allowed in all GMA/SMA land use designations, subject to the notification requirements in "Notification Requirements" (subsection 2, below).

(b) Following emergency/disaster response actions, best management practices (BMPs) to prevent sedimentation and provide erosion control shall be utilized whenever disaster response actions necessitate vegetation removal, excavation, and/or grading. BMPs may include but are not limited to: use of straw bales, slash windrows, filter fabric fences, sandbags, straw cover, jute netting, etc.

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(c) Structures or development installed or erected for a temporary use (e.g. sandbags, check dams, plastic sheeting, chain link fences, debris walls, etc.) shall be removed within one year following an emergency event. If it can be demonstrated that the continued use of these devices is necessary to protect life property, public services or the environment, an extension of no more than two years may be granted by the Executive Director or the Forest Service for federal agency actions.

(d) The new exploration, development (extraction or excavation), and production of mineral resources, used for commercial, private or public works projects, shall not be conducted as an emergency/disaster response activity.

(e) No spoils resulting from grading or excavation activities shall be deliberately deposited into a wetland, stream, pond, lake or riparian area within the National Scenic Area (NSA) as a part of an emergency/disaster response action. The only exception to this is for construction of a fire line during a wildfire, where avoiding the aquatic area or its buffer zone has been considered and determined to not be possible without further jeopardizing life or property.

(2) Notification Requirements:

(a) Actions taken in response to an emergency/disaster event, as defined in Commission Rule 350-081-0020(54), are allowed in all GMA and SMA land use designations, subject to the following notification requirements.

(A) Notification of an emergency/disaster response activity shall be submitted either within 48 hours of the commencement of a response action, or by the next business day following the start of such an action, whichever is sooner. Notification shall be submitted by the party conducting an emergency/disaster response activity or their representatives. In the case of multiple responding parties, the first party to respond shall provide the required notification, unless, upon mutual agreement of responding parties, another responder elects to assume this responsibility.

(B) Notification shall be submitted by mail, fax, telephone, e-mail or in person. If notification occurs by telephone, a hard copy of the notification shall be submitted by mail or in person within 7 days.

(C) Notification shall be furnished to the Executive Director or the Forest Service for federal agency actions.

(D) At a minimum, the following information shall be required at the time of notification:

(i) Nature of emergency/disaster event.

(ii) Description of emergency/disaster response activities and magnitude of response actions to be taken, if applicable (such as extent of earth movement, erection of structures, etc.).

(iii) Location of emergency/disaster response activities.

(iv) Estimated start and duration of emergency/disaster response activities.

(v) Contact person and phone number for the parties conducting emergency/disaster response actions.

(E) Repair and maintenance of an existing serviceable structure to its previously authorized and undamaged condition are not subject to the above referenced notification requirements.

(b) Upon notification of an emergency/disaster response action, the Executive Director, or Forest Service shall, as soon as possible:

(A) Review its natural resource inventory data and notify the contact person for the emergency/disaster response actions of all inventoried natural resource sites and their buffers, that are within or adjacent to the response area or that may be adversely affected by response activities;

(B) Notify the Oregon or Washington Department of Fish and Wildlife of all noticed emergency/disaster response actions, to provide that agency an opportunity to consult with responding agencies during the event; and

(C) Notify the Forest Service, the Oregon Historic Preservation Office or the Office of Washington Office of Archeology and Historic Preservation, and the tribal governments of all emergency/disaster response activities. The Forest Service will review their cultural resource inventory data and notify the contact person for the emergency/disaster response action as soon as possible of all inventoried cultural resource sites, or their buffers, that are within, or adjacent to, emergency/disaster response areas.

(c) Upon notification of a response action, the Forest Service shall, as soon as possible, offer the services of a resource advisor to the agency(ies) conducting the response action. The resource advisor will provide on-site advice to minimize impacts to resources from emergency/disaster response actions.

(3) Post-Emergency/Disaster Response Development Review Application Requirements:

(a) Within 30 days following notification, a post-emergency/disaster response application shall be submitted by the party conducting the response action to the Executive Director, or Forest Service for federal agency actions. In the case of an event with multiple responding parties, the party providing initial notification as required herein shall submit the application. An exception to this may occur if another responding party, by mutual agreement with the other respondents, elects to submit the application. Requests to extend this submittal deadline may be made in writing and shall include the reason why an extension is necessary. Extensions shall not exceed 30 days in duration and not more than two (2) extensions shall be granted.

(b) Post-emergency/disaster response applications shall only address development activities conducted during an emergency/disaster response. Applications shall specify if development placed during an emergency/disaster event is permanent or temporary. The terms "development activities" and "development" include the disposal of any spoil materials associated with an emergency/disaster response action. Applicants shall be responsible for operations under their control and that of other responders, upon mutual agreement. Responders not agreeing to have another responder address their actions shall be responsible to submit an application for those actions.

(c) Emergency/disaster response actions not involving structural development or ground disturbance with mechanized equipment are exempt from these requirements, except for those actions within 500 feet of a known cultural resource (as determined in the notification process).

(d) Applications shall include the following information:

(A) Applicant's name and address.

(B) Location of emergency/disaster response.

(C) A written description of the emergency/disaster response, including any structures erected, excavation or other grading activities, or vegetation removal.

(D) A map of the project area drawn to scale, at a scale of 1 inch = 200 feet or a scale providing greater detail. The map shall include:

(i) North arrow and scale.

(ii) Boundaries, dimensions and size of subject parcel(s).

(iii) Bodies of water, watercourses, and significant landforms.

(iv) Existing roads and structures.

(v) New structures placed and any vegetation removal, excavation or grading resulting from the response actions.

(E) An exception to the scale requirements in subsection (3)(d)(D) above may be granted for an event encompassing an area greater than one square mile. In such cases, a clear sketch map of the entire response action area shall be provided. In addition, a map of 1 inch = 200 feet or a scale providing greater detail shall be provided that shows a section of the response area exemplifying the specific actions taken.

(e) Emergency/disaster response review uses may be allowed pursuant to a process that provides at minimum the following:

(A) Notice of the application to landowners within 200 feet of the perimeter of the subject parcel, the Forest Service, Gorge Commission, four tribal governments and interested parties.

(B) A written decision with findings of fact and conclusions of law.

(C) An opportunity to request a hearing.

(4) Post-Emergency/Disaster Response Development Review

Actions taken in all land use designations within the GMA/SMA that are in response to an emergency/disaster event, as defined, shall be reviewed for compliance with the following guidelines.

(a) Scenic Resources:

(A) Impacts of emergency/disaster response actions shall be evaluated to ensure that scenic resources are not adversely affected. In the GMA, such actions shall be rendered visually subordinate in their landscape setting as seen from key viewing areas to the greatest extent practicable, except for actions located in areas exempted from visual subordination requirements in 350-081-0520(3)(k). In the SMA, such actions shall meet the scenic standard to the greatest extent practicable.

(B) Vegetation shall be used to screen or cover road cuts, structural development, landform alteration, and areas denuded of vegetation, as a result of emergency/disaster response actions.

(C) Areas denuded of vegetation as a result of emergency/disaster response actions shall be revegetated with native plant species, or species commonly found within the applicable landscape setting, to restore the affected areas to its pre-response condition to the greatest extent practicable. Revegetation shall occur as soon as practicable, but no later than one year after the emergency/disaster event. An exception to the one-year requirement may be granted upon demonstration of just cause, with an extension up to one year.

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(D) The painting, staining or use of other materials on new structural development shall be used to ensure that the structures are non-reflective, or of low reflectivity, and visually subordinate in their landscape setting as seen from key viewing areas, unless the structure is fully screened from key viewing areas by existing topographic features.

(E) Additions to existing structures, resulting from an emergency/disaster response action, which are smaller in total height, bulk or area than the existing structures may be the same color as the existing development. Additions larger than the existing development shall be visually subordinate in their landscape setting as seen from key viewing areas to the greatest extent practicable.

(F) In the General Management Area, spoil materials associated with grading, excavation and slide debris removal activities in relation to an emergency/disaster response action shall comply with the following standards:

(i) The spoil materials shall either be:

(I) Removed from the NSA;

(II) Deposited at a site within the NSA permitted by an agency administering a Scenic Area land use ordinance; or

(III) (Re)contoured, to the greatest extent practicable, to retain the natural topography, or a topography which emulates that of the surrounding landscape.

(ii) The Executive Director shall decide whether an applicant removes the spoil materials, deposits the spoil materials, or (re)contours the spoils materials. The applicant does not make this decision.

(iii) The Executive Director shall select the action in 350-081-0060(4)(a)(F)(i) that, to the greatest extent practicable, best complies with the policies and guidelines in the Management Plan that protect scenic, cultural, recreation, and natural resources.

(iv) Disposal sites created according to 350-081-0060(4)(a)(F)(i)(II) shall only be used for spoil materials associated with an emergency/disaster response action. Spoil materials from routine road maintenance activities shall not be deposited at these sites.

(G) In the Special Management Area, spoil materials associated with grading, excavation and slide debris removal activities in relation to an emergency/disaster response action shall comply with the following standards:

(i) The spoil materials shall either be:

(I) Removed from the NSA; or

(II) Deposited at a site within the NSA permitted by an agency administering a Scenic Area land use ordinance within two years of the emergency.

(ii) After the spoils materials are removed, the emergency disposal site shall be rehabilitated to meet the scenic standard.

(iii) All grading (i.e., recontouring) shall be completed within 30 days after the spoils materials are removed.

(iv) Sites shall be replanted using native plants found in the landscape setting or ecoregion to the maximum extent practicable.

(v) All revegetation shall take place within one (1) year of the date an applicant completes the grading.

(vi) This provision shall take effect two years after the date of Management Plan concurrence by the U.S. Secretary of Agriculture, or approval of a disposal site, whichever comes first.

(b) Cultural Resources and Treaty Rights:

(A) To the greatest extent practicable, emergency/disaster response actions shall not adversely affect cultural resources. Emergency/disaster response actions shall not affect tribal treaty rights.

(B) The USDA Forest Service shall determine if a reconnaissance survey or historic survey is necessary within three days after receiving notice that a post-emergency land use application has been received by the Executive Director.

(i) Reconnaissance surveys shall be conducted by the USDA Forest Service and comply with the standards in 350-081-0540(1)(c)(D). Reconnaissance survey reports shall comply with the standards in 350-081-0540(1)(c)(G).

(ii) Historic surveys shall be conducted by the USDA Forest Service and shall describe any adverse effects to historic resources resulting from an emergency/disaster response action. Historic surveys shall document the location, form, style, integrity, and physical condition of historic buildings and structures. Such surveys shall also include original photographs, if available, and maps, and should use archival research, blueprints, and drawings as necessary.

(C) Following the submittal of a post-emergency land use application, in addition to other public notice requirements that may exist, the tribal governments shall be notified by the Executive Director when (1) a recon-

naissance survey is required or (2) cultural resources exist in the project area. Notices shall include a site plan. Tribal governments shall have 15 calendar days from the date a notice is sent to submit written comments. Written comments should describe the nature and extent of any cultural resources that exist in the project area or treaty rights that exist in the project area and how they have been affected, and identify individuals with specific knowledge about them.

(D) When written comments are submitted in compliance with 350-081-0060(4)(b)(C) above, the project applicant shall offer to meet within five calendar days with the interested persons. The five day consultation period may be extended upon agreement between the project applicant and the interested persons. A report shall be prepared by the Executive Director following the consultation meeting. Consultation meetings and reports shall comply with the standards in 350-081-0540(2)(a), and 0084(1)(b)(A) and (B).

(E) If cultural resources are discovered within the area disturbed by emergency response actions, the project applicant shall have a qualified professional conduct a survey to gather enough information to evaluate the significance of the cultural resources and what effects the action had on such resources. The survey and evaluation shall be documented in a report that generally follows the standards in 350-081-0540(1)(c)(G) and 350-081-0540(3)(a).

(F) A mitigation plan shall be prepared by the project applicant if the affected cultural resources are significant. The mitigation plan shall be prepared according to the information, consultation, and report guidelines in 350-081-0540(5)(a).

(G) The Executive Director shall submit a copy of all reconnaissance and historic survey reports and treaty rights protection plans to the SHPO and the tribal governments. Survey reports shall include measures to mitigate adverse effects to cultural resources resulting from emergency/disaster response actions. The SHPO and tribal governments shall have 15 calendar days from the date a survey report is mailed to submit written comments to the Executive Director. The Executive Director shall record and address all written comments in the final decision.

(H) The Executive Director shall make a final decision on whether the emergency/disaster response actions are consistent with the applicable cultural resource goals, policies, and guidelines. If the final decision contradicts the comments submitted by the SHPO, or those submitted by a tribal government regarding treaty rights, the Executive Director shall justify how the opposing conclusion was reached.

(I) The cultural resource protection process may conclude when it has been determined that tribal treaty rights have not been not affected and one of the following conditions exists:

(i) The emergency/disaster response action does not require a reconnaissance or historic survey, or a reconnaissance survey demonstrates that no cultural resources are known to exist in the project area, and no substantiated concerns were voiced by interested persons within 15 calendar days of the date that a notice was mailed.

(ii) The emergency/disaster response action avoided cultural resources that exist in the project area.

(iii) Adequate mitigation measures to affected cultural resources have been developed and will be implemented.

(iv) A historic survey demonstrates that emergency/disaster response actions, and associated development, had no effect on historic buildings or structures because:

(I) The SHPO concluded that the historic buildings or structures are clearly not eligible, as determined by using the criteria in the "National Register Criteria for Evaluation" (36 CFR 60.4), or

(II) The emergency/disaster response actions did not compromise the historic or architectural character of the affected buildings or structures, or compromise features of the site that are important in defining the overall historic character of the affected buildings or structures, as determined by the guidelines and standards in The Secretary of the Interior's Standards for Rehabilitation and The Secretary of the Interior's Standards for Historic Preservation Projects.

(c) Natural Resources:

(A) To the greatest extent practicable, emergency/disaster response actions shall not adversely affect natural resources.

(B) Buffer zones for wetlands, streams, ponds, riparian areas, sensitive wildlife sites or areas, and sites containing rare plants, shall be the same as those established in 350-081-0560 through 600.

(C) Wetlands, Streams, Ponds, Lakes, Riparian Areas:

(i) Emergency/disaster response actions occurring within a buffer zone of wetlands, streams, pond, lakes or riparian areas shall be reviewed by the Oregon or Washington Department of Fish and Wildlife. These areas

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are also referred to in this section as aquatic areas. State biologists will help determine if emergency/disaster response actions have affected or have a potential to affect these aquatic areas or their bigger zones. State biologists shall respond within 15 days of the date the application is mailed.

(ii) When emergency/disaster response activities occur within wetlands, streams, ponds, lakes, riparian areas, or the buffer zones of these areas, the applicant shall demonstrate the following:

(I) All reasonable measures have been applied to ensure that the response actions have resulted in the minimum feasible alteration or destruction of the functions, existing contours, vegetation, fish and wildlife resources, and hydrology of wetlands, streams, ponds, lakes or riparian areas.

(II) Areas disturbed by response activities and associated development will be rehabilitated to the maximum extent practicable.

(iii) Impacts to wetlands, streams, ponds, lakes and riparian areas, and their buffers will be offset through mitigation and restoration to the greatest extent practicable. Mitigation and restoration efforts shall use native vegetation, and restore natural functions, contours, vegetation patterns, hydrology and fish and wildlife resources to the maximum extent practicable.

(iv) If the Executive Director, in consultation with the state wildlife agency, determines that the emergency/disaster response actions had minor effects on the aquatic area or its buffer zone that could be eliminated with simple modifications, a letter shall be sent to the project applicant that describes the effects and measures that need to be taken to eliminate them. The state biologist, or a Forest Service natural resource advisor (as available) in consultation with the state biologist, shall visit the site in order to make this determination. If the project applicant accepts these recommendations, the Executive Director shall incorporate them into the final order and the aquatic area protection process may conclude.

(v) Unless addressed through subsection (4)(c)(C)(iv) above, mitigation and restoration efforts shall be delineated in a Rehabilitation Plan. Rehabilitation Plans shall satisfy the standards in 350-081-0570(8)(a) and (b). Rehabilitation plans shall also satisfy the following:

(I) Plans shall include a plan view and cross-sectional drawing at a scale that adequately depicts site rehabilitation efforts. Plans will illustrate final site topographic contours that emulate the surrounding natural landscape.

(II) Planting plans shall be included that specify native plant species to be used, specimen quantities and plant locations.

(III) The project applicant shall be responsible for the successful rehabilitation of all areas disturbed by emergency/disaster response activities.

(D) Wildlife Habitat:

(i) Emergency/disaster response actions occurring within 1,000 feet of a sensitive wildlife area or site, shall be reviewed by the Oregon or Washington Department of Fish and Wildlife. State wildlife biologists will help determine if emergency/disaster response actions have affected or have a potential to affect a sensitive wildlife area or site.

(ii) Site plans for emergency/disaster response sites shall be submitted by the Executive Director to the Oregon or Washington Department of Fish and Wildlife for review as prescribed in 350-81-580(4)(a) and (b). The wildlife agency shall respond within 15 days of the date the application is mailed.

(iii) The wildlife protection process may terminate if the Executive Director, in consultation with the state wildlife agency, determines (1) the sensitive wildlife area or site was not active, or (2) the emergency/disaster response did not compromise the integrity of the wildlife area or site or occurred at a time when wildlife species are not sensitive to disturbance.

(iv) If the Executive Director, in consultation with the state wildlife agency, determines that the emergency/disaster response activities had minor effects on the wildlife area or site that could be eliminated with simple modifications, a letter shall be sent to the project applicant that describes the effects and measures that need to be taken to eliminate them. The state wildlife biologist, or a Forest Service natural resource advisor (as available) in consultation with the state wildlife biologist, shall visit the site in order to make this determination. If the project applicant accepts these recommendations, the Executive Director shall incorporate them into the final decision and the wildlife protection process may conclude.

(v) If the Executive Director, in consultation with the state wildlife agency, determines that the emergency/disaster response activities had adverse effect on a sensitive wildlife area or site, the project applicant shall prepare a Wildlife Management Plan. Wildlife Management Plans shall comply with standards in 350-81-580(5). Upon completion of the Wildlife Management Plan, the Executive Director shall:

(I) Submit a copy of the Wildlife Management Plan to the state wildlife agency for review. The state wildlife agency will have 15 days from the date that a plan is mailed to submit written comments to the Executive Director;

(II) Record any written comments submitted by the state wildlife agency in its development review order. Based on these comments, the Executive Director shall make a final decision on whether the proposed use would be consistent with the wildlife policies and guidelines. If the final decision contradicts the comments submitted by the state wildlife agency, the Executive Director shall justify how the opposing conclusion was reached.

(III) Require the project applicant to revise the Wildlife Management Plan as necessary to ensure that the proposed use would not adversely affect a sensitive wildlife area or site.

(E) Deer and Elk Winter Range:

(i) Any fencing permanently erected within deer and elk winter range, as a result of an emergency/disaster response, shall comply with the standards in 350-081-0580(6).

(F) Rare Plants:

(i) Emergency/disaster response actions occurring within 1,000 feet of a sensitive plant, shall be reviewed by the Oregon or Washington Natural Heritage Program. State heritage staff will help determine if emergency/disaster response actions have occurred within the buffer zone of a rare plant.

(ii) Site plans for emergency/disaster response sites shall be submitted to the Oregon or Washington Natural Heritage Program by the Executive Director. State natural heritage staff will, within 15 days from the date the application is mailed, identify the location of the affected plants and delineate a 200 foot buffer zone on the applicant's site plan.

(iii) The rare plant protection process may conclude if the Executive Director, in consultation with the state natural heritage program, determines that emergency/disaster response activities occurred outside of a rare plant buffer zone.

(iv) If the Executive Director, in consultation with the state natural heritage program, determines that the emergency/disaster response activities had minor effects on rare plants or the rare plant buffer zone, a letter shall be sent to the project applicant that describes the effects and measures that need to be taken to eliminate them. The state natural heritage staff, or a Forest Service natural resources advisor (as available) in consultation with the state natural heritage staff, shall visit the site in order to make this determination. If the project applicant accepts these recommendations, the Executive Director shall incorporate them into the final decision order and the rare plant protection process may conclude.

(v) If emergency/disaster response activities occurred within a rare plant buffer zone that had adverse effects on rare plants or their buffer zone, the project applicant shall prepare a protection and rehabilitation plan, that meets the standards in 350-081-0590(5).

(vi) The Executive Director shall submit a copy of all protection and rehabilitation plans to the state heritage program for review. The state natural heritage program will have 15 days from the date the protection and rehabilitation plan is mailed to submit written comments to the Executive Director. The Executive Director shall record any written comments submitted by the state natural heritage program in its development review order. Based on these comments, the Executive Director shall make a final decision on whether the proposed use would be consistent with the rare plant policies and guidelines. If the final decision contradicts the comments submitted by the state natural heritage program, the Executive Director shall justify how the opposing conclusion was reached.

(vii) The Executive Director shall require the project applicant to revise the protection and rehabilitation plan as necessary to ensure that the proposed use would not adversely affect a rare plant site.

(d) Recreational Resources:

(A) To the greatest extent practicable, emergency/disaster response actions shall not adversely affect recreational resources.

(B) Mitigation measures shall be implemented to mitigate any adverse effects on existing recreation resources caused by emergency/disaster response activities to the maximum extent practicable.

(5) Post-Emergency Construction:

(a) The following review uses are allowed in all land use designations in accordance with 350-081-0030 through 046, 350-081-0070 through 126 (as applicable), and 350-081-0520 through 0620.

(b) Placement of structures necessary for continued public safety and the protection of private property and essential public services damaged during an emergency/disaster event. This includes replacement of temporary structures erected during such events with permanent structures per-

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forming an identical or related function. Land use applications shall be submitted within 12 months following an emergency/disaster event.

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

Stats. Implemented: ORS 196.150

Hist.: CRGC 1-2005, f. 5-17-05, cert. ef. 7-1-05; CRGC 1-2007, f. 11-1-07, cert. ef. 1-1-08

350-081-0074

Uses Allowed Outright

(1) All Land Use Designations Except Open Space and Agriculture — Special:

(a) The following uses may be allowed without review in all GMA and SMA land use designations, except GMA and SMA Open Space and Agriculture — Special:

(A) In the General Management Area, agricultural uses except new cultivation. Any operation that would cultivate land that has not been cultivated, or has lain idle, for more than 5 years shall be considered new cultivation. For this guideline, cultivation and vegetation removal may be allowed in conjunction with a home garden.

(B) In the Special Management Area, agricultural uses within previously disturbed and regularly worked fields or areas.

(C) Forest practices in the General Management Area that do not violate conditions of approval for other approved uses and developments.

(D) Repair, maintenance and operation of existing structures, including, but not limited to, dwellings, agricultural structures, trails, roads, railroads, and utility facilities.

(E) Accessory structures 60 square feet or less in area and 10 feet or less in height, unless within the buffer zone of a wetland, stream, pond, lake or riparian area. This category does not include signs, fences, outdoor lights, retaining walls, flagpoles, transportation facilities, or utility facilities.

(F) Wire-strand or woven-wire fences used for gardens, yards, livestock, and similar uses less than or equal to 500 feet in length and less than or equal to 10 feet in height that are accessory to an existing dwelling, provided woven-wire fences (posts and wire) are brown or black if visible from key viewing areas. Height is measured from the ground to the top wire.

(G) Wire-strand fences less than or equal to 48 inches in height that are outside deer and elk winter range as delineated in the Gorge Commission/USDA Forest Service natural resource inventories or determined by an appropriate federal or state agency. Height is measured from the ground to the top wire. This category does not include fences associated with transportation facilities or utility facilities.

(H) The following transportation facilities:

(i) Replace existing safety or protective structures, including guardrails, access control fences and gates, barriers, energy attenuators, safety cables, and traffic signals and controllers, provided the replacement structures are:

(I) The same location and size as the existing structures; and

(II) The same building materials as the existing structures, or building materials that are dark brown with a flat, non-reflective finish, or building materials consistent with the Historic Columbia River Highway Master Plan for the Historic Columbia River Highway or a scenic highway corridor strategy for Interstate 84 or Washington State Route 14 prepared according to the GMA policies in the section of the Scenic Resources chapter of the Management Plan titled "Scenic Travel Corridors".

(ii) Replace existing traffic detection devices, vehicle weighing devices, and signal boxes, provided the replacement structures are

(I) The same location and size as the existing structures; and

(II) the same building materials as the existing structures, or building materials that are dark brown with a flat, non-reflective finish, or building materials consistent with the Historic Columbia River Highway Master Plan for the Historic Columbia River Highway or a scenic highway corridor strategy for Interstate 84 or Washington State Route 14 prepared according to the GMA policies in the section of the Scenic Resources chapter of the Management Plan titled "Scenic Travel Corridors".

(iii) New raised pavement markers, guide posts, object markers, inlay markers, and pavement markings and striping.

(iv) Permanent public regulatory, guide, and warning signs, except those excluded below, provided

(I) The signs comply with the Manual for Uniform Traffic Control Devices; and

(II) The support structures and backs of all signs are dark brown with a flat, non-reflective finish. This category does not include specific service signs; destination and distance signs; variable message signs; or signs that bridge or are cantilevered over the road surface.

(v) Extensions of existing guardrails less than or equal to 50 feet in length and new guardrail ends for existing guardrails, provided the guardrails and guardrail ends are

(I) Located inside rights-of-way that have been disturbed in the past; and

(II) Constructed of materials that match the existing structure, natural wood, weathering steel (e.g., Corten), or materials consistent with the Historic Columbia River Highway Master Plan for the Historic Columbia River Highway or a scenic highway corridor strategy for Interstate 84 or Washington State Route 14 prepared according to the GMA policies in the section of the Scenic Resources chapter of the Management Plan titled "Scenic Travel Corridors".

(vi) New guardrails and guardrail ends, provided the structures are

(I) located inside rights-of-way that have been disturbed in the past; and

(II) constructed of natural wood, weathering steel (e.g., Corten), or materials consistent with the Historic Columbia River Highway Master Plan for the Historic Columbia River Highway or a scenic highway corridor strategy for Interstate 84 or Washington State Route 14 prepared according to the GMA policies in the section of the Scenic Resources chapter of the Management Plan titled "Scenic Travel Corridors". This category does not include jersey barriers.

(vii) In the General Management Area, replace and/or expand existing culverts, provided the entity or person owning or operating the culvert shall obtain all necessary federal and state permits that protect water quality and fish and wildlife habitat before construction.

(viii) In the Special Management Area, replace and/or expand existing culverts for ephemeral streams or ditches, provided the visible ends of culverts shall be dark and non-reflective.

(ix) Resurface or overlay existing paved roads, provided the activity does not:

(I) Increase the width of a road;

(II) disturb the toe of adjacent embankments, slopes or cut banks; or

(III) change existing structures or add new structures.

(x) Apply dust abatement products to non-paved road surfaces.

(xi) Grade and gravel existing road shoulders, provided the activity does not

(I) Increase the width of a road;

(II) Disturb the toe of adjacent embankments, slopes or cut banks; or

(III) Change existing structures or add new structures.

(xii) Replace the superstructure of bridges (e.g., decks, beams) for bridges less than or equal to 30 feet in length and less than or equal to 1,000 square feet in area. This category does not include guardrails or the substructure of bridges (e.g., foundations, abutments). The following underground utility facilities:

(xiii) Replace or modify existing underground utility facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past or co-locate new underground utility facilities with existing underground facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past, provided no excavation would extend beyond the depth and extent of the original excavation.

(ix) Replace or modify existing underground utility facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past or co-locate new underground utility facilities with existing underground facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past, provided

(I) No excavation would extend more than 12 inches beyond the depth and extent of the original excavation;

(II) No ditch for linear facilities would be more than 24 inches wide;

(III) No excavation for non-linear facilities would exceed 10 cubic yards; and

(IV) No recorded archaeological site is located within 500 feet of the development. To comply with (IV), the entity or person undertaking the development shall contact the Washington Office of Archaeology and Historic Preservation or the Oregon State Historic Preservation Office and obtain a letter or other document stating no recorded archaeological site is located within 500 feet of the development.

(J) The following aboveground and overhead utility facilities:

(i) Replace existing aboveground and overhead utility facilities including towers, pole/tower-mounted equipment, cables and wires, anchors, pad-mounted equipment, service boxes, pumps, valves, pipes, water meters, and fire hydrants, provided the replacement facilities would have:

(I) The same location and size as the existing facilities and

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(II) The same building materials as the existing facilities, or building materials that are dark brown with a flat, non-reflective finish, or building materials consistent with the Historic Columbia River Highway Master Plan for the Historic Columbia River Highway or a scenic highway corridor strategy for Interstate 84 or Washington State Route 14 prepared according to the GMA policies in the section of the Scenic Resources chapter of the Management Plan titled "Scenic Travel Corridors".

(ii) Replace existing utility poles, provided the replacement poles are:

(I) Located within 5 feet of the original poles;

(II) No more than 5 feet taller and 6 inches wider than the original poles; and

(III) Constructed of natural wood, weathering steel (e.g., Corten), materials that match the original poles, or materials that are dark brown with a flat, non-reflective finish.

(iii) New whip antennas for public service less than or equal to 8-feet in height and less than or equal to 2 inches in diameter, cables, wires, transformers, and other similar equipment, provided all such structures are on existing utility poles or towers.

(K) Flagpoles that are accessory to the principal building on a parcel, provided the height of the flagpole is less than or equal to the height of the highest ridgeline or parapet of the principal building.

(L) The following signs:

(i) Election signs. Removal must be accomplished within 30 days of election day.

(ii) "For sale" signs not greater than 12 square feet. Removal must be accomplished within 30 days of close of sale.

(iii) Temporary construction site identification, public service company, safety, or information signs not greater than 32 square feet. Exceptions may be granted for public highway signs necessary for public safety and consistent with the Manual for Uniform Traffic Control Devices. Removal must be accomplished within 30 days of project completion.

(iv) Signs posted on private property warning the public against trespassing, danger from animals, the private nature of a road, driveway or premise, or signs prohibiting or otherwise controlling fishing or hunting, provided such signs are not greater than 6 square feet in the General Management Area and 2 square feet in the Special Management Area.

(v) Temporary signs advertising civil, social, or political gatherings and activities, provided such signs do not exceed 12 square feet. Removal must be accomplished within 30 days of the close of the event.

(vi) Signs posted by governmental jurisdictions giving notice to the public. Such signs shall be no larger than that required to convey the intended message.

(vii) In the General Management Area, signs associated with the use of a building or buildings, if placed flat on the outside walls of buildings (not on roofs or marquees).

(M) In the General Management Area, wind machines for frost control in conjunction with agricultural use.

(2) GMA and SMA Open Space:

(a) The following uses may be allowed without review in GMA and SMA Open Space:

(A) Repair, maintenance and operation of existing structures, including, but not limited to, dwellings, agricultural structures, trails, roads, railroads, and utility facilities.

(B) The following transportation facilities:

(i) Replace existing safety or protective structures, including guardrails, access control fences and gates, barriers, energy attenuators, safety cables, and traffic signals and controllers, provided the replacement structures are:

(I) The same location and size as the existing structures; and

(II) The same building materials as the existing structures, or building materials that are dark brown with a flat, non-reflective finish, or building materials consistent with the Historic Columbia River Highway Master Plan for the Historic Columbia River Highway or a scenic highway corridor strategy for Interstate 84 or Washington State Route 14 prepared according to the GMA policies in the section of the Scenic Resources chapter of the Management Plan titled "Scenic Travel Corridors".

(ii) Replace existing traffic detection devices, vehicle weighing devices, and signal boxes, provided the replacement structures are

(I) The same location and size as the existing structures and

(II) The same building materials as the existing structures, or building materials that are dark brown with a flat, non-reflective finish, or building materials consistent with the Historic Columbia River Highway Master Plan for the Historic Columbia River Highway or a scenic highway corridor strategy for Interstate 84 or Washington State Route 14 prepared

according to the GMA policies in the section of the Scenic Resources chapter of the Management Plan titled "Scenic Travel Corridors".

(iii) New raised pavement markers, guide posts, object markers, inlay markers, and pavement markings and striping.

(iv) Permanent public regulatory, guide, and warning signs, except those excluded below, provided

(I) The signs comply with the Manual for Uniform Traffic Control Devices; and

(II) The support structures and backs of all signs are dark brown with a flat, non-reflective finish. This category does not include specific service signs; destination and distance signs; variable message signs; or signs that bridge or are cantilevered over the road surface.

(v) Extensions of existing guardrails less than or equal to 50 feet in length and new guardrail ends for existing guardrails, provided the guardrails and guardrail ends are

(I) Located inside rights-of-way that have been disturbed in the past and

(II) Constructed of materials that match the existing structure, natural wood, weathering steel (e.g., Corten), or materials consistent with the Historic Columbia River Highway Master Plan for the Historic Columbia River Highway or a scenic highway corridor strategy for Interstate 84 or Washington State Route 14 prepared according to the GMA policies in the section of the Scenic Resources chapter of the Management Plan titled "Scenic Travel Corridors".

(vi) New guardrails and guardrail ends, provided the structures are:

(I) Located inside rights-of-way that have been disturbed in the past and

(II) Constructed of natural wood, weathering steel (e.g., Corten), or materials consistent with the Historic Columbia River Highway Master Plan for the Historic Columbia River Highway or a scenic highway corridor strategy for Interstate 84 or Washington State Route 14 prepared according to the GMA policies in the section of the Scenic Resources chapter of the Management Plan titled "Scenic Travel Corridors". This category does not include jersey barriers.

(vii) In the General Management Area, replace and/or expand existing culverts, provided the entity or person owning or operating the culvert shall obtain all necessary federal and state permits that protect water quality and fish and wildlife habitat before construction.

(viii) In the Special Management Area, replace and/or expand existing culverts for ephemeral streams or ditches, provided the visible ends of culverts shall be dark and non-reflective.

(ix) Resurface or overlay existing paved roads, provided the activity does not:

(I) Increase the width of a road;

(II) Disturb the toe of adjacent embankments, slopes or cut banks; or

(III) Change existing structures or add new structures.

(x) Apply dust abatement products to non-paved road surfaces.

(xi) Grade and gravel existing road shoulders, provided the activity does not:

(I) Increase the width of a road;

(II) Disturb the toe of adjacent embankments, slopes or cut banks; or

(III) Change existing structures or add new structures.

(xii) Replace the superstructure of bridges (e.g., decks, beams) for bridges less than or equal to 30 feet in length and less than or equal to 1,000 square feet in area. This category does not include guardrails or the substructure of bridges (e.g., foundations, abutments).

(C) The following underground utility facilities:

(i) Replace or modify existing underground utility facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past or co-locate new underground utility facilities with existing underground facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past, provided no excavation would extend beyond the depth and extent of the original excavation.

(ii) Replace or modify existing underground utility facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past or co-locate new underground utility facilities with existing underground facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past, provided:

(I) No excavation would extend more than 12 inches beyond the depth and extent of the original excavation;

(II) No ditch for linear facilities would be more than 24 inches wide;

(III) No excavation for non-linear facilities would exceed 10 cubic yards, and

(IV) No recorded archaeological site is located within 500 feet of the development. To comply with (IV), the entity or person undertaking the

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development shall contact the Washington Office of Archaeology and Historic Preservation or the Oregon State Historic Preservation Office and obtain a letter or other document stating no recorded archaeological site is located within 500 feet of the development.

(D) The following aboveground and overhead utility facilities:

(i) Replace existing aboveground and overhead utility facilities including towers, pole/tower-mounted equipment, cables and wires, anchors, pad-mounted equipment, service boxes, pumps, valves, pipes, water meters, and fire hydrants, provided the replacement facilities would have:

(I) The same location and size as the existing facilities; and

(II) The same building materials as the existing facilities, or building materials that are dark brown with a flat, non-reflective finish, or building materials consistent with the Historic Columbia River Highway Master Plan for the Historic Columbia River Highway or a scenic highway corridor strategy for Interstate 84 or Washington State Route 14 prepared according to the GMA policies in the section of the Scenic Resources chapter of the Management Plan titled "Scenic Travel Corridors".

(ii) Replace existing utility poles, provided the replacement poles are:

(I) Located within 5 feet of the original poles;

(II) No more than 5 feet taller and 6 inches wider than the original poles; and

(III) Constructed of natural wood, weathering steel (e.g., Corten), materials that match the original poles, or materials that are dark brown with a flat, non-reflective finish.

(iii) New whip antennas for public service less than or equal to 8-feet in height and less than or equal to 2 inches in diameter, cables, wires, transformers, and other similar equipment, provided all such structures are on existing utility poles or towers.

(E) The following signs:

(i) Election signs. Removal must be accomplished within 30 days of election day.

(ii) "For sale" signs not greater than 12 square feet. Removal must be accomplished within 30 days of close of sale.

(iii) Temporary construction site identification, public service company, safety, or information signs not greater than 32 square feet. Exceptions may be granted for public highway signs necessary for public safety and consistent with the Manual for Uniform Traffic Control Devices. Removal must be accomplished within 30 days of project completion.

(iv) Signs posted on private property warning the public against trespassing, danger from animals, the private nature of a road, driveway or premise, or signs prohibiting or otherwise controlling fishing or hunting, provided such signs are not greater than 6 square feet in the GMA and 2 square feet in the SMA.

(v) Temporary signs advertising civil, social, or political gatherings and activities, provided such signs do not exceed 12 square feet. Removal must be accomplished within 30 days of the close of the event.

(vi) Signs posted by governmental jurisdictions giving notice to the public. Such signs shall be no larger than that required to convey the intended message.

(vii) In the General Management Area, signs associated with the use of a building or buildings, if placed flat on the outside walls of buildings (not on roofs or marquees).

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

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

Stats. Implemented: ORS 196.150

Hist.: CRGC 1-2005, f. 5-17-05, cert. ef. 7-1-05; CRGC 1-2007, f. 11-1-07, cert. ef. 1-1-08

350-081-0082

Existing Uses and Discontinued Uses

(1) Right to Continue Existing Uses and Structures: Except as otherwise provided, any existing use or structure may continue as long as it is used in the same manner and for the same purpose.

(2) Replacement of Existing Structures Not Damaged or Destroyed by Disaster Except as provided in 350-081-0082(3), an existing structure may be replaced if a complete land use application for a replacement structure is submitted to the reviewing agency within one year of the date the use of the original structure was discontinued. The replacement structure shall comply with the following standards:

(a) The replacement structure shall be used in the same manner and for the same purpose as the original structure.

(b) The replacement structure may have a different size and/or location than the original structure. An existing mobile home may be replaced with a framed residence and an existing framed residence may be replaced with a mobile home.

(c) The replacement structure shall be subject to the scenic, cultural, recreation and natural resources guidelines; the treaty rights guidelines; and the land use designations guidelines involving agricultural buffer zones, approval criteria for fire protection, and approval criteria for siting of dwellings on forest land.

(d) The original structure shall be considered discontinued if a complete land use application for a replacement structure is not submitted within the one year time frame.

(3) Replacement of Existing Structures Damaged or Destroyed by Disaster An existing structure damaged or destroyed by fire, flood, landslide or other similar disaster may be replaced if a complete land use application for a replacement structure is submitted to the reviewing agency within two years of the date the original structure was damaged or destroyed. The replacement structure shall comply with the following standards:

(a) The replacement structure shall be used in the same manner and for the same purpose as the original structure. An existing mobile home may be replaced with a framed residence.

(b) The replacement structure shall be in the same location as the original structure. An exception may be granted and the replacement structure may be sited in a different location if the following conditions exist:

(A) A registered civil engineer, registered geologist, or other qualified and licensed professional hired by the applicant demonstrates the disaster made the original building site physically unsuitable for reconstruction.

(B) The new building site is no more visible from key viewing areas than the original building site. An exception may be granted if a registered civil engineer, registered geologist, or other qualified and licensed professional hired by the applicant demonstrates the subject parcel lacks alternative building sites physically suitable for construction that are no more visible from key viewing areas than the original building site.

(C) The new building site complies with the cultural resources, natural resources, and treaty rights protection guidelines.

(c) The replacement structure shall be the same size and height as the original structure, provided:

(A) The footprint of the replacement structure may be up to 10 percent larger than the footprint of the original structure.

(B) The walls of the replacement structure shall be the same height as the walls of the original structure unless a minor increase is required to comply with standards in the current jurisdictional building code.

(d) The replacement structure shall only be subject to the following scenic resources standards:

(A) The replacement structure shall comply with the scenic resources guidelines regarding color and reflectivity. These guidelines shall be applied to achieve the applicable scenic standard (visually subordinate or not visually evident) to the maximum extent practicable.

(B) Decks, verandas, balconies and other open portions of the original structure shall not be rebuilt as enclosed (walls and roof) portions of the replacement structure.

(C) In the General Management Area, the replacement structure shall comply with the scenic resources guidelines regarding landscaping. These guidelines shall be applied to achieve the applicable scenic standard (visually subordinate) to the maximum extent practicable, provided:

(i) Except as provided in 350-081-0082(3)(a)(D)(iii)(II), the percent of the replacement structure screened by vegetation as seen from key viewing areas shall not exceed the percent of the original structure that was screened by vegetation as seen from key viewing areas. Coniferous vegetation shall be replaced with coniferous vegetation and deciduous vegetation shall be replaced with deciduous vegetation unless the applicant chooses to use all coniferous vegetation.

(ii) In situations where the original structure was approved under Scenic Area regulations (e.g., Final Interim Guidelines, land use ordinance), the percent of the replacement structure screened by vegetation shall comply with any conditions of approval that required a landowner to preserve existing vegetation and/or plant and maintain new vegetation to screen the original structure as seen from key viewing areas.

(iii) To help determine how much vegetation may be required under 350-081-0082(3)(a)(D)(iii)(I) and (II), land use applications shall include all available documentation (photographic or otherwise) on the amount and type of vegetation that screened the original structure from key viewing areas. At a minimum, development review decisions shall include findings that address the following: The percent of original structure facing each key viewing area that was screened by coniferous vegetation, for each key viewing area from which the structure was visible.

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(4) The percent of original structure facing each key viewing area that was screened by deciduous vegetation, for each key viewing area from which the structure was visible.

(5) Elevation drawings showing the replacement structure and the amount of coniferous and deciduous vegetation that would screen the structure from key viewing areas in 10 years.

(6) The height of any new trees shall not be required to exceed 5 feet.

(7) The time frame for achieving visual subordination shall be 10 years or less from the commencement of construction.

(a) In the Special Management Area, the replacement structure shall comply with the scenic resources guidelines regarding landscaping. These guidelines shall be applied to achieve the applicable scenic standard (visually subordinate or not visually evident) to the maximum extent practicable, provided:

(A) The Scenic Resources Implementation Handbook shall be utilized to determine approvable species and minimum approvable sizes of new trees planted (based on average growth rates expected for approvable species).

(B) The height of any new trees shall not be required to exceed 5 feet.

(C) The time frame for achieving the applicable scenic standard (visually subordinate or not visually evident) shall be 10 years.

(D) The replacement structure shall be subject to 350-081-0082(2)(a)(A), (B), and (C) above if it would not comply with 350-081-0082(3)(a)(B) and (C).

(E) The original structure shall be considered discontinued if a complete land use application for a replacement structure is not submitted within the two year time frame.

(8) Changes to Existing Uses and Structures Except as otherwise provided, any change to an existing use or modification to the exterior of an existing structure shall be subject to review and approval pursuant to Commission Rule 350-081.

(a) Expansion of Existing Commercial and Multifamily Residential Uses: In the SMA, existing commercial and multifamily residential uses may expand as necessary for successful operation on the dedicated site, subject to guidelines to minimize adverse effects on scenic, cultural, natural, and recreation resources. Expansion beyond the dedicated site shall be prohibited.

(b) Expansion of Existing Industrial Uses in the GMA: Existing industrial uses in the GMA may expand as necessary for successful operation on the dedicated site. Expansion beyond the dedicated site shall be prohibited.

(c) Conversion of Existing Industrial Uses in the GMA: In the GMA, existing industrial uses may convert to less intensive uses. For this section, a less intensive use is a commercial, recreation, or residential use with fewer adverse effects upon scenic, cultural, natural, and recreation resources.

(d) Existing Development or Production of Mineral Resources in the GMA: In the GMA, existing development or production of mineral resources may continue unless the Gorge Commission determines that the uses adversely affect the scenic, cultural, natural, or recreation resources of the Scenic Area. These uses will be considered discontinued and subject to land use ordinances under the Management Plan if any of the following conditions exist:

(A) The mined land has been reclaimed naturally or artificially to a point where it is revegetated to 50 percent of its original cover (considering both basal and canopy) or has reverted to another beneficial use, such as grazing. Mined land shall not include terrain that was merely leveled or cleared of vegetation.

(B) The site has not maintained a required state permit.

(C) The site has not operated legally within 5 years before October 15, 1991.

(E) Existing Development or Production of Mineral Resources in the SMA: Uses involving the exploration, development, or production of sand, gravel, or crushed rock in the SMA may continue if both of the following conditions exist:

(i) The sand, gravel, or crushed rock is used for construction or maintenance of roads used to manage or harvest forest products in the SMA.

(ii) A determination by the Forest Service finds that the use does not adversely affect the scenic, cultural, natural, or recreation resources.

(9) Discontinuance of Existing Uses and Structures Except as provided in 350-081-0082(3)(a) and (3)(a)(F), any use or structure that is discontinued for one (1) year or more shall not be considered an existing use or structure. Proof of intent to abandon is not required to determine that an existing use or use of an existing structure has been discontinued.

(a) Multiple Uses: An existing use or structure with more than one legally established use may discontinue one of the uses without discontinuing the others.

(b) Change in Use: An existing use or structure shall become discontinued if the use or use of the structure changes.

(10) Discontinued Uses and Structures: Re-establishment or replacement of any use or structure that has been discontinued shall be subject to all applicable policies and guidelines in the Management Plan, including, but not limited to, guidelines for land use designations and scenic, cultural, recreation and natural resources.

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

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

Stats. Implemented: ORS 196.150

Hist.: CRGC 1-2005, f. 5-17-05, cert. ef. 7-1-05; CRGC 1-2007, f. 11-1-07, cert. ef. 1-1-08

350-081-0108

Commercial Events

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Stat. Auth.: ORS 196.150, RCW 43.97.015 & 16 U.S.C. sec. 544c(b)
Stats. Implemented: ORS 196.150
Hist.: CRGC 1-2005, f. 5-17-05, cert. ef. 7-1-05; CRGC 2-2006, f. 6-22-06, cert. ef. 8-1-06; CRGC 1-2007, f. 11-1-07, cert. ef. 1-1-08

350-081-0112

Signs

(1) GMA Sign Provisions:

(A) Except for signs allowed without review pursuant to 350-081-074, all new signs must meet the following guidelines unless these guidelines conflict with the Manual for Uniform Traffic Control Devices for public safety, traffic control or highway construction signs. In such cases, the standards in the Manual for Uniform Traffic Control Devices shall supersede these guidelines.

(A) The support structure shall be unobtrusive and have low visual impact.

(B) Lettering colors with sufficient contrast to provide clear message communication shall be allowed. Signs shall be colored to blend with their setting to the maximum extent practicable.

(C) Backs of all signs shall be unobtrusive, nonreflective, and blend in with the setting.

(D) Spotlighting of signs may be allowed where needed for night visibility. Backlighting is not permitted for signs.

(E) Except for signs along public highways necessary for public safety, traffic control, or road construction and consistent with the Manual for Uniform Traffic Control Devices, the following signs are prohibited:

(i) Luminous signs or those with intermittent or flashing lights. These include neon signs, fluorescent signs, light displays, and other signs that are internally illuminated, exclusive of seasonal holiday light displays.

(ii) New billboards.

(iii) Signs with moving elements.

(iv) Portable or wheeled signs, or signs on parked vehicles where the sign is the primary use of the vehicle.

(b) Any sign that does not conform with a provision of these guidelines and has existed before their adoption is subject to the following provisions:

(A) Alteration of existing nonconforming signs shall comply with these guidelines.

(B) Any nonconforming sign used by a business must be brought into conformance concurrent with any expansion or change in use that requires a development permit.

(2) SMA Sign Provisions:

(a) New signs shall be allowed as specified in the applicable land use designation.

(b) No sign shall be erected or placed in such a manner that it may interfere with, be confused with, or obstruct the view of any traffic sign, signal, or device.

(c) Preexisting signs are allowed to continue, provided no changes occur in size, structure, color, or message.

(d) Except for signs allowed without review pursuant to 350-81-074, all new signs shall meet the following guidelines and be consistent with the Manual for Uniform Traffic Control Devices:

(A) Signs shall be maintained in a neat, clean, and attractive condition.

(B) The character and composition of sign materials shall be harmonious with the landscape and/or related to and compatible with the main structure upon which the sign is attached.

(C) Signs shall be placed flat on the outside walls of buildings, not on roofs or marquees.

(D) Signs shall be unobtrusive and have low contrast with the setting.

(E) The visual impact of the support structure shall be minimized.

(F) Outdoor sign lighting shall be used for purposes of illumination only, and shall not be designed for, or used as, an advertising display, except for road safety signs.

(G) The backs of all signs shall be visually unobtrusive, non-reflective, and blend in with the setting.

(H) Internal illumination or backlighting of signs shall not be permitted except for highway construction, warning, or safety.

(e) Public signs shall meet the following standards in addition to 350-081-0112(2)(a) through (d):

(A) The Columbia River Gorge National Scenic Area Graphic Signing System provides design standards for public signs in and adjacent to public road rights-of-way. All new and replacement public signs, except those transportation regulatory, guide, and warning signs allowed outright shall conform to the guidelines in this system. Types of signs addressed include recreation site entry, interpretive, specific service signs, destination and distance signs, variable message signs, or signs that bridge or are cantilevered over the road surface.

(B) Signs located outside public road rights-of-way are encouraged to be designed in a way that is consistent with similar-purpose signs described in the Graphic Signing System.

(C) Signs posted by governmental jurisdictions giving notice to the public shall be no larger than that required to convey the intended message.

(f) Signs for public and commercial recreation facilities, home occupations, cottage industries, and commercial uses shall meet the following guidelines in addition to 350-081-0112(2)(a) through (d) and 350-081-0112(2)(g):

(A) Any sign advertising or relating to a business that is discontinued for a period of 30 consecutive days shall be presumed to be abandoned and shall be removed within 30 days thereafter, unless permitted otherwise by the jurisdictional authority.

(B) Any signs relating to or advertising for a business shall be brought into conformance with these sign guidelines before any expansion or change in use that is subject to review by the counties.

(C) Offsite and onsite directional signs on approach roads to recreational facilities may be permitted. Name and interpretive signs may be permitted onsite, but should be kept to the minimum required to achieve the purpose(s) of the facilities.

(D) Commercial recreation businesses approved in conjunction with a recreational facility may have a name sign not exceeding 16 square feet.

(E) Recreation developments may have one on-premise name sign at each principal entrance. Such signs are encouraged to be of a low profile, monument type, and shall conform to the Graphic Signing System.

(g) The following signs are prohibited:

(A) Advertising billboards.

(B) Signs that move or give the appearance of moving, except signs used for highway construction, warning, or safety.

(C) Portable or wheeled signs, or signs on parked vehicles where the sign is the primary use of the vehicle, except for signs used for highway construction, warning, or safety.

(h) Sign clutter and other negative visual effects from excessive signs along all roads and highways, and at parking lots and recreation facilities, shall be reduced.

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

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

Stats. Implemented: ORS 196.150

Hist.: CRGC 1-2005, f. 5-17-05, cert. ef. 7-1-05; CRGC 1-2007, f. 11-1-07, cert. ef. 1-1-08

350-081-0126

Lot Line Adjustments

(1) The following guidelines shall apply to lot line adjustments in the GMA.

(a) Lot line adjustments for parcels in all land use designations except Agriculture-Special, Open Space, Commercial, Public Recreation, or Commercial Recreation shall comply with the following standards:

(A) The lot line adjustment shall not result in the creation of any new parcel(s).

(B) The lot line adjustment shall not result in the potential to create a new parcel(s) or residential development in excess of the maximum density allowed by the land use designation(s) for the affected parcels.

(C) The lot line adjustment shall not allow a parcel that is equal to or larger than the minimum parcel size before the lot line adjustment to become less than the minimum parcel size after the lot line adjustment, except to allow a public or non-profit entity to acquire land for the purpose of protecting and enhancing scenic, cultural, recreation or natural resources, provided the land to be acquired would be protected by a conservation easement or other similar property restriction that precludes future land divisions and development.

(D) The lot line adjustment shall not allow a parcel that is smaller than the minimum parcel size to be reduced in size, except to accomplish one of the following purposes:

(i) Resolve boundary disputes, correct physical encroachments, provide reasonable access, or meet buffer or set back requirements; provided

(I) The parcel to be enlarged would not become eligible for a subsequent land division; and

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(II) The amount of land transferred would be the minimum necessary to resolve the issue.

(ii) Allow a public or non-profit entity to acquire land for the purpose of protecting and enhancing scenic, cultural, recreation or natural resources, provided the land to be acquired would be protected by a conservation easement or other similar property restriction that precludes future land divisions and development.

(E) The lot line adjustment shall not allow the boundary of a parcel designated Large-Scale Agriculture, Agriculture-Special, Commercial Forest Land, Large Woodland or Open Space to be extended into another land use designation for the purpose of establishing a dwelling under less stringent guidelines (e.g., extending a parcel designated GMA Large-Scale Agriculture into a parcel designated Rural Center or Residential).

(F) The lot line adjustment shall not allow previously approved parcels or developments to violate conditions of approval or become out of compliance or further out of compliance with existing land use and resource protection guidelines, including, but not limited to, requirements for buffer zones and landscaping.

(G) The lot line adjustment shall not result in a parcel that cannot comply with existing land use and resource protection guidelines, including, but not limited to requirements for buffer zones and landscaping.

(b) Lot line adjustments for parcels designated Agriculture-Special or Open Space shall comply with the following standards:

(A) The lot line adjustment may be allowed upon demonstration that it is necessary to facilitate efforts to protect and enhance scenic, cultural, natural, or recreation resources.

Note: There is no specified minimum parcel size for parcels designated Open Space.

(B) The lot line adjustment shall comply with subsections (1)(a)(A), (E), (F), and (G), above.

(c) Lot line adjustments for parcels designated Commercial shall comply with subsections (1)(a)(A), (E), (F), and (G), above.

(d) Lot line adjustments for parcels designated Public Recreation or Commercial Recreation shall comply with the following standards:

(A) The lot line adjustment may be allowed upon demonstration that it is necessary to facilitate, enhance, or otherwise improve recreation uses on the parcel.

Note: There are no specified minimum parcel sizes for parcels designated Public Recreation or Commercial Recreation.

(B) The lot line adjustment shall comply with subsections (1)(a)(A), (E), (F), and (G), above.

(2) The following guidelines shall apply to lot line adjustments in the SMA.

(a) The proposed lot line adjustment shall not result in the creation of any new parcel(s).

(b) A lot line adjustment shall not result in a parcel greater than or equal to 40 acres becoming less than 40 acres.

(c) A lot line adjustment shall not result in a parcel less than 40 acres becoming 40 acres or greater.

(d) A parcel that is smaller than 40 acres shall not be reduced in size, except to accomplish one of the following purposes:

(A) Resolve boundary line disputes, correct physical encroachments, provide reasonable access, or meet buffer or set back requirements; provided

(i) The parcel to be enlarged would not become 40 acres or greater; and

(ii) The amount of land transferred would be the minimum necessary to resolve the issue.

(B) Allow a public or non-profit entity to acquire land for the purpose of protecting and enhancing scenic, cultural, recreation or natural resources, provided the land to be acquired would be protected by a conservation easement or other similar property restriction that precludes residential development.

(e) The lot line adjustment shall not cause previously approved parcels or development to violate conditions of approval or become out of compliance or further out of compliance with existing land use and resource protection guidelines, including, but not limited to, requirements for buffer zones and landscaping.

(f) The lot line adjustment shall not result in a parcel that cannot comply with existing land use and resource protection guidelines, including, but not limited to requirements for buffer zones and landscaping.

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

Stats. Implemented: ORS 196.150

Hist.: CRGC 1-2005, f. 5-17-05, cert. ef. 7-1-05; CRGC 1-2007, f. 11-1-07, cert. ef. 1-1-08

350-081-0190

Review Uses — Agricultural Land

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

$(A)(B)(C) = I$

where:

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

B = Average price of the commodity

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

I = Income capability

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

ADMINISTRATIVE RULES

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

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

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

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

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

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

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

(n) Structures associated with hunting and fishing operations.

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

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

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

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

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

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

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

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

(C) The dwelling shall be set back from any abutting parcel designated Large-Scale or Small-Scale Agriculture, as required by 350-81-076, or designated Commercial Forest Land or Large or Small Woodland, as required in "Siting of Dwellings on Forest Land" (350-081-0310).

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

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

(r) On parcels in Small-Scale Agriculture, a land division creating parcels smaller than the designated minimum parcel size, subject to the guidelines for cluster development in "Land Divisions and Cluster Development" (350-081-0124). If the designated minimum parcel size is 20 acres, this provision will apply to parcels 40 acres in size or larger. Similarly, if the designated minimum parcel size is 40, 80, or 160 acres, this provision will apply to parcels 80 acres or larger, 160 acres or larger, or 320 acres or larger, respectively.

(s) Life estates, subject to the guidelines in "Approval Criteria for Life Estates," (350-081-0210).

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

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

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

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

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

(y) Commercial events, subject to the guidelines in "Commercial Events" (350-081-0108).

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

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

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

(b) Forest uses and practices, as allowed for in 350-081-0270(2)(y).

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

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

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

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

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

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

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

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

$(A)(B)(C) = I$

where:

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

B = Average price of the commodity

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

I = Income capability

(D) Minimum parcel size of 40 contiguous acres.

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

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

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

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

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

(f) Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one year and complete within five years, subject to the standards in "Agricultural Buildings" (350-81-090).

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

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

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

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

ADMINISTRATIVE RULES

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

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

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

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

(j) Home occupations and cottage industries, subject to the guidelines in "Home Occupations and Cottage Industries" (350-81-098). The use or development shall be compatible with agricultural use. Buffer zones should be considered to protect agricultural practices from conflicting uses.

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

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

(m) Aquaculture.

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

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

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

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

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

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

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

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

(t) Public recreation, commercial recreation, interpretive, and educational developments and uses, consistent with the guidelines in 350-081-0620.

(u) Road and railroad construction and reconstruction.

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

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

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

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

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

(aa) Disposal sites managed and operated by the Oregon Department of Transportation, the Washington State Department of Transportation, or a Gorge county public works department for earth materials and any intermixed vegetation generated by routine or emergency/disaster public road maintenance activities within the Scenic Area, subject to compliance with the guidelines in "Disposal Sites for Spoil Materials from Public Road Maintenance Activities" (350-81-106).

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

Stats. Implemented: ORS 196.150

Hist.: CRGC 1-2005, f. 5-17-05, cert. ef. 7-1-05; CRGC 2-2006, f. 6-22-06, cert. ef. 8-1-06; CRGC 1-2007, f. 11-1-07, cert. ef. 1-1-08

350-081-0200

Review Uses with Additional Approval Criteria — Large-Scale or Small-Scale Agriculture

(1) The following uses may be allowed on lands designated Large-Scale or Small-Scale Agriculture, subject to compliance with the guidelines for the protection of scenic, cultural, natural, and recreation resources (350-081-0520 through 350-081-0620) and the "Approval Criteria for Specified Review Uses," (350-081-0220) below.

(a) Utility facilities and railroads necessary for public service upon a showing that (1) there is no practicable alternative location with less adverse effect on agricultural or forest lands, and (2) the size is the minimum necessary to provide the service.

(b) Home occupations or cottage industries in existing residential or accessory structures, subject to the guidelines in "Home Occupations and Cottage Industries" (350-081-0098).

(c) Fruit and produce stands, upon a showing that sales will be limited to agricultural products raised on the subject farm and other farms in the local region.

(d) Wineries, in conjunction with onsite viticulture, upon a showing that processing of wine is from grapes grown on the subject farm or in the local region.

(e) Wine sales/tasting rooms, in conjunction with an on-site winery.

(f) Agricultural product processing and packaging, upon a showing that the processing will be limited to products grown primarily on the subject farm and sized to the subject operation.

(g) Exploration, development, and production of mineral and geothermal resources, subject to the guidelines in 350-081-0520.

(h) Personal-use airstrips, including associated accessory structures such as a hangar. A personal-use airstrip is an airstrip restricted (except for aircraft emergencies) to use by the owner; invited guests on an infrequent and occasional basis; and commercial aviation activities in connection with agricultural operations. No aircraft may be based on a personal — use airstrip other than those owned or controlled by the owner of the airstrip.

(i) Aquaculture.

(j) Recreation development, subject to the recreation intensity class provisions (350-081-0610) and Recreation Development Plan (Management Plan, Part III, Chapter 1).

(k) Boarding of horses. The reviewing agency shall make findings on property characteristics, parcel size and impacts to neighbors, and shall specify the maximum number of horses based on those findings.

(l) Temporary portable asphalt/batch plants related to public road projects, not to exceed 6 months.

(m) Bed and breakfast inns in single-family dwellings, subject to the guidelines in "Bed and Breakfast Inns" (350-081-0100) and provided that the residence:

(A) Is included in the National Register of Historic Places, or

(B) In Washington, is listed on the Washington State Register of Historic Places maintained by the Washington Office of Archaeology and Historic Preservation, or

(C) In Oregon, is identified and protected under local landmark status as approved pursuant to Oregon state land use regulations protecting historic structures.

(n) Nonprofit, environmental learning or research facilities.

(o) Expansion of existing school or place of worship.

(p) On parcels designated Small-Scale Agriculture, small-scale fishing support and fish processing operations on parcels that are contiguous with and have direct access to the Columbia River, subject to the guidelines in "Small-Scale Fishing Support and Fish Processing Operations" (350-081-0102).

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

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

Stats. Implemented: ORS 196.150

Hist.: CRGC 1-2005, f. 5-17-05, cert. ef. 7-1-05; CRGC 1-2007, f. 11-1-07, cert. ef. 1-1-08

350-081-0231

Uses Allowed through the Expedited Development Review Process—Agriculture-Special

The uses listed in "Expedited Development Review Process" (350-081-0050) are allowed with review through the expedited development review process on lands designated Agriculture-Special.

Stat. Auth.: ORS 196.150

ADMINISTRATIVE RULES

Stats. Implemented: RCW 43.97.015, 16 USC 544e(c), 544f(l)
Hist.: CRGC 1-2007, f. 11-1-07, cert. ef. 1-1-08

350-081-0232

Review Uses for Lands Designated Agriculture-Special

(1) The following uses may be allowed on lands designated Agriculture-Special, subject to compliance with guidelines for the protection of scenic, natural, cultural, and recreation resources (350-081-0520 through 350-081-0620) and "Approval Criteria for Review Uses on Lands Designated Agriculture-Special" (350-081-0234).

(2) New livestock grazing. Any operation that would introduce livestock to land that has not been grazed, or has laid idle, for more than 5 years shall be considered new livestock grazing.

(3) New fences, livestock watering facilities, and corrals.

(4) Soil, water, and vegetation conservation uses.

(5) Replacement or minor expansion of existing and serviceable structures within a dedicated site. Expansion shall be limited to the dedicated site.

(6) Fish and wildlife management uses, educational activities, and scientific research.

(7) Land divisions that facilitate livestock grazing or protect and enhance natural areas. No resulting parcel may be smaller than 160 acres, unless it would facilitate the protection of scenic, cultural, natural, or recreation resources.

(8) Single-family dwellings that are not in conjunction with agricultural use, if a landowner demonstrates that

(a) The dwelling cannot be constructed on a portion of the parcel that is located outside of the natural area; and

(b) The dwelling is sited and designed in a manner that minimizes adverse effects to the natural area. All dwellings shall meet the criteria in 350-081-0190(1)(q). The buffer guidelines for non-agricultural dwellings (350-081-0076) may be waived if they would prevent the optimum siting of a dwelling.

(9) Recreation uses, subject to the provisions for recreation intensity classes (350-081-0610).

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

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

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

(13) Lot line adjustments, subject to the guidelines in "Lot Line Adjustments" (350-081-0126).

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

Stats. Implemented: ORS 196.150

Hist.: CRGC 1-2005, f. 5-17-05, cert. ef. 7-1-05; CRGC 1-2007, f. 11-1-07, cert. ef. 1-1-08

350-081-0270

Review Uses — Forest Land

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

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

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

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

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

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

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

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

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

(c) One single-family dwelling if shown to be in conjunction with and substantially contributing to the current agricultural use of a farm. Guideline 350-081-0190(1)(h) shall be used to determine whether a dwelling is a farm dwelling. The siting of the dwelling shall comply with the "Approval Criteria for Fire Protection" in 350-81-300.

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

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

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

(g) Structures associated with hunting and fishing operations.

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

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

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

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

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

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

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

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

ADMINISTRATIVE RULES

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(w) Life estates, subject to the guidelines in "Approval Criteria for Life Estates" (350-081-0320).

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

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

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

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

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

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

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

(2) The following uses may be allowed on lands designated SMA Forest subject to review for compliance with scenic, cultural, natural, and recreational resources guidelines (350-081-0520 through 350-081-0620). The use or development shall be sited to minimize the loss of land suitable for the production of forest products:

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

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

(c) Railroad and road construction or reconstruction.

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

(e) Silvicultural nurseries.

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

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

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

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

(h) Fish hatcheries and aquaculture facilities.

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) The combined footprints of all accessory buildings on a single parcel shall not exceed 2,500 square feet in area. This combined size limit

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refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) Applicable guidelines of 350-81-550, 350-081-0600 and 350-081-0620.

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

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

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

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

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

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

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

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

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

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

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

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

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

(IV) Location of proposed rock or aggregate sources.

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

(VI) Commercial firewood cutting areas.

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

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

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

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

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

(vi) Existing and proposed rock pit development plans.

(vii) A discussion of slash disposal methods.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) In the western portion (to White Salmon River) of the SMA Coniferous Woodland Landscape Setting, no more than 8% of the composite KVA viewshed from which the forest practice is topographically visible shall be in created forest openings at one time. The viewshed boundaries

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shall be delineated by the Forest Service. The Forest Service will also help (as available) in calculating and delineating the percentage of the composite KVA viewshed which maybe created in forest openings at one time.

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

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

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

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

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

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

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

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

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

(ii) Created forest openings shall be designed as mosaics not to exceed the limits defined as Desired in the Desired Forest Structure and Pattern Table unless proposed as a deviation as allowed under the scenic resource guideline in 350-081-0270(2)(y)(D)(vi).

(iii) Snag and down wood requirements shall be maintained or created as listed in the Desired Forest Structure and Pattern Table for each vegetation type.

(iv) If the treatment is proposed to deviate from the snag and down wood requirements based on forest health or ecosystem function requirements, a Stewardship Plan shall be required and shall show and prove why a deviation from the snag and down wood requirements is required.

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

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

Stats. Implemented: ORS 196.150

Hist.: CRGC 1-2005, f. 5-17-05, cert. ef. 7-1-05; CRGC 2-2006, f. 6-22-06, cert. ef. 8-1-06; CRGC 1-2007, f. 11-1-07, cert. ef. 1-1-08

350-081-0280

Review Uses with Additional Approval Criteria — Commercial Forest Land, or Large or Small Woodland Designations

(1) The following uses may be allowed on lands designated Commercial Forest Land or Large or Small Woodland, subject to compliance with the guidelines for the protection of scenic, cultural, natural, and recreation resources (350-081-0520 and 620) and the "Approval Criteria for Specified Review Uses" (350-081-0290).

(2) Utility facilities and railroads necessary for public service upon a showing that

(a) There is no practicable alternative location with less adverse effect on agricultural and forest lands and on scenic, cultural, natural and recreation resources and

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

(3) Home occupations or cottage industries in an existing residence or accessory structure, subject to the guidelines in "Home Occupations and Cottage Industries" (350-081-0098).

(4) Fruit and produce stands, upon a showing that sales will be limited to agricultural products raised on the subject farm and other farms in the local region.

(5) Wineries, in conjunction with onsite viticulture, upon a showing that processing of wine is from grapes grown on the subject farm or in the local region.

(6) Wine sales/tasting rooms, in conjunction with an on-site winery.

(7) Agricultural product processing and packaging, upon a showing that the processing will be limited to products grown primarily on the subject farm and sized to the subject operation.

(8) Exploration, development, and production of mineral and geothermal resources, subject to the guidelines in 350-081-0520.

(9) Aquaculture.

(10) Boarding of horses. The reviewing agency shall make findings on property characteristics, parcel size and impacts to neighbors, and shall specify the maximum number of horses based on those findings.

(11) Temporary portable asphalt/batch plants related to public road projects, not to exceed 6 months.

(12) Expansion of existing nonprofit group camps, retreats, or conference centers.

(13) Bed and breakfast inns in single-family dwellings, subject to the guidelines in "Bed and Breakfast Inns" (350-081-0100) and provided that the residence:

(a) Is included in the National Register of Historic Places, or

(b) In Washington, is listed on the Washington State Register of Historic Places maintained by the Washington Office of Archaeology and Historic Preservation, or

(c) In Oregon, is identified and protected under local landmark status as approved pursuant to Oregon state land use regulations protecting historic structures.

(14) Nonprofit, environmental learning or research facilities.

(15) On parcels designated Small Woodland, small-scale fishing support and fish processing operations on parcels that are contiguous with and have direct access to the Columbia River, subject to the guidelines in "Small-Scale Fishing Support and Fish Processing Operations" (350-081-0102).

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

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

Stats. Implemented: ORS 196.150

Hist.: CRGC 1-2005, f. 5-17-05, cert. ef. 7-1-05; CRGC 1-2007, f. 11-1-07, cert. ef. 1-1-08

350-081-0340

Review Uses — Open Space

(1) The following uses may be allowed on all lands designated GMA-Open Space subject to compliance with guidelines for the protection of scenic, cultural, natural, and recreation resources (350-081-0520 through 350-081-0620):

(a) Low-intensity recreation, subject to the guidelines for recreation intensity classes (350-081-0610).

(b) Land divisions to facilitate efforts to protect and enhance scenic, cultural, natural, or recreation resources.

(c) Repair, maintenance, operation, and improvement of existing structures, trails, roads, railroads, utility facilities, and hydroelectric facilities.

(d) Removal of timber, rocks or other materials for purposes of public safety and placement of structures for public safety.

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

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

(g) Lot line adjustments, subject to compliance with the guidelines in "Lot Line Adjustments" (350-081-0126).

(2) Review Uses — Specific Lands Designated Open Space:

(a) The following uses may be allowed on lands designated GMA-Open Space for Gorge Walls and Canyonlands subject to compliance with guidelines for the protection of scenic, cultural, natural, and recreation resources (350-081-0520 through 350-081-0620):

(A) Livestock grazing.

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(B) Fish and wildlife management uses conducted by federal, state, or tribal resource agencies.

(C) Soil, water, or vegetation uses performed in accordance with a conservation plan approved by a county conservation district.

(D) Harvesting of wild crops.

(E) Educational or scientific research.

(F) Continued operation of existing quarries, if they are determined to be consistent with guidelines to protect scenic, cultural, natural, and recreation resources.

(G) All those uses allowed in "All Lands Designated Open Space".

(b) The following uses may be allowed on lands designated GMA-Open Space for the Mosley Lakes Natural Area subject to compliance with guidelines for the protection of scenic, cultural, natural, and recreation resources (350-081-0520 through 350-081-0620):

(A) Fish and wildlife management uses conducted by federal, state, or tribal resource agencies, after consultation with the Washington Natural Heritage Program.

(B) Educational or scientific research, after consultation with the Washington Natural Heritage Program.

(C) Commercial trapping.

(D) All those uses allowed in "All Lands Designated Open Space".

(c) The following uses may be allowed on lands designated GMA-Open Space for the Chenoweth Table Natural Area subject to compliance with guidelines for the protection of scenic, cultural, natural, and recreation resources (350-081-0520 through 350-081-0620):

(A) Low-intensity recreation, subject to the guidelines for recreation intensity classes (350-081-0610), after consultation with the Oregon Natural Heritage Program.

(B) Wildlife management uses conducted by federal, state, or tribal resource agencies, after consultation with the Oregon Natural Heritage Program.

(C) Educational or scientific research, after consultation with the Oregon Natural Heritage Program.

(D) All those uses allowed in "All Lands Designated Open Space".

(d) The following uses may be allowed on lands designated GMA-Open Space for the Squally Point Natural Area subject to compliance with guidelines for the protection of scenic, cultural, natural, and recreation resources (350-081-0520 through 350-81-620):

(A) Except in the upland dunes south of the railroad tracks, low-intensity recreation, subject to the guidelines for recreation intensity classes (350-081-0610) after consultation with the Oregon Natural Heritage Program.

(B) Repair and maintenance of railroads, except measures to stabilize dunes, after consultation with the Oregon Natural Heritage Program.

(C) Except as limited by (d)(A), above, all those uses allowed in "All Lands Designated Open Space".

(e) The following uses may be allowed on lands designated GMA-Open Space for the Klickitat River Wildlife and Natural Area subject to compliance with guidelines for the protection of scenic, cultural, natural, and recreation resources (350-081-0520 through 350-081-0620):

(A) Low-intensity recreation, subject to the guidelines for recreation intensity classes (350-081-0610), after consultation with the Washington Natural Heritage Program and Washington Department of Fish and Wildlife.

(B) Wildlife management uses conducted by federal, state, or tribal resource agencies, after consultation with the Washington Natural Heritage Program.

(C) Educational or scientific research, after consultation with the Washington Natural Heritage Program.

(D) All those uses allowed in "All Lands Designated Open Space".

(f) The following uses may be allowed on lands designated GMA-Open Space for the Balch Lake Wetlands Area subject to compliance with guidelines for the protection of scenic, cultural, natural, and recreation resources (350-081-0520 through 350-081-0620):

(A) Livestock grazing, subject to a range conservation plan, after consultation with the Washington Department of Fish and Wildlife.

(B) Fish and wildlife management uses conducted by federal, state, or tribal resource agencies.

(C) Educational and scientific research, after consultation with the Washington Department of Fish and Wildlife.

(D) Low-intensity recreation, subject to the guidelines for recreation intensity classes (350-081-0610) after consultation with the Washington Department of Fish and Wildlife.

(E) All those uses allowed in "All Lands Designated Open Space".

(g) The following uses may be allowed on lands designated GMA-Open Space for the Mouth of Wind River Wildlife Area subject to compliance with guidelines for the protection of scenic, cultural, natural, and recreation resources (350-081-0520 through 350-081-0620):

(A) Fish and wildlife management uses conducted by federal, state, or tribal resource agencies.

(B) Soil, water, or vegetation uses performed in accordance with a conservation plan approved by a local conservation district.

(C) Harvesting of wild crops.

(D) Educational or scientific research, after consultation with the Washington Department of Fish and Wildlife.

(E) Commercial fishing and trapping.

(F) Low-intensity recreation, subject to the guidelines for recreation intensity classes (Part I, Chapter 4: Recreation Resources), after consultation with the Washington Department of Fish and Wildlife.

(G) All those uses allowed in "All Lands Designated Open Space."

(h) The following uses may be allowed on lands designated GMA-Open Space on those portions of state park ownerships not suitable for major recreation facilities subject to compliance with guidelines for the protection of scenic, cultural, natural, and recreation resources (350-081-0520 through 350-081-0620):

(A) Fish and wildlife management uses conducted by federal, state, or tribal resource agencies.

(B) Soil, water, or vegetation uses performed in accordance with a conservation plan approved by a local conservation district.

(C) Harvesting of wild crops.

(D) Educational or scientific research.

(E) All those uses allowed in "All Lands Designated Open Space".

(3) The following new uses may be allowed on lands designated SMA-Open Space subject to review for compliance with scenic, cultural, natural, and recreational resources guidelines (350-081-0520 through 350-081-0620):

(a) Changes in existing uses, including reconstruction, replacement, and expansion of existing structures and transportation facilities, except for commercial forest practices.

(b) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (350-081-0104). These projects may include vegetation management and forest practices (subject to the forest practice guidelines of 350-081-0270(2)(y) for the restoration of forest health, new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).

(c) Low-intensity recreation uses and developments, including educational and interpretive facilities, consistent with 350-81-620.

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

(A) There is no alternative location with less adverse effect on Open Space land.

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

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

(f) Treatment of noxious weeds shall be permitted without completion of an SMA Open Space plan when the following criteria have been met:

(A) Noxious weed infestation is new and eradication is still viable.

(B) Delayed or deferred treatment could have widespread or major adverse impacts to one or more of the following resources:

(i) Displacement of native and traditionally gathered plants;

(ii) Degradation of wildlife habitat and forage;

(iii) Degradation or loss of agricultural uses of land, such as cropland or livestock forage;

(iv) Limitation of recreational uses.

(C) For federal lands, treatment effects have been thoroughly evaluated in an environmental assessment.

(4) An Open Space plan shall be completed by the primary managing agency or landowner prior to any new land uses or development on lands designated SMA-Open Space, and shall be reviewed by the Forest Service. The Open Space plan shall include the following:

(a) Direction for resource protection, enhancement, and management.

(b) Review of existing uses to determine compatibility with Open Space values.

(c) Consultation with members of the public and with agency and resource specialists.

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

Stats. Implemented: ORS 196.150

Hist.: CRGC 1-2005, f. 5-17-05, cert. ef. 7-1-05; CRGC 1-2007, f. 11-1-07, cert. ef. 1-1-08

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350-081-0370

Review Uses — Residential Land

(1) The following uses may be allowed on lands designated GMA-Residential, subject to compliance with the guidelines for the protection of scenic, cultural, natural, and recreation resources (350-081-0520 through 350-081-0620):

(a) One single-family dwelling per legally created parcel. If the subject parcel is located adjacent to lands designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land, or Large or Small Woodland, the use shall comply with the buffer and notification requirements for agricultural land, or forest land. If the subject parcel is located within a Residential designation that is adjacent to lands designated Commercial Forest Land or Large or Small Woodland, the placement of a dwelling shall also comply with the fire protection guidelines in “Approval Criteria for Fire Protection” (350-081-0300).

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

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

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

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

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

(e) Construction or reconstruction of roads.

(f) On parcels 10 acres or larger in the 5-acre Residential designation, or 20 acres or larger in the 10-acre Residential designation, a land division creating new parcels smaller than the designated minimum parcel size, subject to the guidelines for cluster development in “Land Divisions and Cluster Development” (350-081-0124).

(g) New cultivation, subject to compliance with guidelines for the protection of cultural resources (350-081-0540) and natural resources (350-081-0560 through 590).

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

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

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

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

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

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

(n) Docks and boathouses, subject to the guidelines in “Docks and Boathouses” (350-081-0096).

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

(p) Commercial events, subject to the guidelines in “Commercial Events” (350-081-0108).

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

(2) The following uses may be allowed on lands designated SMA-Residential subject to review for compliance with scenic, cultural, natural, and recreation resources guidelines (350-081-0520 through 350-081-0620):

(a) One single-family dwelling per legally created lot or consolidated parcel. The placement of a dwelling shall comply with fire protection standards developed by the county, in accordance with Management Plan SMA Policy 13 in Part II, Chapter 2: Forest Land.

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

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

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

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

(d) New utility facilities.

(e) Fire stations.

(f) Home occupations and cottage industries subject to the guidelines in “Home Occupations and Cottage Industries” (350-081-0098).

(g) Bed and breakfast inns, subject to the guidelines in “Bed and Breakfast Inns” (350-081-0100).

(h) Community parks and playgrounds.

(i) Road and railroad construction and reconstruction.

(j) Forest practices, as specified in 350-081-0270(2)(y).

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

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

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

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

(o) Docks and boathouses, subject to the guidelines in “Docks and Boathouses” (350-081-0096).

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

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

Stats. Implemented: ORS 196.150

Hist.: CRGC 1-2005, f. 5-17-05, cert. ef. 7-1-05; CRGC 2-2006, f. 6-22-06, cert. ef. 8-1-06; CRGC 1-2007, f. 11-1-07, cert. ef. 1-1-08

350-081-0380

Review Uses with Additional Approval Criteria — Residential Land

The following uses may be allowed on lands designated GMA-Residential, subject to compliance with the appropriate scenic, cultural, natural, and recreation resource guidelines (350-081-0520 through 350-081-0620) and “Approval Criteria for Specified Review Uses,” (350-081-0390).

(1) Accredited childcare centers within lands designated 1-acre Residential or 2-acre Residential. A childcare center may be allowed in other Residential designations within an existing church or community building.

(2) Schools within an existing church or community building.

(3) Expansion of existing primary or middle schools on land purchased prior to June 8, 1999. For purposes of this section, existing schools means public schools that existed prior to adoption of the original Management Plan on October 15, 1991.

(4) Utility facilities and railroads.

(5) Home occupations or cottage industries in an existing residence or accessory structure, subject to the guidelines in “Home Occupations and Cottage Industries” (350-081-0098).

(6) Fire stations.

(7) Recreation development, subject to compliance with 350-81-610.

(8) Community parks and playgrounds, consistent with the standards of the National Park and Recreation Society regarding the need for such facilities.

(9) Bed and breakfast inns in single family dwellings located on lands designated 5-acre Residential or 10-acre Residential, pursuant to the guidelines in “Bed and Breakfast Inns” (350-081-0100).

(10) Wineries, in conjunction with onsite viticulture, upon a showing that processing of wine is from grapes grown on the subject farm or in the local region.

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(11) Wine sales/tasting rooms in conjunction with an on-site winery, under the following conditions:

(a) The use shall comply with the guidelines in “Home Occupations and Cottage Industries” (350-081-0098), with the following exceptions:

(A) The use may employ an unlimited number of outside employees.

(B) The wine sales/tasting room may include interior and/or exterior space, provided the combined interior and exterior spaces shall not exceed 1,000 square feet.

(C) The interior space may be located in an existing building or in a new building or addition to an existing building constructed for the primary purpose of housing the wine sales/tasting room.

(D) The exterior space may be a veranda, patio, or other similar type of structure.

(b) Small-scale fishing support and fish processing operations on parcels that are contiguous with and have direct access to the Columbia River, subject to the guidelines in “Small-Scale Fishing Support and Fish Processing Operations” (350-081-0102).

(12) Boarding of horses on lands designated 10-acre Residential. The reviewing agency shall make findings on property characteristics, parcel size and impacts to neighbors, and shall specify the maximum number of horses based on those findings.

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

Stats. Implemented: ORS 196.150

Hist.: CRGC 1-2005, f. 5-17-05, cert. ef. 7-1-05; CRGC 1-2007, f. 11-1-07, cert. ef. 1-1-08

350-081-0420

Review Uses — Rural Center

The following uses may be allowed within Rural Centers, subject to compliance with guidelines for the protection of scenic, cultural, natural, and recreation resources:

(1) One single-family dwelling per legally created parcel.

(2) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in 350-081-0420(1)(c).

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

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

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

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

(5) Duplexes.

(6) Fire stations.

(7) Libraries.

(8) Government buildings.

(9) Community centers and meeting halls.

(10) Schools.

(11) Accredited childcare centers.

(12) Rural service commercial and tourist commercial uses limited to 5,000 square feet of floor area per building or use:

(a) Grocery stores.

(b) Variety and hardware stores.

(c) Shops, offices, and repair shops.

(d) Personal services such as barber and beauty shops.

(e) Travelers’ accommodations, bed and breakfast inns.

(f) Restaurants.

(g) Taverns and bars.

(h) Gas stations.

(i) Gift shops.

(13) Home occupations or cottage industries in an existing residence or accessory structure, subject to guidelines in “Home Occupations and Cottage Industries” (350-081-0098).

(14) Utility facilities and railroads.

(15) Recreation development, subject to compliance with 350-081-0610.

(16) Places of worship.

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

(18) Land divisions, subject to the standards and minimum lot sizes in Policies 6 and 7 in the “Land Use Policies” in Part II, Chapter 5: Commercial Land of the Management Plan.

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

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

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

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

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

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

(25) Commercial events, subject to the guidelines in “Commercial Events” (350-081-0108).

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

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

Stats. Implemented: ORS 196.150

Hist.: CRGC 1-2005, f. 5-17-05, cert. ef. 7-1-05; CRGC 1-2007, f. 11-1-07, cert. ef. 1-1-08

350-081-0490

Review Uses — Public Recreation and Commercial Recreation

(1) The following uses may be allowed on lands designated GMA-Public Recreation, subject to compliance with guidelines for the protection of scenic, natural, cultural, and recreation resources (350-081-0520 through 350-081-0620) and compliance with 350-081-0610(5)(a) and (c) through (g), where applicable, of the “Approval Criteria for Recreation Uses” contained in the recreation intensity class guidelines (350-081-0610):

(a) Publicly-owned, resource-based recreation uses, consistent with recreation intensity class guidelines (350-081-0610).

(b) Commercial uses and non-resource based recreation uses that are part of an existing or approved resource-based public recreation use, consistent with the guidelines for such uses contained in this section.

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

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

(2) The following uses may be allowed on lands designated GMA Public Recreation, subject to compliance with the “Approval Criteria for Non-Recreation Uses in Public Recreation designations,” (350-081-0500), and (350-081-0520 through 350-081-0620):

(a) One single-family dwelling for each parcel legally created prior to adoption of the Management Plan. Exceptions may be considered only upon demonstration that more than one residence is necessary for management of a public park.

(b) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in Guideline 350-081-0490(2)(c).

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

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

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

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

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

(f) Utility transmission, transportation, communication, and public works facilities.

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

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

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

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

(k) Commercial events, subject to the guidelines in "Commercial Events" (350-081-0108).

(3) The following uses may be allowed on lands designated Commercial Recreation, subject to compliance with guidelines for the protection of scenic, natural, cultural and recreation resources (350-081-0520 through 350-081-0620) and compliance with 350-081-0610(5)(a) and (c) through (g) of the "Approval Criteria for Recreation Uses" guidelines (350-081-0610):

(a) Commercially owned, resource-based recreation uses, consistent with recreation intensity class guidelines (350-081-0610).

(b) Overnight accommodations that are part of a commercially owned, resource-based recreation use, where such resource-based recreation use occurs on the subject site or on adjacent lands that are accessed through the site, and that meet the following standards:

(A) Buildings containing individual units shall be no larger than 1,500 square feet in total floor area and no higher than 2-1/2 stories.

(B) Buildings containing more than one unit shall be no larger than 5,000 square feet in total floor area and no higher than 2-1/2 stories.

(C) The total number of individual units shall not exceed 25, unless the proposed development complies with standards for clustered accommodations in subsection (4) of this guideline.

(D) Clustered overnight travelers accommodations meeting the following standards may include up to 35 individual units:

(i) Average total floor area of all units is 1,000 square feet or less per unit.

(ii) A minimum of 50 percent of the project site is dedicated to undeveloped, open areas (not including roads or parking areas).

(iii) The facility is in an area classified for high-intensity recreation (Recreation Intensity Class 4).

(c) Commercial uses, including restaurants sized to accommodate overnight visitors and their guests, and non--resource based recreation uses that are part of an existing or approved resource-based commercial recreation use, consistent with the policies, guidelines, and conditional use criteria for such uses contained in this section.

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

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

(4) The following uses may be allowed on lands designated Commercial Recreation, subject to compliance with the "Approval Criteria for Non-Recreational Uses in Commercial Recreation," (350-081-0510), and the guidelines for the protection of scenic, natural, cultural, and recreation resources (350-081-0520 through 350-081-0620):

(a) One single-family dwelling for each lot or parcel legally created prior to adoption of the Management Plan.

(b) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in Guideline 4(c) below.

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

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

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

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

(e) Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initi-

ate within one year and complete within five years, subject to the standards in "Agricultural Buildings" (350-81-090).

(f) Utility transmission, transportation, and communication facilities.

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

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

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

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

(k) Commercial events, subject to the guidelines in "Commercial Events" (350-081-0108).

(5) Land divisions may be allowed in GMA-Public Recreation, subject to compliance with 350-081-0500(1)(c), and in GMA Commercial Recreation, subject to compliance with 350-081-0510(1)(c).

(6) Lot line adjustments may be allowed in GMA Public Recreation and GMA Commercial Recreation, subject to compliance with the guidelines in "Lot Line Adjustments" (350-081-0126).

(7) The following uses may be allowed on lands designated SMA-Public Recreation subject to review for compliance with scenic, cultural, natural, and recreational resources guidelines:

(a) Forest uses and practices, as allowed for in 350-081-0270(2), except Forest Land Review Uses (2)(i), (2)(l), (2)(m), and (2)(w).

(b) Public trails, consistent with the provisions in 350-081-0620.

(c) Public recreational facilities, consistent with the provisions in 350-081-0620.

(d) Public nonprofit group camps, retreats, conference or educational centers, and interpretive facilities.

(e) One single-family dwelling on a parcel of 40 contiguous acres or larger when it meets the conditions described for Agricultural Land (350-081-0190(2)(c)) or Forest Land (350-081-0270(2)(j)), or when shown to be necessary for public recreation site management purposes.

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

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

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

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

(h) Home occupation and cottage industries, as specified in "Home Occupations and Cottage Industries" (350-081-0098).

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

(j) Road and railroad construction and reconstruction.

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

(A) There is no alternative location with less adverse effect on Public Recreation land.

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

(l) Agricultural review uses, as allowed for in 350-081-0190(2), except Agricultural Land Review Uses (2)(h), (2)(i), (2)(t), and (2)(aa).

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

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

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

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

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

Stats. Implemented: ORS 196.150

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Hist.: CRGC 1-2005, f. 5-17-05, cert. ef. 7-1-05; CRGC 2-2006, f. 6-22-06, cert. ef. 8-1-06; CRGC 1-2007, f. 11-1-07, cert. ef. 1-1-08

350-081-0520

General Management Area Scenic Review Criteria

The following scenic review guidelines shall apply to all Review Uses in the General Management Area of the Columbia River Gorge National Scenic Area:

(1) All review uses:

(a) New buildings and roads shall be sited and designed to retain the existing topography and to minimize grading activities to the maximum extent practicable.

(b) New buildings shall be compatible with the general scale (height, dimensions and overall mass) of existing nearby development. Expansion of existing development shall comply with this guideline to the maximum extent practicable.

(c) Project applicants shall be responsible for the proper maintenance and survival of any planted vegetation required by the guidelines in this chapter.

(d) A site plan and land use application shall be submitted for all new buildings, except for buildings smaller than 60 square feet in area and less than or equal to 10 feet in height, as measured at the roof peak. The site plan and application shall include all information required in the site plan guidelines in "Review Uses" 350-081-0032(5). Supplemental requirements for developments proposed on lands visible from key viewing areas are included in the key viewing areas guidelines in this chapter.

(e) For all proposed development, the determination of compatibility with the landscape setting shall be based on information submitted in the site plan.

(f) For all new production and/or development of mineral resources and expansion of existing quarries, a reclamation plan is required to restore the site to a natural appearance that blends with and emulates surrounding landforms to the maximum extent practicable. At a minimum, such reclamation plans shall include:

(A) A map of the site, at a scale of 1 inch equals 200 feet (1:2,400) or a scale providing greater detail, with 10-foot contour intervals or less, showing pre-mining existing grades and post-mining final grades; locations of topsoil stockpiles for eventual reclamation use; location of catch basins or similar drainage and erosion control features employed for the duration of the use; and the location of storage, processing, and equipment areas employed for the duration of the use.

(B) Cross-sectional drawings of the site showing pre-mining and post-mining grades.

(C) Descriptions of the proposed use, in terms of estimated quantity and type of material removed, estimated duration of the use, processing activities, etc.

(D) Description of drainage/erosion control features to be employed for the duration of the use.

(E) A landscaping plan providing for revegetation consistent with the vegetation patterns of the subject landscape setting, indicating the species, number, size, and location of plantings for the final reclaimed grade, as well as a description of irrigation provisions or other measures necessary to ensure the survival of plantings.

(g) All reclamation plans for new quarries or expansion of existing quarries shall be sent to the appropriate state reclamation permitting agency for review and comment. The state agency shall have 30 calendar days from the date a reclamation plan is mailed to submit written comments on the proposal. State agency comments shall address the following:

(A) Whether the proposed mining is subject to state reclamation permit requirements;

(B) If subject to state jurisdiction, whether an application has been received for a state reclamation permit and, if so, the current status of the application; and

(C) For uses subject to state jurisdiction, any issues or concerns regarding consistency with state reclamation requirements, or any suggested modifications to comply with state reclamation requirements. The Executive Director may request technical assistance from state agencies on reclamation plans for proposed mining not within the state agency's jurisdiction.

(2) Key Viewing Areas:

(a) The guidelines in this section shall apply to proposed developments on sites topographically visible from key viewing areas.

(b) Each development shall be visually subordinate to its setting as seen from key viewing areas.

(c) Determination of potential visual effects and compliance with visual subordination policies shall include consideration of the cumulative effects of proposed developments.

(d) The extent and type of conditions applied to a proposed development to achieve visual subordination shall be proportionate to its potential visual impacts as seen from key viewing areas.

(A) Decisions shall include written findings addressing the factors influencing potential visual impact, including but not limited to:

(i) The amount of area of the building site exposed to key viewing areas.

(ii) The degree of existing vegetation providing screening.

(iii) The distance from the building site to the key viewing areas from which it is visible.

(iv) The number of key viewing areas from which it is visible.

(v) The linear distance along the key viewing areas from which the building site is visible (for linear key viewing areas, such as roads).

(B) Conditions may be applied to various elements of proposed developments to ensure they are visually subordinate to their setting as seen from key viewing areas, including but not limited to:

(i) Siting (location of development on the subject property, building orientation, and other elements).

(ii) Retention of existing vegetation.

(iii) Design (color, reflectivity, size, shape, height, architectural and design details and other elements).

(iv) New landscaping.

(e) New development shall be sited to achieve visual subordination from key viewing areas, unless the siting would place such development in a buffer specified for protection of wetlands, riparian corridors, sensitive plants, or sensitive wildlife sites or would conflict with guidelines to protect cultural resources. In such situations, development shall comply with this guideline to the maximum extent practicable.

(f) New development shall be sited using existing topography and/or existing vegetation as needed to achieve visual subordination from key viewing areas.

(g) Existing tree cover screening proposed development from key viewing areas shall be retained as specified in the Landscape Settings Design Guidelines in 350-081-0520(3).

(h) The silhouette of new buildings shall remain below the skyline of a bluff, cliff, or ridge as seen from key viewing areas. Variances to this guideline may be granted if application of the guideline would leave the owner without a reasonable economic use. The variance shall be the minimum necessary to allow the use and may be applied only after all reasonable efforts to modify the design, building height, and site to comply with the guideline have been made.

(i) An alteration to a building built before November 17, 1986, that already protrudes above the skyline of a bluff, cliff, or ridge as seen from a key viewing area, may itself protrude above the skyline if:

(A) The altered building, through use of color, landscaping and/or other mitigation measures, contrasts less with its setting than before the alteration; and

(B) There is no practicable alternative means of altering the building without increasing the protrusion.

(j) The following guidelines shall apply to new landscaping used to screen development from key viewing areas:

(A) New landscaping (including new earth berms) shall be required only when application of all other available guidelines in 350-081-0520 is not sufficient to make the development visually subordinate from key viewing areas. Alternate sites shall be considered prior to using new landscaping to achieve visual subordination. Development shall be sited to avoid the need for new landscaping wherever possible.

(B) If new landscaping is required to make a proposed development visually subordinate from key viewing areas, existing on-site vegetative screening and other visibility factors shall be analyzed to determine the extent of new landscaping, and the size of new trees needed to achieve the standard. Any vegetation planted pursuant to this guideline shall be sized to provide sufficient screening to make the development visually subordinate within five years or less from the commencement of construction.

(C) Unless as specified otherwise by provisions in 350-081-0520, landscaping shall be installed as soon as practicable, and prior to project completion. Applicants and successors in interest for the subject parcel are responsible for the proper maintenance and survival of planted vegetation, and replacement of such vegetation that does not survive.

(D) The Scenic Resources Implementation Handbook shall include recommended species for each landscape setting consistent with the Landscape Settings Design Guidelines in 350-081-0520(3), and minimum

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recommended sizes of new trees planted (based on average growth rates expected for recommended species).

(k) Conditions regarding new landscaping or retention of existing vegetation for new developments on lands designated GMA Forest shall meet both scenic guidelines and fuel break requirements in 350-081-0300(1)(a).

(l) Unless expressly exempted by other provisions in 350-81-520, colors of structures on sites visible from key viewing areas shall be dark earth-tones found at the specific site or in the surrounding landscape. The specific colors or list of acceptable colors shall be included as a condition of approval. The Scenic Resources Implementation Handbook will include a recommended palette of colors.

(m) The exterior of buildings on lands seen from key viewing areas shall be composed of nonreflective materials or materials with low reflectivity, unless the structure would be fully screened from all key viewing areas by existing topographic features. The Scenic Resources Implementation Handbook will include a list of recommended exterior materials. These recommended materials and other materials may be deemed consistent with this guideline, including those where the specific application meets recommended thresholds in the "Visibility and Reflectivity Matrices" in the Implementation Handbook (once they are created). Continuous surfaces of glass unscreened from key viewing areas shall be limited to ensure visual subordination. Recommended square footage limitations for such surfaces will be provided for guidance in the Implementation Handbook.

(n) In addition to the site plan requirements in 350-081-0032(5), applications for all buildings visible from key viewing areas shall include a description of the proposed building(s)' height, shape, color, exterior building materials, exterior lighting, and landscaping details (type of plants used; number, size, locations of plantings; and any irrigation provisions or other measures to ensure the survival of landscaping planted for screening purposes).

(o) For proposed mining and associated activities on lands visible from key viewing areas, in addition to submittal of plans and information pursuant to 350-081-0520(1)(f) section of this chapter, project applicants shall submit perspective drawings of the proposed mining areas as seen from applicable key viewing areas.

(p) Exterior lighting shall be directed downward and sited, hooded, and shielded such that it is not highly visible from key viewing areas. Shielding and hooding materials shall be composed of non-reflective, opaque materials.

(q) Additions to existing buildings smaller in total square area than the existing building may be the same color as the existing building. Additions larger than the existing building shall be of dark earth-tone colors found at the specific site or in the surrounding landscape. The specific colors or a list of acceptable colors shall be included as a condition of approval. The Scenic Resources Implementation Handbook will include a recommended palette of colors.

(r) Rehabilitation of or modifications to existing significant historic structures shall be exempted from visual subordination requirements for lands seen from key viewing areas. To be eligible for such exemption, the structure must be included in, or eligible for inclusion in, the National Register of Historic Places or be in the process of applying for a determination of significance pursuant to such regulations. Rehabilitation of or modifications to structures meeting this guideline shall be consistent with National Park Service regulations for such structures.

(s) New main lines on lands visible from key viewing areas for the transmission of electricity, gas, oil, other fuels, or communications, except for connections to individual users or small clusters of individual users, shall be built in existing transmission corridors unless it can be demonstrated that use of existing corridors is not practicable. Such new lines shall be underground as a first preference unless it can be demonstrated to be impracticable.

(t) New communication facilities (antennae, dishes, etc.) on lands visible from key viewing areas that require an open and unobstructed site shall be built upon existing facilities unless it can be demonstrated that use of existing facilities is not practicable.

(u) New communications facilities may protrude above a skyline visible from a key viewing area only upon demonstration that:

(A) The facility is necessary for public service;

(B) The break in the skyline is seen only in the background; and

(C) The break in the skyline is the minimum necessary to provide the service.

(v) Overpasses, safety and directional signs, and other road and highway facilities may protrude above a skyline visible from a key viewing area only upon a demonstration that:

(A) The facility is necessary for public service; and

(B) The break in the skyline is the minimum necessary to provide the service.

(x) Except for water-dependent development and for water-related recreation development, development shall be set back 100 feet from the ordinary high water mark of the Columbia River below Bonneville Dam, and 100 feet from the normal pool elevation of the Columbia River above Bonneville Dam, unless the setback would render a property unbuildable. In such cases, variances to this guideline may be authorized.

(y) New buildings shall not be permitted on lands visible from key viewing areas with slopes in excess of 30 percent. Variances to this guideline may be authorized if the guideline's application would render a property unbuildable. In determining the slope, the average percent slope of the proposed building site shall be used.

(z) Driveways and buildings shall be designed and sited to minimize visibility of cut banks and fill slopes from key viewing areas.

(aa) All proposed structural development involving more than 200 cubic yards of grading on sites visible from key viewing areas shall include submittal of a grading plan. This plan shall be reviewed by the local government for compliance with key viewing area policies. The grading plan shall include the following:

(A) A map of the site, prepared at a scale of 1 inch equals 200 feet (1:2,400) or a scale providing greater detail, with contour intervals of at least 5 feet, including:

(i) Existing and proposed final grades.

(ii) Location of all areas to be graded, with cut banks and fill slopes delineated.

(iii) Estimated dimensions of graded areas.

(B) A narrative description (may be submitted on the grading plan site map and accompanying drawings) of the proposed grading activity, including:

(i) Its purpose.

(ii) An estimate of the total volume of material to be moved.

(iii) The height of all cut banks and fill slopes.

(iv) Provisions to be used for compactions, drainage, and stabilization of graded areas. (Preparation of this information by a licensed engineer or engineering geologist is recommended.)

(v) A description of all plant materials used to revegetate exposed slopes and banks, including the species, number, size, and location of plants, and a description of irrigation provisions or other measures necessary to ensure the survival of plantings.

(vi) A description of any other interim or permanent erosion control measures to be used.

(bb) Expansion of existing quarries and new production and/or development of mineral resources proposed on sites more than 3 miles from the nearest key viewing areas from which it is visible may be allowed upon a demonstration that:

(A) The site plan requirements for such proposals pursuant to 350-081-0520 have been met.

(B) The area to be mined and the area to be used for primary processing, equipment storage, stockpiling, etc. associated with the use would be visually subordinate as seen from any key viewing areas.

(C) A reclamation plan to restore the site to a natural appearance that blends with and emulates surrounding landforms to the maximum extent practicable has been approved. At minimum, the reclamation plan shall comply with 350-081-0520(1)(f) and (g).

(D) A written report on a determination of visual subordination has been completed, with findings addressing the extent of visibility of proposed mining activities from key viewing areas, including:

(i) A list of key viewing areas from which exposed mining surfaces (and associated facilities/activities) would be visible.

(ii) An estimate of the surface area of exposed mining surfaces that would be visible from those key viewing areas.

(iii) The distance from those key viewing areas and the linear distance along those key viewing areas from which proposed mining surfaces are visible.

(iv) The slope and aspect of mining surfaces relative to those portions of key viewing areas from which they are visible.

(v) The degree to which potentially visible mining surfaces are screened from key viewing areas by existing vegetation, including winter screening considerations.

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(vi) The degree to which potentially visible mining surfaces would be screened by new plantings, berms, etc. and appropriate time frames to achieve such results, including winter screening considerations.

(cc) Unless addressed by 350-081-0520(2)(bb), new production and/or development of mineral resources may be allowed upon a demonstration that:

(A) The site plan requirements for such proposals pursuant to this chapter have been met.

(B) The area to be mined and the area used for primary processing, equipment storage, stockpiling, etc., associated with the use would be fully screened from any key viewing area.

(C) A reclamation plan to restore the area to a natural appearance that blends with and emulates surrounding landforms to the maximum extent practicable has been approved. At minimum, the reclamation plan shall comply with 350-081-0520(1)(f) and (g).

(dd) An interim time period to achieve compliance with visual subordination requirements for expansion of existing quarries and development of new quarries located more than 3 miles from the nearest visible key viewing area shall be established before approval. The interim time period shall be based on site-specific topographic and visual conditions, but shall not exceed 3 years beyond the date of approval.

(ee) An interim time period to achieve compliance with full screening requirements for new quarries located less than 3 miles from the nearest visible key viewing area shall be established before approval. The interim time period shall be based on site-specific topographic and visual conditions, but shall not exceed 1 year beyond the date of approval. Quarrying activity occurring before achieving compliance with full screening requirements shall be limited to activities necessary to provide such screening (creation of berms, etc.).

(3) Landscape Settings

All review uses within the following landscape settings shall comply with the following applicable guidelines:

(a) Pastoral

(A) Accessory structures, outbuildings, and access ways shall be clustered together as much as possible, particularly towards the edges of existing meadows, pastures, and farm fields.

(B) In portions of this setting visible from key viewing areas, the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development:

(i) Except as is necessary for site development or safety purposes, the existing tree cover screening the development from key viewing areas shall be retained.

(ii) Vegetative landscaping shall, where feasible, retain the open character of existing pastures and fields.

(iii) At least half of any trees planted for screening purposes shall be species native to the setting or commonly found in the area. Such species include fruit trees, Douglas-fir, Lombardy poplar (usually in rows), Oregon white oak, big leaf maple, and black locust (primarily in the eastern Gorge).

(iv) At least one-quarter of any trees planted for screening shall be coniferous for winter screening.

(C) Compatible recreation uses include resource-based recreation of a very low-intensity or low-intensity nature (as defined by 350-081-0610) occurring infrequently in the landscape.

(b) Coniferous Woodland:

(A) Structure height shall remain below the forest canopy level.

(B) In portions of this setting visible from key viewing areas, the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development:

(I) Except as is necessary for construction of access roads, building pads, leach fields, etc., the existing tree cover screening the development from key viewing areas shall be retained.

(II) At least half of any trees planted for screening purposes shall be species native to the setting. Such species include: Douglas-fir, grand fir, western red cedar, western hemlock, big leaf maple, red alder, ponderosa pine and Oregon white oak, and various native willows (for riparian areas).

(III) At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.

(C) Compatible recreation uses include resource-based recreation uses of varying intensities. Typically, outdoor recreation uses should be low-intensity, and include trails, small picnic areas and scenic viewpoints. Some more intensive recreation uses, such as campgrounds, may occur. They should be scattered, interspersed with large areas of undeveloped land and low-intensity uses.

(c) Oak-Pine Woodland:

(A) Structure height shall remain below the tree canopy level in wooded portions of this setting.

(B) In portions of this setting visible from key viewing areas, the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development:

(i) At least half of any tree species planted for screening purposes shall be species native to the setting. Such species include Oregon white oak, ponderosa pine, and Douglas-fir.

(ii) At least half of any trees planted for screening purposes shall be coniferous to provide winter screening. For substantially wooded portions:

(iii) Except as is necessary for construction of access roads, building pads, leach fields, etc., the existing tree cover screening the development from key viewing areas shall be retained. For treeless portions or portions with scattered tree cover:

(iv) Structures shall be sited on portions of the property that provide maximum screening from key viewing areas, using existing topographic features.

(v) Patterns of plantings for screening vegetation shall be in character with the surroundings. Residences in grassy, open areas or savannahs shall be partly screened with trees in small groupings and openings between groupings.

(vi) Accessory structures, outbuildings, and access ways shall be clustered together as much as possible, particularly towards the edges of existing meadows, pastures, and farm fields.

(C) Resource-based recreation uses of varying intensities may be compatible with this setting, although most are of low-intensity nature (such as trails or small scenic overlooks). More intensive recreation uses may be compatible where allowed by 350-081-0610, although they are generally rare in this setting. As with Woodland settings, intensive recreation uses in Oak-Pine Woodlands may be compatible if widely scattered and not in large concentrations.

(d) Grassland:

(A) Accessory structures, outbuildings, and access ways shall be clustered together as much as possible. Exceptions to this guideline are permitted where necessary for farming operations.

(B) In portions of this setting visible from key viewing areas, the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development:

(i) Structures shall be sited on portions of the property that provide maximum screening from key viewing areas, using existing topographic features.

(ii) Lower structures that emphasize horizontal lines and blend with this sweeping landscape should be encouraged rather than very tall structures.

(iii) Planting of trees for screening shall not be extensive, in character with the openness of this setting. Where used, screening vegetation shall either tie in with nearby riparian vegetation in seasonal drainages or emulate windrows. At least half of any trees planted for screening purposes shall be species native to the setting or commonly found in the area. Such species include Oregon white oak, Lombardy poplar, black locust, black cottonwood (wet locations), Russian olive and ponderosa pine.

(C) Resource-based recreation uses of a very low-intensity or low-intensity nature that occur infrequently are compatible with this setting, and include hiking, hunting and wildlife viewing.

(e) Rural Residential

(A) Existing tree cover shall be retained as much as possible, except as is necessary for site development, safety purposes, or as part of forest management practices.

(B) In portions of this setting visible from key viewing areas, and not exempt from visual subordination guidelines (see 350-081-0520(3)(k)), the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development:

(i) Except as is necessary for site development or safety purposes, the existing tree cover screening the development from key viewing areas shall be retained.

(ii) At least half of any trees planted for screening purposes shall be species native to the setting or commonly found in the area.

(iii) At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.

(C) Compatible recreation uses should be limited to small community park facilities, but may occasionally include low-intensity resource-based recreation uses (such as scenic overlooks).

(f) Rural Residential/Pastoral, Rural Residential/Coniferous Woodland, and Rural Residential/Oak-Pine Woodland

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(A) New development in this setting shall meet the design guidelines described for both the Rural Residential setting and the more rural setting with which it is combined (either Pastoral, Coniferous Woodland or Oak-Pine Woodland), unless it can be demonstrated that compliance with the guidelines for the more rural setting is impracticable. Expansion of existing development shall comply with this guideline to the maximum extent practicable.

(B) In the event of a possible conflict between the two sets of guidelines, the guidelines for the more rural setting (Coniferous Woodland, Oak-Pine Woodland or Pastoral) shall apply, unless it can be demonstrated that application of such guidelines would not be practicable.

(C) Compatible recreation uses should be limited to very low and low-intensity resource-based recreation uses, scattered infrequently in the landscape.

(g) Residential:

(A) In portions of this setting visible from key viewing areas and not exempt from visual subordination guidelines (see 350-81-520(3)(k)), the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development:

(i) Except as is necessary for site development or safety purposes, the existing tree cover screening the development from key viewing areas shall be retained.

(ii) The exteriors of structures shall be non-reflective unless fully screened from key viewing areas with existing vegetation and/or topography.

(iii) At least half of any trees planted for screening purposes shall be species native to the setting or commonly found in the area.

(iv) At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.

(B) Compatible recreation uses are limited to community park facilities.

(h) Village:

(A) New commercial buildings shall be limited in size to a total floor area of 5,000 square feet or less, and shall be limited in height to 2 1/2 stories or less.

(B) For new commercial, institutional (churches, schools, government buildings), or multifamily residential uses on parcels fronting a scenic travel corridor (Washington State Route 14 or the Historic Columbia River Highway) and expansion of existing development for such uses, parking shall be limited to rear or side yards of buildings to the maximum extent practicable.

(C) New vehicular access points to the scenic travel corridors shall be limited to the maximum extent practicable, and access consolidation shall be required where feasible.

(D) New development proposals and expansion of existing development shall be encouraged to follow planned unit development approaches, featuring consolidated access, commonly shared landscaped open areas, etc.

(E) New commercial, institutional or multifamily residential uses fronting a scenic travel corridor shall comply with the following landscape requirements:

(i) Parking or loading areas for 10 or more spaces shall include a landscaped strip at least 5 feet wide between the new use and the scenic travel corridor roadway.

(ii) The landscape strip required in 350-081-0520(3)(h)(E)(i) shall include shrubs, vegetative ground cover, and, at minimum, one tree. Trees shall be spaced as appropriate to the species and not to exceed 25 feet apart on the average.

(F) The use of building materials that reinforce the Village setting's character, such as wood, logs, or stone, and that reflect community desires, should be encouraged.

(G) Architectural styles that are characteristic of the area (such as 1 1/2-story dormer roof styles in Corbett) and that reflect community desires should be encouraged. Entry signs should be consistent with such architectural styles.

(H) Design features that create a "pedestrian-friendly" atmosphere, such as large shop windows on the ground floor of commercial buildings, porches along ground floors with street frontage, etc., should be encouraged.

(I) Pedestrian walkways and bicycle paths should be encouraged and integrated into new developments wherever feasible.

(J) Where feasible, existing tree cover of species native to the region or commonly found in the area shall be retained when designing new development or expanding existing development.

(K) Compatible recreation uses may include community parks serving the recreation needs of local residents, and varying intensities of other recreation uses.

(i) River Bottomlands

(A) In portions of this setting visible from key viewing areas, the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development:

(i) Except as is necessary for site development or safety purposes, existing tree cover screening the development from key viewing areas shall be retained.

(ii) At least half of any trees planted for screening purposes shall be species native to the River Bottomland setting. Public recreation developments are encouraged to maximize the percentage of planted screening vegetation native to this setting. Such species include black cottonwood, big leaf maple, red alder, Oregon white ash, Douglas-fir, western red cedar and western hemlock (west Gorge), and various native willow species.

(iii) At least one-quarter of any trees planted for screening purposes shall be coniferous for winter screening.

(C) Compatible recreation uses depend on the degree of natural resource sensitivity of a particular site. In the most critically sensitive River Bottomlands, very low-intensity uses which do not impair wetlands or special habitat requirements may be compatible. In other River Bottomland areas, nodes of moderate-intensity and/or high-intensity recreation uses may be compatible, provided that:

(i) Their designs emphasize retention and/or enhancement of native riparian communities;

(ii) Structures and parking areas are visually subordinate;

(iii) They are separated from other areas of concentrated recreation usage by stretches of natural-appearing shoreline and adjacent uplands.

(j) Gorge Walls, Canyons, and Wildlands:

(A) New development and expansion of existing development shall be screened so it is not seen from key viewing areas, to the maximum extent practicable.

(B) All trees planted to screen permitted development and uses from key viewing areas shall be native to the area.

(C) Existing tree cover shall be retained to the maximum extent practicable, except for the minimum removal necessary to accommodate facilities otherwise permitted in the underlying land use designation or for safety purposes.

(D) All buildings shall be limited in height to a maximum of 1 1/2 stories.

(E) The exteriors of structures shall be non-reflective.

(F) Signage shall be limited to natural materials such as wood or stone, with natural or earth-tone colors, unless public safety concerns or federal or state highway standards require otherwise.

(G) Compatible recreation uses are limited to very low or low-intensity resource-based activities which focus on enjoyment and appreciation of sensitive resources. Such compatible uses (such as trails) are generally associated with minimal facility development, if any.

(k) Developed Settings and Visual Subordination Policies GMA policies to protect key viewing area viewsheds require that all new development on lands seen from key viewing areas be visually subordinate to its landscape setting, except for "specified developed settings that are not visually sensitive." Three landscape settings are considered developed settings within this context: Rural Residential, Residential, and Village. Of all GMA lands in these three settings, six particular areas that are not visually sensitive have been identified. New development in these settings shall be compatible with the setting, but not necessarily visually subordinate. New developments in these settings are exempt from the color and siting guidelines in the Key Viewing Areas section of this chapter. These areas are:

(A) Corbett Rural Center (Village);

(B) Skamania Rural Center (Village);

(C) West of Hood River Urban Area, east of Country Club Road (Rural Residential);

(D) Murray's Addition subdivision, The Dalles (Residential);

(E) Two small areas south of The Dalles in Sections 9 and 10, Township 1N, Range 13E (Residential);

(F) Portion of Underwood Heights along Cooper Avenue, south of Cook-Underwood Road (Rural Residential).

(4) Scenic Travel Corridors All review uses within Scenic Travel Corridors shall comply with the following applicable guidelines:

(a) For the purposes of implementing this section, the foreground of a scenic travel corridor shall include those lands within 1/4 mile of the edge of pavement of the scenic travel corridor roadway.

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(b) All new buildings and alterations to existing buildings, except in a Rural Center designation (village landscape setting), shall be set back at least 100 feet from the edge of pavement of the scenic travel corridor roadway. A variance to this setback requirement may be granted pursuant to 350-081-0078(2). All new parking lots and expansions of existing parking lots shall be set back at least 100 feet from the edge of pavement of the scenic travel corridor roadway, to the maximum extent practicable.

(c) Additions to existing buildings or expansion of existing parking lots located within 100 feet of the edge of pavement of a scenic travel corridor roadway, except in a Rural Center designation (village landscape setting), shall comply with 350-081-0520(4)(b) above, to the maximum extent practicable.

(d) All proposed vegetation management projects in public rights-of-way to provide or improve views shall include the following:

(A) An evaluation of potential visual impacts of the proposed project as seen from any key viewing area.

(B) An inventory of any rare plants, sensitive wildlife habitat, wetlands, or riparian areas on the project site. If such resources are determined to be present, the project shall comply with applicable Management Plan guidelines to protect the resources.

(e) When evaluating possible locations for undergrounding of signal wires or powerlines, railroads and utility companies shall prioritize those areas specifically recommended as extreme or high priorities for undergrounding in the Columbia River Gorge National Scenic Area Corridor Visual Inventory (April 1990).

(f) New production and/or development of mineral resources proposed within 1/4 mile of the edge of pavement of a scenic travel corridor may be allowed upon a demonstration that full visual screening of the site from the scenic travel corridor can be achieved by use of existing topographic features or existing vegetation designed to be retained through the planned duration of the proposed project. An exception to this may be granted if planting of new vegetation in the vicinity of the access road to the mining area would achieve full screening. If existing vegetation is partly or fully employed to achieve visual screening, over 75 percent of the tree canopy area shall be coniferous species providing adequate winter screening. Mining and associated primary processing of mineral resources is prohibited within 100 feet of a scenic travel corridor, as measured from the edge of pavement, except for access roads. Compliance with full screening requirements shall be achieved within timeframes specified in 350-81-520(2)(ee).

(g) Expansion of existing quarries may be allowed pursuant to 350-081-0520(2)(bb). Compliance with visual subordination requirements shall be achieved within timeframes specified in 350-081-0520(2)(dd).

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

Stats. Implemented: ORS 196.150

Hist.: CRGC 1-2005, f. 5-17-05, cert. ef. 7-1-05; CRGC 1-2007, f. 11-1-07, cert. ef. 1-1-08

350-081-0530

Special Management Area Scenic Review Criteria

(1) SMA Design Guidelines Based on Landscape Settings

(a) The following guidelines apply to all lands within SMA landscape settings regardless of visibility from KVAs (includes areas seen from KVAs as well as areas not seen from KVAs):

(A) Pastoral: Pastoral areas shall retain the overall appearance of an agricultural landscape. The use of plant species common to the landscape setting shall be encouraged. The use of plant species in rows, as commonly found in the landscape setting, is encouraged.

(B) Coniferous Woodland and Oak-Pine Woodland: Woodland areas shall retain the overall appearance of a woodland landscape. New developments and land uses shall retain the overall visual character of the natural appearance of the Coniferous Woodland and Oak-Pine Woodland landscape.

(i) Buildings shall be encouraged to have a vertical overall appearance in the Coniferous Woodland landscape setting and a horizontal overall appearance in the Oak-Pine Woodland landscape setting.

(ii) Use of plant species native to the landscape setting shall be encouraged. Where non-native plants are used, they shall have native-appearing characteristics.

(C) Residential: The Residential setting is characterized by concentrations of dwellings.

(i) At Rowena Dell, new buildings shall have a rustic appearance using natural materials. At Latourel Falls, new buildings shall have an appearance consistent with the predominant historical architectural style.

(ii) Use of plant species native to the landscape setting shall be encouraged. Where non-native plants are used, they shall have native-appearing characteristics.

(D) River Bottomlands: River Bottomlands shall retain the overall visual character of a floodplain and associated islands.

(i) Buildings shall have an overall horizontal appearance in areas with little tree cover.

(ii) Use of plant species native to the landscape setting shall be encouraged. Where non-native plants are used, they shall have native-appearing characteristics.

(E) Gorge Walls, Canyonlands, and Wildlands: New developments and land uses shall retain the overall visual character of the natural-appearing landscape.

(i) Structures, including signs, shall have a rustic appearance, use nonreflective materials, have low contrast with the surrounding landscape, and be of a Cascadian architectural style.

(ii) Temporary roads shall be promptly closed and revegetated.

(iii) New utilities shall be below ground surface, where feasible.

(iv) Use of plant species non-native to the Columbia River Gorge shall not be allowed.

(2) SMA Guidelines for Development and Uses Visible from KVAs:

(a) The guidelines in this section shall apply to proposed developments on sites topographically visible from key viewing areas.

(b) New developments and land uses shall be evaluated to ensure that the required scenic standard is met and that scenic resources are not adversely affected, including cumulative effects, based on the degree of visibility from key viewing areas.

(c) The required SMA scenic standards for all development and uses are summarized in the following table: [Table not included. See ED. NOTE.]

(d) In all landscape settings, scenic standards shall be met by blending new development with the adjacent natural landscape elements rather than with existing development.

(e) Proposed developments or land uses shall be sited to achieve the applicable scenic standard. Development shall be designed to fit the natural topography, to take advantage of landform and vegetation screening, and to minimize visible grading or other modifications of landforms, vegetation cover, and natural characteristics. When screening of development is needed to meet the scenic standard from key viewing areas, use of existing topography and vegetation shall be given priority over other means of achieving the scenic standard such as planting new vegetation or using artificial berms.

(f) The extent and type of conditions applied to a proposed development or use to achieve the scenic standard shall be proportionate to its degree of visibility from key viewing areas.

(A) Decisions shall include written findings addressing the factors influencing the degree of visibility, including but not limited to:

(i) The amount of area of the building site exposed to key viewing areas,

(ii) The degree of existing vegetation providing screening,

(iii) The distance from the building site to the key viewing areas from which it is visible,

(iv) The number of key viewing areas from which it is visible, and

(v) The linear distance along the key viewing areas from which the building site is visible (for linear key viewing areas, such as roads).

(B) Conditions may be applied to various elements of proposed developments to ensure they meet the scenic standard for their setting as seen from key viewing areas, including but not limited to:

(i) Siting (location of development on the subject property, building orientation, and other elements);

(ii) Retention of existing vegetation;

(iii) Design (color, reflectivity, size, shape, height, architectural and design details and other elements); and

(iv) New landscaping.

(g) Sites approved for new development to achieve scenic standards shall be consistent with guidelines to protect wetlands, riparian corridors, sensitive plant or wildlife sites and the buffer zones of each of these natural resources, and guidelines to protect cultural resources.

(h) Proposed developments shall not protrude above the line of a bluff, cliff, or skyline as seen from key viewing areas.

(i) Structure height shall remain below the average tree canopy height of the natural vegetation adjacent to the structure, except if it has been demonstrated that meeting this guideline is not feasible considering the function of the structure.

(j) The following guidelines shall apply to new landscaping used to screen development from key viewing areas:

(A) New landscaping (including new earth berms) to achieve the required scenic standard from key viewing areas shall be required only

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when application of all other available guidelines in this chapter is not sufficient to make the development meet the scenic standard from key viewing areas. Development shall be sited to avoid the need for new landscaping wherever possible.

(B) If new landscaping is necessary to meet the required standard, existing on-site vegetative screening and other visibility factors shall be analyzed to determine the extent of new landscaping, and the size of new trees needed to achieve the standard. Any vegetation planted pursuant to this guideline shall be sized to provide sufficient screening to meet the scenic standard within five years or less from the commencement of construction.

(C) Landscaping shall be installed as soon as practicable, and prior to project completion. Applicants and successors in interest for the subject parcel are responsible for the proper maintenance and survival of planted vegetation, and replacement of such vegetation that does not survive.

(D) The Scenic Resources Implementation Handbook shall include recommended species for each landscape setting consistent with the Landscape Settings Design Guidelines in this chapter, and minimum recommended sizes of new trees planted (based on average growth rates expected for recommended species).

(k) Unless expressly exempted by other provisions in this chapter, colors of structures on sites visible from key viewing areas shall be dark earth-tones found at the specific site or the surrounding landscape. The specific colors or list of acceptable colors shall be included as a condition of approval. The Scenic Resources Implementation Handbook will include a recommended palette of colors as dark or darker than the colors in the shadows of the natural features surrounding each landscape setting.

(l) The exterior of structures on lands seen from key viewing areas shall be composed of non-reflective materials or materials with low reflectivity. The Scenic Resources Implementation Handbook will include a recommended list of exterior materials. These recommended materials and other materials may be deemed consistent with this guideline, including those where the specific application meets approval thresholds in the "Visibility and Reflectivity Matrices" in the Implementation Handbook. Continuous surfaces of glass unscreened from key viewing areas shall be limited to ensure meeting the scenic standard. Recommended square footage limitations for such surfaces will be provided for guidance in the Implementation Handbook.

(m) Any exterior lighting shall be sited, limited in intensity, shielded, or hooded in a manner that prevents lights from being highly visible from key viewing areas and from noticeably contrasting with the surrounding landscape setting, except for road lighting necessary for safety purposes.

(n) Seasonal lighting displays shall be permitted on a temporary basis, not to exceed 3 months.

(3) SMA Guidelines for KVA Foregrounds and Scenic Routes:

(a) All new developments and land uses immediately adjacent to scenic routes shall be in conformance with state or county scenic route guidelines.

(b) Scenic highway corridor strategies shall be developed and implemented for Interstate 84 (I-84), Washington State Route 14 (SR 14) and the Historic Columbia River Highway (HCRH). For I-84, SR 14 and the HCRH, this involves ongoing implementation (and possible updating) of the associated existing documents.

(c) The goals of scenic corridor strategies shall include:

(A) Providing a framework for future highway improvements and management that meet Management Plan scenic guidelines and public transportation needs; and

(B) Creating design continuity for the highway corridor within the Scenic Area. Corridor strategies shall, at minimum, include design guidelines (e.g. materials, conceptual designs, etc.) for typical projects that are consistent with Management Plan scenic resources provisions and an interdisciplinary, interagency project planning and development process.

(d) The following guidelines shall apply only to development within the immediate foregrounds of key viewing areas. Immediate foregrounds are defined as within the developed prism of a road or trail KVA or within the boundary of the developed area of KVAs such as Crown Pt. and Multnomah Falls. They shall apply in addition to applicable guidelines in 350-081-0530(2).

(A) The proposed development shall be designed and sited to meet the applicable scenic standard from the foreground of the subject KVA. If the development cannot meet the standard, findings must be made documenting why the project cannot meet the requirements in the previous section and why it cannot be redesigned or wholly or partly relocated to meet the scenic standard.

(B) Findings must evaluate the following:

(i) The limiting factors to meeting the required scenic standard and/or applicable guidelines from the previous section,

(ii) Reduction in project size;

(iii) Options for alternative sites for all or part of the project, considering parcel configuration and on-site topographic or vegetative screening;

(iv) Options for design changes including changing the design shape, configuration, color, height, or texture in order to meet the scenic standard.

(C) Form, line, color, texture, and design of a proposed development shall be evaluated to ensure that the development blends with its setting as seen from the foreground of key viewing areas:

(i) Form and Line-Design of the development shall minimize changes to the form of the natural landscape. Development shall borrow form and line from the landscape setting and blend with the form and line of the landscape setting. Design of the development shall avoid contrasting form and line that unnecessarily call attention to the development.

(ii) Color-Color shall be found in the project's surrounding landscape setting. Colors shall be chosen and repeated as needed to provide unity to the whole design.

(iii) Texture-Textures borrowed from the landscape setting shall be emphasized in the design of structures. Landscape textures are generally rough, irregular, and complex rather than smooth, regular, and uniform.

(iv) Design-Design solutions shall be compatible with the natural scenic quality of the Gorge. Building materials shall be natural or natural appearing. Building materials such as concrete, steel, aluminum, or plastic shall use form, line color and texture to harmonize with the natural environment. Design shall balance all design elements into a harmonious whole, using repetition of elements and blending of elements as necessary.

(e) Right-of-way vegetation shall be managed to minimize visual impacts of clearing and other vegetation removal as seen from key viewing areas. Roadside vegetation management (vista clearing, planting, etc.) should enhance views from the highway.

(f) Screening from key viewing areas shall be encouraged for existing and required for new road maintenance, warehouse, and stockpile areas.

(4) SMA Guidelines for Areas Not Seen from KVAs:

(a) Unless expressly exempted by other provisions in this chapter, colors of structures on sites not visible from key viewing areas shall be earth-tones found at the specific site. The specific colors or list of acceptable colors shall be approved as a condition of approval, drawing from the recommended palette of colors included in the Scenic Resources Implementation Handbook.

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

[Publications referenced are available from the agency.]

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

Stats. Implemented: ORS 196.150

Hist.: CRGC 1-2005, f. 5-17-05, cert. ef. 7-1-05; CRGC 1-2007, f. 11-1-07, cert. ef. 1-1-08

350-081-0540

General Management Area Cultural Resource Review Criteria

(1) General Provisions for Implementing the Cultural Resources Protection Process.

(a) All cultural resource surveys, evaluations, assessments, and mitigation plans shall be performed by professionals whose expertise reflects the type of cultural resources that are involved. Principal investigators shall meet the professional standards published in 36 Code of Federal Regulations (CFR) Part 61 and Guidelines for Evaluating and Documenting Traditional Cultural Properties (Parker and King, no date).

(b) Cultural resource surveys, evaluations, assessments, and mitigation plans shall generally be conducted in consultation with Indian tribal governments and any person who submits written comments on a proposed use (interested person). Indian tribal governments shall be consulted if the affected cultural resources are prehistoric or otherwise associated with Native Americans. If the cultural resources are associated with non-Native Americans, such as an historic house or pioneer campsite, the Indian tribal governments do not have to be consulted.

(c) Reconnaissance and Historic Surveys and Survey Reports.

(A) Reconnaissance survey requirements and exceptions.

(i) A reconnaissance survey shall be required for all proposed uses within 500 feet of a known cultural resource, including those uses listed as exceptions in 350-081-0540(1)(c)(A)(ii) below.

(ii) A reconnaissance survey shall be required for all proposed uses, except:

(I) The modification, expansion, replacement, or reconstruction of existing buildings and structures.

(II) Proposed uses that would not disturb the ground, including land divisions and lot-line adjustments; storage sheds that do not require a foundation; low-intensity recreation uses, such as fishing, hunting, and hiking;

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installation of surface chemical toilets; hand treatment of brush within established rights-of-way; and new uses of existing structures.

(III) Proposed uses that involve minor ground disturbance, as defined by depth and extent, including repair and maintenance of lawfully constructed and serviceable structures; home gardens; livestock grazing; cultivation that employs minimum tillage techniques, such as replanting pastures using a grassland drill; construction of fences; new utility poles that are installed using an auger, post-hole digger, or similar implement; and placement of mobile homes where septic systems and underground utilities are not involved. The Gorge Commission shall review all land use applications and determine if proposed uses would have a minor ground disturbance.

(IV) Proposed uses that occur on sites that have been disturbed by human activities, provided the proposed uses do not exceed the depth and extent of existing ground disturbance. To qualify for this exception, a project applicant must demonstrate that land-disturbing activities occurred in the project area. Land-disturbing activities include grading and cultivation.

(V) Proposed uses that would occur on sites that have been adequately surveyed in the past. The project applicant must demonstrate that the project area has been adequately surveyed to qualify for this exception. Past surveys must have been conducted by a qualified professional and must include a surface survey and subsurface testing. The nature and extent of any cultural resources in the project area must be adequately documented.

(VI) Proposed uses occurring in areas that have a low probability of containing cultural resources, except: Residential development that involves two or more new dwellings for the same project applicant. Recreation facilities that contain parking areas for more than 10 cars, overnight camping facilities, boat ramps, and visitor information and environmental education facilities. Public transportation facilities that are outside improved rights-of-way. Electric facilities, lines, equipment, and appurtenances that are 33 kilovolts or greater. Communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances. Areas that have a low probability of containing cultural resources shall be identified using the results of reconnaissance surveys conducted by the Gorge Commission, the Forest Service, public agencies, and private archaeologists. The Gorge Commission, after consulting Indian tribal governments and state historic preservation officers, shall prepare and adopt a map showing areas that have a low probability of containing cultural resources. This map shall be adopted within 200 days after the Secretary of Agriculture concurs with the Management Plan. It shall be refined and revised as additional reconnaissance surveys are conducted. Areas shall be added or deleted as warranted. All revisions of this map shall be reviewed and approved by the Gorge Commission.

(B) A historic survey shall be required for all proposed uses that would alter the exterior architectural appearance of buildings and structures that are 50 years old or older, or would compromise features of the surrounding area that are important in defining the historic or architectural character of buildings or structures that are 50 years old or older.

(C) The Gorge Commission shall conduct and pay for all reconnaissance and historic surveys for small-scale uses in the General Management Area. When archaeological resources or traditional cultural properties are discovered, the Gorge Commission also shall identify the approximate boundaries of the resource or property and delineate a reasonable buffer zone. Reconnaissance surveys and buffer zone delineations for large-scale uses shall be the responsibility of the project applicant. For 350-081-0540, large-scale uses include residential development involving two or more new dwellings; all recreation facilities; commercial and industrial development; public transportation facilities; electric facilities, lines, equipment, and appurtenances that are 33 kilovolts or greater; and communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances.

(D) Reconnaissance Surveys for Small-Scale Uses. Reconnaissance surveys for small-scale uses shall generally include a surface survey and subsurface testing. They shall meet the following guidelines:

(i) A surface survey of the project area shall be conducted, except for inundated areas and impenetrable thickets.

(ii) Subsurface testing shall be conducted if the surface survey reveals that cultural resources may be present. Subsurface probes shall be placed at intervals sufficient to determine the absence or presence of cultural resources.

(E) Reconnaissance Survey Reports for Small-Scale Uses The results of a reconnaissance survey for small-scale uses shall be documented in a confidential report that includes:

(i) A description of the fieldwork methodology used to identify cultural resources, including a description of the type and extent of the reconnaissance survey.

(ii) A description of any cultural resources that were discovered in the project area, including a written description and photographs.

(iii) A map that shows the project area, the areas surveyed, the location of subsurface probes, and, if applicable, the approximate boundaries of the affected cultural resources and a reasonable buffer zone.

(F) Reconnaissance Surveys for Large-Scale Uses:

(i) Reconnaissance surveys for large-scale uses shall be designed by a qualified professional. A written description of the survey shall be submitted to and approved by the Gorge Commission's designated archaeologist.

(ii) Reconnaissance surveys shall reflect the physical characteristics of the project area and the design and potential effects of the proposed use. They shall meet the following guidelines:

(I) Archival research shall be performed before any field work. It should entail a thorough examination of tax records; historic maps, photographs, and drawings; previous archaeological, historic, and ethnographic research; cultural resource inventories and records maintained by federal, state, and local agencies; and primary historic accounts, such as diaries, journals, letters, and newspapers.

(II) Surface surveys shall include the entire project area, except for inundated areas and impenetrable thickets.

(III) Subsurface probes shall be placed at intervals sufficient to document the presence or absence of cultural resources.

(IV) Archaeological site inventory forms shall be submitted to the State Historic Preservation Officer whenever cultural resources are discovered.

(G) Reconnaissance Survey Reports for Large-Scale Uses The results of a reconnaissance survey for large-scale uses shall be documented in a confidential report that includes:

(i) A description of the proposed use, including drawings and maps.

(ii) A description of the project area, including soils, vegetation, topography, drainage, past alterations, and existing land use.

(iii) A list of the documents and records examined during the archival research and a description of any prehistoric or historic events associated with the project area.

(iv) A description of the fieldwork methodology used to identify cultural resources, including a map that shows the project area, the areas surveyed, and the location of subsurface probes. The map shall be prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail.

(v) An inventory of the cultural resources that exist in the project area, including a written description, photographs, drawings, and a map. The map shall be prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail.

(vi) A summary of all written comments submitted by Indian tribal governments and other interested persons.

(vii) A preliminary assessment of whether the proposed use would or would not have an effect on cultural resources. The assessment shall incorporate concerns and recommendations voiced during consultation meetings and information obtained through archival and ethnographic research and field surveys.

(H) Historic Surveys and Reports:

(i) Historic surveys shall document the location, form, style, integrity, and physical condition of historic buildings and structures. They shall include original photographs and maps. Archival research, blueprints, and drawings should be used as necessary.

(ii) Historic surveys shall describe any uses that will alter or destroy the exterior architectural appearance of the historic buildings or structures, or compromise features of the site that are important in defining the overall historic character of the historic buildings or structures.

(iii) The project applicant shall provide detailed architectural drawings and building plans that clearly illustrate all proposed alterations.

(d) The responsibility and cost of preparing an evaluation of significance, assessment of effect, or mitigation plan shall be borne by the project applicant, except for resources discovered during construction. The Gorge Commission shall conduct and pay for evaluations of significance and mitigation plans for resources that are discovered during construction of small-scale and large-scale uses.

(e) Cultural resources are significant if one of the following criteria is satisfied:

(A) The cultural resources are included in, or eligible for inclusion in, the National Register of Historic Places. The criteria for evaluating the eli-

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gibility of cul-tural resources for the National Register of Historic Places appear in the "National Register Criteria for Evaluation" (36 CFR 60.4).

(B) The cultural resources are determined to be culturally significant by an Indian tribal government, based on criteria developed by that Indian tribal government and filed with the Gorge Commission.

(f) The Gorge Commission shall establish a Cultural Advisory Committee (CAC). The CAC shall comprise cultural resource professionals, interested individuals, and at least one representative from each of the four Indian tribes. If a project applicant's and Indian tribal government's evaluations of significance contradict, the Cultural Advisory Committee (CAC) shall review the applicant's evaluation and Indian tribal government's substantiated concerns. The CAC will submit a recommendation to the Executive Director as to whether affected cultural resources are significant.

(2) Cultural Resource Reconnaissance and Historic Surveys:

(a) Consultation and Ethnographic Research:

(A) When written comments are submitted to the Executive Director within the comment period provided in 350-081-0040, the project applicant shall offer to meet with the interested persons within 10 calendar days. The 10-day consultation period may be extended upon agreement between the project applicant and the interested persons. Consultation meetings should provide an opportunity for interested persons to explain how the proposed use may affect cultural resources. Recommendations to avoid potential conflicts should be discussed. All written comments and consultation meeting minutes shall be incorporated into the reconnaissance or historic survey report. In instances where a survey is not required, all such information shall be recorded and addressed in a report that typifies a survey report; inapplicable elements may be omitted.

(B) A project applicant who is proposing a large-scale use shall conduct interviews and other forms of ethnographic research if interested persons submit a written request for such research. All requests must include a description of the cultural resources that may be affected by the proposed use and the identity of knowledgeable informants. Ethnographic research shall be conducted by qualified specialists. Tape recordings, maps, photographs, and minutes shall be used when appropriate. All written comments, consultation meeting minutes, and ethnographic research shall be incorporated into the reconnaissance or historic survey report. In instances where a survey is not required, all such information shall be recorded and addressed in a report that typifies a survey report.

(b) Notice of Survey Results:

(A) The Executive Director shall submit a copy of all cultural resource survey reports to the State Historic Preservation Officer and the Indian tribal governments. Survey reports may include measures to avoid affected cultural resources, such as a map that shows a reasonable buffer zone.

(B) The State Historic Preservation Officer and the tribes shall have 30 calendar days from the date a survey report is mailed to submit written comments to the Executive Director. The Executive Director shall record and address all written comments in the development review order.

(c) Conclusion of the Cultural Resource Protection Process:

(A) The Executive Director shall make a final decision on whether the proposed use would be consistent with 350-081-0540. If the final decision contradicts the comments submitted by the State Historic Preservation Officer, the Executive Director shall justify how an opposing conclusion was reached.

(B) The cultural resource protection process may conclude when one of the following conditions exists:

(i) The proposed use does not require a reconnaissance or historic survey, no cultural resources are known to exist in the project area, and no substantiated concerns were voiced by interested persons within 21 calendar days of the date that a notice was mailed.

(ii) A reconnaissance survey demonstrates that cultural resources do not exist in the project area, no substantiated concerns were voiced by interested persons within 21 calendar days of the date that a notice was mailed, and no substantiated concerns regarding the reconnaissance survey were voiced by the State Historic Preservation Officer or Indian tribal governments during the 30-day comment period required in subsection 2(b)(B) above.

(iii) The proposed use would avoid archaeological resources and traditional cultural resources that exist in the project area. To meet this guideline, a reasonable buffer zone must be established around the affected resources or properties; all ground-disturbing activities shall be prohibited within the buffer zone. Buffer zones must preserve the integrity and context of cultural resources. They will vary in width depending on the eventual use of the project area, the type of cultural resources that are present, and the

characteristics for which the cultural resources may be significant. A deed covenant, easement, or other appropriate mechanism shall be developed to ensure that the buffer zone and the cultural resources are protected. An evaluation of significance shall be conducted if a project applicant decides not to avoid the affected cultural resource. In these instances, the reconnaissance survey and survey report shall be incorporated into the evaluation of significance.

(iv) A historic survey demonstrates that the proposed use would not have an effect on historic buildings or structures because:

(a) The State Historic Preservation Officer concludes that the historic buildings or structures are clearly not significant, as determined by using the criteria in the "National Register Criteria for Evaluation" (36 CFR 60.4); or

(b) The proposed use would not compromise the historic or architectural character of the affected buildings or structures, or compromise features of the site that are important in defining the overall historic character of the affected buildings or structures, as determined by the guidelines and standards in The Secretary of the Interior's Standards for Rehabilitation (U.S. Department of the Interior 1990) and The Secretary of the Interior's Standards for Historic Preservation Projects (U.S. Department of the Interior 1983). The historic survey conducted by the Gorge Commission may provide sufficient information to satisfy these guidelines. If it does not, architectural and building plans, photographs, and archival research may be required. The project applicant shall be responsible for providing information beyond that included in the survey conducted by the Gorge Commission. The historic survey and report must demonstrate that these guidelines have been clearly and absolutely satisfied. If the State Historic Preservation Officer or the Executive Director question whether these guidelines have been satisfied, the project applicant shall conduct an evaluation of significance.

(3) Evaluation of Significance:

(a) Evaluation Criteria and Information Needs If cultural resources would be affected by a new use, an evaluation of their significance shall be conducted. Evaluations of significance shall meet the following guidelines:

(A) Evaluations of significance shall follow the procedures in How to Apply the National Register Criteria for Evaluation (U.S. Department of the Interior, no date) and Guidelines for Evaluating and Documenting Traditional Cultural Properties (Parker and King, no date). They shall be presented within local and regional contexts and shall be guided by previous research and current research designs that are relevant to specific research questions for the Columbia River Gorge.

(B) To evaluate the significance of cultural resources, the information gathered during the reconnaissance or historic survey may have to be supplemented. Detailed field mapping, subsurface testing, photographic documentation, laboratory analyses, and archival research may be required.

(C) The project applicant shall contact Indian tribal governments and interested persons, as appropriate. Ethnographic research shall be undertaken as necessary to fully evaluate the significance of the cultural resources.

(D) The evaluation of significance shall follow the principles, guidelines, and report format recommended by the Oregon State Historic Preservation Office (Oregon SHPO 1990) or Washington Office of Archaeology and Historic Preservation (Washington SHPO, no date). It shall incorporate the results of the reconnaissance or historic survey and shall illustrate why each cultural resource is or is not significant. Findings shall be presented within the context of relevant local and regional research.

(E) All documentation used to support the evaluation of significance shall be cited. Evidence of consultation with Indian tribal governments and other interested persons shall be presented. All comments, recommendations, and correspondence from Indian tribal governments and interested persons shall be appended to the evaluation of significance.

(b) Notice of Evaluation Results:

(A) If the evaluation of significance demonstrates that the cultural resources are not significant, the Executive Director shall submit a copy of the evaluation of significance to the State Historic Preservation Officer and the Indian tribal governments.

(B) The State Historic Preservation Officer, Indian tribal governments, and interested persons shall have 30 calendar days from the date the evaluation of significance is mailed to submit written comments to the Executive Director. The Executive Director shall record and address all written comments in the development review order.

(c) Cultural Resources are Culturally Significant:

(A) If an Indian tribal government believes that the affected cultural resources are culturally significant, contrary to the evaluation submitted by the project applicant, the Cultural Advisory Committee (CAC) shall make

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an independent review of the applicant's evaluation and the Indian tribal government's substantiated concerns. The CAC shall formulate a recommendation regarding the significance of the cultural resources.

(B) The Indian tribal government shall substantiate its concerns in a written report. The report shall be submitted to the Executive Director, CAC, and the project applicant within 15 calendar days from the date the evaluation of significance is mailed. The CAC must submit its recommendation to the Executive Director within 30 calendar days from the date the evaluation of significance is mailed.

(d) Conclusion of the Cultural Resource Protection Process

(A) The Executive Director shall make a final decision on whether the affected resources are significant. If the final decision contradicts the comments or recommendations submitted by the State Historic Preservation Officer or CAC, the Executive Director shall justify how an opposing conclusion was reached.

(B) The cultural resource protection process may conclude if the affected cultural resources are not significant.

(C) If the project applicant or the Executive Director determines that the cultural resources are significant, the effects of the proposed use shall be assessed.

(4) Assessment of Effect:

(a) Assessment Criteria and Information Needs If a use could potentially affect significant cultural resources, an assessment shall be made to determine if it would have no effect, no adverse effect, or an adverse effect. The assessment shall meet the following guidelines:

(A) The assessment of effect shall be based on the criteria published in "Protection of Historic Properties" (36 CFR 800.5) and shall incorporate the results of the reconnaissance or historic survey and the evaluation of significance. All documentation shall follow the requirements listed in 36 CFR 800.11.

(i) Proposed uses are considered to have an effect on cultural resources when they alter or destroy characteristics of the resources that make them significant.

(ii) Proposed uses are considered to have an adverse effect when they may diminish the integrity of the cultural resource's location, design, setting, materials, workmanship, feeling, or association. Adverse effects on cultural resources include, but are not limited to:

(I) Physical destruction, damage, or alteration of all or part of the cultural resource.

(II) Isolation of the cultural resource from its setting or alteration of the character of the resource's setting when that character contributes to the resource's qualification as being significant.

(III) Introduction of visual, audible, or atmospheric elements that are out of character with the cultural resource or its setting.

(IV) Neglect of a significant cultural resource resulting in its deterioration or destruction, except as described in 36 CFR 800.5.

(B) The assessment of effect shall be prepared in consultation with Indian tribal governments and interested persons, as appropriate. The concerns and recommendations voiced by Indian tribal governments and interested persons shall be recorded and addressed in the assessment.

(C) The effects of a proposed use that would otherwise be determined to be adverse may be considered to be not adverse if any of the following instances apply:

(i) The cultural resources are of value only for their potential contribution to archeological, historical, or architectural research, and when such value can be substantially preserved through the conduct of appropriate research before development begins, and such research is conducted in accordance with applicable professional standards and guidelines.

(ii) The undertaking is limited to the rehabilitation of build-ings and structures, and is conducted in a manner that preserves the historical and architectural character of affected cultural resources through conformance with The Secretary of the Interior's Standards for Rehabilitation (U.S. Department of the Interior 1990) and The Secretary of the Interior's Standards for Historic Preservation Projects (U.S. Department of the Interior 1983).

(b) Notice of Assessment Results:

(A) If the assessment of effect concludes that the proposed use would have no effect or no adverse effect on significant cultural resources, the Executive Director shall submit a copy of the assessment to the State Historic Preservation Officer and the Indian tribal governments.

(B) The State Historic Preservation Officer, Indian tribal governments, and interested persons shall have 30 calendar days from the date the assessment of effect is mailed to submit written comments to the Executive Director. The Executive Director shall record and address all written comments in the development review order.

(c) Conclusion of the Cultural Resource Protection Process

(A) The Executive Director shall make a final decision on whether the proposed use would have no effect, no adverse effect, or an adverse effect. If the final decision contradicts the comments submitted by the State Historic Preservation Officer, the Executive Director shall justify how an opposing conclusion was reached.

(B) The cultural resource protection process may conclude if the proposed use would have no effect or no adverse effect on significant cultural resources.

(C) A mitigation plan shall be prepared if a project applicant or the Executive Director determines that the proposed use would have an adverse effect on significant cultural resources.

(5) Mitigation Plans:

(a) Mitigation Plan Criteria and Information Needs Mitigation plans shall be prepared when proposed uses would have an adverse effect on significant cultural resources. The plans shall reduce an adverse effect to no effect or no adverse effect. Mitigation plans shall meet the following guidelines:

(A) Mitigation plans shall be prepared in consultation with persons who have concerns about or knowledge of the affected cultural resources, including Indian tribal governments, Native Americans, local governments whose jurisdiction encompasses the project area, and the State Historic Preservation Officer.

(B) Avoidance of cultural resources through project design and modification is preferred. Avoidance may be effected by reducing the size, scope, configuration, and density of the proposed use. Alternative mitigation measures shall be used only if avoidance is not practicable. Alternative measures include, but are not limited to, burial under fill, stabilization, removal of the cultural resource to a safer place, and partial to full excavation and recordation. If the mitigation plan includes buffer zones to protect cultural resources, a deed covenant, easement, or other appropriate mechanism shall be developed and recorded in county deeds and records.

(C) Mitigation plans shall incorporate the results of the reconnaissance or historic survey, the evaluation of significance, and the assessment of effect, and shall provide the documentation required in 36 CFR 800.11, including, but not limited to:

(i) A description and evaluation of any alternatives or mitigation measures that the project applicant proposes for reducing the effects of the proposed use.

(ii) A description of any alternatives or mitigation measures that were considered but not chosen and the reasons for their rejection.

(iii) Documentation of consultation with the State Historic Preservation Officer regarding any alternatives or mitigation measures.

(iv) A description of the project applicant's efforts to obtain and consider the views of Indian tribal governments, interested persons, and Executive Director.

(v) Copies of any written recommendations submitted to the Executive Director or project applicant regarding the effects of the proposed use on cultural resources and alternatives to avoid or reduce those effects.

(b) Notice of Mitigation Plan Results:

(A) If a mitigation plan reduces the effect of a use from an adverse effect to no effect or no adverse effect, the Executive Director shall submit a copy of the mitigation plan to the State Historic Preservation Officer and the Indian tribal governments.

(B) The State Historic Preservation Officer, Indian tribal governments, and interested persons shall have 30 calendar days from the date the mitigation plan is mailed to submit written comments to the Executive Director. The Executive Director shall record and address all written comments in the development review order.

(c) Conclusion of the Cultural Resource Protection Process

(A) The Executive Director shall make a final decision on whether the mitigation plan would reduce an adverse effect to no effect or no adverse effect. If the final decision contradicts the comments submitted by the State Historic Preservation Officer, the Executive Director shall justify how an opposing conclusion was reached.

(B) The cultural resource protection process may conclude if a mitigation plan would reduce an adverse effect to no effect or no adverse effect.

(C) The proposed use shall be prohibited when acceptable mitigation measures fail to reduce an adverse effect to no effect or no adverse effect.

(6) Cultural Resources Discovered After Construction Begins The following procedures shall be effected when cultural resources are discovered during construction activities. All survey and evaluation reports and mitigation plans shall be submitted to the Executive Director and the State Historic Preservation Officer. Indian tribal governments also shall receive

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a copy of all reports and plans if the cultural resources are prehistoric or otherwise associated with Native Americans.

(a) Halt of Construction. All construction activities within 100 feet of the discovered cultural resource shall cease. The cultural resources shall remain as found; further disturbance is prohibited.

(b) Notification. The project applicant shall notify the Executive Director within 24 hours of the discovery. If the cultural resources are prehistoric or otherwise associated with Native Americans, the project applicant shall also notify the Indian tribal governments within 24 hours.

(c) Survey and Evaluation. The Gorge Commission shall survey the cultural resources after obtaining written permission from the landowner and appropriate permits from the State Historic Preservation Officer. (See Oregon Revised Statute 358.905 to 358.955, and Revised Code of Washington 27.53). It shall gather enough information to evaluate the significance of the cultural resources. The survey and evaluation shall be documented in a report that generally follows the guidelines in "Reconnaissance Survey Reports for Large-Scale Uses" and "Evaluation of Significance: Evaluation Criteria and Information Needs". Based on the survey and evaluation report and any written comments, the Executive Director shall make a final decision on whether the resources are significant. Construction activities may recommence if the cultural resources are not significant. A mitigation plan shall be prepared if the affected cultural resources are significant.

(d) Mitigation Plan. Mitigation plans shall be prepared according to the information, consultation, and report guidelines contained in the "Mitigation Plans: Mitigation Plan Criteria and Information Needs" section of this chapter. Construction activities may recommence when the conditions in the mitigation plan have been executed.

(7) Discovery of Human Remains The following procedures shall be effected when human remains are discovered during a cultural resource survey or during construction. Human remains means articulated or disarticulated human skeletal remains, bones, or teeth, with or without attendant buried artifacts.

(a) Halt of Activities. All survey, excavation, and construction activities shall cease. The human remains shall not be disturbed any further.

(b) Notification. Local law enforcement officials, the Executive Director, and the Indian tribal governments shall be contacted immediately.

(c) Inspection. The county coroner, or appropriate official, shall inspect the remains at the project site and determine if they are prehistoric/historic or modern. Representatives from the Indian tribal governments shall have an opportunity to monitor the inspection.

(d) Jurisdiction. If the remains are modern, the appropriate law enforcement officials shall assume jurisdiction and the cultural resource protection process may conclude.

(e) Treatment. In Oregon, prehistoric/historic remains of Native Americans shall generally be treated in accordance with the procedures set forth in ORS 97.740 to 97.760. In Washington, the procedures set forth in RCW 27.44 and 68.05 shall generally be implemented if the remains are prehistoric/historic. If the human remains will be reinterred or preserved in their original position, a mitigation plan shall be prepared in accordance with the consultation and report requirements specified in "Mitigation Plans: Mitigation Plan Criteria and Information Needs". The mitigation plan shall accommodate the cultural and religious concerns of Native Americans. The cultural resource protection process may conclude when the conditions set forth in "Mitigation Plans: Conclusion of the Cultural Resource Protection Process" are met and the mitigation plan is executed.

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

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

Stats. Implemented: ORS 196.150

Hist.: CRGC 1-2005, f. 5-17-05, cert. ef. 7-1-05; CRGC 1-2007, f. 11-1-07, cert. ef. 1-1-08

350-081-0550

Special Management Area Cultural Resource Review Criteria

(1) General Guidelines for Implementing the Cultural Resources Protection Process

(a) All cultural resource information shall remain confidential, according to Section 6(a)(1)(A) of the Scenic Area Act. Federal agency cultural resource information is also exempt by statute from the Freedom of Information Act under 16 USC 470aa and 36 CFR 296.18.

(b) All cultural resources surveys, evaluations, assessments, and mitigation plans shall be performed by professionals whose expertise reflects the type of cultural resources that are involved. Principal investigators shall meet the professional standards published in 36 CFR 61.

(c) The Forest Service will be responsible for performing the literature review and consultation, inventory, evaluations of significance, assess-

ments of effect, and mitigation requirements in 350-81-550(4) for forest practices and National Forest System lands.

(d) New developments or land uses shall not adversely affect significant cultural resources.

(2) The procedures and guidelines in 350-81-540 shall be used to review all proposed developments and land uses other than those on all federal lands, federally assisted projects and forest practices.

(3) The procedures and guidelines in 36 CFR 800 and 350-81-550(4) shall be used by the Executive Director and federal agencies to evaluate new developments or land uses on federal lands, federally assisted projects, and forest practices.

(4) The following procedures as well as the provisions in 36 CFR 800.4 for assessing potential effects to cultural resources and 36 CFR 800.5 for assessing adverse effects to cultural resources shall be used to assess potential effects to cultural resources.

(a) Literature Review and Consultation:

(A) An assessment shall be made to determine if any cultural resources listed on the National Register of Historic Places at the national, state or county level exist on or within the area of potential direct and indirect impacts.

(B) A search shall be made of state and county government, National Scenic Area/Forest Service and any other pertinent inventories, such as archives and photographs, to identify cultural resources, including consultation with the State Historic Preservation Office and tribal governments. State and tribal government response to the consultation request shall be allowed for 30 days.

(C) Consultation with cultural resource professionals knowledgeable about the area.

(D) A field inventory by a cultural resource professional shall be required if the Forest Service or the Executive Director determines that a recorded or known cultural resource exists on or within the immediate vicinity of a new development or land use, including those reported in consultation with the Tribal governments.

(b) Field Inventory

(A) Tribal representatives shall be invited to participate in the field inventory.

(B) The field inventory shall consist of one or the other of the following guidelines, as determined by the cultural resource professional:

(i) Complete survey: the systematic examination of the ground surface through a controlled procedure, such as walking an area in evenly-spaced transects. A complete survey may also require techniques such as clearing of vegetation, augering or shovel probing of subsurface soils for the presence of buried cultural resources.

(ii) Sample survey: the sampling of an area to assess the potential of cultural resources within the area of proposed development or use. This technique is generally used for large or difficult to survey parcels, and is generally accomplished by a stratified random or non-stratified random sampling strategy. A parcel is either stratified by variables such as vegetation, topography or elevation, or by non-environmental factors such as a survey grid. Under this method, statistically valid samples are selected and surveyed to indicate the probability of presence, numbers and types of cultural resources throughout the sampling strata. Depending on the results of the sample, a complete survey may or may not subsequently be recommended.

(C) A field inventory report shall be prepared, and shall include the following:

(i) A narrative integrating the literature review of section (4)(a) above with the field inventory of section (4)(b) above.

(ii) A description of the field inventory methodology used, including the type and extent of field inventory, supplemented by maps which graphically illustrate the areas surveyed, not surveyed, and the rationale for each.

(iii) A statement of the presence or absence of cultural resources within the area of the new development or land use.

(iv) When cultural resources are not located, a statement of the likelihood of buried or otherwise concealed cultural resources shall be included. Recommendations and standards for monitoring, if appropriate, shall be included.

(D) The report shall follow the format specified by the Washington Office of Archaeology and Historic Preservation for inventories conducted in the State of Washington. Reports for inventories conducted in the State of Oregon shall follow the format specified by the Oregon State Historic Preservation Office.

(E) The field inventory report shall be presented to the Forest Service or the Executive Director for review.

(c) Evaluations of Significance:

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(A) When cultural resources are found within the area of the new development or land use, an evaluation of significance shall be completed for each cultural resource in accordance with to the criteria of the National Register of Historic Places (36 CFR 60.4).

(B) Evaluations of cultural resource significance shall be guided by previous and current research designs relevant to specific research questions for the area.

(C) Evaluations of the significance of traditional cultural properties shall follow National Register Bulletin 38, Guidelines for the Evaluation and Documentation of Traditional Cultural Properties, within local and regional contexts.

(D) Recommendations for eligibility to the National Register shall be completed for each identified resource, in accordance with National Register criteria A through D (36 CFR 60.4). The Forest Service or the Executive Director shall review evaluations for adequacy.

(E) Evidence of consultation with tribal governments and individuals with knowledge of the cultural resources in the project area, and documentation of their concerns, shall be included as part of the evaluation of significance.

(F) An assessment of effect shall be required if the Forest Service or the Executive Director determines that the inventoried cultural resources are significant.

(d) Assessment of Effect:

(A) For each significant (i.e., National Register eligible) cultural resource inventoried within the area of the proposed development or change in use, assessments of effect shall be completed, using the criteria outlined in 36 CFR 800.5 ("Assessing Effects"). Evidence of consultation with tribal governments and individuals with knowledge of the cultural resources of the project area shall be included for sections (4)(d)(B) through (4)(d)(D) below. The Forest Service or Executive Director shall review each determination for adequacy.

(B) If the proposed development or change in use will have "No Adverse Effect," as defined by 36 CFR 800. 4, to a significant cultural resource, documentation for that finding shall be completed, following the "Documentation Standards" of 36 CFR 800.11. If the proposed development or change in use will have an effect then the criteria of adverse effect must be applied (36 CFR 800.5).

(C) If the proposed development or change in use will have an "Adverse Effect" as defined by 36 CFR 800. 5 to a significant cultural resource, the type and extent of "adverse effect" upon the qualities of the property that make it eligible for the National Register shall be documented (36 CFR 800.6 "Resolution of Adverse Effects"). This documentation shall follow the process outlined under 36 CFR 800. 11("Failure to Resolve Adverse Effects).

(D) If the "effect" appears to be beneficial (i.e., an enhancement to cultural resources), documentation shall be completed for the recommendation of that effect upon the qualities of the cultural resource that make it eligible to the National Register. This documentation shall follow the process outlined under 36 CFR 800.11 ("Documentation Standards").

(e) Mitigation:

(A) If there will be an effect on cultural resources, measures shall be provided for mitigation of effects (36 CFR 800.6 "Resolution of Adverse Effects"). These measures shall address factors such as avoidance of the property through project design or modification and subsequent protection, burial under fill, data recovery excavations, or other measures which are proposed to mitigate effects.

(B) Evidence of consultation with tribal governments and individuals with knowledge of the resources to be affected, and documentation of their concerns, shall be included for all mitigation proposals.

(C) The Forest Service or the Executive Director shall review all mitigation proposals for adequacy.

(5) Discovery During Construction All authorizations for new developments or land uses shall be conditioned to require the immediate notification of the Forest Service or the Executive Director if cultural resources are discovered during construction or development.

(a) If cultural resources are discovered, particularly human bone or burials, work in the immediate area of discovery shall be suspended until a cultural resource professional can evaluate the potential significance of the discovery and recommend measures to protect and/or recover the resources.

(b) If the discovered material is suspected to be human bone or a burial, the following procedure shall be used:

(A) The applicant shall stop all work in the vicinity of the discovery.

(B) The applicant shall immediately notify the Executive Director, the Forest Service, the applicant's cultural resource professional, the State Medical Examiner, and appropriate law enforcement agencies.

(C) The Forest Service or the Executive Director shall notify the tribal governments if the discovery is determined to be an Indian burial or a cultural resource.

(D) A cultural resource professional shall evaluate the potential significance of the resource pursuant to 350-081-0550(4)(c) and report the results to the Forest Service or the Executive Director.

(c) The cultural resource review process shall be complete and work may continue if the Forest Service or the Executive Director determines that the cultural resource is not significant.

(d) The cultural resource professional shall recommend measures to protect and/or recover the resource pursuant to 350-081-0550(4)(e) if the Forest Service or the Executive Director determines that the cultural resource is significant.

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

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

Stats. Implemented: ORS 196.150

Hist.: CRGC 1-2005, f. 5-17-05, cert. ef. 7-1-05; CRGC 1-2007, f. 11-1-07, cert. ef. 1-1-08

350-081-0560

General Management Area Wetland Review Criteria

(1) Wetlands Boundaries and Site Plans for Review Uses in Wetlands

(a) If the proposed use is within a wetland or wetlands buffer zone, the applicant shall be responsible for determining the exact location of the wetland boundary.

(A) The approximate location and extent of wetlands in the Scenic Area is shown on the National Wetlands Inventory (U.S. Department of the Interior 1987). In addition, the list of hydric soils and the soil survey maps shall be used as an indicator of wetlands. Wetlands boundaries shall be delineated using the procedures specified in the Corps of Engineers Wetlands Delineation Manual (Wetlands Research Program Technical Report Y-87-1, on-line edition, updated through March 21, 1997).

(B) All wetlands delineations shall be conducted by a professional which has been trained to use the federal delineation process, such as a soil scientist, botanist, or wetlands ecologist.

(C) The Executive Director may verify the accuracy of, and may render adjustments to, a wetlands boundary delineation. In the event the adjusted boundary delineation is contested by the applicant, the Executive Director shall, at the applicant's expense, obtain professional services to render a final delineation.

(b) In addition to the information required in all site plans, site plans for proposed uses in wetlands or wetlands buffer zones shall include:

(A) A site plan map prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail;

(B) The exact boundary of the wetland and the wetlands buffer zone; and

(C) A description of actions that would alter or destroy the wetland.

(2) Commission Rule 350-081-0560 shall not apply to proposed uses that would occur in the main stem of the Columbia River. The main stem of the Columbia River is depicted on the map titled "Boundary Map, Columbia River Gorge National Scenic Area," numbered NSA-001 and dated September 1986. (This map is available at county planning departments and Commission and Forest Service offices.) The boundaries of the main stem appear as a heavy black line that generally follows the shoreline. For Commission Rule 350-81, backwaters and isolated water bodies created by roads and railroads are not part of the main stem of the Columbia River.

(3) The following uses may be allowed in wetlands and wetlands buffer zones when approved pursuant to the provisions in 350-081-0560(5), and reviewed under the applicable provisions of 350-081-0520 through 350-081-0620:

(a) The modification, expansion, replacement, or reconstruction of serviceable structures, if such actions would not:

(A) Increase the size of an existing structure by more than 100 percent,

(B) Result in a loss of wetlands acreage or functions; and

(C) Intrude further into a wetland or wetlands buffer zone. New structures shall be considered intruding further into a wetland or wetlands buffer zone if any portion of the structure is located closer to the wetland or wetlands buffer zone than the existing structure.

(b) The construction of minor water-related recreation structures that are available for public use. Structures in this category shall be limited to boardwalks; trails and paths, provided their surface is not constructed of

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impervious materials; observation decks; and interpretative aids, such as kiosks and signs.

(c) The construction of minor water-dependent structures that are placed on pilings, if the pilings allow unobstructed flow of water and are not placed so close together that they effectively convert an aquatic area to dry land. Structures in this category shall be limited to public and private docks and boat houses, and fish and wildlife management structures that are constructed by federal, state, or tribal resource agencies.

(4) Uses not listed in 350-081-0560(2) and (3) may be allowed in wetlands and wetlands buffer zones, when approved pursuant to 350-081-0560(6) and reviewed under the applicable provisions of 350-081-0520 through 350-081-0620.

(5) Applications for modifications to serviceable structures and minor water-dependent and water-related structures in wetlands shall demonstrate that:

(a) Practicable alternatives to locating the structure outside of the wetlands or wetland buffer zone and/or minimizing the impacts of the structure do not exist;

(b) All reasonable measures have been applied to ensure that the structure will result in the minimum feasible alteration or destruction of the wetlands, existing contour, functions, vegetation, fish and wildlife resources, and hydrology;

(c) The structure will be constructed using best management practices;

(d) Areas disturbed during construction of the structure will be rehabilitated to the maximum extent practicable; and

(e) The structure complies with all applicable federal, state, and county laws.

(6) Applications for all other Review Uses in wetlands shall demonstrate that:

(a) The proposed use is water-dependent, or is not water-dependent but has no practicable alternative considering all of the following:

(A) The basic purpose of the use cannot be reasonably accomplished using one or more other sites in the vicinity that would avoid or result in less adverse effects on wetlands;

(B) The basic purpose of the use cannot be reasonably accomplished by reducing its size, scope, configuration, or density as proposed, or by changing the design of the use in a way that would avoid or result in less adverse effects on wetlands; and

(C) Reasonable attempts have been made to remove or accommodate constraints that caused a project applicant to reject alternatives to the use as proposed. Such constraints include inadequate infrastructure, parcel size, and zone designations. If a land designation or recreation intensity class is a constraint, an applicant must request a Management Plan amendment to demonstrate that practicable alternatives do not exist. An alternative site for a proposed use shall be considered practicable if it is available and the proposed use can be undertaken on that site after taking into consideration cost, technology, logistics, and overall project purposes.

(b) The proposed use is in the public interest. The following factors shall be considered when determining if a proposed use is in the public interest:

(A) The extent of public need for the proposed use.

(B) The extent and permanence of beneficial or detrimental effects that the proposed use may have on the public and private uses for which the property is suited.

(C) The functions and size of the wetland that may be affected.

(D) The economic value of the proposed use to the general area.

(E) The ecological value of the wetland and probable effect on public health and safety, fish, plants, and wildlife.

(c) Measures will be applied to ensure that the proposed use results in the minimum feasible alteration or destruction of the wetland's functions, existing contour, vegetation, fish and wildlife resources, and hydrology.

(d) Groundwater and surface-water quality will not be degraded by the proposed use.

(e) Those portions of a proposed use that are not water-dependent or have a practicable alternative will not be located in wetlands or wetlands buffer zones.

(f) The proposed use complies with all applicable federal, state, and county laws.

(g) Areas that are disturbed during construction will be rehabilitated to the maximum extent practicable.

(h) Unavoidable impacts to wetlands will be offset through restoration, creation, or enhancement of wetlands. Wetlands restoration, creation, and enhancement are not alternatives to the guidelines listed above; they shall be used only as a last resort to offset unavoidable wetlands impacts.

The following wetlands restoration, creation, and enhancement guidelines shall apply:

(A) Impacts to wetlands shall be offset by restoring or creating new wetlands or by enhancing degraded wetlands. Wetlands restoration shall be the preferred alternative.

(B) Wetlands restoration, creation, and enhancement projects shall be conducted in accordance with a wetlands compensation plan.

(C) Wetlands restoration, creation, and enhancement projects shall use native vegetation.

(D) The size of replacement wetlands shall equal or exceed the following ratios (the first number specifies the required acreage of replacement wetlands and the second number specifies the acreage of wetlands altered or destroyed):

(i) Restoration: 2:1;

(ii) Creation: 3:1;

(iii) Enhancement: 4:1.

(E) Replacement wetlands shall replicate the functions of the wetland that will be altered or destroyed such that no net loss of wetlands functions occurs.

(F) Replacement wetlands should replicate the type of wetland that will be altered or destroyed. If this guideline is not feasible or practical due to technical constraints, a wetland type of equal or greater benefit may be substituted, provided that no net loss of wetlands functions occurs.

(G) Wetlands restoration, creation, or enhancement should occur within 1,000 feet of the affected wetland. If this is not practicable due to physical or technical constraints, replacement shall occur within the same watershed and as close to the altered or destroyed wetland as practicable.

(H) Wetlands restoration, creation, and enhancement efforts should be completed before a wetland is altered or destroyed. If it is not practicable to complete all restoration, creation, and enhancement efforts before the wetland is altered or destroyed, these efforts shall be completed before the new use is occupied or used.

(I) Five years after a wetland is restored, created, or enhanced at least 75 percent of the replacement vegetation must survive. The owner shall monitor the hydrology and vegetation of the replacement wetland and shall take corrective measures to ensure that it conforms with the approved wetlands compensation plan and this guideline.

(7) Wetlands Buffer Zones:

(a) The width of wetlands buffer zones shall be based on the dominant vegetation community that exists in a buffer zone.

(b) The dominant vegetation community in a buffer zone is the vegetation community that covers the most surface area of that portion of the buffer zone that lies between the proposed activity and the affected wetland. Vegetation communities are classified as forest, shrub, or herbaceous.

(A) A forest vegetation community is characterized by trees with an average height equal to or greater than 20 feet, accompanied by a shrub layer; trees must form a canopy cover of at least 40 percent and shrubs must form a canopy cover of at least 40 percent. A forest community without a shrub component that forms a canopy cover of at least 40 percent shall be considered a shrub vegetation community.

(B) A shrub vegetation community is characterized by shrubs and trees that are greater than 3 feet tall and form a canopy cover of at least 40 percent.

(C) A herbaceous vegetation community is characterized by the presence of herbs, including grass and grasslike plants, forbs, ferns, and non-woody vines.

(c) Buffer zones shall be measured outward from a wetlands boundary on a horizontal scale that is perpendicular to the wetlands boundary. The following buffer zone widths shall be required:

(A) Forest communities: 75 feet;

(B) Shrub communities: 100 feet;

(C) Herbaceous communities: 150 feet.

(d) Except as otherwise allowed, wetlands buffer zones shall be retained in their natural condition. When a buffer zone is disturbed by a new use, it shall be replanted with native plant species.

(8) Wetlands Compensation Plans Wetlands compensation plans shall be prepared when a project applicant is required to restore, create or enhance wetlands. They shall satisfy the following guidelines:

(a) Wetlands compensation plans shall be prepared by a qualified professional hired by a project applicant. They shall provide for land acquisition, construction, maintenance, and monitoring of replacement wetlands.

(b) Wetlands compensation plans shall include an ecological assessment of the wetland that will be altered or destroyed and the wetland that will be restored, created, or enhanced. The assessment shall include information on flora, fauna, hydrology, and wetlands functions.

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(c) Compensation plans shall also assess the suitability of the proposed site for establishing a replacement wetland, including a description of the water source and drainage patterns, topography, wildlife habitat opportunities, and value of the existing area to be converted.

(d) Plan view and cross-sectional, scaled drawings; topographic survey data, including elevations at contour intervals no greater than 1 foot, slope percentages, and final grade elevations; and other technical information shall be provided in sufficient detail to explain and illustrate:

(A) Soil and substrata conditions, grading, and erosion and sediment control needed for wetland construction and long-term survival.

(B) Planting plans that specify native plant species, quantities, size, spacing, or density; source of plant materials or seeds; timing, season, water, and nutrient requirements for planting; and where appropriate, measures to protect plants from predation.

(C) Water-quality parameters, water source, water depths, water-control structures, and water-level maintenance practices needed to achieve the necessary hydrologic conditions.

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

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

Stats. Implemented: ORS 196.150

Hist.: CRGC 1-2005, f. 5-17-05, cert. ef. 7-1-05; CRGC 1-2007, f. 11-1-07, cert. ef. 1-1-08

350-081-0580

General Management Area Sensitive Wildlife Review Criteria

(1) Sensitive Wildlife Areas and Sites and Site Plans Near Sensitive Wildlife

(a) Proposed uses shall not adversely affect sensitive wildlife areas or sensitive wildlife sites:

(A) "Sensitive wildlife areas" in the Columbia Gorge means the following land and water areas that appear in the wildlife inventory map prepared and maintained by the Gorge Commission: [List not included. See ED. NOTE.]

(B) "Sensitive wildlife sites" means sites that are used by animal species that are

(i) Listed as endangered or threatened pursuant to federal or state endangered species acts,

(ii) Listed as endangered, threatened, sensitive, or candidate by the Washington Wildlife Commission,

(iii) Listed as sensitive by the Oregon Fish and Wildlife Commission; or

(iv) Considered to be of special interest to the public (limited to great blue heron, osprey, golden eagle, mountain goat, and prairie falcon). Updated lists of species included in sensitive wildlife sites can be found on the websites for the Washington Department of Fish and Wildlife (Species of Concern list) and the Wildlife Division of Oregon Department of Fish and Wildlife. A list also is maintained by the USDA Forest Service — Scenic Area Office and available on the Gorge Commission website.

(b) In addition to the information required in all site plans, site plans for uses within 1,000 feet of a sensitive wildlife area or site shall include a map prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail.

(2) Field Survey A field survey to identify sensitive wildlife areas or sites shall be required for:

(a) Land divisions that create four or more parcels;

(b) Recreation facilities that contain parking areas for more than 10 cars, overnight camping facilities, boat ramps, and visitor information and environmental education facilities;

(c) Public transportation facilities that are outside improved rights-of-way;

(d) Electric facilities, lines, equipment, and appurtenances that are 33 kilovolts or greater; and

(e) Communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances and other project related activities, except when all of their impacts will occur inside previously disturbed road, railroad or utility corridors, or existing developed utility sites, that are maintained annually.

Field surveys shall cover all areas affected by the proposed use or recreation facility. They shall be conducted by a professional wildlife biologist hired by the project applicant. All sensitive wildlife areas and sites discovered in a project area shall be described and shown on the site plan map.

(3) Review uses may be allowed within 1,000 feet of a sensitive wildlife area or site, when approved pursuant to 350-081-0580(4) and reviewed under the applicable provisions of 350-081-0520 through 350-081-0620.

(4) Uses that are proposed within 1,000 feet of a sensitive wildlife area or site shall be reviewed as follows:

(a) Site plans shall be submitted to the Oregon Department of Fish and Wildlife or the Washington Department of Fish and Wildlife by the Development Review Officer. State wildlife biologists will review the site plan and their field survey records and:

(A) Identify/verify the precise location of the wildlife area or site,

(B) Ascertain whether the wildlife area or site is active or abandoned; and

(C) Determine if the proposed use may compromise the integrity of the wildlife area or site or occur during the time of the year when wildlife species are sensitive to disturbance, such as nesting or rearing seasons. In some instances, state wildlife biologists may conduct field surveys to verify the wildlife inventory and assess the potential effects of a proposed use.

(b) The following factors may be considered when site plans are reviewed:

(A) Biology of the affected wildlife species.

(B) Published guidelines regarding the protection and management of the affected wildlife species. The Oregon Department of Forestry has prepared technical papers that include management guidelines for osprey and great blue heron. The Washington Department of Fish and Wildlife has prepared similar guidelines for a variety of species, including the western pond turtle, the peregrine falcon, and the Larch Mountain salamander (Rodrick and Milner, 1991).

(C) Physical characteristics of the subject parcel and vicinity, including topography and vegetation.

(D) Historic, current, and proposed uses in the vicinity of the sensitive wildlife area or site.

(E) Existing condition of the wildlife area or site and the surrounding habitat and the useful life of the area or site.

(c) The wildlife protection process may terminate if the Executive Director, in consultation with the state wildlife agency, determines:

(A) The sensitive wildlife area or site is not active, or

(B) The proposed use would not compromise the integrity of the wildlife area or site or occur during the time of the year when wildlife species are sensitive to disturbance.

(d) If the Executive Director, in consultation with the state wildlife agency, determines that the proposed use would have only minor effects on the wildlife area or site that could be eliminated through mitigation measures recommended by the state wildlife biologist, or by simply modifying the site plan or regulating the timing of new uses, a letter shall be sent to the applicant that describes the effects and measures needed to eliminate them. If the project applicant accepts these recommendations, the Executive Director will incorporate them into the development review order and the wildlife protection process may conclude.

(e) The project applicant shall prepare a wildlife management plan if the Executive Director, in consultation with the state wildlife agency, determines that the proposed use would adversely affect a sensitive wildlife area or site and the effects of the proposed use cannot be eliminated through site plan modifications or project timing.

(f) The Executive Director shall submit a copy of all field surveys and wildlife management plans to Oregon Department of Fish and Wildlife or Washington Department of Fish and Wildlife. The state wildlife agency will have 20 days from the date that a field survey or management plan is mailed to submit written comments to the Executive Director. The Executive Director shall record and address any written comments submitted by the state wildlife agency in the land use review order. Based on the comments from the state wildlife agency, the Executive Director will make a final decision on whether the proposed use would be consistent with the wildlife policies and guidelines. If the final decision contradicts the comments submitted by the state wildlife agency, the Executive Director shall justify how the opposing conclusion was reached. The Executive Director shall require the applicant to revise the wildlife management plan as necessary to ensure that the proposed use would not adversely affect a sensitive wildlife area or site.

(5) Wildlife Management Plans Wildlife management plans shall be prepared when a proposed use is likely to adversely affect a sensitive wildlife area or site. Their primary purpose is to document the special characteristics of a project site and the habitat requirements of affected wildlife species. This information provides a basis for the project applicant to redesign the proposed use in a manner that protects sensitive wildlife areas and sites, maximizes his/her development options, and mitigates temporary impacts to the wildlife area or site and/or buffer zone. Wildlife management plans shall meet the following guidelines:

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(a) Wildlife management plans shall be prepared by a professional wildlife biologist hired by the project applicant.

(b) All relevant background information shall be documented and considered, including biology of the affected species, published protection and management guidelines, physical characteristics of the subject parcel, past and present use of the subject parcel, and useful life of the wildlife area or site.

(c) The core habitat of the sensitive wildlife species shall be delineated. It shall encompass the sensitive wildlife area or site and the attributes, or key components, that are essential to maintain the long-term use and integrity of the wildlife area or site.

(d) A wildlife buffer zone shall be employed. It shall be wide enough to ensure that the core habitat is not adversely affected by new uses, or natural forces, such as fire and wind. Buffer zones shall be delineated on the site plan map and shall reflect the physical characteristics of the project site and the biology of the affected species.

(e) The size, scope, configuration, or density of new uses within the core habitat and the wildlife buffer zone shall be regulated to protect sensitive wildlife species. The timing and duration of all uses shall also be regulated to ensure that they do not occur during the time of the year when wildlife species are sensitive to disturbance. The following shall apply:

(A) New uses shall generally be prohibited within the core habitat. Exceptions may include uses that have temporary and negligible effects, such as the installation of minor underground utilities or the maintenance of existing structures. Low intensity, non-destructive uses may be conditionally authorized in the core habitat.

(B) Intensive uses shall be generally prohibited in wildlife buffer zones. Such uses may be conditionally authorized when a wildlife area or site is inhabited seasonally, provided they will have only temporary effects on the wildlife buffer zone and rehabilitation and/or enhancement will be completed before a particular species returns.

(f) Rehabilitation and/or enhancement shall be required when new uses are authorized within wildlife buffer zones. When a buffer zone has been altered or degraded in the past, it shall be rehabilitated to its natural condition to the maximum extent practicable. When complete rehabilitation is not possible, such as when new structures permanently displace wildlife habitat, enhancement shall also be required. Enhancement shall achieve a no net loss of the integrity of the wildlife area or site. Rehabilitation and enhancement actions shall be documented in the wildlife management plan and shall include a map and text.

(g) The applicant shall prepare and implement a 3-year monitoring plan when the affected wildlife area or site is occupied by a species that is listed as endangered or threatened pursuant to federal or state wildlife lists. It shall include an annual report and shall track the status of the wildlife area or site and the success of rehabilitation and/or enhancement actions. At the end of 3 years, rehabilitation and enhancement efforts may conclude if they are successful. In instances where rehabilitation and enhancement efforts have failed, the monitoring process shall be extended until the applicant satisfies the rehabilitation and enhancement guidelines.

(6) New fences in deer and elk winter range:

(a) New fences in deer and elk winter range shall be allowed only when necessary to control livestock or exclude wildlife from specified areas, such as gardens or sensitive wildlife sites. The areas fenced shall be the minimum necessary to meet the immediate needs of the project applicant.

(b) New and replacement fences that are allowed in winter range shall comply with the guidelines in Specifications for Structural Range Improvements (Sanderson, et. al. 1990), as summarized below, unless the applicant demonstrates the need for an alternative design:

(A) To make it easier for deer to jump over the fence, the top wire shall not be more than 42 inches high.

(B) The distance between the top two wires is critical for adult deer because their hind legs often become entangled between these wires. A gap of at least 10 inches shall be maintained between the top two wires to make it easier for deer to free themselves if they become entangled.

(C) The bottom wire shall be at least 16 inches above the ground to allow fawns to crawl under the fence. It should consist of smooth wire because barbs often injure animals as they crawl under fences.

(D) Stays, or braces placed between strands of wire, shall be positioned between fences posts where deer are most likely to cross. Stays create a more rigid fence, which allows deer a better chance to wiggle free if their hind legs become caught between the top two wires.

(c) Woven wire fences may be authorized only when it is clearly demonstrated that such a fence is required to meet specific and immediate needs, such as controlling hogs and sheep.

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

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

Stats. Implemented: ORS 196.150

Hist.: CRGC 1-2005, f. 5-17-05, cert. ef. 7-1-05; CRGC 1-2007, f. 11-1-07, cert. ef. 1-1-08

350-081-0590

General Management Areas Rare Plant Review Criteria

(1) Sensitive Plants and Site Plans for Review Uses Near Sensitive Plants

(a) Proposed uses shall not adversely affect sensitive plants. "Sensitive plants" means plant species that are:

(A) Endemic to the Columbia River Gorge and vicinity;

(B) Listed as endangered or threatened pursuant to federal or state endangered species acts; or

(C) Listed as endangered, threatened, or sensitive by the Oregon or Washington Natural Heritage program. Updated lists of sensitive plant species can be found on the websites for the Oregon or Washington Natural Heritage Program. A list also is maintained by the USDA Forest Service — Scenic Area Office and available on the Gorge Commission website.

(b) In addition to the information required in all site plans, site plans for uses within 1,000 feet of a sensitive plant shall include a map prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail.

(2) Field Survey A field survey to identify sensitive plants shall be required for:

(a) Land divisions that create four or more parcels;

(b) Recreation facilities that contain parking areas for more than 10 cars, overnight camping facilities, boat ramps, and visitor information and environmental education facilities;

(c) Public transportation facilities that are outside improved rights-of-way;

(d) Electric facilities, lines, equipment, and appurtenances that are 33 kilovolts or greater; and

(e) Communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances and other project related activities, except when all of their impacts will occur inside previously disturbed road, railroad or utility corridors, or existing developed utility sites, that are maintained annually. Field surveys shall cover all areas affected by the proposed use or recreation facility. They shall be conducted by a person with recognized expertise in botany or plant ecology hired by the project applicant. Field surveys shall identify the precise location of the sensitive plants and delineate a 200-foot buffer zone. The results of a field survey shall be shown on the site plan map.

(3) Review uses may be allowed within 1,000 feet of a sensitive plant, when approved pursuant to 350-081-0590(4), and reviewed under the applicable provisions of 350-081-0520 through 350-081-0620.

(4) Uses that are proposed within 1,000 feet of a sensitive plant shall be reviewed as follows:

(a) Site plans shall be submitted to the Oregon or Washington Natural Heritage Program by the Executive Director. The Natural Heritage Program staff will review the site plan and their field survey records. They will identify the precise location of the affected plants and delineate a 200-foot buffer zone on the project applicant's site plan. If the field survey records of the state heritage program are inadequate, the project applicant shall hire a person with recognized expertise in botany or plant ecology to ascertain the precise location of the affected plants.

(b) The rare plant protection process may conclude if the Executive Director, in consultation with the Natural Heritage Program staff, determines that the proposed use would be located outside of a sensitive plant buffer zone.

(c) New uses shall be prohibited within sensitive plant species buffer zones.

(d) If a proposed use must be allowed within a sensitive plant buffer area in accordance with 350-081-0078, the project applicant shall prepare a protection and rehabilitation plan pursuant to 350-081-0590(5).

(e) The Executive Director shall submit a copy of all field surveys and protection and rehabilitation plans to the Oregon or Washington Natural Heritage Program. The Natural Heritage Program staff will have 20 days from the date that a field survey is mailed to submit written comments to the Executive Director. The Executive Director shall record and address any written comments submitted by the Natural Heritage Program staff in the land use review order. Based on the comments from the Natural Heritage Program staff, the Executive Director will make a final decision on whether the proposed use would be consistent with the rare plant policies and guidelines. If the final decision contradicts the comments submitted by the Natural Heritage Program staff, the Executive Director shall justify how the opposing conclusion was reached.

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(5) Protection and Rehabilitation Plans Protection and rehabilitation plans shall minimize and offset unavoidable impacts that result from a new use that occurs within a sensitive plant buffer zone as the result of a variance. Protection and rehabilitation plans shall meet the following guidelines:

(a) Protection and rehabilitation plans shall be prepared by a professional botanist or plant ecologist hired by the project applicant.

(b) Construction, protection, and rehabilitation activities shall occur during the time of the year when ground disturbance will be minimized and protection, rehabilitation, and replacement efforts will be maximized.

(c) Sensitive plants that will be destroyed shall be transplanted or replaced, to the maximum extent practicable. Replacement is used here to mean the establishment of a particular plant species in areas of suitable habitat not affected by new uses. Replacement may be accomplished by seeds, cuttings, or other appropriate methods. Replacement shall occur as close to the original plant site as practicable. The project applicant shall ensure that at least 75 percent of the replacement plants survive 3 years after the date they are planted.

(d) Sensitive plants and their surrounding habitat that will not be altered or destroyed shall be protected and maintained. Appropriate protection and maintenance techniques shall be applied, such as fencing, conservation easements, livestock management, and noxious weed control.

(e) Habitat of a sensitive plant that will be affected by temporary uses shall be rehabilitated to a natural condition.

(f) Protection efforts shall be implemented before construction activities begin. Rehabilitation efforts shall be implemented immediately after the plants and their surrounding habitat are disturbed.

(g) Protection and rehabilitation plans shall include maps, photographs, and text. The text shall:

(A) Describe the biology of sensitive plant species that will be affected by a proposed use.

(B) Explain the techniques that will be used to protect sensitive plants and their surrounding habitat that will not be altered or destroyed.

(C) Describe the rehabilitation and enhancement actions that will minimize and offset the impacts that will result from a proposed use.

(D) Include a 3-year monitoring, maintenance, and replacement program. The project applicant shall prepare and submit to the Executive Director an annual report that documents milestones, successes, problems, and contingency actions.

(6) Sensitive Plant Buffer Zones:

(a) A 200-foot buffer zone shall be maintained around sensitive plants. Buffer areas shall remain in an undisturbed, natural condition.

(b) Buffer zones may be reduced if a project applicant demonstrates that intervening topography, vegetation, man-made features, or natural plant habitat boundaries negate the need for a 200 foot radius. Under no circumstances shall the buffer zone be less than 25 feet.

(c) Requests to reduce buffer areas shall be considered if a professional botanist or plant ecologist hired by the project applicant:

(A) Identifies the precise location of the sensitive plants;

(B) Describes the biology of the sensitive plants; and

(C) Demonstrates that the proposed use will not have any negative effects, either direct or indirect, on the affected plants and the surrounding habitat that is vital to their long-term survival. All requests shall be prepared as a written report. Published literature regarding the biology of the affected plants and recommendations regarding their protection and management shall be cited. The report shall include detailed maps and photographs.

(d) The Executive Director shall submit all requests to reduce sensitive plant species buffer areas to the Oregon or Washington Natural Heritage Program. The Natural Heritage Program staff will have 20 days from the date that such a request is mailed to submit written comments to the Executive Director. The Executive Director shall record and address any written comments submitted by the Oregon or Washington Natural Heritage Program in the development review order. Based on the comments from the Oregon or Washington Natural Heritage Program, the Executive Director will make a final decision on whether the reduced buffer area is justified. If the final decision contradicts the comments submitted by the Natural Heritage Program staff, the Executive Director shall justify how the opposing conclusion was reached.

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

Stats. Implemented: ORS 196.150

Hist.: CRGC 1-2005, f. 5-17-05, cert. ef. 7-1-05; CRGC 1-2007, f. 11-1-07, cert. ef. 1-1-08

350-081-0600

Special Management Areas Natural Resource Review Criteria

(1) All new developments and uses, as described in a site plan prepared by the applicant, shall be evaluated using the following guidelines to ensure that natural resources are protected from adverse effects. Comments from state and federal agencies shall be carefully considered. (Site plans are described in 350-081-0032).

(2) Water Resources (Wetlands, Streams, Ponds, Lakes, and Riparian Areas):

(a) All Water Resources shall, in part, be protected by establishing undisturbed buffer zones as specified in subsections (2)(a)(B)(i) and (ii) below. These buffer zones are measured horizontally from a wetland, stream, lake, or pond boundary as defined below.

(A) All buffer zones shall be retained undisturbed and in their natural condition, except as permitted with a mitigation plan.

(B) Buffer zones shall be measured outward from the bank full flow boundary for streams, the high water mark for ponds and lakes, the normal pool elevation for the Columbia River, and the wetland delineation boundary for wetlands on a horizontal scale that is perpendicular to the wetlands, stream, pond or lake boundary. On the main stem of the Columbia River above Bonneville Dam, buffer zones shall be measured landward from the normal pool elevation of the Columbia River. The following buffer zone widths shall be required:

(i) A minimum 200 foot buffer on each wetland, pond, lake, and each bank of a perennial or fish bearing stream, some of which can be intermittent.

(ii) A 50-foot buffer zone along each bank of intermittent (including ephemeral), non-fish bearing streams.

(iii) Maintenance, repair, reconstruction and realignment of roads and railroads within their rights-of-way shall be exempted from the wetlands and riparian guidelines upon demonstration of all of the following:

(I) The wetland within the right-of-way is a drainage ditch not part of a larger wetland outside of the right-of-way.

(II) The wetland is not critical habitat.

(III) Proposed activities within the right-of-way would not adversely affect a wetland adjacent to the right-of-way.

(C) The buffer width shall be increased for the following:

(i) When the channel migration zone exceeds the recommended buffer width, the buffer width shall extend to the outer edge of the channel migration zone.

(ii) When the frequently flooded area exceeds the recommended riparian buffer zone width, the buffer width shall be extended to the outer edge of the frequently flooded area.

(iii) When an erosion or landslide hazard area exceeds the recommended width of the buffer, the buffer width shall be extended to include the hazard area.

(D) Buffer zones can be reconfigured if a project applicant demonstrates all of the following:

(i) The integrity and function of the buffer zones is maintained;

(ii) The total buffer area on the development proposal is not decreased;

(iii) The width reduction shall not occur within another buffer; and

(iv) The buffer zone width is not reduced more than 50% at any particular location. Such features as intervening topography, vegetation, man made features, natural plant or wildlife habitat boundaries, and flood plain characteristics could be considered.

(E) Requests to reconfigure buffer zones shall be considered if an appropriate professional (botanist, plant ecologist, wildlife biologist, or hydrologist), hired by the project applicant:

(i) Identifies the precise location of the sensitive wildlife/plant or water resource;

(ii) Describes the biology of the sensitive wildlife/plant or hydrologic condition of the water resource; and

(iii) Demonstrates that the proposed use will not have any negative effects, either direct or indirect, on the affected wildlife/plant and their surrounding habitat that is vital to their long-term survival or water resource and its long term function.

(F) The Executive Director shall submit all requests to re-configure sensitive wildlife/plant or water resource buffers to the Forest Service and the appropriate state agencies for review. All written comments shall be included in the project file. Based on the comments from the state and federal agencies, the Executive Director will make a final decision on whether the reconfigured buffer zones are justified. If the final decision contradicts the comments submitted by the federal and state agencies, the Executive Director shall justify how the opposing conclusion was reached.

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(b) When a buffer zone is disturbed by a new use, it shall be replanted with only native plant species of the Columbia River Gorge.

(c) The applicant shall be responsible for identifying all water resources and their appropriate buffers. (see above)

(d) Wetlands Boundaries shall be delineated using the following:

(A) The approximate location and extent of wetlands in the Scenic Area is shown on the National Wetlands Inventory (U. S. Department of the Interior 1987). In addition, the list of hydric soils and the soil survey maps shall be used as an indicator of wetlands.

(B) Some wetlands may not be shown on the wetlands inventory or soil survey maps. Wetlands that are discovered by the local planning staff during an inspection of a potential project site shall be delineated and protected.

(C) The project applicant shall be responsible for determining the exact location of a wetlands boundary. Wetlands boundaries shall be delineated using the procedures specified in the '1987 Corps of Engineers Wetland Delineation Manual (on-line Edition).'

(D) All wetlands delineations shall be conducted by a professional who has been trained to use the federal delineation procedures, such as a soil scientist, botanist, or wetlands ecologist.

(e) Stream, pond, and lake boundaries shall be delineated using the bank full flow boundary for streams and the high water mark for ponds and lakes. The project applicant shall be responsible for determining the exact location of the appropriate boundary for the water resource.

(f) The Executive Director may verify the accuracy of, and render adjustments to, a bank full flow, high water mark, normal pool elevation (for the Columbia River), or wetland boundary delineation. If the adjusted boundary is contested by the project applicant, the Executive Director shall obtain professional services, at the project applicant's expense, or ask for technical assistance from the Forest Service to render a final delineation.

(g) Buffer zones shall be undisturbed unless the following criteria have been satisfied:

(A) The proposed use must have no practicable alternative as determined by the practicable alternative test. Those portions of a proposed use that have a practicable alternative will not be located in wetlands, stream, pond, lake, and riparian areas and/or their buffer zone.

(B) Filling and draining of wetlands shall be prohibited with exceptions related to public safety or restoration/enhancement activities as permitted when all of the following criteria have been met:

(i) A documented public safety hazard exists or a restoration/enhancement project exists that would benefit the public and is corrected or achieved only by impacting the wetland in question; and

(ii) Impacts to the wetland must be the last possible documented alternative in fixing the public safety concern or completing the restoration/enhancement project; and

(iii) The proposed project minimizes the impacts to the wetland.

(C) Unavoidable impacts to wetlands and aquatic and riparian areas and their buffer zones shall be offset by deliberate restoration and enhancement or creation (wetlands only) measures as required by the completion of a mitigation plan.

(3) Wildlife and Plants:

(a) Protection of sensitive wildlife/plant areas and sites shall begin when proposed new developments or uses are within 1000 ft of a sensitive wildlife/plant site and/or area. Sensitive Wildlife Areas and endemic plants are those areas depicted in the wildlife inventory and listed in the "Types of Wildlife Areas and Sites Inventoried in the Columbia Gorge" and "Columbia Gorge and Vicinity Endemic Plant Species" tables in the Management Plan, including all Priority Habitats listed in this Chapter. The approximate locations of sensitive wildlife and/or plant areas and sites are shown in the wildlife and rare plant inventory.

(b) The Executive Director shall submit site plans (of uses that are proposed within 1,000 feet of a sensitive wildlife and/or plant area or site) for review to the Forest Service and the appropriate state agencies (Oregon Department of Fish and Wildlife or the Washington Department of Fish and Wildlife for wildlife issues and by the Oregon or Washington Natural Heritage Program for plant issues).

(c) The Forest Service wildlife biologists and/or botanists, in consultation with the appropriate state biologists, shall review the site plan and their field survey records. They shall:

(A) Identify/verify the precise location of the wildlife and/or plant area or site;

(B) Determine if a field survey will be required;

(C) Determine, based on the biology and habitat requirements of the affected wildlife/plant species, if the proposed use would compromise the integrity and function of or result in adverse affects (including cumulative

effects) to the wildlife or plant area or site. This would include considering the time of year when wildlife or plant species are sensitive to disturbance, such as nesting, rearing seasons, or flowering season; and

(D) Delineate the undisturbed 200 ft buffer on the site plan for sensitive plants and/or the appropriate buffer for sensitive wildlife areas or sites, including nesting, roosting and perching sites.

(i) Buffer zones can be reconfigured if a project applicant demonstrates all of the following:

(I) The integrity and function of the buffer zones is maintained;

(II) The total buffer area on the development proposal is not decreased;

(III) The width reduction shall not occur within another buffer; and

(IV) The buffer zone width is not reduced more than 50% at any particular location. Such features as intervening topography, vegetation, man made features, natural plant or wildlife habitat boundaries, and flood plain characteristics could be considered.

(ii) Requests to reduce buffer zones shall be considered if an appropriate professional (botanist, plant ecologist, wildlife biologist, or hydrologist), hired by the project applicant:

(I) Identifies the precise location of the sensitive wildlife/plant or water resource;

(II) Describes the biology of the sensitive wildlife/plant or hydrologic condition of the water resource; and

(III) Demonstrates that the proposed use will not have any negative effects, either direct or indirect, on the affected wildlife/plant and their surrounding habitat that is vital to their long-term survival or water resource and its long term function.

(iii) The Executive Director shall submit all requests to re-configure sensitive wildlife/plant or water resource buffers to the Forest Service and the appropriate state agencies for review. All written comments shall be included in the record of application and based on the comments from the state and federal agencies, the Executive Director will make a final decision on whether the reduced buffer zone is justified. If the final decision contradicts the comments submitted by the federal and state agencies, the Executive Director shall justify how the opposing conclusion was reached.

(d) The Executive Director, in consultation with the State and federal wildlife biologists and/or botanists, shall use the following criteria in reviewing and evaluating the site plan to ensure that the proposed developments or uses do not compromise the integrity and function of or result in adverse affects to the wildlife or plant area or site:

(A) Published guidelines regarding the protection and management of the affected wildlife/plant species. Examples include: the Oregon Department of Forestry has prepared technical papers that include management guidelines for osprey and great blue heron; the Washington Department of Fish and Wildlife has prepared similar guidelines for a variety of species, including the western pond turtle, the peregrine falcon, and the Larch Mountain salamander (Rodrick and Milner 1991).

(B) Physical characteristics of the subject parcel and vicinity, including topography and vegetation.

(C) Historic, current, and proposed uses in the vicinity of the sensitive wildlife/plant area or site.

(D) Existing condition of the wildlife/plant area or site and the surrounding habitat and the useful life of the area or site.

(E) In areas of winter range, habitat components, such as forage, and thermal cover, important to the viability of the wildlife must be maintained or, if impacts are to occur, enhancement must mitigate the impacts so as to maintain overall values and function of winter range.

(F) The site plan is consistent with the "Oregon Guidelines for Timing of In-Water Work to Protect Fish and Wildlife Resources" (Oregon Department of Fish and Wildlife 2000) and the Washington guidelines when they become finalized.

(G) The site plan activities coincide with periods when fish and wildlife are least sensitive to disturbance. These would include, among others, nesting and brooding periods (from nest building to fledgling of young) and those periods specified.

(H) The site plan illustrates that new developments and uses, including bridges, culverts, and utility corridors, shall not interfere with fish and wildlife passage.

(I) Maintain, protect, and enhance the integrity and function of Priority Habitats (such as old growth forests, talus slopes, and oak woodlands) as listed on the following Priority Habitats Table. This includes maintaining structural, species, and age diversity, maintaining connectivity within and between plant communities, and ensuring that cumulative impacts are considered in documenting integrity and function. [Table not included. See ED. NOTE.]

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(e) The wildlife/plant protection process may terminate if the Executive Director, in consultation with the Forest Service and state wildlife agency or Heritage program, determines:

(A) The sensitive wildlife area or site is not active; or

(B) The proposed use is not within the buffer zones and would not compromise the integrity of the wildlife/plant area or site; and

(C) The proposed use is within the buffer and could be easily moved out of the buffer by simply modifying the project proposal (site plan modifications). If the project applicant accepts these recommendations, the Executive Director shall incorporate them into the final decision and the wildlife/plant protection process may conclude.

(f) If the above measures fail to eliminate the adverse affects, the proposed project shall be prohibited, unless the project applicant can meet the Practicable Alternative Test and prepare a mitigation plan to offset the adverse effects by deliberate restoration and enhancement.

(g) The Executive Director shall submit a copy of all field surveys (if completed) and mitigation plans to the Forest Service and appropriate state agencies. The Executive Director shall include all comments in the record of application and address any written comments submitted by the state and federal wildlife agency/heritage programs in the final decision. Based on the comments from the state and federal wildlife agency/heritage program, the Executive Director shall make a final decision on whether the proposed use would be consistent with the wildlife/plant policies and guidelines. If the final decision contradicts the comments submitted by the state and federal wildlife agency/heritage program, the Executive Director shall justify how the opposing conclusion was reached.

(h) The Executive Director shall require the project applicant to revise the mitigation plan as necessary to ensure that the proposed use would not adversely affect a sensitive wildlife/plant area or site.

(4) Soil Productivity: Soil productivity shall be protected using the following guidelines:

(a) A description or illustration showing the mitigation measures to control soil erosion and stream sedimentation.

(b) New developments and land uses shall control all soil movement within the area shown on the site plan.

(c) The soil area disturbed by new development or land uses, except for new cultivation, shall not exceed 15 percent of the project area.

(d) Within 1 year of project completion, 80 percent of the project area with surface disturbance shall be established with effective native ground cover species or other soil-stabilizing methods to prevent soil erosion until the area has 80 percent vegetative cover.

(5) **Practicable Alternative Test:** An alternative site for a proposed use shall be considered practicable if it is available and the proposed use can be undertaken on that site after taking into consideration cost, technology, logistics, and overall project purposes. A practicable alternative does not exist if a project applicant satisfactorily demonstrates all of the following:

(a) The basic purpose of the use cannot be reasonably accomplished using one or more other sites in the vicinity that would avoid or result in less adverse effects on wetlands, ponds, lakes, riparian areas, wildlife, or plant areas and sites.

(b) The basic purpose of the use cannot be reasonably accomplished by reducing its proposed size, scope, configuration, or density, or by changing the design of the use in a way that would avoid or result in less adverse effects on wetlands, ponds, lakes, riparian areas, wildlife, or plant areas and sites.

(c) Reasonable attempts were made to remove or accommodate constraints that caused a project applicant to reject alternatives to the proposed use. Such constraints include inadequate infrastructure, parcel size, and land use designations. If a land use designation or recreation intensity class is a constraint, an applicant must request a Management Plan amendment to demonstrate that practicable alternatives do not exist.

(6) **Mitigation Plan:** Mitigation Plan shall be prepared when:

(a) The proposed development or use is within a buffer zone (wetland, pond, lakes, riparian areas, wildlife or plant areas and/or sites).

(b) There is no practicable alternative (see the "practicable alternative" test).

(c) In all cases, Mitigation Plans are the responsibility of the applicant and shall be prepared by an appropriate professional (botanist/ecologist for plant sites, a wildlife/fish biologist for wildlife/fish sites, and a qualified professional for water resource sites).

(d) The primary purpose of this information is to provide a basis for the project applicant to redesign the proposed use in a manner that protects sensitive water resources, and wildlife/plant areas and sites, that maximizes his/her development options, and that mitigates, through restoration,

enhancement, and replacement measures, impacts to the water resources and/or wildlife/plant area or site and/or buffer zones.

(e) The applicant shall submit the mitigation plan to the Executive Director. The Executive Director shall submit a copy of the mitigation plan to the Forest Service, and appropriate state agencies. If the final decision contradicts the comments submitted by the state and federal wildlife agency/heritage program, the Executive Director shall justify how the opposite conclusion was reached.

(f) A project applicant shall demonstrate sufficient fiscal, technical, and administrative competence to successfully execute a mitigation plan involving wetland creation.

(g) Mitigation plans shall include maps, photographs, and text. The text shall:

(A) Describe the biology and/or function of the sensitive resources (e.g. Wildlife/plant species, or wetland) that will be affected by a proposed use. An ecological assessment of the sensitive resource to be altered or destroyed and the condition of the resource that will result after restoration will be required. Reference published protection and management guidelines.

(B) Describe the physical characteristics of the subject parcel, past, present, and future uses, and the past, present, and future potential impacts to the sensitive resources. Include the size, scope, configuration, or density of new uses being proposed within the buffer zone.

(C) Explain the techniques that will be used to protect the sensitive resources and their surrounding habitat that will not be altered or destroyed (for examples, delineation of core habitat of the sensitive wildlife/plant species and key components that are essential to maintain the long-term use and integrity of the wildlife/plant area or site).

(D) Show how restoration, enhancement, and replacement (creation) measures will be applied to ensure that the proposed use results in minimum feasible impacts to sensitive resources, their buffer zones, and associated habitats.

(E) Show how the proposed restoration, enhancement, or replacement (creation) mitigation measures are NOT alternatives to avoidance. A proposed development/use must first avoid a sensitive resource, and only if this is not possible should restoration, enhancement, or creation be considered as mitigation. In reviewing mitigation plans, the local government, appropriate state agencies, and Forest Service shall critically examine all proposals to ensure that they are indeed last resort options.

(7) At a minimum, a project applicant shall provide to the Executive Director a progress report every 3-years that documents milestones, successes, problems, and contingency actions. Photographic monitoring stations shall be established and photographs shall be used to monitor all mitigation progress.

(8) A final monitoring report shall be submitted to the Executive Director for review upon completion of the restoration, enhancement, or replacement activity. This monitoring report shall document successes, problems encountered, resource recovery, status of any sensitive wildlife/plant species and shall demonstrate the success of restoration and/or enhancement actions. The Executive Director shall submit copies of the monitoring report to the Forest Service; who shall offer technical assistance to the Executive Director in helping to evaluate the completion of the mitigation plan. In instances where restoration and enhancement efforts have failed, the monitoring process shall be extended until the applicant satisfies the restoration and enhancement guidelines.

(9) Mitigation measures to offset impacts to resources and/or buffers shall result in no net loss of water quality, natural drainage, fish/wildlife/plant habitat, and water resources by addressing the following:

(a) Restoration and enhancement efforts shall be completed no later than one year after the sensitive resource or buffer zone has been altered or destroyed, or as soon thereafter as is practicable.

(b) All natural vegetation within the buffer zone shall be retained to the greatest extent practicable. Appropriate protection and maintenance techniques shall be applied, such as fencing, conservation buffers, livestock management, and noxious weed control. Within five years, at least 75 percent of the replacement vegetation must survive. All plantings must be with native plant species that replicate the original vegetation community.

(c) Habitat that will be affected by either temporary or permanent uses shall be rehabilitated to a natural condition. Habitat shall be replicated in composition, structure, and function, including tree, shrub and herbaceous species, snags, pool-riffle ratios, substrata, and structures, such as large woody debris and boulders.

(d) If this standard is not feasible or practical because of technical constraints, a sensitive resource of equal or greater benefit may be substituted, provided that no net loss of sensitive resource functions occurs and

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provided the Executive Director, in consultation with the appropriate State and Federal agency, determine that such substitution is justified.

(e) Sensitive plants that will be destroyed shall be transplanted or replaced, to the maximum extent practicable. Replacement is used here to mean the establishment of a particular plant species in areas of suitable habitat not affected by new uses. Replacement may be accomplished by seeds, cuttings, or other appropriate methods. Replacement shall occur as close to the original plant site as practicable. The project applicant shall ensure that at least 75 percent of the replacement plants survive 3 years after the date they are planted.

(f) Nonstructural controls and natural processes shall be used to the greatest extent practicable:

(A) Bridges, roads, pipeline and utility corridors, and other water crossings shall be minimized and should serve multiple purposes and properties.

(B) Stream channels shall not be placed in culverts unless absolutely necessary for property access. Bridges are preferred for water crossings to reduce disruption to hydrologic and biologic functions. Culverts shall only be permitted if there are no practicable alternatives as demonstrated by the 'Practical Alternative Test.'

(C) Fish passage shall be protected from obstruction.

(D) Restoration of fish passage should occur wherever possible.

(E) Show location and nature of temporary and permanent control measures that shall be applied to minimize erosion and sedimentation when riparian areas are disturbed, including slope netting, berms and ditches, tree protection, sediment barriers, infiltration systems, and culverts.

(F) Groundwater and surface water quality will not be degraded by the proposed use. Natural hydrologic conditions shall be maintained, restored, or enhanced in such a manner that replicates natural conditions, including current patterns (circulation, velocity, volume, and normal water fluctuation), natural stream channel and shoreline dimensions and materials, including slope, depth, width, length, cross-sectional profile, and gradient.

(G) Those portions of a proposed use that are not water-dependent or that have a practicable alternative will be located outside of stream, pond, and lake buffer zones.

(H) Streambank and shoreline stability shall be maintained or restored with natural revegetation.

(I) The size of restored, enhanced, and replacement (creation) wetlands shall equal or exceed the following ratios. The first number specifies the required acreage of replacement wetlands, and the second number specifies the acreage of wetlands altered or destroyed. Restoration: 2: 1: Creation: 3: 1: Enhancement: 4: 1.

(g) Wetland creation mitigation shall be deemed complete when the wetland is self-functioning for 5 consecutive years. Self-functioning is defined by the expected function of the wetland as written in the mitigation plan. The monitoring report shall be submitted to the local government to ensure compliance. The Forest Service, in consultation with appropriate state agencies, shall extend technical assistance to the local government to help evaluate such reports and any subsequent activities associated with compliance.

(h) Wetland restoration/enhancement can be mitigated successfully by donating appropriate funds to a non-profit wetland conservancy or land trust with explicit instructions that those funds are to be used specifically to purchase protection easements or fee title protection of appropriate wetlands acreage in or adjacent to the Columbia River Gorge meeting the ratios given above in guideline (9)(f)(I). These transactions shall be explained in detail in the Mitigation Plan and shall be fully monitored and documented in the monitoring report.

(i) A 5-year monitoring, maintenance, and replacement program shall be included in all plans. At a minimum, a project applicant shall provide an annual report that documents milestones, successes, problems, and contingency actions. Photographic monitoring stations shall be established and photographs shall be used to monitor the replacement wetland.

(j) A project applicant shall demonstrate sufficient fiscal, technical, and administrative competence to successfully execute a wetlands compensation plan.

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

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

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

Stats. Implemented: ORS 196.150

Hist.: CRGC 1-2005, f. 5-17-05, cert. ef. 7-1-05; CRGC 1-2007, f. 11-1-07, cert. ef. 1-1-08

350-081-0630

Notice of Application Requirements

[ED. NOTE: Table not included. Table is available from the agency.]

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

Stats. Implemented: ORS 196.150

Hist.: CRGC 1-2005, f. 5-17-05, cert. ef. 7-1-05; CRGC 1-2007, f. 11-1-07, cert. ef. 1-1-08

Department of Administrative Services, Oregon Educators Benefit Board Chapter 111

Rule Caption: Establishes Oregon Educators Benefit Board's policy for employee group phase-in for Subject and Provisional Non-subject Districts.

Adm. Order No.: OEBC 3-2007(Temp)

Filed with Sec. of State: 11-15-2007

Certified to be Effective: 11-15-07 thru 3-18-08

Notice Publication Date:

Rules Amended: 111-020-0001

Rules Suspended: 111-020-0001(T)

Subject: Establishes Oregon Educators Benefit Board's policy for employee group phase-in for Subject and Provisional Non-subject Districts.

Rules Coordinator: Rose Mann—(503) 378-4606

111-020-0001

Initial Employee Group Phase-in

(1) Any Employee Group in Subject Districts or Provisional Non-subject Districts may elect to participate in benefit plans provided by the Board beginning on October 1, 2008, October 1, 2009, or October 1, 2010, without having to meet the phase-in requirements outlined under Sections 2, 3, and 4; however:

(a) Eligible employees of a Subject District who are represented under a collective bargaining agreement with an end date of July 1, 2007, through June 30, 2008, must participate in benefit plans provided by the Board beginning October 1, 2008.

(b) Eligible employees of a Subject District who are represented under a collective bargaining agreement with an end date of July 1, 2008, through June 30, 2009, must participate in benefit plans provided by the Board beginning October 1, 2009.

(c) Eligible employees of a Subject District who are represented under a collective bargaining agreement with an end date on or after July 1, 2009, must participate in benefit plans provided by the Board beginning October 1, 2010.

(d) Eligible employees of a Subject District who are not represented under a collective bargaining agreement must participate in benefit plans provided by the Board consistent with the requirements governing eligible employees of the Subject District who are represented under a collective bargaining contract as outlined under section 1(a), (b) and (c) above. If more than one collective bargaining contract exists in the Subject District, the earliest collective bargaining contract end date must be applied.

(2) An Employee Group electing to participate in benefit plans provided by the Board under section 1 must provide notice of such election not later than May 31 of the year in which they plan to move to the OEBC benefit plans on October 1.

(3) A Provisional Non-subject District that wants to continue providing benefit plans other than those benefit plans provided by the Board must submit an application requesting to be excluded from the requirements of this Section. The application must show that the premiums for the benefit plans provided or contracted for by the district are equal or less than the premiums for comparable benefit plans provided by the Board. Applications must be submitted not later than May 31, 2010, and each year that follows.

(4) Employee Groups in Provisional Non-subject Districts who elect to participate in benefit plans provided by the Board cannot return to benefit plans provided or administered by an entity other than the Board.

Stat. Auth.: ch.7, OL 2007

Stats. Implemented: Sec.14, ch. 7, OL 2007, Sec.16, ch. 7, OL 2007

Hist.: OEBC 2-2007(Temp), f. & cert. ef. 9-21-07 thru 3-18-08; OEBC 3-2007(Temp), f. & cert. ef. 11-15-07 thru 3-18-08

Department of Agriculture Chapter 603

Rule Caption: Update language to reference current pesticide residue tolerances on raw agricultural commodities established by EPA.

Adm. Order No.: DOA 16-2007

Filed with Sec. of State: 10-25-2007

ADMINISTRATIVE RULES

Certified to be Effective: 10-25-07

Notice Publication Date: 10-1-2007

Rules Amended: 603-057-0216

Subject: Updates language to reference current pesticide residue tolerances on raw agricultural commodities established for the United States by the U.S. Environmental Protection Agency.

Rules Coordinator: Sue Gooch—(503) 986-4583

603-057-0216

Pesticide Residue Tolerances in Foods

The rules governing residue tolerances of pesticides permitted on raw agricultural products and the exemptions from such tolerances, adopted by the United States Environmental Protection Agency and in effect as of the effective date of this rule, are hereby adopted by the Department as the rules governing residue tolerances of pesticides permitted on raw agricultural products and exemptions from such tolerances in the State of Oregon. Said federal rules are set forth in **Title 40 Code of Federal Regulations (CFR), Chapter 1, Part 180.**

Stat. Auth.: ORS 561 & 634

Stats. Implemented: ORS 634.306 & 634.042

Hist.: AD 7-1977, f. & ef. 4-5-77; DOA 9-2007(Temp), f. & cert. ef. 6-7-07 thru 12-1-07;

DOA 16-2007, f. & cert. ef. 10-25-07

Rule Caption: License fee increase on commercially used weighing and measuring instruments and devices.

Adm. Order No.: DOA 17-2007

Filed with Sec. of State: 11-8-2007

Certified to be Effective: 11-8-07

Notice Publication Date: 10-1-2007

Rules Amended: 603-027-0030

Subject: This rule amends OAR 603-027-0030 to increase the license fees that are applied to commercially used weighing and measuring instruments and devices in Oregon. The maximum license fees were increased by the 2007 Legislative Assembly through Senate Bill (SB) 238 that relates to ORS 618.141. The increased license fees allows the ODA Measurement Standards Division to operate a fully staffed and viable weighing and measuring instrument and device examination and certification program in Oregon to help assure a fair marketplace for businesses and consumers.

Rules Coordinator: Sue Gooch—(503) 986-4583

603-027-0030

License Fees and Categories

The annual license fees for weighing or measuring instruments or devices, as provided for in ORS 618.136 and 618.141 are as follows: License Period 2007-2009 — 2009-2011

(1) Discrete Weighing Devices (mfr. rated capacity):

- (a) 0-400 pounds — \$37.00; — \$39.00;
- (b) 401-1,160 pounds — \$76.00; — \$80.00;
- (c) 1,161-7,500 pounds — \$153.00; — \$161.00;
- (d) 7,501-60,000 pounds — \$230.00; — \$242.00;
- (e) Over 60,000 pounds — 230.00; — \$242.00;
- (f) Static Railroad Track Scales — \$1000.00; — \$1051.00.

(2) Continuous Weighing Systems (mfr. rated capacity):

- (a) Under 10 tons/hour — \$290.00; — \$304.00;
- (b) 10-150 tons/hour — \$450.00; — \$473.00;
- (c) 151-1,000 tons/hour — \$900.00; — \$946.00;
- (d) Over 1,000 tons/hour — \$2000.00; — \$2101.00;
- (e) In motion railroad track scales — \$1000.00; — \$1051.00.

(3) Liquid Fuel Metering Devices for Noncorrosive Fuels Contained

at Atmospheric Pressure (max. device flowrate):

- (a) Under 20 gal/min — \$30.00; — \$32.00;
- (b) 20-150 gal/min — \$153.00; — \$161.00;
- (c) Over 150 gal/min — \$230.00; — \$242.00.

(4) Special Liquid Fuel Measuring Equipment:

- (a) Liquefied Petroleum Gas meters:
 - (A) 1" pipe diameter or under — \$230.00; — \$242.00;
 - (B) Over 1" pipe diameter — \$230.00; — \$242.00.
- (b) Liquefied Petroleum Gas Vapor-Measuring Devices:
 - (A) 1" pipe diameter or under — \$15.00;
 - (B) Over 1" pipe diameter — \$20.00.

(5) Effective July 1, 2011 through June 30, 2016, yearly increases to the weighing or measuring instrument or device license fees published in

this administrative rule shall not exceed 2% annually and will be adopted through rule.

Stat. Auth.: ORS 561 & 618

Stats. Implemented: ORS 618.136 & 618.141

Hist.: AD 1025(15-74), f. 4-30-74, ef. 7-1-74; AD 1083(6-76), f. 3-5-76, ef. 7-1-76; AD 13-1977, f. & ef. 6-17-77; AD 18-1977, f. & ef. 8-19-77; AD 5-1983, f. & ef. 5-4-83; AD 7-1984, f. & ef. 4-18-84; AD 8-1990, f. 4-5-90, cert. ef. 7-1-90; AD 3-1992, f. & cert. ef. 4-9-92; AD 12-1996, f. & cert. ef. 12-10-96; DOA 10-2002, f. & cert. ef. 3-7-02; DOA 11-2007(Temp), f. 6-25-07, cert. ef. 7-1-07 thru 12-21-07; DOA 17-2007, f. & cert. ef. 11-8-07

Rule Caption: Requires specific identifier ear tag and brand on imported Canadian cattle.

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

Filed with Sec. of State: 11-9-2007

Certified to be Effective: 11-15-07 thru 5-10-08

Notice Publication Date:

Rules Amended: 603-011-0255

Subject: On November 19, 2007, the federal rules for importing Canadian cattle change. The new federal rule will allow importation of Canadian cattle that can live out their lives as breeding animals in Oregon herds. This temporary rule is to address the need to establish criteria for permanent identification of cattle imported from Canada. It requires that all cattle imported from Canada be born after 1999, that is, after the effective date of the Canadian ban on high-risk feed to cattle. It requires each animal to be individually identified with an official Canadian ear tag with a unique number. It requires that each animal be branded with a CAN brand on the right hip that will be easily visible on the live animal and on the carcass before skinning.

Rules Coordinator: Sue Gooch—(503) 986-4583

603-011-0255

Importation of Animals Into Oregon; General Provisions

(1) Except as otherwise provided in this rule, all livestock shipped or in any manner transported or moved into Oregon shall be accompanied by an Oregon permit. No exemption applies to international shipments. The permit number shall be recorded on the waybill or health inspection document, or be in the possession of the driver of the vehicle or person in charge of the animals.

(2) No livestock that are affected with or that have been known to be exposed to any infectious, contagious, or communicable disease, shall be shipped or in any manner moved or transported into Oregon except as authorized in following sections.

(3) No livestock that originates from a quarantined area shall be shipped or in any manner moved or transported into Oregon unless a permit has been first obtained from the Department and the animals from such quarantined area have been approved for interstate shipment by the U.S. Department of Agriculture.

(4)(a) At the time an Oregon permit is requested, the Department may require that a health inspection document be obtained at the point of origin. Such document shall accompany the applicable animals into Oregon. Notwithstanding other rules to the contrary, the Department may allow any inspection, test, or treatment required as a condition to importation into Oregon, to be performed at the first point of destination within this state if it is determined by the Department that such inspection, test, or treatment cannot feasibly be performed at the point of origin and that the performance of such inspection, test, or treatment at the point of destination will not create a disease hazard to the livestock of this state;

(b) If a health inspection document is required, a copy thereof shall be immediately forwarded to the Chief Animal Health Official of the state of origin and thence to the Oregon State Veterinarian.

(5) The following are exempted from the requirement to obtain an Oregon importation permit:

(a) Animals being shipped, moved, or transported directly (without diversion) to a licensed Oregon slaughtering establishment. Animals consigned for slaughter and received in such slaughtering establishments may not be released from such establishments except by special permission from the State Veterinarian;

(b) Livestock originating in other states and shipped to a state-federally approved livestock auction market in Oregon. Such livestock shall be required to comply with all other applicable administrative rules;

(c) Livestock being transported through the state without interruption, other than stops for feed, water and rest;

(d) Any resident animal leaving and returning to Oregon within 30 days; and

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(e) Dogs, cats, reptiles, and non-poultry birds traveling interstate.

(6) Requirements for the exhibition of livestock shall comply with the directives of the Department for that specific exhibit.

(7)(a) Canadian cattle imported into Oregon must be born after 1999, individually identified by an official Canadian ear tag, applied before the animal's arrival at the port of entry into the United States, that is traceable to the premises of origin of the animal and be listed on the Certificate of Veterinary Inspection.

(b) Canadian cattle imported into Oregon must have a hot iron brand of CLN properly applied and easily visible on the live animal and on the carcass before skinning. The CLN brand must be not less than 2 inches nor more than 3 inches high, and must be applied to each animal's right hip, high on the tail-head (over the junction of the sacral and first coccygeal vertebrae).

(8) Livestock being shipped or in any manner transported or moved into the State of Oregon without a permit and a health inspection document, when required, shall be held in quarantine at the owner's risk and expense until released by the Department. This section shall not be construed as a waiver of enforcing the provisions of ORS 596.990 for violation of regulations relating to importation of livestock.

Stat. Auth.: ORS 561 & 596

Stats. Implemented: ORS 596.341

Hist.: AD 890(20-68), f. 10-28-68, ef. 11-1-68; AD 1047(37-74), f. 9-20-74, ef. 10-11-74; AD 9-1977, f. & ef. 4-6-77; AD 7-1981, f. & ef. 5-13-81; AD 3-1984, f. & ef. 1-20-84; DOA 1-2000, f. & cert. ef. 1-4-00; DOA 18-2007(Temp), f. 11-9-07, cert. ef. 11-15-07 thru 5-10-08

Department of Agriculture, Oregon Beef Council Chapter 605

Rule Caption: Commissioner Per Diem and Reimbursements.

Adm. Order No.: BC 1-2007

Filed with Sec. of State: 11-14-2007

Certified to be Effective: 11-14-07

Notice Publication Date: 10-1-2007

Rules Adopted: 605-020-0010, 605-020-0020, 605-020-0030

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

Rules Coordinator: Nicole Bechtel—(503) 274-2333

605-020-0010

Per Diem Compensation

(1) Subject to the availability of funds in the budget of the commission, the Oregon Beef Council may pay any member of the commission, other than a member who is employed in full-time public service, compensation for each day or portion thereof during which the member is actually engaged in the performance of official commission duties.

(2) The rate of compensation is limited to \$30 per day, pursuant to ORS 292.495(1).

(3) In order to receive compensation, a member must submit to the Oregon Beef Council a written claim for compensation by the 15th day of the calendar month following the month for which the member seeks compensation. The member must specify the amount of time the member spent on official commission duties as well as the nature of the duties performed for any day or portion thereof for which the member claims compensation.

Stat. Auth.: ORS 292.495, 576.206, 576.416 & 577.260.

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

Hist.: BC 1-2007, f. & cert. ef. 11-14-07

605-020-0020

Reimbursement of Travel and Other Expenses

(1) Subject to sections (2)–(6) of this rule, a member of the Oregon Beef Council, including a member employed in full-time public service, may receive actual and necessary travel and other expenses actually incurred in the performance of the member's official duties.

(2) In order to receive reimbursement of actual and necessary travel and other expenses, a member must submit to the Oregon Beef Council a written itemized claim for reimbursement supported by receipts, invoices or other appropriate documentation for travel and other expenses by the 15th day of the calendar month following the month in which the member incurred the expense. The claim for reimbursement must include the following information for each expense:

(a) Date on which the member incurred the expense; and

(b) Nature of the expense; and

(c) Amount of the expense.

(3) An expense that exceeds \$500.00 dollars must be authorized by the Oregon Beef Council before a member incurs the expense.

(4) For the purposes of this rule, "travel and other expenses" are limited to reasonable expenses. An expense is reasonable if:

(a) It is an actual expense incurred by a member in carrying out official commission business, which is within the member's scope of responsibilities; and

(b) The expense is necessary to enable the member to carry out official commission business.

(5) For the purposes of this rule, "travel and other expenses" includes:

(a) Meals.

(b) Overnight lodging.

(c) Transportation.

(d) Postage.

(e) Cost of attending an event associated with promotion of a commodity, such as a festival, stock show, county fair or state fair.

(6) For the purposes of this rule, "travel and other expenses" does not include:

(a) In-room movie rental.

(b) Snacks and beverages offered for sale by a place of lodging.

(c) Long distance telephone charges at a place of lodging.

(d) Use of a gym or health club.

(e) Cost of a gift for a host, business associate, commission member or employee, or family member.

(f) Alcoholic beverages.

Stat. Auth.: ORS 292.495, 576.206, 576.265, 576.311, 576.416, 576.440, & 577.260.

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

Hist.: BC 1-2007, f. & cert. ef. 11-14-07

605-020-0030

Reimbursement for Hiring a Substitute

(1) As used in OAR 605-020-0010, "other expenses" includes expenses incurred by a member of the Oregon Beef Council in employing a substitute to perform duties, including personal duties, normally performed by the member, which the member is unable to perform because of the performance of official duties and which, by the nature of such duties, cannot be delayed without risk to health or safety.

(2) The amount that a member may be reimbursed for expenses incurred in employing a substitute must not exceed \$25 per day, pursuant to ORS 292.495(3).

Stat. Auth.: ORS 292.495.

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

Hist.: BC 1-2007, f. & cert. ef. 11-14-07

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

Rule Caption: Clarifies procedures to assume responsibility for a building inspection program from the state.

Adm. Order No.: BCD 11-2007(Temp)

Filed with Sec. of State: 11-15-2007

Certified to be Effective: 11-15-07 thru 4-1-08

Notice Publication Date:

Rules Adopted: 918-020-0094

Subject: This temporary rule clarifies the processes and procedures to request and assume responsibility to the State building code from state administered building inspection programs.

Rules Coordinator: Nicole Jantz—(503) 378-4130

918-020-0094

Program Assumption by Division-Administered Jurisdictions

A municipality that requests responsibility for the administration and enforcement of a building inspection program administered by the division must meet the requirements for assumption in ORS 455.148(7) and (11)(c).

Stat. Auth.: ORS 455.148

Stats. Implemented: ORS 455.148

Hist.: BCD 11-2007(Temp), f. & cert. ef. 11-15-07 thru 4-1-08

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

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

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Adm. Order No.: FCS 6-2007

Filed with Sec. of State: 10-22-2007

Certified to be Effective: 10-22-07

Notice Publication Date: 9-1-2007

Rules Adopted: 441-505-1160

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

Rules Repealed: 441-505-1100, 441-505-1140, 441-505-3060, 441-505-9010

Subject: These rules eliminate fees for out-of-state bank branches due to federal preemption, update the reference to federal law, add a requirement for trust companies not part of a bank to file annual financial statements, increase the detail to be provided concerning insurance activities of banks to address consumer protection concerns, clarify permissible activity by out-of-state trust companies, revise the exemptions from trust company requirements for persons appointed by a court, and permit filing of reports electronically, many of which can be accessed by the Department from federal regulators. Repealed rules were no longer relevant, given changes in the industry.

Rules Coordinator: Shelley Greiner—(503) 947-7484

441-500-0020

Fees for Banks, Trust Companies, Savings Banks, Extranational Institutions, Savings Associations and Call for Reports

(1) Definitions.

(a) As used in this rule, "Oregon assets" means:

(A) The average assets of an Oregon based insured institution that has no interstate branches.

(B) The result of the following computations for an insured institution that has interstate branches, excluding an extranational institution or an out-of-state bank:

(i) Divide the average total deposits at Oregon branches, by the insured institution's average total deposits at all branches for the same period; and

(ii) Multiply the result in subparagraph (i) by its average total assets.

(C) The average Oregon assets of an extranational institution.

(b) For the purposes of determining averages in subsections (1)(a):

(A) Average assets in subsections (1)(a)(A) and (B)(ii), shall be determined from the quarterly Call Reports of Condition and Income filed with the applicable federal supervisory agency for the calendar year immediately preceding the due date of the fee assessment;

(B) Average Oregon assets in (1)(a)(C), shall be determined from the quarterly reports of Oregon Assets filed with the Director for the calendar year immediately preceding the due date of the assessment; and

(C) Average total deposits at all branches and average total deposits at Oregon branches in (1)(B)(i), shall be determined from the Summary of Deposits at all branches and Summary of Deposits at Oregon branches filed with the applicable federal supervisory agency and additional Report of Deposits filed with Director for the calendar year immediately preceding the due date of the fee assessment.

(2) Call for Reports. To the extent any report used to determine the fee assessment is not required to be filed or made available to the Director under other Banking Rules, the specific reports shall be provided by the insured institution or extranational institution upon the call of the Director to allow the fee assessments to be determined.

(3) Subject to section (9) of this rule, the annual fee assessment under ORS 706.530 for an insured institution subject to the jurisdiction of the Director, including a savings association but excluding an out-of-state bank, is: If Oregon assets are:

(a) Less than \$10 million, \$800 plus .000300 of all assets;

(b) \$10 million or more but less than \$25 million, \$1,620 plus .000218 of all assets;

(c) \$25 million or more but less than \$100 million, \$2,895 plus .000167 of all assets;

(d) \$100 million or more but less than \$500 million, \$9,795 plus .000098 of all assets;

(e) \$500 million or more but less than \$1 billion, \$22,795 plus .000072 of all assets;

(f) \$1 billion or more but less than \$2 billion, \$24,795 plus .000070 of all assets;

(g) \$2 billion or more but less than \$3 billion, \$26,795 plus .000069 of all assets;

(h) \$3 billion or more but less than \$4 billion, \$29,795 plus .000068 of all assets;

(i) \$4 billion or more, \$33,795 plus .000067 of all assets.

(4) Subject to section (9) of this rule, the annual regulatory fee assessment under ORS 706.530 for each trust company subject to the Director's jurisdiction is \$2,000 plus:

(a) .000060826 of the first \$150 million in managed assets; and .000030413 of managed assets greater than \$150 million;

(b) .0000152065 of the first \$150 million in custodial assets; and .0000076075 of custodial assets greater than \$150 million.

(5) Subject to section (9) of this rule, the annual regulatory fee assessment under ORS 706.530 and 713.090 for each extranational institution is: If Oregon assets are:

(a) Less than \$10 million, \$845 plus .000310 of all assets;

(b) \$10 million or more but less than \$25 million, \$2,545 plus .000140 of all assets;

(c) \$25 million or more but less than \$100 million, \$3,545 plus .000100 of all assets;

(d) \$100 million or more but less than \$500 million, \$6,745 plus .000068 of all assets;

(e) \$500 million or more, but less than \$1 billion, \$10,245 plus .000061 of all assets;

(f) \$1 billion or more but less than \$2 billion, \$15,245 plus .000056 of all assets;

(g) \$2 billion or more, \$17,245 plus .000055 of all assets.

(6) The fees assessed by this rule are not subject to prorate or refund.

(7) If no fee is assessed during any year under sections (2) or (4) of this rule because an insured institution did not have Oregon assets during the calendar year immediately preceding the due date of the assessment, the insured institution may be charged for actual cost, if the Director participates in any examination of the institution during the same calendar year. Actual cost shall be determined in the same way as provided in OAR 441-500-0030.

(8) All fees assessed under sections (3) to (5) of this rule are due and payable within 30 days of invoice.

(9)(a) The Director may by order reduce the fees assessed for any specific year.

(b) When a fee is assessed under sections (3) to (5) of this rule, the assessment shall not be less than:

(A) \$5,000 for an insured institution, including a savings association, under section (3);

(B) \$2,500 for a trust company under section (4) and an extranational institution under section (5).

(10) The charges for special examination and special attention provided in OAR 441-500-0030 are in addition to and not in lieu of the fees assessed by this rule.

Stat. Auth.: ORS 705.620

Stats. Implemented: ORS 706.530

Hist.: FID 2-1986, f. & ef. 3-7-86; FID 3-1986, f. & ef. 5-15-86; FID 4-1986, f. & ef. 7-25-86; FCS 2-1988, f. 1-29-88, cert. ef. 2-1-88; Renumbered from 805-002-0100; FCS 1-1989, f. 1-18-89, cert. ef. 2-1-89; FCS 1-1993, f. & cert. 2-23-93; FCS 4-1994, f. & cert. ef. 4-25-94; FCS 1-1998, f. & cert. ef. 3-31-98, Renumbered from 441-505-0020; FCS 6-2007, f. & cert. ef. 10-22-07

441-505-1110

References to Federal Statutes and Regulations

Pursuant to ORS 706.015, references in the Bank Act to Federal statutes and regulations shall be construed to refer to statutes or regulations in effect on June 30, 2007, unless specifically provided otherwise in the Bank Act.

Stat. Auth.: ORS 706.015

Stats. Implemented: ORS 706.015

Hist.: FCS 1-2003, f. & cert. ef. 10-06-03; FCS 6-2007, f. & cert. ef. 10-22-07

441-505-1120

Report of Oregon Deposits

(1) Reporting Unit. This rule applies to:

(a) All Oregon commercial banks and Oregon savings banks;

(b) All non-Oregon institutions and federal banks that hold deposits of the State of Oregon or any political subdivision thereof where the institution or bank meets the requirements of ORS 714.045; and

(c) All insured institutions or trust companies authorized to take deposits in this state or to do trust business in this state that certify under ORS 295.005(2)(c) to the State Treasurer that the insured institutions or trust companies will furnish reports of Oregon deposits.

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(2) Report date. A report shall be filed with the Director showing deposits as of June 30 of each year. A report filed electronically with the federal supervisory agency is considered filed with the Director.

(3) Report Form and Contents. A copy of the Summary of Deposits filed with the FDIC shall be used for reporting deposits, provided that:

(a) An Oregon chartered commercial or savings bank shall file its complete Summary of Deposits Report; and

(b) Non-Oregon institutions and federal banks complying with this rule shall provide deposits for each Oregon branch.

(4) The director reserves the right to call for additional deposit reports by Order.

Stat. Auth.: ORS 714.075

Stats. Implemented: ORS 714.075

Hist.: FCS 3-1997(Temp), f. & cert. ef. 10-6-97; FCS 1-1998, f. & cert. ef. 3-31-98, Renumbered from 441-510-0341; FCS 6-2007, f. & cert. ef. 10-22-07

441-505-1130

Call Reports

(1) Reporting Unit. This rule applies to banks, other than federal banks; and extranational institutions engaged in banking business in this state.

(2) Reports Called For. The Director calls for a quarterly report of condition, earnings and dividends.

(3) Report Form and Contents. The report shall be a copy of the Federal Financial Institutions Examination Council report of condition and income form that the institution is required to file with its federal regulator (hereafter "Report").

(a) A reporting unit that submits a hard copy Report to its federal supervisory agency shall concurrently file a copy of the same report with the Director.

(b) A reporting unit that files its Report electronically with the federal supervisory agency shall notify the Director in writing that it makes such electronic filings. Only one notice to the Director is required, unless the reporting unit changes its method of reporting to the respective federal supervisory agency, in which case it shall notify the Director of the change.

Stat. Auth.: ORS 706.630

Stats. Implemented: ORS 706.630

Hist.: FCS 3-1997(Temp), f. & cert. ef. 10-6-97; FCS 1-1998, f. & cert. ef. 3-31-98, Renumbered from 441-510-0342; FCS 6-2007, f. & cert. ef. 10-22-07

441-505-1150

Report of Trust Assets

(1) Reporting Unit. All companies doing trust business in Oregon and all Oregon banks having trust company powers shall file a Report of Fiduciary Activity ("Report") with the Director.

(2) The Report shall be a copy of Schedule RC-T — Fiduciary and Related Services to the Federal Financial Institutions Examination Council call report form which the institution is required to file with its federal supervisory agency.

(3) The Report shall be filed with the Director with the same frequency and concurrently with the federal filing. Reports filed electronically with the federal supervisory agency are considered filed with the Director. Trust companies not affiliated with a depository institution must file a hard copy of the Report with the Director.

Stat. Auth.: ORS 706.630

Stats. Implemented: ORS 706.630(4)

Hist.: FCS 3-1997(Temp), f. & cert. ef. 10-6-97; FCS 1-1998, f. & cert. ef. 3-31-98, Renumbered from 441-510-0344; FCS 1-2002, f. & cert. ef. 5-23-02; FCS 6-2007, f. & cert. ef. 10-22-07

441-505-1160

Trust Company Financial Statements

(1) All companies doing trust business in Oregon must file with the Director annual financial statements prepared in accordance with generally accepted accounting principles.

(2) The financial statements must be reviewed by an independent accountant. If the company for its own business purposes has audited financial statements prepared, a copy of the audited financial statements may be filed.

(3) The financial statements must be filed no later than 120 days after the end of the company's fiscal year.

(4) A depository institution doing trust business in Oregon is not required to file financial statements for its trust business separate from its annual financial statements filed with the director.

Stat. Auth.: 706.790

Stats. Implemented: 706.630

Hist.: FCS 6-2007, f. & cert. ef. 10-22-07

441-505-3010

Insurance Activity Report

(1) Applicability.

(a) Except as provided in subsection (b) of this section, this rule applies to:

(A) All Oregon banks, Oregon savings banks and Oregon trust companies that acquire subsidiaries or invest in companies that engage in or intend to engage in insurance agency activities as a licensee under ORS 744.002; and

(B) All bank holding companies that are subject to ORS 715.075.

(b) Any entity described in subsection (a) that received permission from the Director to conduct insurance activities prior to the effective date of this rule is not required to reapply for permission but is required to comply with the reporting requirements in section (4) of this rule.

(2) Application for Permission. Applicant shall file a written request for permission with the Director. The request shall:

(a) Describe the activities to be performed;

(b) Identify the persons who will provide the services, including a description of any arrangement with third party companies;

(c) Provide a business plan for this activity; and

(d) If a subsidiary or investment in a separate insurance agency is involved, additionally describe the details of the transaction including amount to be invested and identity of additional shareholders, if any.

(3) The Director shall issue to the applicant, upon completion of the review, an order granting or denying permission to engage in insurance activities.

(4) Report. All entities engaged in insurance activities under this rule shall file a report with the Director.

(a) The report shall be on the Director's Form, "REPORT OF INSURANCE ACTIVITIES" and shall disclose for the preceding calendar year:

(A) Total number of insurance policies sold;

(B) Insurance policies sold in each class of insurance described in ORS 744.062(1);

(C) Total premium income from insurance policies sold;

(D) Total commission income from insurance policies sold;

(E) Number of annuity policies sold as a replacement of the customer's existing annuity policy;

(F) Number of annuity policies sold under the Internal Revenue Service section 1035 exchange provisions;

(G) Number of annuity policies sold to customers aged 70 years or older; and

(H) Amendments since the last reporting period to the institution's business plan for insurance activity.

(b) The report shall be filed annually no later than March 31 of each year.

Stat. Auth.: ORS 708A.120(7) & 716.594

Stats. Implemented: ORS 708A.120(7) & 716.594

Hist.: FCS 10-1988, f. & cert. ef. 4-18-88; Renumbered from 805-002-0055; Suspended by FCS 3-1997(Temp), f. 10-6-97; FCS 1-1998, f. & cert. ef. 3-31-98, Renumbered from 441-505-0000; FCS 6-2007, f. & cert. ef. 10-22-07

441-505-3030

Appraisal Required

(1) The carrying (book) value of real estate acquired by an institution pursuant to ORS 708A.175 shall be established by a real property appraisal that is current at the time of such acquisition. An appraisal is current if dated no more than one year prior to the acquisition.

(2) The real property appraisal must be reviewed by appropriate institution officers to determine whether it is a reliable indicator of the value and condition of the real estate acquired and complies with applicable standards for preparation of such appraisals.

(3) If the carrying (book) value of the real estate exceeds the appraised value on acquisition the difference shall be immediately charged off.

(4) ORS 708A.590, as relevant, shall thereafter be followed.

Stat. Auth.: ORS 706.790

Stats. Implemented: ORS 708A.175(3)

Hist.: BB 13, f. & ef. 3-5-76, Renumbered from 805-024-0130; FCS 1-1998, f. & cert. ef. 3-31-98, Renumbered from 441-580-0050; FCS 6-2007, f. & cert. ef. 10-22-07

441-505-4010

Exemption for Banking Institutions

(1) An exemption is created under ORS 709.030(4) from the trust company certificate of authority and deposit requirements for:

(a) A non-Oregon institution; extranational institution; or "foreign association" as defined in ORS 722.004, when the entities are involved in any activity described in Section (2) of this rule; and

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(b) A non-Oregon institution; extranational institution; or foreign association, that indirectly engages in any activity covered in Subsection (2) of this rule because of its beneficial interest in a pool of notes secured by real estate mortgages or trust deeds.

(2) Application. The exemption applies to:

(a) The taking, acquiring, holding and enforcement of notes secured by real estate mortgages or trust deeds or making commitments to purchase such notes;

(b) The foreclosing of mortgages and trust deeds in the courts of this state, acquiring the mortgaged property, holding and operating the property for a period not exceeding five years or disposal of the property.

Stat. Auth.: ORS 709.030(4)(g)

Stats. Implemented: ORS 709.030(4)(g)

Hist.: FCS 1-1998, f. & cert. ef. 3-31-98; FCS 6-2007, f. & cert. ef. 10-22-07

441-505-4020

Exemption from Out of State Trust Company

An exemption from the trust company certificate of authority and deposit requirements is created under ORS 709.030(4) for an out-of-state trust company that:

(1) Has no office in this state;

(2) Is regulated in its home state by an authority comparable to the Division of Finance and Corporate Securities; and

(3) Does not engage in soliciting trust business in Oregon.

Stat. Auth.: ORS 709.030(4)(g)

Stats. Implemented: ORS 709.030(4)(g)

Hist.: FCS 1-1998, f. & cert. ef. 3-31-98; FCS 6-2007, f. & cert. ef. 10-22-07

441-505-4030

Trust Company Exemption; Court Appointed Fiduciaries

(1) As authorized by ORS 709.030(4)(g), an exemption from trust company certificate of authority requirements under ORS 709.005(1) is hereby created for any person appointed as a personal representative, trustee or conservator by a court of competent jurisdiction, provided that the court requires the person to post a bond suitable to the size of the estate for which the appointment is made.

(2) As authorized by ORS 709.030(4)(g), an exemption from trust company certificate of authority requirements under ORS 709.005(1) is hereby created for any person appointed as a Personal Representative, as defined in ORS 111.005, or as a Special Administrator as described in ORS 113.005, by a court of competent jurisdiction.

Stat. Auth.: ORS 706.795 & 709.030

Stats. Implemented: ORS 708A.535 & 709.030

Hist.: FCS 3-2002, f. & cert. ef. 10-25-02; FCS 6-2007, f. & cert. ef. 10-22-07

Rule Caption: Establishing guidelines for a credit union predominantly serving low-income members.

Adm. Order No.: FCS 7-2007

Filed with Sec. of State: 11-2-2007

Certified to be Effective: 1-1-08

Notice Publication Date: 10-1-2007

Rules Adopted: 441-710-0085

Subject: This new rule describes criteria that a credit union may use to demonstrate that it predominantly serves low-income members, the types of additional funds that may be accepted by a credit union with a low-income designation, and the handling of non-member shares and secondary capital accounts after obtaining a low-income designation. The rule further describes the circumstances under which a low-income designation may be removed.

Rules Coordinator: Shelley Greiner—(503) 947-7484

441-710-0085

Guidelines for a Low-Income Designated Credit Union

(1) A credit union may be designated by the director as a low-income credit union if the director determines it is in the public interest that the director designate the credit union as a low-income credit union and the credit union demonstrates that:

(a) A majority of current members of the credit union:

(A) Make less than 80 percent of the average for all wage earners as established by the most recently published U.S. Department of Labor's Bureau of Labor Statistics;

(B) Have a household income at or below 80 percent of the median household income for the nation as established by the most recently published Census Bureau data; or

(C) Are enrolled as full-time or part-time students in a college, university, high school, or vocational school; or

(b) The community charter credit union's field of membership is limited to geographic areas in which a majority of the residents, if members of the credit union, would fall within the low income criteria described in subsection (a) of this section.

(2) A credit union designated by the director as a low-income credit union may accept:

(a) Payments from a non-member that is a natural or nonnatural person to hold shares (including deposits) in the credit union, provided:

(A) The non-member shares do not exceed the greater of 20 percent of the total number of shares of the credit union or \$1,500,000, unless a greater amount has been approved by the director with NCUA concurrence; and

(B) The non-member is informed prior to a payment being made that a non-member share does not provide the holder with membership or voting rights in the credit union.

(b) Payments on secondary capital accounts if:

(A) The board of directors of the credit union has adopted and the credit union follows a written plan meeting the requirements of section (5) of this rule;

(B) The payments are from nonnatural persons, that may be non-members of the credit union, for an uninsured non-share account;

(C) The director approves the written plan;

(D) At or before the time the credit union first receives a payment on secondary capital, the credit union provides to the secondary capital account holder a written disclosure statement meeting the requirements of section (6) of this rule; and

(E) The director has not removed the designation of the credit union as a low-income credit union.

(3) Secondary capital accounts must be issued with a fixed maturity of not less than five years.

(4) A low-income credit union may use secondary capital for any purpose permitted by law.

(5) Each plan for secondary capital must include:

(a) A detailed statement specifying the credit union's need for, maximum amount of, sources and intended uses of the secondary capital;

(b) The terms of a secondary capital account, including maturity, basis for determining interest or dividend rate and calculation disclosures, withdrawal restrictions, and balance requirements;

(c) The credit union's loan and investment policies;

(d) A demonstration that the planned uses of secondary capital conform to the low-income credit union's strategic plan, business plan, and budget;

(e) A pro forma income statement and balance sheet, including any off-balance sheet items, covering a minimum of the next two years reflecting the issuance and uses of the amount of secondary capital described in subsection (a) of this section;

(f) An explanation of how the credit union will provide for liquidity to repay secondary capital upon maturity of the accounts; and

(g) A copy of the credit union's proposed disclosure statement meeting the requirements of section (6) of this rule.

(6) Each secondary capital account disclosure statement must be signed by the account holder and include:

(a) A statement that a secondary capital account does not provide the holder with membership or voting rights in the credit union;

(b) A statement that funds in a secondary capital account are not insured by the National Credit Union Share Insurance Fund or any other governmental or private entity;

(c) The terms of the secondary capital account, including the maturity, dividend rate and calculation disclosure, withdrawal restrictions and account balance requirements;

(d) A statement that the secondary capital may not be pledged as security on a loan or other obligation to the low-income credit union or any other party;

(e) A statement that funds, including interest accrued and paid into the secondary capital account, may be used, pro rata with all other secondary capital, to cover operating losses realized by the low-income credit union that exceed its net available reserves (exclusive of secondary capital and allowance accounts for loan and lease losses), and if so used, will not be restored; and

(f) A statement that any claim by a secondary capital account holder against the low-income credit union will be subordinate to all other claims, including shareholders, creditors and the National Credit Union Share Insurance Fund.

ADMINISTRATIVE RULES

(7) Secondary capital may not be pledged by the account holder as security on a loan or other obligation to the low-income credit union or any other party.

(8) (a) A low-income credit union that issues secondary capital accounts pursuant to section (2) of this rule must record the funds on its balance sheet in an equity account entitled "uninsured secondary capital account."

(b) For accounts with remaining maturities of less than five years, the low-income credit union must reflect the net worth value of the accounts in its financial statement according to the following schedule:

(A) Four to less than five years remaining, 80% of the original balance;

(B) Three to less than four years remaining, 60% of the original balance;

(C) Two to less than three years remaining, 40% of the original balance;

(D) One to less than two years remaining, 20% of the original balance;

(E) Less than one year remaining, 0% of the original balance.

(c) The low-income credit union must reflect the full amount of the secondary capital on deposit in a footnote to its financial statement.

(9) In the event of a merger or other voluntary dissolution of the low-income credit union, other than a merger into another low-income credit union:

(a) Secondary capital accounts must be closed and paid out to the respective account holders to the extent they are not needed to cover losses at the time of merger or dissolution; and

(b) Non-member shares must be closed and paid out to the respective share holders.

(10)(a) The director may periodically review the low-income qualifications of a credit union. The designation of a credit union as a low-income credit union may be removed by the director:

(A) At the request of the credit union if the director determines that the action will not adversely affect the members of the credit union and that the action would be in the public interest; or

(B) If, following notice to the credit union and opportunity for a hearing under ORS chapter 183, the director determines that the credit union no longer meets the criteria to be a low-income credit union and that removal of the designation is in the public interest.

(b) Immediately following removal of the designation as a low-income credit union, the credit union must give written notice of the removal of the designation to all:

(A) Credit union members;

(B) Non-members holding shares; and

(C) Secondary capital account holders.

(c) The written notice to all non-members and secondary account holders must include information:

(A) That the credit union is no longer eligible to receive payments on non-member shares or secondary capital;

(B) That all non-member shares and secondary capital accounts will be closed;

(C) That all secondary capital accounts will be redeemed with no early withdrawal penalty; and

(D) Of the date of redemption, which must be 90 days after the effective date of removal of the designation as a low-income credit union, or at the maturity date of a secondary capital account, whichever occurs first.

Stat. Auth.: ORS 723.102, Sec. 5, Ch. 343, 2007 OL

Stats. Implemented: Sec. 5, Ch. 343, 2007 OL

Hist.: FCS 7-2007, f. 11-2-07, cert. ef. 1-1-08

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Department of Consumer and Business Services, Insurance Division Chapter 836

Rule Caption: Rulemaking Relating to Health Insurance and Association Groups

Adm. Order No.: ID 8-2007(Temp)

Filed with Sec. of State: 10-24-2007

Certified to be Effective: 10-25-07 thru 4-18-08

Notice Publication Date:

Rules Adopted: 836-053-0007, 836-053-0081

Rules Amended: 836-053-1400

Subject: This rulemaking implements 2007 legislation that exempts small employer groups covered by association health plans from small employer health insurance requirements and requires DCBS

to monitor association health plan data, and establishes compliance procedures for statutory requirements relating to associations and group health insurance coverage.

Rules Coordinator: Sue Munson—(503) 947-7272

836-053-0007

Approval and Certification of Associations, Trusts, Discretionary Groups and MEWAs

(1) An insurer must obtain approval of an association, trust, discretionary group or MEWA when an association, trust, discretionary group or MEWA applies for coverage if the association, trust, discretionary group or MEWA is not an approved group policyholder as defined in ORS 743.522.

(2) An insurer must certify that an association, trust, discretionary group or MEWA continues to meet the requirements of ORS 743.522 when an association, trust, discretionary group or MEWA applies for coverage if the association, trust, discretionary group or MEWA is an approved group policyholder as defined in ORS 743.522.

Stat. Auth.: ORS 731.244

Stats. Implemented: ORS 743.522

Hist.: ID 8-2007(Temp), f. 10-24-07, cert. ef. 10-25-07 thru 4-18-08

836-053-0081

Association Health Plans; Requirements Regarding Small Employer Group Members

(1) The carrier of an association health plan shall determine whether the plan maintains the 95 percent retention rate required by ORS 743.734(7) not less than once in any 12-month rating period or plan year. The carrier shall report to the Director any association health plan for which the retention rate is less than 95 percent not later than the end of the first quarter following the 12-month rating period or plan year. The carrier of an association health plan shall also provide additional information regarding the association health plan pursuant to ORS 731.296, when requested by the Director.

(2) The carrier of an association health plan shall determine whether the plan maintains the 95 percent rate of retention of member employers of an association health plan required by ORS 743.734(7) according to the following formula, in the following sequence:

(a) By determining the total number of member employers covered by the association health plan on the date one year prior to the plan year anniversary date;

(b) By determining the number of member employers covered by an association health plan on the date one year prior to the determination date that terminated coverage during the year preceding the determination date for a reason stated in ORS 743.734(8);

(c) By subtracting the number determined in subsection (b) of this section from the number determined in subsection (a) of this section;

(d) By determining the number of member employers covered by an association health plan on the date one year prior to the determination date that terminated coverage during the year preceding the determination date for any reason other than those stated in ORS 743.734(8);

(e) By subtracting the number determined in subsection (d) of this section from the number determined in subsection (c) of this section; and

(f) Determining the retention rate by dividing the number determined in subsection (e) of this section by the number determined in subsection (c) of this section.

(3) When an association offers coverage to member employers through two or more association health plans issues by two or more carriers, the association may maintain the 95 percent retention rate required by ORS 743.734(7) either with respect to the association health plan provided by each carrier or with respect to all association health plans offered through the association.

(4) For the purpose of ORS 743.734(7)(b)(A), the initial premium rate requirement is the rate that applies to each small employer member group upon its initial enrollment in the association health plan.

Stat. Auth.: ORS 731.244

Stats. Implemented: ORS 731.296, 743.734, 743.748

Hist.: ID 8-2007(Temp), f. 10-24-07, cert. ef. 10-25-07 thru 4-18-08

836-053-1400

Format and Instructions for Report Required by ORS 743.748

(1) A carrier shall submit the information required by ORS 743.748 electronically in the format and according to the directions established by the Director of the Department of Consumer and Business Services and made available on the website of the Insurance Division, and according to the provisions of this rule.

(2) The following terms used in ORS 743.748 have the following meanings for the purpose of the information required by ORS 743.748.

ADMINISTRATIVE RULES

References in this section to specific schedules and instructions are to schedules and instructions for the NAIC health annual statement blank. The terms are defined as follows:

(a) "Average amount of premiums per member per month" means total earned premiums as reported on the exhibit of premiums, enrollment and utilization divided by the total member months for the required reporting year.

(b) "Carrier's annual report" is the carrier's annual statement submitted as required by ORS 731.574.

(c) "Medical loss ratio" means the total medical claims cost divided by the total premiums earned, both as reported on the exhibit of premiums, enrollment and utilization.

(d) "Percentage change in the average premium per member per month" means the average amount of premiums per member per month for the reporting year less the average premium per member per month for the preceding reporting year divided by the average premium per member per month for the preceding reporting year.

(e) "Total amount of costs for claims" means incurred claims as reported by the carrier on the exhibit of premiums, enrollment and utilization in its annual statement. If the annual statement blank used by a carrier does not include an exhibit of premiums, enrollment and utilization, the carrier shall derive the answer from its records, using the instructions for the exhibit of premiums, enrollment and utilization for reporting the information.

(f) "Total amount of premiums" means earned premium as reported by the carrier on the exhibit of premiums, enrollment and utilization in its annual statement. If the annual statement blank used by a carrier does not include an exhibit of premiums, enrollment and utilization, the carrier shall derive the answer from its records, using the instructions for the exhibit of premiums, enrollment and utilization for reporting the information.

(g) "Total number of members" means total number of members as of December 31 of the reporting year, as reported by the carrier in its annual statement. If the annual statement blank used by a carrier does not include an exhibit of premiums, enrollment and utilization, the carrier shall derive the answer from its records, using the instructions for the exhibit of premiums, enrollment and utilization for reporting the information.

(3) A carrier shall submit the following information by total for all comprehensive hospital and medical products nationwide, for all such products in each Oregon market segment and for the carrier's association health plans as described in ORS 743.734(7):

(a) Number of members.

(b) Number of member months.

(c) Premiums earned.

(d) Medical claims costs.

(e) Medical loss ratio.

(f) Average premium per member per month for the reporting year.

(g) Average premium per member per month for the preceding reporting year.

(h) Percentage change in premium per member per month from the preceding reporting year.

Stat. Auth.: ORS 731.244, 743.748

Stats. Implemented: ORS 743.748

Hist.: ID 7-2006, f. & cert. ef. 4-14-06; ID 8-2007(Temp), f. 10-24-07, cert. ef. 10-25-07 thru 4-18-08

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Rule Caption: Adoption of Annual and Supplemental Statement Blanks and Instructions for Reporting Year 2007.

Adm. Order No.: ID 9-2007

Filed with Sec. of State: 11-8-2007

Certified to be Effective: 11-8-07

Notice Publication Date: 10-1-2007

Rules Amended: 836-011-0000

Subject: This rulemaking prescribes, for reporting year 2007, the required forms for the annual and supplemental financial statements required of insurers and health care service contractors under ORS 731.574, as well as the necessary instructions for completing the forms.

Rules Coordinator: Sue Munson—(503) 947-7272

836-011-0000

Annual Statement Blank and Instructions

(1) For the purpose of complying with ORS 731.574, every authorized insurer, including every health care service contractor, shall file its financial statement required by ORS 731.574 for the 2007 reporting year on the annual statement blank approved for the 2007 reporting year by the

National Association of Insurance Commissioners, for the type or types of insurance transacted by the insurer.

(2) Every authorized insurer, including every health care service contractor, shall complete its annual statement blank under section (1) of this rule for the 2007 reporting year, according to the applicable instructions published for that year by the National Association of Insurance Commissioners, for completing the blank, as required by ORS 731.574.

(3) Every authorized insurer, including every health care service contractor, shall file each annual statement supplement for the 2007 reporting year, as required by the applicable instructions published for that year by the National Association of Insurance Commissioners, and shall complete the supplement according to those instructions.

(4) This rule is adopted under the authority of ORS 731.244, 731.574 and 733.210 for the purpose of implementing ORS 731.574 and 733.210.

Stat. Auth.: ORS 731.244, 731.574 & 733.210

Stats. Implemented: ORS 731.574 & 733.210

Hist.: ID 8-1993, f. & cert. ef. 9-23-93; ID 10-1994, f. & cert. ef. 12-14-94; ID 7-1995, f. & cert. ef. 11-15-95; Renumbered from 836-013-0000; ID 4-1996, f. 2-28-96, cert. ef. 3-1-96; ID 16-1996, f. & cert. ef. 12-16-96; ID 11-1997, f. & cert. ef. 10-9-97; ID 16-1998, f. & cert. ef. 11-10-98; ID 5-1999, f. & cert. ef. 11-18-99; ID 1-2001, f. & cert. ef. 2-7-01; ID 4-2002, f. & cert. ef. 1-30-02; ID 6-2003, f. & cert. ef. 12-3-03; ID 1-2006, f. & cert. ef. 1-23-06; ID 9-2007, f. & cert. ef. 11-8-07

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

Rule Caption: Adopt changes to Portable Fire Extinguishers in General Industry.

Adm. Order No.: OSHA 7-2007

Filed with Sec. of State: 11-8-2007

Certified to be Effective: 11-8-07

Notice Publication Date: 9-1-2007

Rules Adopted: 437-002-0187

Rules Amended: 437-002-0180

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

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

Please visit OR-OSHA's web site at www.orosha.org

Rules Coordinator: Sue C. Joye—(503) 947-7449

437-002-0180

Adoption by Reference

In addition to and not in lieu of any other health and safety codes contained in OAR chapter 437, the Department adopts by reference the following federal rules as printed in the Code of Federal Regulations, 29 CFR 1910, revised as of 7/1/98, and any subsequent amendments published in the Federal Register as listed below:

(1) 29 CFR 1910.155 Scope, application and definitions applicable to this subpart, published 9/12/80, Federal Register, vol. 45, p. 60704; amended 4/12/88, FR vol. 53, p. 12122.

(2) 29 CFR 1910.156 Fire brigades, published 9/12/80, FR vol. 45, p. 60706; amended 5/1/81, FR vol. 46, p. 24557; 4/30/84, FR vol. 49, p. 18295; 3/7/96, FR vol. 61, no. 46, p. 9239; 1/8/98, FR vol. 63, no. 5, p. 1284; 6/18/98, FR vol. 63, no. 117, p. 33467.

(3) 29 CFR 1910.157 Portable fire extinguishers, published 9/12/80, FR vol. 45, p. 60708; amended 5/1/81, FR vol. 46, p. 24557; 9/29/86, FR vol. 51, p. 34560; 3/7/96, FR vol. 61, no. 46, p. 9239; amended with AO 12-2001, Oregon note added, f. and ef. 10/26/01; REPEALED with OR-OSHA Admin. Order 7-2007, f. and ef. 11/8/07.

(4) 29 CFR 1910.158 Standpipe and hose systems, published 9/12/80, FR vol. 45, p. 60710; 3/7/96, FR vol. 61, no. 46, p. 9239.

ADMINISTRATIVE RULES

(5) 29 CFR 1910.159 Automatic sprinkler systems, published 9/12/80, FR vol. 45, p. 60710; amended 5/1/81, FR vol. 46, p. 24557.

(6) 29 CFR 1910.160 Fixed extinguishing systems, general, published 9/12/80, FR vol. 45, p. 60711; amended with AO 12-2001, Oregon note added, f. and ef. 10/26/01.

(7) 29 CFR 1910.161 Fixed extinguishing systems, dry chemical, published 9/12/80, FR vol. 45, p. 60712.

(8) 29 CFR 1910.162 Fixed extinguishing systems, gaseous agent, published 9/12/80, FR vol. 45, p. 60712; amended 5/1/81, FR vol. 46, p. 24557.

(9) 29 CFR 1910.163 Fixed extinguishing systems, water spray and foam, published 9/12/80, FR vol. 45, p. 60712.

(10) 29 CFR 1910.164 Fire detection systems, published 9/12/80, FR vol. 45, p. 60713; amended with AO 12-2001, Oregon note added, f. and ef. 10/26/01.

(11) 29 CFR 1910.165 Employee alarm systems, published 9/12/80, FR vol. 45, p. 60713.

(12) Appendix A to Subpart L — Fire protection, published 9/12/80, FR vol. 45, p. 60715; amended 5/1/81, FR vol. 46, p. 24557.

(13) Appendix B to Subpart L — National consensus standards, published 9/12/80, FR vol. 45, p. 60715; amended 6/30/93, FR vol. 58, no. 124, p. 35309.

(14) Appendix C to Subpart L — Fire protection references for further information, published 9/12/80, FR vol. 45, p. 60715; amended 6/30/93, FR vol. 58, no. 124, p. 35309.

(15) Appendix D to Subpart L — Availability of publications incorporated by reference in Section 1910.156, Fire Brigades, published 9/12/80, FR vol. 45, p. 60715; amended 6/30/93, FR vol. 58, no. 124, p. 35309; 3/7/96, FR vol. 61, no. 46, p. 9239.

(16) Appendix E to Subpart L — Test methods for protective clothing, published 9/12/80, FR vol. 45, p. 60715; amended 5/1/81, FR vol. 46, p. 24557.

NOTE: These standards are available from the Oregon Occupational Safety and Health Division (OR-OSHA), Department of Consumer and Business Services, and the **United States Government Printing Office**.
Stat. Auth.: ORS 654.025(2), 656.726(4)
Stats. Implemented: ORS 654.001 - 654.295
Hist.: OSHA 14-1993, f. 8-37-93, cert. ef. 11-1-93; OSHA 4-1997, f. & cert. ef. 4-2-97; OSHA 3-1998, f. & cert. ef. 7-7-98; OSHA 2-1999, f. & cert. ef. 4-30-99; OSHA 12-2001, f. & cert. ef. 10-26-01; OSHA 7-2007, f. & cert. ef. 11-8-07

437-002-0187

Portable Fire Extinguishers

This rule applies to the location, use and maintenance of portable fire extinguishers. This rule does not apply to vehicles.

NOTE: The Oregon Office of State Fire Marshal and your local fire marshal have rules that apply to portable fire extinguishers.

These exemptions do not apply if another Oregon OSHA standard requires you to provide portable fire extinguishers.

EXEMPTIONS:

You are exempt from these rules if:

Your portable fire extinguishers are not accessible to employees.

AND

You have a written fire safety policy that requires the immediate and total evacuation of employees in the event of fire. (NOTE: This fire safety policy is not the same as your emergency action plan and fire prevention plan.)

AND

You have an emergency action plan and fire prevention plan that conform to OAR 437-002-0042 and 437-002-0043.

PARTIAL EXEMPTION:

If extinguishers are present and accessible but you do not intend them for use by employees and you have an emergency action plan and fire prevention plan that meet OAR 437-002-0042 and 437-002-0043, then only paragraphs 2, 3, and 4 apply.

See Non Mandatory Appendix A – Summary of exemptions and rule requirements for 437-002-0187.

(1) If you provide extinguishers, you must:

(a) Never provide or allow the use of extinguishers with dangerous or banned agents like carbon tetrachloride or chlorobromomethane.

(b) Never provide or allow the use of soda-acid foam, loaded stream, anti-freeze and water (inverting type) extinguishers.

NOTE: Paragraph (c) below does not apply to extinguishers for use outside buildings.

EXEMPTION: You are exempt from the maximum travel distance requirements in Table 1 of this rule if you have an emergency action plan that complies with OAR 437-002-0042, designates which employees are the only ones authorized to use the available fire extinguishers, and requires all other employees to evacuate.

(c) Provide and place the correct type and size fire extinguisher according to Table 1. [Table not included. See ED. NOTE.]

(A) Mount extinguishers in a manner appropriate for their type and location. Do not allow extinguishers to sit on the floor, shelves or furniture.

(B) Identify extinguisher locations with signs appropriate for their location or with other marking unique to fire extinguishers.

(C) Never block access to extinguishers.

(2) Do a monthly visual check of each extinguisher or hose system.

(a) Be sure the extinguishers have a full charge and no defects that would prevent effective use.

(b) Remove and replace any extinguisher that is not fully operable.

(c) Repair defective hose systems immediately.

(3) Follow the manufacturer's instructions for maintenance and inspection or paragraphs (4) and (5), whichever is appropriate for your extinguisher.

(4) Do a full annual maintenance check on each extinguisher.

NOTE: A maintenance check includes inspecting and/or testing external and internal parts, checking the quantity and quality of the contents and assuring operational capability. A qualified person must do the maintenance check.

(a) Use only persons deemed qualified by the Oregon Office of State Fire Marshal or local fire authorities to do maintenance checks. Contact them for details.

(b) Keep a record of the maintenance check until a new check record replaces it. The record must be available to OR-OSHA on request.

(c) Provide replacement extinguishers or some method of coverage for the effected area while extinguishers are out of service for the maintenance check.

(5) Assure a hydrostatic test of each extinguisher at intervals in Table 2 or when the extinguisher shows corrosion or physical damage.

(a) Use only a qualified person to do hydrostatic testing. [Table not included. See ED. NOTE.]

(b) Keep a record of the hydrostatic test until replaced by a new record or the extinguisher is no longer in use. The record must have at least the date of test, test pressure, serial number of the extinguisher (or other unique identifier), person or company doing the test.

(c) Every six years, empty and do applicable maintenance on stored pressure extinguishers that require a 12-year hydrostatic test.

(A) The six-year requirement begins again after recharging or hydrostatic testing.

(6) Train employees in the safe use of extinguishers and/or standpipe hoses when you require or allow their use. Training must be at first hiring and then annually and must include:

(a) The general methods and tactics of using an extinguisher.

(b) The hazards of using an extinguisher on early stage fires.

(c) Hazards associated with using standpipe hoses. [Appendix not included. See ED. NOTE.]

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

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

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

Stat. Implemented: ORS 654.001 - 654.295.

Hist.: OSHA 7-2007, f. & cert. ef. 11-8-07

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

Rule Caption: Promulgation of temporary disability standards to address the impairment of individual injured workers.

Adm. Order No.: WCD 6-2007(Temp)

Filed with Sec. of State: 10-29-2007

Certified to be Effective: 10-29-07 thru 4-25-08

Notice Publication Date:

Rules Amended: 436-035-0500

Subject: Promulgation of temporary disability standards to address the impairment of an individual injured worker in WCD files CAR-7960 and DAU-4251.

Rules Coordinator: Fred Bruyns—(503) 947-7717

436-035-0500

Temporary Rules Promulgation for Individual Claims

(1) This rule applies to the rating of permanent disability under Chapter 656 in individual cases under ORS 656.726(4)(f) which requires the director to stay the reconsideration proceeding and adopt temporary rules in cases where the director finds that the worker's impairment is not addressed in the disability standards.

(2) Temporary rules promulgated under ORS 656.726(4)(f) will be incorporated by reference to the Workers' Compensation Division claim file number and will be applicable solely to the rating of that claim. The temporary rule will be effective upon filing with the Secretary of State and elapse 180 days thereafter under ORS 183.335(6)(a).

ADMINISTRATIVE RULES

(3) Notice of adoption of temporary rules will be given by mailing a copy of the temporary rule to the affected parties and to others as provided in OAR 436-001-0000(3).

(4) AAP-6549 As a result of the accepted bilateral costochondritis the worker experiences a loss of function due to permanent damage to the chest with work restrictions which necessitate a reduction in the strength/lifting category of the job at the time of injury. The standards do not address this loss of function in the chest. The Director finds this loss of function similar to the loss experienced with permanent damage to the abdominal wall and resulting work restrictions which necessitate a reduction in the strength/lifting category of the job at the time of injury and assigns an impairment value of 5% of the chest. See OAR 436-035-0375. This value shall be combined with any other applicable impairment values. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. AAP-6549.

(5) CAR-7960 As a result of the accepted right shoulder strain and rotator cuff tear the worker is unable to abduct his right shoulder to 90 degrees in order to measure external rotation and internal rotation as required by the AMA Guides to the Evaluation of Permanent Impairment, 3rd Ed., Revised 1990 referenced in OAR 436-035-0011(10). The Director finds measuring the range of motion at the side results in similar values in external rotation and internal rotation as when measured in 90 degrees abduction and assigns an impairment value of 1% for external rotation and 2.5% for internal rotation of the right shoulder. See OAR 436-035-0330(9) and (11). These values shall be added to any other range of motion findings in the right shoulder and combined with any other applicable impairment values. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. CAR-7960.

(6) DAU-4251 As a result of the accepted right inguinal hernia the worker experiences a loss of function due to persistent paresthesia of the ilioinguinal nerve resulting in limitations in the ability to perform repetitive heavy lifting. The standards do not address this loss of function in the abdomen. The Director finds this loss of function similar to the loss experienced with permanent damage to the abdominal wall with resulting limitations in lifting and assigns an impairment value of 5% of the right ilioinguinal nerve in the abdomen. See OAR 436-035-0375. This value shall be combined with any other applicable impairment values. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. DAU-4251.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.268(6), 656.726(4)(f)(C)

Hist.: WCD 16-1992(Temp), Case #A58-7576 & Case #D60-5352, f. & cert. 12-31-92 - 6-29-93; WCD 2-1993(Temp), Case #A58-2159, B59-4533, E61-4228, & 159-2031, f. & cert. 4-28-93 - 10-25-93; WCD 4-1993, f. & cert. ef. 6-29-93; WCD 5-1993(Temp), Case #I64-3064, f. & cert. ef. 9-2-93 - 3-2-94; WCD 6-1993(Temp), Case #I64-3064, f. & cert. ef. 10-22-93 - 4-19-94; WCD 4-1994(Temp), f. & cert. ef. 5-26-94; WCD 6-1994(Temp), f. & cert. ef. 7-15-94; WCD 8-1994(Temp), f. & cert. ef. 8-31-94; WCD 11-1994(Temp), f. & cert. ef. 11-10-94; WCD 1-1995(Temp), f. & cert. ef. 1-26-95; WCD 2-1995(Temp), f. & cert. ef. 3-2-95; WCD 3-1995(Temp), f. & cert. ef. 4-13-95; WCD 4-1995(Temp), f. & cert. ef. 5-31-95; WCD 5-1995(Temp), f. & cert. ef. 7-11-95; WCD 14-1995(Temp), f. & cert. ef. 10-5-95; WCD 16-1995(Temp), f. & cert. ef. 11-2-95; WCD 19-1995(Temp), f. & cert. ef. 12-7-95; WCD 4-1996(Temp), f. & cert. ef. 2-1-96; WCD 11-1996(Temp), f. & cert. ef. 3-20-96; WCD 15-1996(Temp), f. & cert. ef. 7-3-96; WCD 18-1996, f. 8-6-96, cert. ef. 8-7-96; WCD 22-1996(Temp), f. & cert. ef. 10-31-96; WCD 1-1997, f. 1-9-97, cert. ef. 2-15-97; WCD 2-1997(Temp), f. & cert. ef. 1-15-97; WCD 3-1997(Temp), f. 3-12-97, cert. ef. 3-13-97; WCD 6-1997(Temp), f. & cert. ef. 5-14-97; WCD 12-1997(Temp), f. & cert. ef. 9-9-97; WCD 4-1998(Temp), f. & cert. ef. 3-31-98 thru 9-26-98; WCD 7-1998(Temp), f. 7-13-98, cert. ef. 7-15-98 thru 1-11-99; WCD 9-1998(Temp), f. & cert. ef. 10-15-98 thru 4-12-99; WCD 1-1999(Temp), f. 1-12-99, cert. ef. 1-15-99 thru 7-13-99; WCD 5-1999(Temp), f. & cert. ef. 4-15-99 thru 10-12-99; WCD 10-1999(Temp), f. & cert. ef. 7-15-99 thru 1-10-2000; WCD 12-1999(Temp), f. 10-14-99, cert. ef. 10-15-99 thru 4-12-00; WCD 1-2000(Temp), f. 1-12-00, cert. ef. 1-14-00 thru 7-12-00; WCD 5-2000(Temp), f. 4-13-00, cert. ef. 4-14-00 thru 10-10-00; WCD 7-2000(Temp), f. 7-14-00, cert. ef. 7-14-00 thru 1-9-01; WCD 8-2000(Temp), f. & cert. ef. 10-13-00 thru 4-10-01; WCD 1-2001(Temp), f. & cert. ef. 1-12-01 thru 7-10-01; WCD 3-2001(Temp), f. & cert. ef. 4-13-01 thru 10-9-01; WCD 6-2001(Temp), f. & cert. ef. 7-13-01 thru 1-8-02; WCD 9-2001(Temp), f. & cert. ef. 10-12-01 thru 4-9-02; WCD 1-2002(Temp), f. & cert. ef. 1-15-02 thru 7-13-02; WCD 5-2002(Temp), f. 4-12-02, cert. ef. 4-15-02 thru 10-11-02; WCD 8-2002(Temp), f. 7-12-02 cert. ef. 7-15-02 thru 1-10-03; WCD 11-2002(Temp), f. 10-11-02, cert. ef. 10-15-02 thru 4-12-03; WCD 1-2003(Temp), f. & cert. ef. 1-15-03 thru 7-13-03; WCD 2-2003, f. 1-15-03 cert. ef. 2-1-03; WCD 4-2003(Temp), f. 4-14-03, cert. ef. 4-15-03 thru 10-11-03; WCD 7-2003(Temp), f. & cert. ef. 7-15-03 thru 1-10-04; WCD 1-2004(Temp), f. & cert. ef. 1-21-04 thru 7-18-04; WCD 5-2004(Temp), f. & cert. ef. 4-19-04 thru 10-15-04; WCD 7-2004(Temp), f. & cert. ef. 7-15-04 thru 1-10-05; WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 3-2005(Temp), f. & cert. ef. 5-13-05 thru 11-8-05; Administrative correction 11-18-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 6-2006(Temp), f. & cert. ef. 7-17-06 thru 1-12-07; Administrative correction 1-16-07; WCD 5-2007(Temp), f. & cert. ef. 6-27-07 thru 12-23-07; WCD 6-2007(Temp), f. & cert. ef. 10-29-07 thru 4-25-08

Rule Caption: Affecting workers' compensation proof of coverage, self-insurance, and worker leasing.

Adm. Order No.: WCD 7-2007

Filed with Sec. of State: 11-1-2007

Certified to be Effective: 11-28-07

Notice Publication Date: 9-1-2007

Rules Amended: 436-050-0003, 436-050-0005, 436-050-0100, 436-050-0175, 436-050-0200, 436-050-0400, 436-050-0410, 436-050-0420, 436-050-0440, 436-050-0450, 436-050-0455, 436-050-0460, 436-050-0470, 436-050-0480

Subject: Amendments to OAR 436-050, "Employer/Insurer Coverage Responsibility":

- Referring to ORS 656.427 regarding time frames for termination of guaranty contracts; defining "premium" (HB 2783)
- Replacing the term "Handicapped Workers" with "Workers with Disabilities" (SB 83)
- Clarifying time frames and process for cancellation of self-insurance
- Revising regulations affecting worker leasing companies, including:
 - Relevant definitions
 - The application and license renewal process
 - Reporting and record-keeping
 - Grounds for disqualification, suspension of license, and revocation of license by the director
 - Appeal rights for persons refused approval or renewal of a worker leasing license
 - Reapplication following disqualification for, or revocation of, license
 - Continuation of a disqualification, suspension, or revocation of a worker leasing license applicable to any new worker leasing company created through the sale, transfer, or conveyance of ownership or of the worker leasing company's assets to another person or controlling person
 - Penalties under ORS 656.990

Direct questions to: Fred Bruyns, Rules Coordinator; phone 503-947-7717; fax 503-947-7581; or e-mail fred.h.bruyns@state.or.us. Rules are available on the internet: <http://www.wcd.oregon.gov/policy/rules/rules.html>

For a copy of the rules, contact Publications at 503-947-7627, Fax 503-947-7630.

Rules Coordinator: Fred Bruyns—(503) 947-7717

436-050-0003

Applicability of Rules

- (1) These rules are effective November 28, 2007, to carry out the provisions of:
- (a) ORS 656.017 — Employer required to pay compensation and perform other duties.
 - (b) ORS 656.029 — Independent contractor status.
 - (c) ORS 656.126 — Coverage while temporarily in or out of state.
 - (d) ORS 656.407 — Qualifications of insured employers.
 - (e) ORS 656.419 — Guaranty contracts.
 - (f) ORS 656.423 — Cancellation of coverage by employer.
 - (g) ORS 656.427 — Termination of guaranty contract or surety bond liability by insurer.
 - (h) ORS 656.430 — Certification of self-insured employer.
 - (i) ORS 656.434 — Certification effective until canceled or revoked; revocation of certificate.
 - (j) ORS 656.443 — Procedure upon default by employer.
 - (k) ORS 656.447 — Sanctions against insurer for failure to comply with contracts, orders or rules.

(l) ORS 656.455 — Records location and inspection.

(m) ORS 656.745 — Civil penalties.

(n) ORS 656.850 and 656.855 — Worker leasing companies.

(o) ORS 731.475 — Insurer's in-state location.

(2) Applicable to this chapter, the director may, unless otherwise obligated by statute, in the director's discretion waive any procedural rules as justice so requires.

Stat. Auth.: ORS 656.704 and 656.726(4)

Stats. Implemented: ORS 656.017, 656.029, 656.126, 656.407, 656.419, 656.423, 656.427, 656.430, 656.434, 656.443, 656.447, 656.455, 656.745, 656.850, 656.855, 731.475

Hist.: WCD 3-1980(Admin), f. & cert. 4-2-80; WCD 4-1982(Admin), f. 2-10-82, cert. 2-15-82; WCD 10-1982(Admin), f. 9-30-82, cert. 10-1-82; WCD 7-1983(Admin), f. 12-22-83, cert. 12-27-83; Renumbered from 436-051-0003, 1-1-86; WCD 9-1985(Admin), f. 12-12-85, cert. 1-1-86; WCD 9-1987, f. 12-18-87, cert. 1-1-88; WCD 7-1989, f. 12-22-89, cert. ef. 1-1-90; WCD 25-1990, f. 11-29-90, cert. ef. 12-26-90; WCD 3-1992, f. 1-10-92, cert. ef. 2-1-92; WCD 2-1994, f. 4-1-94, cert. ef. 5-1-94; WCD 9-1996, f. 3-11-96, cert. ef. 4-1-96; WCD 1-1998, f. 1-9-98, cert. ef. 1-23-98; WCD 5-2001, f. 6-22-01, cert. ef. 7-1-01; WCD 10-2003, f. 8-29-

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03, cert. ef. 9-15-03; WCD 12-2003, f. 12-4-03, cert. ef. 1-1-04; WCD 5-2005, f. 5-26-05, cert. ef. 6-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 7-2007, f. 11-1-07, cert. ef. 11-28-07

436-050-0005

Definitions

For the purpose of these rules unless the context requires otherwise:

- (1) "Audited Financial Statement" means a financial statement audited by an outside accounting firm.
- (2) "Board" means the Workers' Compensation Board of the Department of Consumer and Business Services.
- (3) "Client" means a person to whom workers are provided under contract and for a fee on a temporary or leased basis.
- (4) "Complete Records" means:
 - (a) Written records that segregate and show specifically for each employer the amounts due from the employer and paid by the insurer or self-insured employer for premiums for insurance coverage, premium assessments, and any other moneys due the director;
 - (b) Written records of claims for compensation made under ORS chapter 656; and
 - (c) Written records of guaranty contracts issued as required by ORS chapter 656.
- (5) "Controlling Person" means a person having substantial ownership or who is an officer or director of a corporation; a member or manager of a limited liability company; a partner of a partnership; or an individual who possesses, directly or indirectly, the power to direct or cause the direction of the management, policies, or operation of a person offering worker leasing services.
- (6) "Days" means calendar days unless otherwise specified.
- (7) "Default" means failure of an employer, insurer or self-insured employer to pay the moneys due the director under ORS 656.506, 656.612 and 656.614 at such intervals as the director shall direct.
- (8) "Department" means the Department of Consumer and Business Services.
- (9) "Director" means the director of the Department of Consumer and Business Services or the director's delegate for the matter, unless the context requires otherwise.
- (10) "Division" means the Workers' Compensation Division of the Department of Consumer and Business Services.
- (11) "Double Coverage" means more than one guaranty contract is on file with the director for the same period of time.
- (12) "Fiscal Year" means the twelve-month period beginning July 1 and ending June 30.
- (13) "Governmental Subdivision" means cities, counties, special districts defined in ORS 198.010, intergovernmental agencies created under ORS 225.050, school districts as defined in ORS 255.005, public housing authorities created under ORS chapter 456 or regional council of governments created under ORS chapter 190.
- (14) "Hearings Division" means the Hearings Division of the Workers' Compensation Board.
- (15) "Insurer" means a guaranty contract insurer.
- (16) "Leased Worker" means any worker provided by a worker leasing company on other than a "temporary basis" as described in OAR 436-050-0420.
- (17) "Person" means an individual, partnership, corporation, joint venture, limited liability company, association, government agency, sole proprietorship, or other business entity allowed to do business in the State of Oregon.
- (18) "Premium" means the monetary consideration for an insurance policy.
- (19) "Premium Assessments" means moneys due the director under ORS 656.612 and 656.614.
- (20) "Process Claims" and its variations is the determination of compensability and management of compensation by an Oregon certified claims examiner. Although determining compensability and managing compensation must be done from within this state pursuant to ORS 731.475 and this definition, the act of making payment may be done from out-of-state as directed from the Oregon place of business.
- (21) "Reinstatement" means the continuation of workers' compensation insurance coverage without a gap under a guaranty contract.
- (22) "Self-Insured Employer" means an employer who has been certified under ORS 656.430 as having met the qualifications of a self-insured employer set out by ORS 656.407.
- (23) "Self-Insured Employer Group" means five (5) or more employers certified under ORS 656.430 as having met the qualifications of a self-

insured employer set out by ORS 656.407 and OAR 436-050-0260 through 436-050-0340.

(24) "State" means the State of Oregon.

(25) "Substantial ownership" means a percentage of ownership equal to or greater than the average percentage of ownership of all the owners, or ten percent, whichever is less.

(26) "Worker Leasing Company" means a "person," as described in section (17) of this rule, who provides workers, by contract and for a fee, as established in ORS 656.850.

(27) "Written" and its variations means that which is expressed in writing, including electronic transmission.

Stat. Auth.: ORS 656.704 & 656.726(4)

Stats. Implemented: ORS 656.704 & 656.726(4)

Hist.: WCB 2-1976(Admin)(Temp), f. & ef. 4-12-76; WCB 3-1976(Admin), f. & ef. 6-15-76; WCD 3-1980(Admin), f. & ef. 4-2-80; WCD 4-1982(Admin), f. 2-10-82, ef. 2-15-82; WCD 10-1982(Admin), f. 9-30-82, ef. 10-1-82; WCD 1-1983(Admin), f. 6-30-83, ef. 7-1-83; WCD 7-1983(Admin), f. 12-22-83, ef. 12-27-83; WCD 5-1985(Admin), f. 12-10-85, cert. ef. 1-1-86; Renumbered from 436-051-0005; WCD 9-1985(Admin), f. 12-12-85, ef. 1-1-86; WCD 9-1987, f. 12-18-87, ef. 1-1-88; WCD 7-1989, f. 12-22-89, cert. ef. 1-1-90; WCD 25-1990, f. 11-29-90, cert. ef. 12-26-90; WCD 2-1994, f. 4-1-94, cert. ef. 5-1-94; WCD 9-1996, f. 3-11-96, cert. ef. 4-1-96; WCD 5-2001, f. 6-22-01, cert. ef. 7-1-01; WCD 12-2003, f. 12-4-03, cert. ef. 1-1-04; WCD 3-2007(Temp), f. 5-31-07, cert. ef. 6-1-07 thru 11-27-07; WCD 7-2007, f. 11-1-07, cert. ef. 11-28-07

436-050-0100

Cancellation of Coverage by Employer; Reinstatement of Guaranty Contract; Carrier Liability

(1) An employer may cancel coverage with an insurer pursuant to ORS 656.423. An employer's cancellation of coverage with an insurer does not terminate a guaranty contract. Liability of an insurer under a guaranty contract under this chapter is terminated by an insurer taking action pursuant to ORS 656.427.

(2) An insurer may terminate liability on its guaranty contract or surety bond by giving the employer and director notice of termination in accordance with ORS 656.427 and this rule.

(3) Notice to the employer for terminating an insurer's guaranty contract filed with the director must be in writing, must include a statement that the filing with the director will terminate, and must state the effective date of termination as allowed under ORS 656.427.

(4) The insurer bears the burden of proof establishing that a termination notice was mailed to an employer. The notice and proof of mailing must be made available in Oregon upon request.

(5) Notice to the director of termination of a guaranty contract can be provided separately under OAR 436-160 or under this rule; or in a list if filing by hard copy submission under this rule. The notice under this rule must:

- (a) Be in writing;
- (b) Clearly identify the insurer;
- (c) Include the employer(s) legal name; Federal Employer Identification Number (FEIN) or other tax reporting number; and the effective date of termination; and
- (d) Be mailed or delivered to the director within ten calendar days after the effective date of the termination.

(6) Failure to provide timely notice to the director of termination of an insurer's guaranty contract may result in civil penalties pursuant to ORS 656.745.

(7) A guaranty contract termination notice may be rescinded and the guaranty contract reinstated if there will not be a lapse in the employer's coverage. If there is a lapse in the employer's coverage and the insurer reestablishes a policy for the employer, the insurer must file a new guaranty contract which reports the effective date of the new coverage.

(8) Pursuant to ORS 656.427(5), an employer may give notice to the insurer seeking continued coverage. The notice must be given before the effective date of the insurer guaranty contract termination and must be in writing. The notice must at least include a statement that other coverage has not been obtained and that the employer intends to become insured under the plan as established in ORS 656.730. Further application by the employer is not required. Pursuant to ORS 656.427(5), the insurer so notified must then insure continuing coverage and may take the additional steps to transfer the risk to the plan.

(9) If two or more guaranty contracts are in effect for one employer for the same time period, the insurer filing the employer's most recent arrangement for coverage shall have responsibility for processing claims occurring during the time period.

(10) If a guaranty contract is in effect and an active self insurance certification is on file with the director for the same employer for the same time period, the self insured employer shall have the responsibility of pro-

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cessing claims occurring during the time period as arranged under the self insurance certification.

Stat. Auth.: ORS 656.704 & 656.726(4)
Stats. Implemented: ORS 656.423, 656.427 (ch. 656, OL 2007)
Hist.: WCB 18-1975(Admin), f. 12-19-75, ef. 1-1-76; WCD 3-1980(Admin), f. & ef. 4-2-80; WCD 4-1982(Admin), f. 2-10-82, ef. 2-15-82; WCD 7-1983(Admin), f. 12-22-83, ef. 12-27-83; WCD 5-1985(Admin), f. 12-10-85, cert. ef. 1-1-86; Renumbered from 436-051-0120; WCD 9-1985(Admin), f. 12-12-85, ef. 1-1-86; WCD 9-1987, f. 12-18-87, ef. 1-1-88; WCD 5-2001, f. 6-22-01, cert. ef. 7-1-01; WCD 12-2003, f. 12-4-03, cert. ef. 1-1-04; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 7-2007, f. 11-1-07, cert. ef. 11-28-07

436-050-0175

Annual Reporting Requirements

(1) To determine the financial status of a self-insured employer and to evaluate the employer's continuity of operation, a self-insured employer shall annually file, within 120 days of the employer's fiscal year end, an audited financial statement or annual report with audited financial statement, including SEC Form 10K if issued, for the just completed fiscal year. All financial statements and annual financial reports filed, as required by this section, shall be retained by the director for a period of at least three years. In lieu of an audited financial statement or annual report, a self-insured employer may file a financial statement certified by the employer that the financial statement is true, accurate and presents the employer's financial condition and results of operations as of the date of the statement.

(2) Each self-insured employer shall submit an annual endorsement to their application for self-insurance in the form prescribed by the director. The endorsement shall be filed by March 1 of each year.

(3) Notwithstanding section (1) of this rule, the director may require an employer to submit an audited financial statement if the certified financial statement submitted is insufficient to evaluate the employer's financial status.

(4) The self-insured employer shall report claim loss data necessary by March 1 of each year for the purposes of experience rating modification, retrospective rating calculations and determining deposits.

(a) The report must be certified to be true and accurate by an authorized representative of the self-insured employer, and must include:

(A) A report of losses for each year in the experience rating period. The report must cover all claims incurred during the reporting period, and must be valued as of January 1 of the current year. Reports must include:

- (i) Contract medical expenses;
- (ii) Total medical deductible;
- (iii) Number of claims for which the medical deductible is claimed;
- (iv) For claims with incurred losses of \$5,000 or less: total paid, outstanding reserves, and total incurred losses;
- (v) Number of claims with incurred losses of \$5,000 or less; and
- (vi) For each claim with incurred losses exceeding \$5,000: worker's name, date of injury, claim number, total paid, outstanding reserves, and total incurred losses. Claims must be listed in alphabetical order.

(B) A report of losses covering the self-insured period prior to the experience rating period. The report must list all open claims, and must be valued as of January 1 of the current year. The report must include:

- (i) The worker's name, listed in alphabetical order;
- (ii) Date of injury;
- (iii) Claim number;
- (iv) Total paid;
- (v) Outstanding reserves; and
- (vi) Total incurred losses.

(C) Identification of claims involving catastrophes, Workers with Disabilities Program, permanent total disability or fatal benefits, third party recoveries, and claims where the total incurred has or is expected to exceed the self-insured retention of the self-insured employer's excess insurance policy.

(b) The director will, by bulletin, provide guidelines for self-insured employers and their authorized representatives to use in submitting the required data.

(c) Each self-insured city or county that is exempted from the security deposit requirements in accordance with ORS 656.407(3) and OAR 436-050-0185 shall, in addition to the above, provide the procedures, methods, and criteria used in the process of determining the amount of their actuarially sound workers' compensation loss fund, including procedures for determining the amount for injuries incurred but not reported.

(5) If a self-insured employer fails to comply with the requirements of sections (1), (2), (3) or (4) of this rule, the director may impose any or all of the following sanctions:

(a) Require the self-insured employer to increase their deposit and premium assessments by 25%;

(b) Conduct an audit to obtain the necessary loss information at the self-insured employer's expense;

(c) Assess civil penalties for up to \$250 per day that the information is not provided beyond the deadline; or

(d) Revoke the employer's certification as a self-insured.

(6) To ensure each self-insured employer's claims are valued appropriately for use in deposit, experience rating, and retrospective rating calculations, the director will perform routine test audits. If a self-insured employer's total claims values are found to be 10 percent or more below the director's determined values, the current experience rating will be recalculated using the director's determined values and will be used in the security deposit and retrospective rating calculations. In addition, penalties may be assessed.

Stat. Auth.: ORS 656.407, 656.430, 656.704 & 656.726(4)

Stats. Implemented: ORS 656.407 & 656.430

Hist.: WCD 7-1989, f. 12-22-89, cert. ef. 1-1-90; WCD 25-1990, f. 11-29-90, cert. ef. 12-26-90; WCD 7-1991(Temp), f. 10-4-91, cert. ef. 10-7-91; WCD 3-1992, f. 1-10-92, cert. ef. 2-1-92; WCD 5-2001, f. 6-22-01, cert. ef. 7-1-01; WCD 12-2003, f. 12-4-03, cert. ef. 1-1-04; WCD 7-2007, f. 11-1-07, cert. ef. 11-28-07

436-050-0200

Self-Insured Certification Cancellation; Revocation

(1) A certification to a self-insurer issued by the director remains in effect until:

(a) Revoked as provided by OAR 436-050-0150 through 436-050-0230 and ORS 656.440; or

(b) Canceled by the employer with the approval of the director.

(2) If a self-insured employer wishes to cancel certification as a self-insured or cancel self-insurance for any legal entity included under the self-insurance certification, the employer shall make written request to the director. Such a request shall be submitted at least 60 days prior to the desired date of cancellation and include:

(a) What arrangements have been made to process present and future claims for which the employer is responsible;

(b) A statement of all present and future claims liabilities for all liabilities incurred during the period of self-insurance; and

(c) Any reports and/or moneys due the director pursuant to ORS 656.506, 656.612, and 656.614.

(3) If the employer will continue to have subject workers after the cancellation date, the employer must provide the director, prior to the desired date of cancellation, one of the following:

(a) A proof of coverage filing under ORS 656.017 and 656.419;

(b) Evidence of a worker leasing arrangement as allowed under ORS 656.850; or

(c) An assigned risk binder that demonstrates compliance with ORS 656.052.

(4) If the self-insured employer fails to provide the director evidence of subsequent coverage under section (3) prior to the desired date of cancellation, the self-insurance certification, including reports and moneys due the director under ORS 656.506, 656.612, and 656.614, will remain in effect.

(5) The certification of a self-insured employer may be revoked if:

(a) The employer fails to comply with ORS 656.407 or 656.430 and the rules adopted pursuant thereto; or

(b) The employer commits any violation for which a civil penalty could be assessed under ORS 656.745.

(6) Except as provided in OAR 436-050-0170(7), notice of certificate revocation will be issued in accordance with the provision of ORS 656.440.

Stat. Auth.: ORS 656.704 & 656.726(4)

Stats. Implemented: ORS 656.434 & 656.440

Hist.: WCD 3-1980(Admin), f. & ef. 4-2-80; WCD 4-1982(Admin), f. 2-10-82, ef. 2-15-82; WCD 7-1983(Admin), f. 12-22-83, ef. 12-27-83; WCD 5-1985(Admin), f. 12-10-85, cert. ef. 1-1-86; Renumbered from 436-051-0325; WCD 9-1985(Admin), f. 12-12-85, ef. 1-1-86; WCD 9-1987, f. 12-18-87, ef. 1-1-88; WCD 5-2001, f. 6-22-01, cert. ef. 7-1-01; WCD 12-2003, f. 12-4-03, cert. ef. 1-1-04; WCD 7-2007, f. 11-1-07, cert. ef. 11-28-07

436-050-0400

Responsibility for Providing Coverage Under a Lease Arrangement

(1) Every worker leasing company providing workers to a client shall satisfy the requirements of ORS 656.017, 656.407, or 656.419.

(2) Every worker leasing company providing leased workers to a client shall also provide workers' compensation insurance coverage for any subject workers of the client, unless the client has an active guaranty contract on file with the director or is certified under ORS 656.430 as a self-insured employer. In the latter circumstance, the client's guaranty contract insurer or self-insured employer will be deemed to provide insurance coverage for all leased workers and subject workers of the client.

(3) If an insured client allows its guaranty contract to terminate or if a self-insured client, allows its certification to terminate and the client con-

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tinues to employ subject workers or has leased workers, the client shall be considered a noncomplying employer unless the worker leasing company has made the filing with the director as provided in OAR 436-050-0410(1).

(4) A client can obtain leased workers from only one worker leasing company at a time unless the client has an active guaranty contract on file with the director or is certified under ORS 656.430 as a self-insured employer.

(5) A worker leasing company shall not provide workers' compensation coverage for another worker leasing company.

Stat. Auth.: ORS 656.704, 656.726(4), 656.850 & 656.855

Stats. Implemented: ORS 656.850 & 656.855

Hist.: WCD 2-1994, f. 4-1-94, cert. ef. 5-1-94; WCD 15-1994, f. 12-23-94, cert. ef. 2-1-95; WCD 5-2001, f. 6-22-01, cert. ef. 7-1-01; WCD 12-2003, f. 12-4-03, cert. ef. 1-1-04; WCD 3-2007(Temp), f. 5-31-07, cert. ef. 6-1-07 thru 11-27-07; WCD 7-2007, f. 11-1-07, cert. ef. 11-28-07

436-050-0410

Notice to Director of Lease Arrangement; Termination

(1) Within 14 days after the effective date of the lease arrangement or contract, a worker leasing company must file written notice with the director and its insurer, using Form 440-2465, that it is providing leased workers to a client and workers' compensation coverage. The notice must be correct and complete, and must include:

(a) The client's:

(A) Legal name;

(B) FEIN or other tax reporting number;

(C) Type of ownership;

(D) Primary nature of business;

(E) Mailing address; and

(F) Street address in Oregon;

(b) The worker leasing company's:

(A) Legal name;

(B) Mailing address;

(C) FEIN or other tax reporting number;

(D) WCD worker leasing license number, if any;

(E) Workers' compensation insurer's name (or "self-insured");

(F) Effective date of leasing contract;

(G) Contact name and phone number; and

(H) A signature of a representative of the worker leasing company.

(2) A worker leasing company may terminate its obligation to provide workers' compensation coverage by giving to its insurer, its client, and the director written notice of the termination. A notice of termination shall state the effective date and hour of termination, but the termination will be effective not less than 30 days after the notice is received by the director. Notice to the client under this section must be given by mail, addressed to the client at its last-known address.

Stat. Auth.: ORS 656.704, 656.726(4), 656.850 & 656.855

Stats. Implemented: ORS 656.850 & 656.855

Hist.: WCD 2-1994, f. 4-1-94, cert. ef. 5-1-94; WCD 5-2001, f. 6-22-01, cert. ef. 7-1-01; WCD 10-2003, f. 8-29-03, cert. ef. 9-15-03; WCD 7-2007, f. 11-1-07, cert. ef. 11-28-07

436-050-0420

Temporary Worker Distinguished from Leased Worker

(1) A person who provides a worker to work for a client will be considered to be providing the worker on a "temporary basis" only if there is contemporaneous written documentation, retained by either the client or the temporary service provider, which indicates the duration of the work to be performed and the worker is provided pursuant to ORS 656.850(1)(b), under one or more of the following conditions:

(a) Special situations to cover employee absences or employee leaves, including but not limited to such things as maternity leave, vacation, jury duty, or illness from which the permanent worker will return to work;

(b) To fill a professional skill shortage;

(c) To staff a seasonal workload;

(d) To staff a special assignment or project where the worker will be terminated or assigned to another temporary project upon completion;

(e) A student worker provided and paid by a school district or community college through a work experience program; or

(f) The work contract is part of the client's overall employment selection program, such as where new workers must satisfactorily pass a probationary period before being granted permanent employee status.

(2) If a person provides workers, by contract and for a fee, to work for a client and any such workers are not provided on a "temporary basis," that person will be considered a worker leasing company.

(3) If a person provides both leased workers and workers on a temporary basis, that person shall maintain written records that show specifically which workers are provided on a temporary basis. If the written

records do not specify which workers are provided on a temporary basis, all workers are deemed to be leased workers.

Stat. Auth.: ORS 656.704, 656.726(4), 656.850 & 656.855

Stats. Implemented: ORS 656.850 & 656.855

Hist.: WCD 2-1994, f. 4-1-94, cert. ef. 5-1-94; WCD 15-1994, f. 12-23-94, cert. ef. 2-1-95; WCD 5-2001, f. 6-22-01, cert. ef. 7-1-01; WCD 10-2003, f. 8-29-03, cert. ef. 9-15-03; WCD 3-2007(Temp), f. 5-31-07, cert. ef. 6-1-07 thru 11-27-07; WCD 7-2007, f. 11-1-07, cert. ef. 11-28-07

436-050-0440

Qualifications, Applications, and Renewals for License as a Worker-Leasing Company

(1) Each person applying for initial license or renewal as a worker leasing company shall:

(a) Be either an Oregon corporation or other legal entity registered with the Oregon Secretary of State, Corporations Division to conduct business in this state;

(b) Maintain workers' compensation coverage pursuant to ORS 656.017; and

(c) Upon application approval and prior to licensure, pay the required licensing fee of \$2,050.

(2) Each person applying for initial license or renewal as a worker leasing company must submit an application for license on Form 440-2466. The form and accompanying documentation must include:

(a) Legal name;

(b) Mailing address;

(c) In-state and out-of-state phone numbers;

(d) FEIN or other tax reporting number;

(e) Type of business;

(f) Physical address for Oregon principal place of business;

(g) Assumed business names;

(h) Name of workers' compensation insurer (or "self-insured") and policy number;

(i) WCD employer number, if any;

(j) Name(s) and contact information of the representative(s) at the Oregon location(s);

(k) List of controlling persons including their names, titles, residence addresses, telephone numbers, email addresses, and dates of birth;

(l) For a person applying for an initial license, a letter of verification and good standing from the controlling regulatory agency of those states in which a license or certification to provide workers by contract and for a fee was previously, or is currently held;

(m) Verification of compliance with tax laws from Oregon Employment Department, Oregon Department of Revenue, and the Internal Revenue Service, using Attachments A, B, and C of Form 440-2466, the worker leasing license application;

(n) A record of any present or prior experience of providing workers by contract and for a fee in any state, by the person or any controlling person, and an explanation of that experience;

(o) A record of any bankruptcies, liens, or any actions involving fraud, theft, embezzlement, forgery, or money laundering on the part of the person or any controlling person; such actions may include:

(A) Criminal convictions;

(B) Lawsuits;

(C) Guilty pleas; or

(D) Judgments

(p) Full details regarding any bankruptcy, liens, or action under subsection (o) of this section, including:

(A) The nature and dates of the action(s);

(B) Outcomes, sentences, and conditions imposed;

(C) Name and location of the court or jurisdiction in which any proceedings were held or are pending, and the dates of the proceedings; and

(D) The designation and license number for any actions against a license;

(q) Full details of any administrative actions against the person by a regulatory agency of any state regarding matters referenced in OAR 436-050-0440(2)(o) or worker leasing activities.

(r) A plan of operation which demonstrates how the worker leasing company will meet the requirements of ORS chapter 654, The Oregon Safe Employment Act, and collect the information necessary to establish each client's experience rating; and

(s) A notarized signature of an authorized representative of the applicant.

(3) The director may request additional information to further clarify the information and documentation submitted with the application. Under ORS 656.850(2), no person shall perform services as a worker leasing company in Oregon without first being licensed to do so.

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(4) The director will review complete applications, and may conduct a background investigation of the person applying for a license or any controlling person. Information learned through a background investigation, or other information submitted during the application process, may be the basis for the director to refuse to issue or renew a license, or to disqualify the person from making further application.

(5) If the application is approved, the director will issue a license. Each license issued under these rules shall automatically expire two years after the date of issuance unless renewed by the licensee. A request for renewal of a worker leasing license must be submitted at least 45 days before the expiration date of the current worker leasing license.

(6) The director may refuse to issue or renew a license or may disqualify a person from applying for a license in the future for misrepresentation or failure to meet any of the requirements of ORS 656.850, 656.855, or these rules.

(7) A person may appeal the director's refusal to approve and issue or renew a license under this rule as provided in OAR 436-050-0008 and 436-001.

(8) "Disqualification," as used in this rule, means a prospective worker leasing company may reapply no sooner than two years from the disqualification date.

(9) A disqualification may apply to any new worker leasing company created through the sale, transfer, or conveyance of ownership or of the worker leasing company's assets to another person or controlling person.

Stat. Auth.: ORS 656.704, 656.726(4), 656.850 & 656.855
Stats. Implemented: ORS 656.850 & 656.855
Hist.: WCD 2-1994, f. 4-1-94, cert. ef. 5-1-94; WCD 5-2001, f. 6-22-01, cert. ef. 7-1-01; WCD 10-2003, f. 8-29-03, cert. ef. 9-15-03; WCD 12-2003, f. 12-4-03, cert. ef. 1-1-04; WCD 5-2005, f. 5-26-05, cert. ef. 6-1-05; WCD 3-2007(Temp), f. 5-31-07, cert. ef. 6-1-07 thru 11-27-07; WCD 7-2007, f. 11-1-07, cert. ef. 11-28-07

436-050-0450

Recordkeeping and Reporting Requirements

(1) Every licensed worker leasing company must give notice to the director of one Oregon location where Oregon leasing records are kept. The notice must include the physical address, mailing address, telephone number, and any other contact information in this state.

(2) Every licensed worker leasing company must have at least one representative of the worker leasing company at the Oregon location authorized to respond to inquiries and make records available regarding leasing arrangements and client contracts.

(3) The following records must be kept at the Oregon location:

- (a) Copies of signed worker leasing notices;
- (b) Copies of signed notices of termination of leasing arrangements;
- (c) Copies of signed contracts between the worker leasing company and clients; and

(d) Payroll records for all workers that identify leased workers subject to coverage by the worker leasing company; leased workers not subject to coverage by the worker leasing company; and, written records for all regular and temporary employees of the worker leasing company.

(4) The worker leasing company must notify the director within 30 days of the effective date of a change in any items listed in OAR 436-050-0440(2).

Stat. Auth.: ORS 656.704, 656.726(4), 656.850 & 656.855
Stats. Implemented: ORS 656.850 & 656.855
Hist.: WCD 2-1994, f. 4-1-94, cert. ef. 5-1-94; WCD 5-2001, f. 6-22-01, cert. ef. 7-1-01; WCD 10-2003, f. 8-29-03, cert. ef. 9-15-03; WCD 3-2007(Temp), f. 5-31-07, cert. ef. 6-1-07 thru 11-27-07; WCD 7-2007, f. 11-1-07, cert. ef. 11-28-07

436-050-0455

Reporting Requirements of a Self-Insured Worker-Leasing Company

(1) A self-insured worker leasing company shall maintain and report to the National Council on Compensation Insurance separate statistical data for each client whose coverage is provided by the self-insured employer. Reporting shall be according to the uniform statistical plan prescribed by the director according to ORS 737.225(4).

(2) Records relating to the client statistical data for self-insured worker leasing companies shall be made available for review by the National Council on Compensation Insurance upon request.

Stat. Auth.: ORS 656.704, 656.726(4), 656.850 & 656.855
Stats. Implemented: ORS 656.850 & 656.855
Hist.: WCD 2-1994, f. 4-1-94, cert. ef. 5-1-94; WCD 5-2001, f. 6-22-01, cert. ef. 7-1-01; WCD 7-2007, f. 11-1-07, cert. ef. 11-28-07

436-050-0460

Suspension or Revocation of License

(1) Reasons for suspension or revocation of a worker leasing license include, but are not limited to:

(a) Insolvency, whether the worker leasing company's liabilities exceed their assets or the worker leasing company cannot meet its financial obligations;

(b) Judgments against or convictions, within the last ten years, of any worker leasing company or controlling person for the reasons identified in OAR 436-050-0440(2)(o),

(c) Administrative actions involving worker leasing activities resulting from failure to comply with the requirements of any state;

(d) Nonpayment of taxes, fees, assessments, or any other monies due the State of Oregon;

(e) If the worker leasing company has failed to comply with any provisions of ORS Chapters 654, 656, 659, 659A, 731 or 737; or any provisions of these rules; or

(f) If the worker leasing company is permanently or temporarily enjoined by a court from engaging in or continuing any conduct or practice involving any aspect of the worker leasing business.

(2) For the purposes of this rule:

(a) "Suspension" means a stopping by the director of the worker leasing company's authority to provide leased workers to clients for a specified period of time. A suspension may be in effect for a period of up to two years. When the suspension expires, the worker leasing company may petition the director to resume its worker leasing company activities.

(b) "Revocation" means a permanent stopping by the director of the worker leasing company's authority to provide leased workers to clients. After a revocation has been in effect for five years or longer, the worker leasing company may reapply for license.

(c) "Show-cause hearing" means an informal meeting with the director in which the worker leasing company shall be provided an opportunity to be heard and present evidence regarding any proposed actions by the director to suspend or revoke a worker leasing company's authority to provide leased workers to clients.

(3) The director may revoke a license upon discovery of a misrepresentation in the information submitted in the worker leasing application.

(4) Suspension or revocation under this rule will not be made until the worker leasing company has been given notice and the opportunity to be heard through a show-cause hearing before the director and "show cause" why it should be permitted to continue to be licensed as a worker leasing company.

(5) A show-cause hearing may be held at any time the director finds that a worker leasing company has failed to comply with its obligations under a leasing contract or that it failed to comply with the rules or orders of the director.

(6) Appeal of proposed and final orders of suspension or revocation issued under this rule may be made as provided in OAR 436-050-0008 and 436-001.

(7) Notwithstanding section (4) of this rule, the director may immediately suspend or refuse to renew a license by issuing an "emergency suspension order" if the worker leasing company fails to maintain workers' compensation coverage; or if the director finds there is a serious danger to public health or safety.

(8) A suspension or revocation may apply to any new worker leasing company created through the sale, transfer, or conveyance of ownership or of the worker leasing company's assets to another person.

Stat. Auth.: ORS 656.704, 656.726(4), 656.850 & 656.855
Stats. Implemented: ORS 656.850 & 656.855
Hist.: WCD 2-1994, f. 4-1-94, cert. ef. 5-1-94; WCD 5-2001, f. 6-22-01, cert. ef. 7-1-01; WCD 10-2003, f. 8-29-03, cert. ef. 9-15-03; WCD 5-2005, f. 5-26-05, cert. ef. 6-1-05; WCD 3-2007(Temp), f. 5-31-07, cert. ef. 6-1-07 thru 11-27-07; WCD 7-2007, f. 11-1-07, cert. ef. 11-28-07

436-050-0470

Monitoring/Auditing

(1) The division will monitor and conduct periodic audits of employers as necessary to ensure compliance with the worker leasing company licensing and performance requirements.

(2) All pertinent records of the worker leasing company required by these rules must be disclosed upon request of the director.

(3) Pursuant to ORS 656.726 and 656.758, the director may inspect the books, records and payrolls of employers pertinent to the administration of these rules. Employers must provide the director with all pertinent books, records and payrolls upon request.

(4) For the purposes of this rule, both the worker leasing company and its clients shall be considered employers.

Stat. Auth.: ORS 656.704, 656.726(4), 656.850 & 656.855
Stats. Implemented: ORS 656.850 & 656.855
Hist.: WCD 2-1994, f. 4-1-94, cert. ef. 5-1-94; WCD 9-1996, f. 3-11-96, cert. ef. 4-1-96; WCD 5-2001, f. 6-22-01, cert. ef. 7-1-01; WCD 10-2003, f. 8-29-03, cert. ef. 9-15-03; WCD 7-2007, f. 11-1-07, cert. ef. 11-28-07

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436-050-0480

Assessment of Civil Penalties

(1) The director may assess a civil penalty against an employer who fails to respond to requests for information and fails to meet the requirements of 436-050-0470. The matrix attached to these rules in Appendix "A" will be used in assessing these penalties. Assessment of a penalty does not relieve the employer of the obligation to provide a response.

(2) An employer failing to meet the requirements set forth in OAR 436-050-0410, 436-050-0450, and 436-050-0455, may be assessed a civil penalty based on the matrix in Appendix "B", attached to these rules.

(3) An employer who is found to be operating a worker leasing company without having obtained a license or having failed to renew a license pursuant to ORS 656.850(2), may be assessed a civil penalty based on the matrix attached to these rules in Appendix "C".

(4) For the purposes of ORS 656.850(2), a violation is defined as any month or part of a month in which an employer provides leased workers to a client without having first obtained a worker leasing license.

(5) Any person or controlling person may also be subject to penalties under ORS 656.990.

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

Stat. Auth.: ORS 656.704, 656.726(4), 656.850 & 656.855

Stats. Implemented: ORS 656.850 & 656.855

Hist.: WCD 12-2003, f. 12-4-03, cert. ef. 1-1-04; WCD 5-2005, f. 5-26-05, cert. ef. 6-1-05;

WCD 3-2007(Temp), f. 5-31-07, cert. ef. 6-1-07 thru 11-27-07; WCD 7-2007, f. 11-1-07,

cert. ef. 11-28-07

Rule Caption: Affecting vocational assistance to injured workers and reemployment assistance programs.

Adm. Order No.: WCD 8-2007

Filed with Sec. of State: 11-1-2007

Certified to be Effective: 12-1-07

Notice Publication Date: 9-1-2007

Rules Amended: 436-105-0002, 436-105-0003, 436-105-0005, 436-105-0008, 436-105-0500, 436-105-0510, 436-105-0520, 436-105-0540, 436-105-0550, 436-110-0003, 436-110-0005, 436-110-0007, 436-110-0240, 436-110-0290, 436-110-0310, 436-110-0320, 436-110-0325, 436-110-0330, 436-110-0335, 436-110-0336, 436-110-0337, 436-110-0345, 436-110-0346, 436-110-0347, 436-110-0350, 436-110-0351, 436-110-0352, 436-110-0850, 436-120-0003, 436-120-0004, 436-120-0007, 436-120-0008, 436-120-0320, 436-120-0340, 436-120-0350, 436-120-0360, 436-120-0400, 436-120-0410, 436-120-0430, 436-120-0440, 436-120-0455, 436-120-0500, 436-120-0510, 436-120-0520, 436-120-0530, 436-120-0700, 436-120-0710, 436-120-0720, 436-120-0800, 436-120-0810, 436-120-0820, 436-120-0830, 436-120-0840, 436-120-0900, 436-120-0915

Rules Repealed: 436-110-0326, 436-110-0327, 436-110-0380, 436-120-0730

Rules Ren. & Amend: 436-105-0510 to 436-105-0511, 436-105-0510 to 436-105-0512

Subject: Amendments to OAR 436-105, "Employer-at-Injury Program" (EAIP):

- Simplifying the definitions of premium and reimbursable wages
- Providing that a medical release, and any restrictions it contains, remains in effect until another medical release is issued by the worker's medical service provider (for the purpose of EAIP services only)
- Providing that a worker can be eligible for EAIP services while the claim is "deferred" (before acceptance or denial)
- Providing insurers greater discretion to determine appropriate EAIP worksite modifications and EAIP purchases
- Providing insurers greater discretion to determine what is appropriate training; eliminating the requirement that EAIP purchases for training are limited to "accredited" or "licensed" training or courses
- Increasing maximum reimbursable amount for EAIP purchases for tools and equipment from \$1,000 to \$2,500
- Allowing insurers to submit more than one reimbursement request per EAIP
- Stating the administrative fee payable to the insurer for its administration of EAIP services (formerly not prescribed by rule)

Amendments to OAR 436-110, "Preferred Worker Program" (PWP):

- Redefining and simplifying "date of hire" and "reimbursable wages"
 - Simplifying the wording that must appear on notices to workers about potential PWP benefits
 - Issuing PWP identification cards with no expiration date - workers could offer the initial and any subsequent employers three full years of premium exemption and claim cost reimbursement
 - Eliminating the requirement that a modification of regular work be "substantial" in order for a worker to be eligible for PWP benefits other than Worksite Modification
 - Removing the restriction that Wage Subsidies may not be combined with subsidies from other sources, with the exception of subsidies under OAR 436-120
 - Revising the name of "Obtained Employment Purchases" to "Employment Purchases"
 - Allowing Employment Purchases while a worker is receiving vocational assistance under OAR 436-120
 - Allowing replacement of Employment Purchases
 - Increasing the maximum expenditure for an Employment Purchase for tools and equipment
 - Providing Employment Purchases needed to create a new worksite
 - Creating a miscellaneous category of Employment Purchase that may be used to help a worker find, accept, or retain employment
 - Allowing a second use of Wage Subsidy and a second use of each category of Employment Purchase for a different job with the same employer
 - Eliminating forms currently required for Worksite Modifications costing \$2,500 or less
 - Eliminating the general requirement for competitive bids for Worksite Modification
 - Including "administrative law judge" as a person who may approve or disapprove a claims disposition agreement (SB 253)
- Amendments to OAR 436-120, "Vocational Assistance to Injured Workers":**
- Describing how the Workers' Compensation Division will determine the timeliness of any document that must be sent to the division in vocational matters
 - Requiring that notices of eligibility for vocational assistance, training, or direct employment services explain the rights of the worker to request a return-to-work plan conference
 - Requiring that notice must be in writing when an insurer notifies a worker that an eligibility determination is postponed while awaiting information about permanent restrictions
 - Requiring that if an insurer ends a worker's eligibility because lack of suitable employment is not due to the limitations caused by the injury, the insurer must have obtained new information that did not exist or that the insurer could not have discovered with reasonable effort at the time the insurer determined eligibility
 - Including among the reasons a worker would be ineligible for vocational assistance or for which eligibility would end, that the worker is unavailable for vocational assistance due to short-term incarceration
 - Eliminating all time frames related to return-to-work plan development except that a plan must be approved within 45 days (direct employment) or 90 days (training) under OAR 436-120-0500(1) & (2)
 - Updating the vocational fee schedule (consistent with changes in state average weekly wage and Bulletin 124)
 - Eliminating the requirement that insurers request administrative approval for vocational services when the insurer is entitled to claims cost reimbursement under OAR 436-110
 - Repealing the rule: "Reimbursement of Vocational Assistance Costs for Pre-1986 Injuries"
 - Defining "show-cause hearing" for the purposes of OAR 436-120-0915(3)
 - Including "administrative law judge" as a person who may approve or disapprove a claims disposition agreement (SB 253)

ADMINISTRATIVE RULES

Direct questions to: Fred Bruyns, Rules Coordinator; phone 503-947-7717; fax 503-947-7581; or e-mail fred.h.bruyns@state.or.us. Rules are available on the internet: <http://www.wcd.oregon.gov/policy/rules/rules.html>

For a copy of the rules, contact Publications at 503-947-7627, Fax 503-947-7630.

Rules Coordinator: Fred Bruyns—(503) 947-7717

436-105-0002

Purpose of Rules

(1) The Employer-at-Injury Program encourages the early return to work of injured workers by providing incentives to employers.

(2) The Employer-at-Injury Program is activated by the employer and administered by the insurer.

(3) The program consists of Wage Subsidy, Worksite Modification, and Employer-at-Injury Program Purchases.

(4) These rules explain:

(a) The assistance and reimbursements available from the Employer-at-Injury Program;

(b) Who is qualified for the assistance and reimbursement; and

(c) How to receive assistance and reimbursements.

Stat. Auth.: ORS 656.622 & 656.726(4)

Stats. Implemented: ORS 656.622

Hist.: WCB 1-1973, f. 1-2-73, ef. 1-15-73; WCB 3-1973, f. 3-14-73, ef. 4-1-73; WCD 2-1977(Admin)(Temp), f. 9-29-77, ef. 10-4-77; WCD 2-1978(Admin), f. & ef. 2-1-78; WCD 7-1981(Admin), f. 12-30-81, ef. 1-1-82; Renumbered from 436-063-0015, 5-1-85; WCD 1-1987(Admin), f. 2-20-87, ef. 3-16-87; WCD 12-1987, f. 12-17-87, ef. 1-1-88; WCD 13-1990(Temp), f. 6-21-90, cert. ef. 7-1-90; WCD 32-1990, f. 12-10-90, cert. ef. 12-26-90; WCD 1-1993, f. 1-21-93, cert. ef. 3-1-93, Renumbered from 436-110-0010, 436-110-0020, 436-110-0025, 436-110-0041, 436-110-0042 & 436-110-0045; WCD 15-1995(Temp), f. 10-9-95, cert. ef. 10-11-95; WCD 20-1995(Temp), f. 12-8-95, cert. ef. 1-1-96; WCD 10-1996, f. 3-12-96, cert. ef. 4-5-96; WCD 4-1997(Temp), f. 3-13-97, cert. ef. 3-17-97; WCD 11-1997, f. 8-28-97, cert. ef. 9-12-97, Renumbered from 436-110-0200; WCD 7-2001, f. 8-14-01, cert. ef. 10-1-0, Renumbered from 436-110-0510; WCD 8-2007, f. 11-1-07, cert. ef. 12-1-07

436-105-0003

Applicability of Rules

(1) These rules apply to:

(a) All individual Employer-at-Injury Programs begun on or after December 1, 2007; and

(b) All reimbursement requests made to the division in accordance with OAR 436-105-0540(4) on or after December 1, 2007 regardless of the date an Employer-at-Injury Program began, unless the insurer requests that reimbursement be based on the rules in effect on the date an individual Employer-at-Injury Program began.

(2) The director may, unless otherwise obligated by statute, in the director's discretion waive any procedural rules as justice so requires.

Stat. Auth.: ORS 656.622 & 656.726(4)

Stats. Implemented: ORS 656.622

Hist.: WCD 7-2001, f. 8-14-01, cert. ef. 10-1-01; WCD 12-2002(Temp), f. & cert. ef. 12-11-02 thru 6-8-03; WCD 5-2003, f. 5-16-03, cert. ef. 6-8-03; WCD 4-2004(Temp), f. 3-22-04, cert. ef. 4-1-04 thru 9-27-04; WCD 8-2004, f. 7-15-04, cert. ef. 8-1-04; WCD 4-2005, f. 5-26-05, cert. ef. 7-1-05; WCD 8-2007, f. 11-1-07, cert. ef. 12-1-07

436-105-0005

Definitions

For the purpose of these rules, unless the context requires otherwise:

(1) "Administrator" means the Administrator of the Workers' Compensation Division, or the administrator's delegate for the matter.

(2) "Client" means a person to whom workers are provided under contract and for a fee on a temporary or leased basis.

(3) "Director" means the Director of the Department of Consumer and Business Services, or the director's delegate for the matter.

(4) "Division" means the Workers' Compensation Division of the Department of Consumer and Business Services.

(5) "Employer-at-Injury" means the organization that employed the worker when the worker:

(a) Sustained the injury or occupational disease;

(b) Made the claim for aggravation; or

(c) Requested an Own Motion opening under ORS 656.278.

(6) "Fund" means the Workers' Benefit Fund.

(7) "Insurer" means the insurance company or self-insured employer responsible for the workers' compensation claim.

(8) "Premium" means the monies paid to an insurer for the purpose of purchasing workers' compensation insurance.

(9) "Regular employment" means the employment the worker held at the time of:

(a) Injury;

(b) The claim for aggravation; or

(c) Own Motion opening under ORS 656.278.

(10) "Reimbursable wages" means the worker's gross wages for the Wage Subsidy period.

(11) "Skills building" means a class or course of instruction taken by the worker for the purpose of enhancing an existing skill or developing a new skill. When skills building is the transitional work, the worker must agree in writing to take the class or course of instruction.

(12) "Transitional Work" means temporary work with the employer-at-injury which is not the worker's full duty regular work and is assigned because the worker cannot perform full duty regular work. Transitional work must be within the worker's injury-caused limitations and may be created through modification of the worker's regular work, job restructuring, assistive devices, worksite modification(s), reduced hours, or reassignment to another job. Transitional work must be within the employer's course and scope of trade or profession, unless the work is "skills building."

(13) "Worker Leasing Company" means the person which provides workers, by contract and for a fee, as prescribed in ORS 656.850.

(14) "Work site" means a primary work area available for a worker to use to perform the required job duties. The work site may be the employer's, client's, or worker's premises, property, and equipment used to conduct business under the employer's or client's direction and control. A work site may include a worker's personal property or vehicle if required to perform the job.

Stat. Auth.: ORS 656.622 & 656.726(4)

Stats. Implemented: ORS 656.622

Hist.: WCD 7-2001, f. 8-14-01, cert. ef. 10-1-01; WCD 4-2005, f. 5-26-05, cert. ef. 7-1-05; WCD 8-2007, f. 11-1-07, cert. ef. 12-1-07

436-105-0008

Reconsideration/Appeal to the Director

(1) The division will deny any reimbursement for Employer-at-Injury Program assistance it finds in violation of these rules. The division has the discretion to deny any reimbursement of Employer-at-Injury Program assistance it determines is not reasonable, practical, or feasible, or considers an abuse of the program.

(2) Parties directly affected by a division Employer-at-Injury Program decision may request a reconsideration by sending a written request for reconsideration to the administrator no later than 60 days after the date the decision is issued. Facsimiles that are legible and complete are acceptable and will be processed the same as originals. Reconsideration must precede a director's review.

(3) The request for reconsideration must specify the reasons why the decision is appealed and may include additional documentation. No reconsideration will be granted unless the request meets the requirements of this rule.

(4) The division will reconsider the decision and notify all directly affected parties of its decision in writing. The affected parties may request a director's review by sending a written request no later than 60 days after the date the reconsideration was issued. The request must specify the reasons why the decision is appealed and may include additional documentation.

(5) The director may require any affected party to provide information or to participate in the director's review. If the party requesting the director's review fails to participate without reasonable cause as determined by the director, the director may dismiss the review.

(6) The director's review decision will be issued in writing and all directly affected parties will be notified. The director's review decision is final and not subject to further review by any court or other administrative body.

Stat. Auth.: ORS 656.622 & 656.726(4)

Stats. Implemented: ORS 656.622

Hist.: WCD 7-2001, f. 8-14-01, cert. ef. 10-1-01; WCD 5-2003, f. 5-16-03, cert. ef. 6-8-03; WCD 8-2007, f. 11-1-07, cert. ef. 12-1-07

4436-105-0500

Insurer Participation in the Employer-At-Injury Program

(1) An insurer must be an active participant in providing reemployment assistance with the employer's consent. Participation includes issuing notices of the available assistance and administering the Employer-at-Injury Program as specified in these rules.

(2) The insurer will notify the worker and employer-at-injury in writing of the assistance available from the Employer-at-Injury Program. A notice must be issued:

(a) Upon acceptance or reopening of a claim; and

(b) Within five days of a worker's first release for work after claim opening unless the release is for regular work.

ADMINISTRATIVE RULES

(3) The notices of Employer-at-Injury Program assistance must contain the following language:

(a) The notice to the worker must appear in bold type as follows:

The Reemployment Assistance Program provides Oregon's qualified injured workers help with staying on the job or getting back to work. Because of your injury, your employer may be eligible for assistance to return you to transitional work through the Employer-at-Injury Program while your claim is open. Your employer may contact

(b) The notice to the employer-at-injury must appear in bold type as follows:

Because of your worker's injury, you may be eligible for assistance through the Employer-at-Injury Program to return the worker to transitional work while the worker's claim is open. To learn more about the assistance available from the program, please call.

(4) The insurer will administer the Employer-at-Injury Program according to these rules. The insurer will assist an employer to:

(a) Obtain a qualifying medical release, pursuant to section (5) of this rule, from the medical service provider;

(b) Identify a transitional work position;

(c) Process employer Wage Subsidy requests as specified in OAR 436-105-0520(1);

(d) Make Worksite Modification purchases as specified in OAR 436-105-0520(2);

(e) Make Employer-at-Injury Program Purchases as specified in OAR 436-105-0520(3); and

(f) Request Employer-at-Injury Program reimbursement from the division as specified in OAR 436-105-0540.

(5) For purposes of the Employer-at-Injury Program, medical releases must meet the following criteria:

(a) All medical releases must be dated and related to the accepted or deferred conditions of the claim. The date the medical release is issued by the worker's medical service provider is considered the effective date if an effective date is not otherwise specified;

(b) Two types of medical release qualify under these rules:

(A) A medical release that states the worker's specific restrictions; or

(B) A statement by the medical service provider that indicates the worker is not released to regular employment accompanied by an approval of a job description which includes the job duties and physical demands required for the transitional work.

(c) A medical release must cover any period of time for which benefits are requested.

(6) For the purposes of the Employer-at-Injury Program, a medical release, and any restrictions it contains, remains in effect until another medical release is issued by the worker's medical service provider. An employer or insurer may get clarification about a medical release from the medical service provider who issued the release any time prior to submitting the reimbursement request.

(7) The insurer must maintain all records of the Employer-at-Injury Program for a period of three years from the date of the last Employer-at-Injury Program Reimbursement Request. The insurer will maintain the following information at the authorized claim processing location(s):

(a) The worker's claim file;

(b) Documentation from the worker's medical service provider that the worker is unable to perform regular employment due to the injury and dated copies of all work releases from the worker's medical service provider;

(c) A legible copy of the worker's payroll records for the Wage Subsidy period as follows:

(A) Payroll records must state the payroll period, wage rate(s), and the worker's gross wages for the Wage Subsidy period. The payroll record must also include the dates and hours worked each day if the worker has hourly restrictions;

(B) Insurers and employers may supplement payroll records with documentation of how the worker's earnings were calculated for the Wage Subsidy. Supplemental documentation may be used to determine a worker's work schedule, wages earned on a particular day, dates of paid leave, or to clarify any other necessary information not fully explained by the payroll record;

(C) If neither the payroll record(s) nor supplemental documentation show the amount of wages earned by the worker for reimbursable partial payroll periods, the allowable reimbursement amount may be calculated as follows:

(i) Divide the gross wages by the number of days in the payroll period for the daily rate; and

(ii) Multiply the daily rate by the number of eligible days; and

(D) If a partial day's reimbursement is requested after a worker is released for transitional work, or prior to returning from a medical appoint-

ment with a regular work release, documentation of the time of the medical appointment and hours and wages of transitional work must be provided for those days.

(d) A legible copy of invoices, proof of payment, and proof of the delivery date of the item(s) for Worksite Modification purchases and Employer-at-Injury Program Purchases;

(e) Written documentation of the insurer's decision to approve Worksite Modifications;

(f) Documentation of the transitional work, which must include the start date, wage and hours, and a description of the job duties;

(g) Documentation that payments for a home care worker were made to the Oregon Department of Human Services, if applicable;

(h) The written acceptance by the worker when skills building is the transitional work; and

(i) Documentation, including course title and curriculum for a class or course of instruction when Employer-at Injury Program Purchases are requested.

Stat. Auth.: ORS 656.340, 656.622 & 656.726(4)

Stats. Implemented: ORS 656.340 & 656.622

Hist.: WCD 1-1987(Admin), f. 2-20-87, ef. 3-16-87; WCD 12-1987, f. 12-17-87, ef. 1-1-88; WCD 13-1990(Temp), f. 6-21-90, cert. ef. 7-1-90; WCD 32-1990, f. 12-10-90, cert. ef. 12-26-90; WCD 1-1993, f. 1-21-93, cert. ef. 3-1-93, Renumbered from 436-110-0090; WCD 20-1995(Temp), f. 12-8-95, cert. ef. 1-1-96; WCD 10-1996, f. 3-12-96, cert. ef. 4-5-96; WCD 11-1997, f. 8-28-97, cert. ef. 9-12-97, Renumbered from 436-110-0360; WCD 7-2001, f. 8-14-01, cert. ef. 10-1-0, Renumbered from 436-110-0540; WCD 12-2002(Temp), f. & cert. ef. 12-11-02 thru 6-8-03; WCD 5-2003, f. 5-16-03, cert. ef. 6-8-03; WCD 4-2004(Temp), f. 3-22-04, cert. ef. 4-1-04 thru 9-27-04; WCD 8-2004, f. 7-15-04, cert. ef. 8-1-04; WCD 4-2005, f. 5-26-05, cert. ef. 7-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 8-2007, f. 11-1-07, cert. ef. 12-1-07

436-105-0510

Employer Eligibility

(1) The employer must maintain Oregon workers' compensation insurance coverage.

(2) The employer must be the employer at injury as defined in OAR 436-105-0005.

(3) The employer must be re-employing an eligible worker while the worker's claim is open.

Stat. Auth.: ORS 656.622 & 656.726(4)

Stats. Implemented: ORS 656.622

Hist.: WCB 1-1973, f. 1-2-73, ef. 1-15-73; WCB 3-1973, f. 3-14-73, ef. 4-1-73; WCD 2-1977(Admin)(Temp), f. 9-29-77, ef. 10-4-77; WCD 2-1978 (Admin), f. & ef. 2-1-78, WCD 7-1981(Admin), f. 12-30-81, ef. 1-1-82; Renumbered from 436-063-0020, 5-1-85; WCD 1-1987(Admin), f. 2-20-87, ef. 3-16-87; WCD 12-1987, f. 12-17-87, ef. 1-1-88; WCD 13-1990(Temp), f. 6-21-90, cert. ef. 7-1-90; WCD 32-1990, f. 12-10-90, cert. ef. 12-26-90; WCD 1-1993, f. 1-21-93, cert. ef. 3-1-93, Renumbered from 436-110-0020; WCD 20-1995(Temp), f. 12-8-95, cert. ef. 1-1-96; WCD 10-1996, f. 3-12-96, cert. ef. 4-5-96; WCD 4-1997(Temp), f. 3-13-97, cert. ef. 3-17-97; WCD 11-1997, f. 8-28-97, cert. ef. 9-12-97, Renumbered to 436-110-0280; WCD 7-2001, f. 8-14-01, cert. ef. 10-1-0, Renumbered from 436-110-0520; WCD 12-2002(Temp), f. & cert. ef. 12-11-02 thru 6-8-03; WCD 5-2003, f. 5-16-03, cert. ef. 6-8-03; WCD 4-2005, f. 5-26-05, cert. ef. 7-1-05; WCD 8-2007, f. 11-1-07, cert. ef. 12-1-07

436-105-0511

Worker Eligibility

(1) The worker must have an accepted or deferred Oregon workers' compensation injury or occupational disease claim at the time of the Employer-at-Injury Program.

(2) The worker must not be covered by the Injured Inmate Law.

Stat. Auth.: ORS 656.622, 656.726(4)

Stats. Implemented: ORS 656.622

Hist.: WCB 1-1973, f. 1-2-73, ef. 1-15-73; WCB 3-1973, f. 3-14-73, ef. 4-1-73; WCD 2-1977(Admin)(Temp), f. 9-29-77, ef. 10-4-77; WCD 2-1978 (Admin), f. & ef. 2-1-78, WCD 7-1981(Admin), f. 12-30-81, ef. 1-1-82; Renumbered from 436-063-0020, 5-1-85; WCD 1-1987(Admin), f. 2-20-87, ef. 3-16-87; WCD 12-1987, f. 12-17-87, ef. 1-1-88; WCD 13-1990(Temp), f. 6-21-90, cert. ef. 7-1-90; WCD 32-1990, f. 12-10-90, cert. ef. 12-26-90; WCD 1-1993, f. 1-21-93, cert. ef. 3-1-93, Renumbered from 436-110-0020; WCD 20-1995(Temp), f. 12-8-95, cert. ef. 1-1-96; WCD 10-1996, f. 3-12-96, cert. ef. 4-5-96; WCD 4-1997(Temp), f. 3-13-97, cert. ef. 3-17-97; WCD 11-1997, f. 8-28-97, cert. ef. 9-12-97, Renumbered to 436-110-0280; WCD 7-2001, f. 8-14-01, cert. ef. 10-1-0, Renumbered from 436-110-0520; WCD 12-2002(Temp), f. & cert. ef. 12-11-02 thru 6-8-03; WCD 5-2003, f. 5-16-03, cert. ef. 6-8-03; WCD 4-2005, f. 5-26-05, cert. ef. 7-1-05; Renumbered from 436-105-0510, WCD 8-2007, f. 11-1-07, cert. ef. 12-1-07

436-105-0512

End of Eligibility

The Employer-at-Injury Program will end when:

(1) The worker or employer no longer meets the eligibility provisions stated in OAR 436-105-0510 and 436-105-0511;

(2) The worker's claim is closed;

(3) Sanctions under OAR 436-105-0560 preclude eligibility; or

(4) The insurer ends the Employer-at-Injury Program at any time while the worker's claim is open.

Stat. Auth.: ORS 656.622, 656.726(4)

Stats. Implemented: ORS 656.622

ADMINISTRATIVE RULES

Hist.: WCB 1-1973, f. 1-2-73, ef. 1-15-73; WCB 3-1973, f. 3-14-73, ef. 4-1-73; WCD 2-1977(Admin)(Temp), f. 9-29-77, ef. 10-4-77; WCD 2-1978 (Admin), f. & ef. 2-1-78, WCD 7-1981(Admin), f. 12-30-81, ef. 1-1-82; Renumbered from 436-063-0020, 5-1-85; WCD 1-1987(Admin), f. 2-20-87, ef. 3-16-87; WCD 12-1987, f. 12-17-87, ef. 1-1-88; WCD 13-1990(Temp), f. 6-21-90, cert. ef. 7-1-90; WCD 32-1990, f. 12-10-90, cert. ef. 12-26-90; WCD 1-1993, f. 1-21-93, cert. ef. 3-1-93, Renumbered from 436-110-0020; WCD 20-1995(Temp), f. 12-8-95, cert. ef. 1-1-96; WCD 10-1996, f. 3-12-96, cert. ef. 4-5-96; WCD 4-1997(Temp), f. 3-13-97, cert. ef. 3-17-97; WCD 11-1997, f. 8-28-97, cert. ef. 9-12-97, Renumbered to 436-110-0280; WCD 7-2001, f. 8-14-01, cert. ef. 10-1-0, Renumbered from 436-110-0520; WCD 12-2002(Temp), f. & cert. ef. 12-11-02 thru 6-8-03; WCD 5-2003, f. 5-16-03, cert. ef. 6-8-03; WCD 4-2005, f. 5-26-05, cert. ef. 7-1-05; Renumbered from 436-105-0510, WCD 8-2007, f. 11-1-07, cert. ef. 12-1-07

436-105-0520

Assistance Available from the Employer-at-Injury Program

The Employer-at-Injury Program may be used only once per worker per claim opening, for a non-disabling claim or a disabling claim. If a non-disabling claim becomes a disabling claim after one year from the date of acceptance, the disabling claim is considered a new opening and the Employer-at-Injury Program may be used again. Assistance available includes:

(1) Wage Subsidy provides 50 percent reimbursement of the worker's gross wages for the Wage Subsidy period. Wage Subsidy benefits are subject to the following conditions:

(a) A Wage Subsidy may not exceed 66 work days and must be completed within a 24 consecutive month period;

(b) A Wage Subsidy may not start or end with paid leave;

(c) If the worker has hourly restrictions, reimbursable paid leave must be limited up to the maximum number of hours of the worker's hourly restrictions. Paid leave exceeding the worker's hourly restrictions is not subject to reimbursement;

(d) Any day during which the worker exceeds his or her injury-caused limitations will not be reimbursed. If, however, an employer uses a time clock, a reasonable time not to exceed 30 minutes per day will be allowed for the worker to get to and from the time clock and the worksite without exceeding the worker's hourly restrictions.

(2) Worksite Modification means altering a work site by renting, purchasing, modifying, or supplementing equipment to enable a worker to perform the transitional work within the worker's limitations. Maximum reimbursement is \$2,500. Worksite Modification assistance is subject to the following conditions:

(a) The insurer determines the appropriate Worksite Modification(s) for the worker;

(b) The insurer documents its reason(s) for approving the modification(s);

(c) The Worksite Modification(s) must be ordered during the Employer-at-Injury Program;

(d) Modifications purchased by the employer in good faith are reimbursable if the worker refuses to return to work;

(e) Worksite Modification items become the employer's property upon the end of the Employer-at-Injury Program.

(3) Employer-at-Injury Program Purchases are limited to:

(a) Tuition, books, fees, and materials required for a class or course of instruction to enhance an existing skill or develop a new skill when skills building is used as transitional work or when required to meet the requirements of the transitional work position. Maximum expenditure is \$1,000. Tuition, books, fees, and required materials will be provided under the following conditions:

(A) The insurer determines the instruction will help the worker enhance an existing skill or develop a new skill, and documents its decision;

(B) Costs for tuition, books, fees, and required materials may be fully reimbursed if the worker began participation in the class or course while eligible for the Employer-at-Injury Program; or

(C) The employer in good faith paid for the costs of the class or course after the worker agreed to take part in the training and then the worker refused to attend.

(b) Tools and equipment required for the worker to perform transitional work. Maximum expenditure is \$2,500, and these purchases will be the employer's property.

(c) Clothing required for the job, except clothing the employer normally provides. Clothing becomes the worker's property. Maximum expenditure is \$400.

Stat. Auth.: ORS 656.622 & 656.726(4)

Stats. Implemented: ORS 656.622

Hist.: WCB 1-1973, f. 1-2-73, ef. 1-15-73; WCB 3-1973, f. 3-14-73, ef. 4-1-73; WCD 2-1977(Admin)(Temp), f. 9-29-77, ef. 10-4-77; WCD 2-1978(Admin), f. & ef. 2-1-78; WCD 7-1981(Admin), f. 12-30-81, ef. 1-1-82; Renumbered from 436-063-0015, 5-1-85; WCD 1-1987(Admin), f. 2-20-87, ef. 3-16-87; WCD 12-1987, f. 12-17-87, ef. 1-1-88; WCD 13-1990(Temp), f. 6-21-90, cert. ef. 7-1-90; WCD 32-1990, f. 12-10-90, cert. ef. 12-26-90;

WCD 1-1993, f. 1-21-93, cert. ef. 3-1-93, Renumbered from 436-110-0010, 436-110-0020, 436-110-0025, 436-110-0041, 436-110-0042 & 436-110-0045; WCD 15-1995(Temp), f. 10-9-95, cert. ef. 10-11-95; WCD 20-1995(Temp), f. 12-8-95, cert. ef. 1-1-96; WCD 10-1996, f. 3-12-96, cert. ef. 4-5-96; WCD 4-1997(Temp), f. 3-13-97, cert. ef. 3-17-97; WCD 11-1997, f. 8-28-97, cert. ef. 9-12-97, Renumbered from 436-110-0200; WCD 7-2001, f. 8-14-01, cert. ef. 10-1-0, Renumbered from 436-110-0510; WCD 5-2003, f. 5-16-03, cert. ef. 6-8-03; WCD 4-2005, f. 5-26-05, cert. ef. 7-1-05; WCD 8-2007, f. 11-1-07, cert. ef. 12-1-07

436-105-0540

Employer-at-Injury Program Reimbursement Procedures

(1) Reimbursements may include Wage Subsidy, Employer-at-Injury Program Purchases, and Worksite Modification.

(2) The insurer is entitled to a program administrative cost of \$120.00 for the first reimbursement request of an Employer-at-Injury Program. A subsequent request for reimbursement for the same Employer-at-Injury Program is not entitled to an additional program administrative cost.

(3) The insurer must receive all required documentation for reimbursement within one year from the end of the Employer-at-Injury Program in order to qualify for reimbursement. The insurer must date stamp each reimbursement request document with the receipt date.

(4) The insurer must submit the request for reimbursement (Form 2360) to the division within one year and 30 days from the end of the Employer-at-Injury Program.

(5) An Employer-at-Injury Reimbursement Request must be a minimum of \$100, not including the administrative cost, to be subject to reimbursement.

(6) When the division finds the insurer has submitted an Employer-at-Injury Program Reimbursement Request which is incomplete or contains an error, the division may return the form to the insurer for correction. The insurer has 60 days from the date the insurer receives the reimbursement request, or one year and 30 days from the end of Employer-at-Injury Program eligibility, whichever is greater, to make the corrections and return the corrected form to the division.

(7) The insurer may send an Employer-at-Injury Program Reimbursement Request to the division when a claim was initially denied and was subsequently accepted after the Employer-at-Injury Program eligibility ended and more than one year and 30 days have passed. In that case, the insurer must send a completed Employer-at-Injury Program Reimbursement Request to the division within 60 days of the first Order or Stipulation and Order accepting the claim. A copy of the Order accepting the claim, or Stipulation and Order accepting the claim must be attached.

(8) The insurer may request reimbursement for a qualifying Employer-at-Injury Program that took place while the claim was in accepted or deferred status even if the claim is denied at the time the reimbursement request is sent to the division.

(9) Amended reimbursement requests must be sent to the division within one year and 30 days from the end of the Employer-at-Injury Program eligibility except as provided in section (6) of this rule. The insurer may not request additional administrative cost reimbursement for filing an amended reimbursement request.

(10) Amendments are to be made on a completed Employer-at-Injury Program Reimbursement Request, Form 2360. The amended reimbursement request must cite the corrected information with the statement "Amendment" written across the top of the form. The corrected information should be highlighted.

(11) The insurer will not use Employer-at-Injury Program costs subject to reimbursement for rate making, individual employer rating, dividend calculations, or in any manner that would affect the employer's insurance premiums or premium assessments with the present or a future insurer. The insurer must be able to document that Employer-at-Injury Program costs do not affect the employer's rates or dividend.

(12) If a Preferred Worker employed by an eligible employer with active Premium Exemption incurs a new injury, the claim is subject to Claim Cost Reimbursement under OAR 436-110. If the worker subsequently enters an Employer-at-Injury Program, program costs are to be separated from claim costs and will not be reimbursed as claim costs.

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

Stat. Auth.: ORS 656.622 & 656.726(4)

Stats. Implemented: ORS 656.622

Hist.: WCD 1-1987(Admin), f. 2-20-87, ef. 3-16-87; WCD 12-1987, f. 12-17-87, ef. 1-1-88; WCD 13-1990(Temp), f. 6-21-90, cert. ef. 7-1-90; WCD 32-1990, f. 12-10-90, cert. ef. 12-26-90; WCD 1-1993, f. 1-21-93, cert. ef. 3-1-93, Renumbered from 436-110-0090; WCD 20-1995(Temp), f. 12-8-95, cert. ef. 1-1-96; WCD 10-1996, f. 3-12-96, cert. ef. 4-5-96; WCD 11-1997, f. 8-28-97, cert. ef. 9-12-97, Renumbered from 436-110-0360; WCD 7-2001, f. 8-14-01, cert. ef. 10-1-0, Renumbered from 436-110-0540; WCD 4-2004(Temp), f. 3-22-04, cert. ef. 4-1-04 thru 9-27-04; WCD 8-2004, f. 7-15-04, cert. ef. 8-1-04; WCD 8-2007, f. 11-1-07, cert. ef. 12-1-07

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436-105-0550

Audits

(1) Insurers and employers are subject to periodic program and fiscal audits by the division. All reimbursements are subject to subsequent audits, and may be disallowed on any of the grounds set forth in these rules. Disallowed reimbursements must be repaid to the department.

(2) The audit may include but not be limited to a review of the records required in OAR 436-105-0500(6).

(3) When conflicting documentation exists, the division will utilize a preponderance of evidence standard to decide eligibility for reimbursement and if there is no clear preponderance, reimbursement will be allowed.

(4) The division reserves the right to visit the work site to determine compliance with these rules.

Stat. Auth.: ORS 656.455, 656.622, 656.726(4) & 731.475

Stats. Implemented: ORS 656.455, 656.622 & 731.475

Hist.: WCD 7-2001, f. 8-14-01, cert. ef. 10-1-01; WCD 8-2007, f. 11-1-07, cert. ef. 12-1-07

436-110-0003

Applicability of Rules

(1) These rules apply to all requests for Preferred Worker Program reemployment assistance received by the division on or after the effective date of these rules.

(2) Applicable to this chapter, the director may, unless otherwise obligated by statute, in the director's discretion waive any procedural rules as justice so requires.

Stat. Auth.: ORS 656.622 & 656.726(4)

Stats. Implemented: ORS 656.622

Hist.: WCB 1-1973, f. 1-2-73, ef. 1-15-73; WCB 3-1973, f. 3-14-73, ef. 4-1-73; WCD 2-1977(Admin)(Temp), f. 9-29-77, ef. 10-4-77; WCD 2-1978(Admin), f. & ef. 2-1-78; WCD 7-1981(Admin), f. 12-30-81, ef. 1-1-82; Renumbered from 436-063-0005, 5-1-85; WCD 1-1987(Admin), f. 2-20-87, ef. 3-16-87; WCD 12-1987, f. 12-17-87, ef. 1-1-88; WCD 13-1990(Temp), f. 6-21-90, cert. ef. 7-1-90; WCD 32-1990, f. 12-10-90, cert. ef. 12-26-90; WCD 1-1993, f. 1-21-93, cert. ef. 3-1-93; WCD 10-1996, f. 3-12-96, cert. ef. 4-5-96; WCD 11-1997, f. 8-28-97, cert. ef. 9-12-97; WCD 7-2001, f. 8-14-01, cert. ef. 10-1-01; WCD 8-2007, f. 11-1-07, cert. ef. 12-1-07

436-110-0005

Definitions

For the purpose of these rules, unless the context requires otherwise:

(1) "Administrator" means the Administrator of the Workers' Compensation Division, or the administrator's delegate for the matter.

(2) "Client" means a person to whom workers are provided under contract and for a fee on a temporary or leased basis.

(3) "Date of hire" means the date the worker started work for the employer in the job for which benefits are requested.

(4) "Director" means the Director of the Department of Consumer and Business Services, or the director's delegate for the matter.

(5) "Disability" means permanent physical or mental restriction(s) or limitation(s) caused by an accepted disabling Oregon workers' compensation claim which limits the worker from performing one or more of the worker's regular job duties.

(6) "Division" means the Workers' Compensation Division of the Department of Consumer and Business Services.

(7) "Division approval" means a Preferred Worker agreement signed by an authorized division representative.

(8) "Employer at injury" means the organization in whose employ the worker sustained the injury or occupational disease.

(9) "Exceptional disability" means a disability equal to or greater than the complete loss, or loss of use, of both legs. Exceptional disability also includes brain injury which results in impairment equal to or greater than a Class III as defined in OAR 436-035. The division will determine whether a worker has an exceptional disability based upon the combined effects of all of the worker's Oregon compensable injuries resulting in permanent disability.

(10) "Fund" means the Workers' Benefit Fund.

(11) "Insurer" means the insurance company or self-insured employer responsible for the workers' compensation claim.

(12) "Premium" means premium which results from a calculation which takes payroll multiplied by applicable rates of the employer's individual insurer multiplied by the employer's experience rating modification less any discounts, assessments, surcharges, or taxes.

(13) "Regular employment" means the job the worker held at the time of the injury, claim for aggravation, or own motion opening.

(14) "Reimbursable wages" means the gross taxable wages paid a worker for services performed.

(15) "Worksite" means a primary work area which is in Oregon, already constructed and available for a worker to use to perform the required job duties. The worksite may be the employer's, worker's, or worker leasing company's client's premises, property, and equipment used

to conduct business under the employer's or client's direction and control. A worksite may include a worker's personal property or vehicle if required to perform the job. If the "worksite" is mobile, it must be available in Oregon for inspection and modification.

Stat. Auth.: ORS 656.622 & 656.726(4)

Stats. Implemented: ORS 656.622

Hist.: WCB 1-1973, f. 1-2-73, ef. 1-15-73; WCB 3-1973, f. 3-14-73, ef. 4-1-73; WCD 2-1977(Admin)(Temp), f. 9-29-77, ef. 10-4-77; WCD 2-1978(Admin), f. & ef. 2-1-78; WCD 7-1981(Admin), f. 12-30-81, ef. 1-1-82; Renumbered from 436-063-0010, 5-1-85; WCD 1-1987(Admin), f. 2-20-87, ef. 3-16-87; WCD 12-1987, f. 12-17-87, ef. 1-1-88; WCD 13-1990(Temp), f. 6-21-90, cert. ef. 7-1-90; WCD 32-1990, f. 12-10-90, cert. ef. 12-26-90; WCD 1-1993, f. 1-21-93, cert. ef. 3-1-93; WCD 20-1995(Temp), f. 12-8-95, cert. ef. 1-1-96; WCD 10-1996, f. 3-12-96, cert. ef. 4-5-96; WCD 11-1997, f. 8-28-97, cert. ef. 9-12-97; WCD 7-2001, f. 8-14-01, cert. ef. 10-1-01; WCD 4-2005, f. 5-26-05, cert. ef. 7-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 8-2007, f. 11-1-07, cert. ef. 12-1-07

436-110-0007

Reconsideration/Appeal to the Director

(1) The division will deny any request for Preferred Worker Program assistance it finds is in violation of these rules. The division has the discretion to deny a request it determines is not reasonable, practical, or feasible, or considers an abuse of the program.

(2) Parties directly affected by a division reemployment assistance decision may request a reconsideration by sending a written request for reconsideration to the administrator no later than 60 days after the date the decision is issued. Facsimiles that are legible and complete are acceptable and will be processed the same as originals. Reconsideration must precede a director's review.

(3) The request for reconsideration must specify the reasons why the decision is appealed. No reconsideration will be granted unless the request meets the requirements of this subsection.

(4) The division will reconsider the decision prior to a director's review and will notify all affected parties of its decision upon reconsideration.

(5) If, upon reconsideration, the division upholds the original decision, the director's review will begin.

(6) The director may require any affected party to provide information or to participate in the director's review. If the party requesting the director's review fails to participate without reasonable cause as determined by the director, the director may dismiss the review.

(7) The director's review decision will be issued in writing. The director's review decision is final and not subject to further review by any court or other administrative body.

Stat. Auth.: ORS 656.622 & 656.726(4)

Stats. Implemented: ORS 656.622

Hist.: WCD 1-1987(Admin), f. 2-20-87, ef. 3-16-87; WCD 12-1987, f. 12-17-87, ef. 1-1-88; WCD 13-1990(Temp), f. 6-21-90, cert. ef. 7-1-90; WCD 32-1990, f. 12-10-90, cert. ef. 12-26-90; WCD 1-1993, f. 1-21-93, cert. ef. 3-1-93; Renumbered from 436-110-0080 & 436-110-0090; WCD 20-1995(Temp), f. 12-8-95, cert. ef. 1-1-96; WCD 10-1996, f. 3-12-96, cert. ef. 4-5-96; WCD 11-1997, f. 8-28-97, cert. ef. 9-12-97; Renumbered from 436-110-0360; WCD 7-2001, f. 8-14-01, cert. ef. 10-1-01; Renumbered from 436-110-0540; WCD 8-2007, f. 11-1-07, cert. ef. 12-1-07

436-110-0240

Insurer Participation in the Preferred Worker Program

(1) The insurer of the employer at injury must be an active participant in providing reemployment assistance. Participation includes issuing notices of the assistance available from the Preferred Worker Program.

(2) The insurer must notify the worker and employer at injury in writing of the reemployment assistance available from the fund. A notice must be issued:

(a) Within five days of a worker's release for work after the worker has been declared medically stationary by the attending physician;

(b) Upon determination of eligibility or ineligibility of the worker for vocational assistance under OAR 436-120; and

(c) Upon approval of a Claim Disposition Agreement.

(3) Pursuant to section (2) of this rule, the Notice to the Worker must appear in bold type and contain the following language:

The Preferred Worker Program helps Oregon's injured workers get back to work. To find out whether you qualify, contact the Preferred Worker Program at one of the telephone numbers, fax numbers, or addresses listed below.

For the Salem office call: (503) 947-7588, 1-800-445-3948, (503) 947-7993 (TTY), or FAX (503) 947-7581.

For the Medford office call: (541) 776-6032, 1-800-696-7161, or FAX (541) 776-6022.

Or write the Preferred Worker Program at: 350 Winter Street NE, P.O. Box 14480, Salem, Oregon 97309-0405; or 1840 Barnett Road, Suite C, Medford, Oregon 97504-8293.

(4) Under section (2) of this rule, the Notice to the Employer must appear in bold type and contain the following language:

If your worker is unable to return to regular work because of injury-caused limitations, you may be eligible for the Preferred Worker Program incentives including Premium Exemption, Claim Cost Reimbursement, Wage Subsidy, and

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Worksite Modification, which you may use to re-employ your worker. You must request Preferred Worker Program assistance from the Workers' Compensation Division within 180 days of the worker's claim closure date. To find out about the Preferred Worker Program, contact the program at one of the telephone numbers, fax numbers, or addresses listed below.

For the Salem office call: (503) 947-7588, 1-800-445-3948, (503) 947-7993 (TTY), or FAX (503) 947-7581.

For the Medford office call: (541) 776-6032, 1-800-696-7161, or FAX (541) 776-6022.

Or write the Preferred Worker Program at: 350 Winter Street NE, P.O. Box 14480, Salem, Oregon 97309-0405; or 1840 Barnett Road, Suite C, Medford, Oregon 97504-8293.

(5) The insurer must provide the division with Preferred Worker information in the form and format the director prescribes in OAR 436-030, upon the following:

(a) Claim closure according to ORS 656.268;

(b) Within 30 calendar days from the insurer's receipt of the earliest Opinion and Order of an Administrative Law Judge, Order on Reconsideration, Order on Review by the Board, decision of the Court of Appeals, or stipulation which grants initial permanent disability after the latest opening of the worker's claim; and

(c) Approval of a Claim Disposition Agreement according to ORS 656.236 and documented medical evidence indicates permanent disability exists as a result of the injury or disease, and the worker is unable to return to regular employment.

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

Stat. Auth.: ORS 656.340, 656.622 & 656.726(4)

Stats. Implemented: ORS 656.340(1), (2), (3), 656.622 & 656.726(4)

Hist.: WCD 32-1990, f. 12-10-90, cert. ef. 12-26-90; WCD 1-1993, f. 1-21-93, cert. ef. 3-1-93, Renumbered from 436-110-0017; WCD 10-1996, f. 3-12-96, cert. ef. 4-5-96; WCD 11-1997, f. 8-28-97, cert. ef. 9-12-97; WCD 7-2001, f. 8-14-01, cert. ef. 10-1-01; WCD 4-2005, f. 5-26-05, cert. ef. 7-1-05; WCD 8-2007, f. 11-1-07, cert. ef. 12-1-07

436-110-0290

Employer at Injury Use of the Preferred Worker Program

The conditions for the employer at injury to activate the Preferred Worker Program include:

(1) The employer at injury must request Preferred Worker Program assistance from the division within 180 days of the worker's claim closure date, with the following exception. When Worksite Modifications are provided, and the modifications are completed and verified by the division more than 150 days after the worker's claim-closure date, the employer at injury will have 30 calendar days from the verification date to request other assistance.

(2) In calculating the 180-day period under this rule, the claim closure date will not be included, and if the 180th day falls on a Saturday, Sunday, or legal holiday, the next business day will be considered the end of the 180-day period.

(3) The worker must agree to accept the new or modified regular job in writing. The job offer must include:

(a) The start date. If the job starts after the modifications are in place, so note;

(b) Wage and hours;

(c) Job site location; and

(d) Description of job duties.

(4) If the employer at injury uses Worksite Modification assistance and the employer or worker later requests additional modifications for the same job, the employer's Worksite Modification benefit will be exhausted before using the worker's Worksite Modification benefits.

(5) All other provisions under OAR 436-110 apply unless otherwise indicated.

Stat. Auth.: ORS 656.726(4) & 656.622

Stats. Implemented: ORS 656.622

Hist.: WCD 4-2005, f. 5-26-05, cert. ef. 7-1-05; WCD 8-2007, f. 11-1-07, cert. ef. 12-1-07

436-110-0310

Eligibility and End of Eligibility for the Preferred Worker Program

(1) The eligibility requirements for an employer, except as provided in OAR 436-110-0345(1) for Employment Purchases, are:

(a) The employer has and maintains Oregon workers' compensation insurance coverage;

(b) The employer complies with the Oregon Workers' Compensation Law;

(c) The employer must offer or provide employment to an eligible Preferred Worker who is a subject Oregon worker according to ORS 656.027;

(d) If the employer is a worker leasing company, it must be licensed with the division; and

(e) The employer is not currently ineligible for Preferred Worker benefits under OAR 436-110-0900.

(2) The eligibility requirements for a worker are:

(a) The worker has an accepted disabling Oregon compensable injury or occupational disease. Injuries covered by the Injured Inmate Law do not qualify;

(b) Because of injury-caused limitations, medical evidence indicates the worker will not be able to return to regular employment as defined in OAR 436-110-0005 under the most recent disabling claim or claim opening. If the worker is not eligible under the most recent disabling claim or claim opening, eligibility may be based on the most recent disabling claim closure where injury-caused permanent restrictions prevented the worker from return to regular employment;

(c) Medical documentation indicates permanent disability exists as a result of the injury or disease, whether or not an order has been issued awarding permanent disability; and

(d) The worker is authorized to work in the United States.

(3) A worker may not use Preferred Worker benefits for self-employment unless the injury which gave rise to the worker's eligibility for the Preferred Worker Program occurred in the course and scope of self-employment. In that case, the worker may use the benefits to return to the same self-employment or for employment other than self-employment.

(4) Reasons for ending Preferred Worker Program eligibility include, but are not limited to, the following:

(a) Misrepresentation or omission of information by a worker or employer to obtain assistance;

(b) Failure of a worker or employer to provide requested information or cooperate;

(c) Falsification or alteration of a Preferred Worker card or a Preferred Worker Program Agreement;

(d) Conviction of fraud in obtaining workers' compensation benefits;

(e) The worker no longer meets the eligibility requirements under section (2) of this rule;

(f) The worker or employer is sanctioned from receiving reemployment assistance in accordance with OAR 436-110-0900;

(g) The employer does not maintain Oregon workers' compensation insurance coverage, except as provided in OAR 436-110-0345(1) for Employment Purchases;

(5) The division retains the right to reinstate Preferred Worker Program eligibility if eligibility was ended prematurely or in error, or the employer has reinstated or obtained workers' compensation insurance coverage.

(6) A worker found ineligible because he/she was not authorized to work in the United States may request a redetermination of eligibility after providing the division with documentation that he/she is authorized to work in the United States.

Stat. Auth.: ORS 656.622 & 656.726(4)

Stats. Implemented: ORS 656.622

Hist.: WCB 1-1973, f. 1-2-73, ef. 1-15-73; WCB 3-1973, f. 3-14-73, ef. 4-1-73; WCD 2-1977(Admin)(Temp), f. 9-29-77, ef. 10-4-77; WCD 2-1978(Admin), f. & ef. 2-1-78, WCD 7-1981(Admin), f. 12-30-81, ef. 1-1-82; Renumbered from 436-063-0020, 5-1-85; WCD 1-1987(Admin), f. 2-20-87, ef. 3-16-87; WCD 12-1987, f. 12-17-87, ef. 1-1-88; WCD 13-1990(Temp), f. 6-21-90, cert. ef. 7-1-90; WCD 32-1990, f. 12-10-90, cert. ef. 12-26-90; WCD 1-1993, f. 1-21-93, cert. ef. 3-1-93, Renumbered from 436-110-0020; WCD 20-1995(Temp), f. 12-8-95, cert. ef. 1-1-96; WCD 10-1996, f. 3-12-96, cert. ef. 4-5-96; WCD 4-1997(Temp), f. 3-13-97, cert. ef. 3-17-97; WCD 11-1997, f. 8-28-97, cert. ef. 9-12-97, Renumbered from 436-110-0280; WCD 7-2001, f. 8-14-01, cert. ef. 10-1-01; WCD 4-2005, f. 5-26-05, cert. ef. 7-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 8-2007, f. 11-1-07, cert. ef. 12-1-07

436-110-0320

Preferred Worker Identification Card

(1) The division issues a Preferred Worker Identification card to eligible workers. The card identifies the worker as being eligible to offer an employer Preferred Worker Program assistance. If a Preferred Worker loses the card, the division will issue a replacement card.

(2) The division issues this card as follows:

(a) Automatically at the time of claim closure based upon insurer submission of Preferred Worker information as specified in OAR 436-110-0240(5);

(b) Prior to claim closure when the worker has available, immediate employment with an employer who meets the eligibility criteria under OAR 436-110-0310(1); or

(c) Upon request by the worker or their representative any time after claim closure.

(3) The division may inactivate a Preferred Worker card if:

(a) The Preferred Worker card was issued in error; or

(b) Any reason for ending Preferred Worker Program eligibility as specified in OAR 436-110-0310(4) applies.

Stat. Auth.: ORS 656.622 & 656.726(4)

Stats. Implemented: ORS 656.622

ADMINISTRATIVE RULES

Hist.: WCD 32-1990, f. 12-10-90, cert. ef. 12-26-90; WCD 1-1993, f. 1-21-93, cert. ef. 3-1-93, Renumbered from 436-110-0022; WCD 10-1996, f. 3-12-96, cert. ef. 4-5-96; WCD 4-1997(Temp), f. 3-13-97, cert. ef. 3-17-97; WCD 11-1997, f. 8-28-97, cert. ef. 9-12-97; WCD 7-2001, f. 8-14-01, cert. ef. 10-1-01; WCD 4-2005, f. 5-26-05, cert. ef. 7-1-05; WCD 8-2007, f. 11-1-07, cert. ef. 12-1-07

436-110-0325

Premium Exemption General Provisions

(1) Premium Exemption begins automatically when an employer hires a Preferred Worker, and is in effect for 3 years from the date of hire as defined in OAR 436-110-0005(3).

(2) If a worker is not a Preferred Worker on the date of hire, the division will determine when the worker is eligible. Premium Exemption will be effective for 3 years from that eligibility date.

(3) Premium Exemption releases an employer from paying workers' compensation insurance premiums and premium assessments on a Preferred Worker during the time Premium Exemption is in effect. While actively using Premium Exemption, the employer does not report, and the insurer cannot use, the Preferred Worker's payroll for the calculation of insurance premiums or premium assessments. However, the employer is required to report and pay workers' compensation employer assessments and withhold employee contributions as required by OAR 436-070. The employer must start paying insurance premiums and premium assessments when Premium Exemption ends.

(4) If a worker covered under Premium Exemption incurs a compensable injury or occupational disease during the Premium Exemption period, the employer must notify its insurer of the injury. If the employer fails to note the Preferred Worker status when the Form 801 was filed with the insurer, the employer must notify the insurer as soon as possible that the injury or disease was incurred by a Preferred Worker.

Stat. Auth.: ORS 656.726(4) & 656.622

Stats. Implemented: ORS 656.622

Hist.: WCB 1-1973, f. 1-2-73, ef. 1-15-73; WCB 3-1973, f. 3-14-73, ef. 4-1-73; WCD 2-1977(Admin)(Temp), f. 9-29-77, ef. 10-4-77; WCD 2-1978(Admin), f. & ef. 2-1-78; WCD 7-1981(Admin), f. 12-30-81, ef. 1-1-82; Renumbered from 436-063-0015 & 436-063-0045, 5-1-85; WCD 1-1987(Admin), f. 2-20-87, ef. 3-16-87; WCD 12-1987, f. 12-17-87, ef. 1-1-88; WCD 13-1990(Temp), f. 6-21-90, cert. ef. 7-1-90; WCD 32-1990, f. 12-10-90, cert. ef. 12-26-90; WCD 1-1993, f. 1-21-93, cert. ef. 3-1-93, Renumbered from 436-110-0010, 436-110-0020, 436-110-0025, 436-110-0031, 436-110-0032, 436-110-0035, 436-110-0037, 436-110-0041, 436-110-0042, 436-110-0045, 436-110-0047, 436-110-0051, 436-110-0052 & 436-110-0060; WCD 15-1995(Temp), f. 10-9-95, cert. ef. 10-11-95; WCD 20-1995(Temp), f. 12-8-95, cert. ef. 1-1-96; WCD 10-1996, f. 3-12-96, cert. ef. 4-5-96; WCD 4-1997(Temp), f. 3-13-97, cert. ef. 3-17-97; WCD 11-1997, f. 8-28-97, cert. ef. 9-12-97, Renumbered from 436-110-0200 & 436-110-0400; WCD 7-2001, f. 8-14-01, cert. ef. 10-1-01, Renumbered from 436-110-0300 & 436-110-0340; WCD 4-2005, f. 5-26-05, cert. ef. 7-1-05; WCD 8-2007, f. 11-1-07, cert. ef. 12-1-07

436-110-0330

Claim Cost Reimbursement

(1) Claim Cost Reimbursement provides reimbursement to the insurer for claim costs when a Preferred Worker files a claim for injury or occupational disease while employed under Premium Exemption as follows:

(a) Reimbursements will be made for the life of the claim;

(b) Reimbursable claim costs include disability benefits, medical benefits, vocational costs in accordance with OAR 436-120-0720, Claim Disposition Agreements in accordance with ORS 656.236, Disputed Claim Settlements in accordance with ORS 656.289, stipulations, as well as attorney fees awarded the worker or the worker's beneficiaries, and administrative costs;

(c) Reimbursable claims costs for denied claims include costs incurred up to the date of denial, but are limited to benefits the insurer is obligated to pay under ORS 656 and diagnostic tests, including insurer medical examinations necessary to determine compensability of the claim;

(d) The administrative cost factor to be applied to claim costs will be as published in Bulletin 316; and

(e) The claim must not be used for ratemaking, individual employer rating, dividend calculations, or in any manner that would affect the employer's insurance premiums or premium assessments with the present or a future insurer. The insurer must be able to document that claim data will not affect the employer's rates or dividend.

(2) The insurer must request Claim Cost Reimbursement as follows:

(a) All requests for reimbursement must be made within one year of the quarter within which payment was made;

(b) Quarterly reimbursement requests must be in the format the director prescribes by bulletin; and

(c) Reimbursement documentation must include, but not be limited to:

(A) Net amounts paid. "Net amounts" means the total compensation paid less any recoveries including, but not limited to, third party recovery

or reimbursement from the Retroactive Program, Reopened Claims Program, or the fund;

(B) Payment certification statement; and

(C) Any other information the division deems necessary.

(3) Requests for reimbursement must not include:

(a) Claim costs for any injury which did not occur while the worker was employed with Premium Exemption;

(b) Costs incurred for conditions completely unrelated to the compensable claim;

(c) Costs incurred due to inaccurate, untimely, unreasonable, or improper processing of the claim;

(d) Penalties, fines or filing fees;

(e) Disposition amounts in accordance with ORS 656.236 (CDA) and 656.289 (DCS) not previously approved by the division;

(f) Costs reimbursed or outstanding requests for reimbursement from the Reopened Claims Program, Retroactive Program, or the fund; or

(g) Reimbursable Employer-at-Injury Program costs.

(4) Periodically, the division will audit the physical file of the insurer to validate the amount reimbursed. Reimbursed amounts must be refunded to the division and, as applicable, future reimbursements denied if, upon audit, any of the following is found to apply:

(a) Reimbursement has been made for any of the items specified in section (3) of this rule;

(b) If claim acceptance as a new injury rather than an aggravation is questionable and the rationale for acceptance has not been reasonably documented;

(c) The separate payments of compensation have not been documented;

(d) The insurer included claim costs in any dividend or retrospective rating or experience rating calculations;

(e) The insurer is unable to provide applicable records relating to experience rating, retrospective rating, or dividend calculations at the time of audit or within 14 working days thereafter.

(5) If the conditions described in subsections (4)(a) through (e) of this rule are corrected and all other criteria of the rules are met, eligibility for reimbursement may be reinstated. If reimbursement eligibility is reinstated, any moneys previously reimbursed and then recovered will be reimbursed again according to these rules.

(6) If an employer fails to notify its insurer of the "Preferred Worker" status when the Form 801 is submitted or fails to send its insurer a copy of the Preferred Worker Identification Card, and later notifies its insurer that the injury or disease was incurred by a Preferred Worker, the insurer must correct all records previously filed which include claim costs in any dividend, retrospective rating, or any claim valuation for experience rating performed.

(7) A Claim Disposition Agreement according to ORS 656.236, a Disputed Claim Settlement according to ORS 656.289, or any stipulation or agreement of a claim subject to claim cost reimbursement from the fund must meet the following requirements for reimbursement:

(a) The insurer must obtain prior written approval of the disposition from the division. The proposed disposition must be submitted to the division prior to submitting the disposition to the Workers' Compensation Board or administrative law judge for approval;

(b) A claim's future liability and the proposed contribution from the fund must be a reasonable projection, as determined by the division, in order to be approved for reimbursement from the fund; and

(c) A request for approval of the proposed disposition must include:

(A) The original proposed disposition, containing appropriate signatures and appropriate signature lines for division and Workers' Compensation Board or administrative law judge approval, which specifies the proposed assistance from the fund;

(B) A written explanation of how the calculations for the amount of assistance from the fund were made; and

(C) Other information as required by the division.

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

Stat. Auth.: ORS 656.726(4) & 656.622

Stats. Implemented: ORS 656.622

Hist.: WCB 1-1973, f. 1-2-73, ef. 1-15-73; WCB 3-1973, f. 3-14-73, ef. 4-1-73; WCD 2-1977(Admin)(Temp), f. 9-29-77, ef. 10-4-77; WCD 2-1978(Admin), f. & ef. 2-1-78; WCD 7-1981(Admin), f. 12-30-81, ef. 1-1-82; Renumbered from 436-063-0015, 436-063-0045, 5-1-85; WCD 1-1987(Admin), f. 2-20-87, ef. 3-16-87; WCD 12-1987, f. 12-17-87, ef. 1-1-88; WCD 13-1990(Temp), f. 6-21-90, cert. ef. 7-1-90; WCD 32-1990, f. 12-10-90, cert. ef. 12-26-90; WCD 1-1993, f. 1-21-93, cert. ef. 3-1-93, Renumbered from 436-110-0010, 436-110-0020, 436-110-0025, 436-110-0031, 436-110-0032, 436-110-0035, 436-110-0037, 436-110-0041, 436-110-0042, 436-110-0045, 436-110-0047, 436-110-0051, 436-110-0052 & 436-110-0060; WCD 15-1995(Temp), f. 10-9-95, cert. ef. 10-11-95; WCD 20-1995(Temp), f. 12-8-95, cert. ef. 1-1-96; WCD 10-1996, f. 3-12-96, cert. ef. 4-5-96; WCD 4-1997(Temp), f. 3-13-97, cert. ef. 3-17-97; WCD 11-1997, f. 8-28-97, cert. ef. 9-12-97, Renumbered from 436-110-0200 & 436-110-0400; WCD 7-2001, f. 8-14-01, cert. ef. 10-1-01, Renumbered from

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436-110-0260 & 436-110-0300; WCD 4-2005, f. 5-26-05, cert. ef. 7-1-05; WCD 8-2007, f. 11-1-07, cert. ef. 12-1-07

436-110-0335

Wage Subsidy General Provisions

Wage Subsidy provides an employer with partial reimbursement of a worker's gross wages for a specified period. Wage Subsidy benefits are subject to the following conditions:

(1) The effective date of a Wage Subsidy is mutually agreed to by the division, employer, and worker if applicable;

(2) A Wage Subsidy is limited to a duration of 183 calendar days and a monthly reimbursement rate of 50 percent, except for a worker with an exceptional disability as defined in OAR 436-110-0005(9). For a worker with an exceptional disability, the Wage Subsidy duration is limited to 365 calendar days and a monthly reimbursement rate of 75 percent;

(3) A Wage Subsidy Agreement may be interrupted once for reasonable cause and extended to complete the Wage Subsidy Agreement on a whole workday basis. Reasonable cause includes, but is not limited to, personal or family illness, death in the worker's family, pregnancy of the worker or worker's spouse, a compensable injury to the worker, participation in an Employer-at-Injury Program, or layoff. A layoff must be a minimum of 10 consecutive work days. A period of time during which the employer is without workers' compensation insurance coverage is not "reasonable cause," and no extension will be granted;

(4) A Preferred Worker's pay structure must be the same as the pay structure for other workers employed in similar jobs by the employer;

(5) Wages subject to reimbursement must be within the prevailing wage range for that occupation. The prevailing wage range is determined by the following method:

(a) First, examine the wages paid by the employer for other workers doing the same job;

(b) If no other workers are doing the same job, a labor market survey of the local labor market may be conducted; and

(c) If the labor market survey does not support the wage rate requested, the division will determine the wage subject to reimbursement;

(6) Preferred Worker Program Wage Subsidies may not be combined with a wage subsidy for a training plan under OAR 436-120;

(7) A worker-activated and employer at injury-activated wage subsidy can not be used for the same job with the employer at injury;

(8) If the worker's employer changes during the Wage Subsidy Agreement period due to a sale of the business, incorporation, or merger, the agreement can be transferred to the new employer by an addendum to the agreement approved by the division as long as the worker's job remains the same and the new employer is eligible under OAR 436-110-0310(1);

(9) A completed and signed Wage Subsidy Reimbursement Request form must be submitted to the division with a copy of the worker's payroll records. The payroll record must state the dates (daily or weekly), hours, wage rate, and the worker's gross wage. Payroll records must be a legible copy and compiled in accordance with generally accepted accounting procedures; and

(10) All requests for reimbursement must be made within one year of the Wage Subsidy Agreement end date.

(11) Wage Subsidy cannot be used for "regular employment" as defined in OAR 436-110-0005(13) unless the job has been modified to overcome the worker's injury-caused permanent restrictions.

[ED. NOTE: Forms referenced available from the agency.]

Stat. Auth.: ORS 656.726(4) & 656.622

Stats. Implemented: ORS 656.622

Hist.: WCB 1-1973, f. 1-2-73, ef. 1-15-73; WCB 3-1973, f. 3-14-73, ef. 4-1-73; WCD 2-1977(Admin)(Temp), f. 9-29-77, ef. 10-4-77; WCD 2-1978 (Admin), f. & ef. 2-1-78; WCD 7-1981(Admin), f. 12-30-81, ef. 1-1-82; Renumbered from 436-063-0015 & 436-063-0045, 5-1-85; WCD 1-1987(Admin), f. 2-20-87, ef. 3-16-87; WCD 12-1987, f. 12-17-87, ef. 1-1-88; WCD 13-1990(Temp), f. 6-21-90, cert. ef. 7-1-90; WCD 32-1990, f. 12-10-90, cert. ef. 12-26-90; WCD 1-1993, f. 1-21-93, cert. ef. 3-1-93, Renumbered from 436-110-0010, 436-110-0020, 436-110-0025, 436-110-0031, 436-110-0032, 436-110-0035, 436-110-0037, 436-110-0041, 436-110-0042, 436-110-0045, 436-110-0047, 436-110-0051, 436-110-0052 & 436-110-0060; WCD 15-1995(Temp), f. 10-9-95, cert. ef. 10-11-95; WCD 20-1995(Temp), f. 12-8-95, cert. ef. 1-1-96; WCD 10-1996, f. 3-12-96, cert. ef. 4-5-96; WCD 4-1997(Temp), f. 3-13-97, cert. ef. 3-17-97; WCD 11-1997, f. 8-28-97, cert. ef. 9-12-97, Renumbered from 436-110-0200 & 436-110-0400; WCD 7-2001, f. 8-14-01, cert. ef. 10-1-01, Renumbered from 436-110-0300 & 436-110-0340; WCD 4-2005, f. 5-26-05, cert. ef. 7-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 8-2007, f. 11-1-07, cert. ef. 12-1-07

436-110-0336

Wage Subsidy — Employer at Injury Activated

Wage Subsidy is activated by the employer at injury as follows:

(1) The job must be within the worker's injury-caused restrictions. If a worksite modification is necessary to meet this requirement, Wage Subsidy will not be approved until the modification is complete, and verified by a representative of the division.

(2) The employer must complete and sign a Wage Subsidy Agreement, and send it to the division in the timeframes allowed in OAR 436-110-0290.

(3) The completed and signed job offer must accompany the request as required in OAR 436-110-0290(3), unless it was already submitted with another request.

(4) The employer at injury may use Wage Subsidy once during an eligibility period.

Stat. Auth.: ORS 656.726(4) & 656.622

Stats. Implemented: ORS 656.622

Hist.: WCD 4-2005, f. 5-26-05, cert. ef. 7-1-05; WCD 8-2007, f. 11-1-07, cert. ef. 12-1-07

436-110-0337

Wage Subsidy — Worker Activated

A Wage Subsidy may be requested by a worker as follows:

(1) A Wage Subsidy Agreement must be completed and signed by the worker and employer and submitted to the division within three years of the date of hire.

(2) A Preferred Worker may use Wage Subsidy twice, once each for two different jobs. The number of allowable uses will be restored if there is a subsequent claim closure, and the worker is unable to return to regular employment.

(3) If the employer at injury uses Wage Subsidy for a job, the worker cannot use Wage Subsidy for the same job.

Stat. Auth.: ORS 656.726(4) & 656.622

Stats. Implemented: ORS 656.622

Hist.: WCD 4-2005, f. 5-26-05, cert. ef. 7-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 8-2007, f. 11-1-07, cert. ef. 12-1-07

436-110-0345

Employment Purchases – General Provisions

(1) An Employment Purchase is assistance necessary for a worker to find, accept, or retain employment. These purchases may be provided for a job with a non-subject employer in Oregon, as long as that employer complies with the appropriate workers' compensation law. Except as provided in subsection 2(h) of this rule, all purchases become the worker's property.

(2) Employment Purchases are limited to:

(a) Tuition, books, and fees for instruction provided by an educational entity accredited or licensed by an appropriate body in order to update existing skills or to meet the requirements of an obtained job. Maximum expenditure per use is \$1,000;

(b) Temporary lodging, meals, and mileage to attend instruction when overnight travel is required. The cost of meals, lodging, public transportation, and use of a personal vehicle will be reimbursed at the rate of reimbursement for State of Oregon classified employees as published in Bulletin 112. Lodging, meals, and mileage are limited to a combined period of one month, and the total maximum expenditure per use is \$500;

(c) Tools and equipment mandatory for employment. Purchases must not include items the worker possesses, duplicate Worksite Modification items, vehicles, or items needed for worksite creation. Maximum expenditure per use is \$2,500;

(d) Clothing required for the job. Maximum expenditure per use is \$400;

(e) Moving expenses for a job if the new worksite is in Oregon and more than 50 miles from the worker's primary residence. When the worker's permanent disability from the injury precludes the worker from commuting the required distance, moving expenses may be provided to move within 50 miles of the worker's primary residence or within the distance the worker commuted for work at claim opening. Moving expenses are limited to one use. Expenditure is limited to:

(A) The cost of moving household goods weighing not more than 10,000 pounds and reasonable costs of meals and lodging for the worker. The cost of meals, lodging, public transportation, and use of a personal vehicle will be paid at the rate of reimbursement for State of Oregon classified employees as published in Bulletin 112. Lodging and meals are limited to a maximum period of two weeks. Mileage for one personal vehicle is limited to a single one-way trip; and

(B) Rental allowance for the worker's primary residence limited to first month's rent as specified in the rental agreement, non-refundable deposit in an amount not to exceed the first month's rent, and a required credit check for that residence;

(f) Initiation fees, or back dues and one month's current dues, required by a labor union; and

(g) Occupational certification, licenses, and related testing costs, drug screen testing, physical examinations, or membership fees required for the job. Maximum expenditure is \$500.

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(h) Worksite creation costs which are limited to equipment, furnishings or other things the employer needs to create a new job for the worker. All items purchased are the property of the employer. Maximum expenditure per use is \$5,000.

(i) Miscellaneous purchases which do not fit into subsections (a) through (h) of this section. This category may be used to help a worker to find, accept, or retain employment, but does not include a vehicle purchase. Finding employment is limited to necessary purchases to go to an interview in Oregon. This category can be used as often as necessary up to a maximum of \$2,500 per claim opening.

(j) Employment Purchases cannot be used for "regular employment" as defined in OAR 436-110-0005

(13) Unless the job has been modified to overcome the worker's injury-caused permanent restrictions.

(3) The person or entity that purchased the item(s) may request reimbursement by submitting to the division a legible copy of an invoice or receipt showing payment has been made for the item(s) purchased. Reimbursement will be made for only those items and costs approved and paid.

(4) Costs of Employment Purchases will be paid by reimbursement, by an Authorization for Payment, or by other instrument of payment approved by the director.

(5) The division will not purchase directly or otherwise assume responsibility for Employment Purchases.

(6) Reimbursed costs will not be charged by the insurer to the employer as claim costs or by any other means.

(7) All requests for reimbursement must be made within one year of the Employment Purchase Agreement end date.

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

Stat. Auth.: ORS 656.726(4) & 656.622

Stats. Implemented: ORS 656.622

Hist.: WCB 1-1973, f. 1-2-73, ef. 1-15-73; WCB 3-1973, f. 3-14-73, ef. 4-1-73; WCD 2-1977(Admin)(Temp), f. 9-29-77, ef. 10-4-77; WCD 2-1978 (Admin), f. & ef. 2-1-78; WCD 7-1981(Admin), f. 12-30-81, ef. 1-1-82; Renumbered from 436-063-0015 & 436-063-0045, 5-1-85; WCD 1-1987(Admin), f. 2-20-87, ef. 3-16-87; WCD 12-1987, f. 12-17-87, ef. 1-1-88; WCD 13-1990(Temp), f. 6-21-90, cert. ef. 7-1-90; WCD 32-1990, f. 12-10-90, cert. ef. 12-26-90; WCD 1-1993, f. 1-21-93, cert. ef. 3-1-93, Renumbered from 436-110-0010, 436-110-0020, 436-110-0025, 436-110-0031, 436-110-0032, 436-110-0035, 436-110-0037, 436-110-0041, 436-110-0042, 436-110-0045, 436-110-0047, 436-110-0051, 436-110-0052 & 436-110-0060; WCD 15-1995(Temp), f. 10-9-95, cert. ef. 10-11-95; WCD 20-1995(Temp), f. 12-8-95, cert. ef. 1-1-96; WCD 10-1996, f. 3-12-96, cert. ef. 4-5-96; WCD 4-1997(Temp), f. 3-13-97, cert. ef. 3-17-97; WCD 11-1997, f. 8-28-97, cert. ef. 9-12-97, Renumbered from 436-110-0200 & 436-110-0400; WCD 7-2001, f. 8-14-01, cert. ef. 10-1-01, Renumbered from 436-110-0300 & 436-110-0340; WCD 4-2005, f. 5-26-05, cert. ef. 7-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 8-2007, f. 11-1-07, cert. ef. 12-1-07

436-110-0346

Employment Purchases – Employer at Injury Activated

Conditions for use of Employment Purchases by the employer at injury are as follows:

(1) The employer must submit a completed Employment Purchase Agreement listing item(s) that are required of the worker to perform the job for which the worker is employed.

(2) The employer at injury may use each Employment Purchase category once.

Stat. Auth.: ORS 656.726(4) & 656.622

Stats. Implemented: ORS 656.622

Hist.: WCD 4-2005, f. 5-26-05, cert. ef. 7-1-05; WCD 8-2007, f. 11-1-07, cert. ef. 12-1-07

436-110-0347

Employment Purchases — Worker Activated

Conditions for use of Employment Purchases by a worker are as follows:

(1) Except for moving expenses, and miscellaneous purchases needed to find a job, the worker and employer must submit a completed Employment Purchase Agreement listing item(s) that are required of the worker to perform the job.

(2) If Employment Purchases are to be used with a non-subject employer in Oregon, Premium Exemption is not activated.

(3) Except as otherwise provided in these rules, a Preferred Worker may use each Employment Purchase category twice, once each for two different jobs. The number of allowable uses will be restored if there is a subsequent claim closure, and the worker is unable to return to regular employment.

(4) A Preferred Worker may request Employment Purchases as follows:

(a) The worker must contact the division directly for assistance in receiving Employment Purchases. The worker may make the request prior to employment, but not more than three years after the date of hire.

(b) The Employment Purchase Agreement form must be completed and signed by the worker and employer and submitted to the division. If the request is for moving expenses, or the miscellaneous category, only the worker's signature is required.

Stat. Auth.: ORS 656.726(4) & 656.622

Stats. Implemented: ORS 656.622

Hist.: WCD 4-2005, f. 5-26-05, cert. ef. 7-1-05; WCD 8-2007, f. 11-1-07, cert. ef. 12-1-07

436-110-0350

Worksite Modification — General Provisions

(1) Worksite Modification means altering a worksite in Oregon, or available for inspection and modification in Oregon, by purchasing, modifying, or supplementing equipment, or changing the work process, to enable a worker to work within the limitations imposed by compensable injuries or occupational diseases. Worksite Modification may also include the means to protect modifications purchased by the Preferred Worker Program in an amount not to exceed \$2,500.

(2) Conditions for the use of Worksite Modification assistance are as follows:

(a) Modifications will be provided to allow the worker to perform the job duties within the worker's injury-caused permanent limitations. In order to determine appropriate Worksite Modifications, the Reemployment Assistance Unit consultants have discretion to use reports by a medical service provider specific to the worker, specific documented "best practices" described by a medical service provider or authority, and their own professional judgement and experience;

(b) A job analysis which includes the duties and physical demands of the job before and after modification may be required to show how the modification will overcome the worker's limitations. The job analysis may be submitted to the attending physician for approval before the modification is performed;

(c) Modifications are limited to a maximum of \$25,000 for one job. A modification over \$25,000 may be provided if the worker has an exceptional disability as defined in OAR 436-110-0005(9);

(d) Modifications not to exceed \$1,000 may be provided which would reasonably be expected to prevent further injury or exacerbation of the worker's accepted condition. Appropriateness of this type of modification will be determined by a Reemployment Assistance Consultant based upon his or her professional judgment and experience, reports by a medical service provider specific to the worker, or specific documented "best practices" described by a medical service provider or authority. Costs of the modification(s) are included in the calculation of the total Worksite Modification costs;

(e) Modifications are limited to \$2,500 for on-the-job training under OAR 436-120 or other similar on-the-job training programs when the trainer is not the employer-at-injury. A modification will not be approved for any other type of training;

(f) Modifications limited to \$2,500 may be provided to protect the items approved in the Worksite Modification Agreement from theft, or damage from the weather. Insurance policy premiums will not be paid;

(g) When a vehicle is being modified, the vehicle owner must provide proof of ownership and insurance coverage. The worker must have a valid driver license;

(h) Rented or leased vehicles and other equipment will not be modified;

(i) Modifications must be reasonable, practical, and feasible, as determined by the division;

(j) When the division determines the appropriate form of modification and the worker or employer requests a form of modification equally appropriate but with a greater cost, upon division approval, funds equal to the cost of the form of modification identified by the division may be applied toward the cost of the modification desired by the worker or employer;

(k) A modification may include rental of tools, equipment, fixtures, or furnishings to determine the feasibility of a modification. It may also include consultative services necessary to determine the feasibility of a modification, or to recommend design a Worksite Modification;

(l) Rental of Worksite Modification items and consultative services require division approval and are limited to a cost of up to \$3,500 each. The cost for rental of Worksite Modification items and consultative services does not apply toward the total cost of a Worksite Modification;

(m) Modification equipment will become the property of the employer, worker, or worker leasing company's client on the "end date" of a Worksite Modification Agreement or when the worker's employment ends, whichever occurs first. The division will determine ownership of Worksite Modification equipment prior to approving an agreement and has the final authority to assign property.

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(n) The division may request a physical capacities evaluation, work tolerance screening, or review of a job analysis to quantify the worker's injury-caused permanent limitations. The cost of temporary lodging, meals, public transportation, and use of a personal vehicle necessary for a worker to participate in one or more of these required activities will be reimbursed at the rate of reimbursement for State of Oregon classified employees as published in Bulletin 112. The cost of the services described in this subsection does not apply toward the total cost of a Worksite Modification;

(o) If the property provided for the modification is damaged, in need of repair, or lost, the division will not repair or replace the property;

(p) The employer must not dispose of the property provided for the modification or reassign it to another worker while the worker is employed in work for which the modification is necessary or prior to the end of the agreement without division and worker approval. Failure to repair or replace the property, or inappropriate disposal or reassignment of the property, may result in sanctions under OAR 436-110-0900; and

(q) The worker must not dispose of the property provided for the modification while employed in work for which the modification is necessary or prior to the end of the agreement without division approval. Failure to repair or replace the property, or inappropriate disposal of the property, may result in sanctions under OAR 436-110-0900.

(3) A worker, employer or their representative may request Worksite Modification assistance.

(4) The person or entity that purchased the item(s) may request reimbursement by submitting to the division proof of payment for the items purchased. Reimbursement will be made for only those items and costs approved and paid; and

(5) Costs of approved Worksite Modifications are paid by reimbursement, an Authorization for Payment, or by other instrument of payment approved by the director.

(6) The division will not purchase directly or otherwise assume responsibility for Worksite Modifications.

(7) Reimbursed costs will not be charged by the insurer to the employer as claims costs or by any other means.

(8) A division Worksite Modification Consultant will determine if competitive quotes are required.

(9) All requests for reimbursement must be made within one year of the Worksite Modification Agreement end date.

[Publications: Publications referenced are available from the agency]

Stat. Auth.: ORS 656.726(4) & 656.622

Stats. Implemented: ORS 656.622

Hist.: WCB 1-1973, f. 1-2-73, ef. 1-15-73; WCB 3-1973, f. 3-14-73, ef. 4-1-73; WCD 2-1977(Admin)(Temp), f. 9-29-77, ef. 10-4-77; WCD 2-1978 (Admin), f. & ef. 2-1-78; WCD 7-1981(Admin), f. 12-30-81, ef. 1-1-82; Renumbered from 436-063-0015 & 436-063-0045, 5-1-85; WCD 1-1987(Admin), f. 2-20-87, ef. 3-16-87; WCD 12-1987, f. 12-17-87, ef. 1-1-88; WCD 13-1990(Temp), f. 6-21-90, cert. ef. 7-1-90; WCD 32-1990, f. 12-10-90, cert. ef. 12-26-90; WCD 1-1993, f. 1-21-93, cert. ef. 3-1-93, Renumbered from 436-110-0010, 436-110-0020, 436-110-0025, 436-110-0031, 436-110-0032, 436-110-0035, 436-110-0037, 436-110-0041, 436-110-0042, 436-110-0045, 436-110-0047, 436-110-0051, 436-110-0052 & 436-110-0060; WCD 15-1995(Temp), f. 10-9-95, cert. ef. 10-11-95; WCD 20-1995(Temp), f. 12-8-95, cert. ef. 1-1-96; WCD 10-1996, f. 3-12-96, cert. ef. 4-5-96; WCD 4-1997(Temp), f. 3-13-97, cert. ef. 3-17-97; WCD 11-1997, f. 8-28-97, cert. ef. 9-12-97, Renumbered from 436-110-0200 & 436-110-0400; WCD 7-2001, f. 8-14-01, cert. ef. 10-1-01, Renumbered from 436-110-0300 & 436-110-0340; WCD 4-2005, f. 5-26-05, cert. ef. 7-1-05; WCD 8-2007, f. 11-1-07, cert. ef. 12-1-07

436-110-0351

Worksite Modification — Employer at Injury Activated

Conditions for use of Worksite Modifications by the employer at injury are as follows:

(1) The employer at injury may use Worksite Modification assistance once for a job provided for their injured worker, or a second time if the worker changes to another job with the employer at injury within the timeframes allowed in OAR 436-110-0290(1).

(2) Modifications are limited to a maximum of \$25,000 on the claim which qualified the worker for assistance. A modification over \$25,000 may be provided if the worker has an exceptional disability as defined in OAR 436-110-0005(9).

(3) The division must approve, by authorized signature, a completed and signed Worksite Modification Agreement prior to any reimbursement or Authorization for Payment.

(4) Modifications may be provided for requests received within 180 days from the worker's claim closure date. Additional modifications may be provided under an approved agreement by addendum for requests received within three years from the date the worker started work for the employer in employment for which the Worksite Modification request was made.

Stat. Auth.: ORS 656.726(4) & 656.622

Stats. Implemented: ORS 656.622

Hist.: WCD 4-2005, f. 5-26-05, cert. ef. 7-1-05; WCD 8-2007, f. 11-1-07, cert. ef. 12-1-07

436-110-0352

Worksite Modification — Worker Activated

Conditions for use of Worksite Modification assistance by the worker are as follows:

(1) The division must approve, by authorized signature, a completed and signed Worksite Modification Agreement form, prior to any reimbursement or Authorization for Payment.

(2) Modifications may be provided for requests received within three years from the date of hire.

(3) A worker may use Worksite Modification assistance once with one employer and once with a second employer, or twice with the same employer if there is a job change. The number of allowable uses will be restored if there is a subsequent claim closure, and the worker is unable to return to regular employment.

(4) Modifications after June 30, 1990, are limited to a maximum of \$25,000 on the claim which qualified the worker for assistance. A modification over \$25,000 may be provided for a worker with an exceptional disability as defined in OAR 436-110-0005(9). This maximum is not reduced by the use of Worksite Modifications by the employer at injury.

Stat. Auth.: ORS 656.726(4) & 656.622

Stats. Implemented: ORS 656.622

Hist.: WCD 4-2005, f. 5-26-05, cert. ef. 7-1-05; WCD 8-2007, f. 11-1-07, cert. ef. 12-1-07

436-110-0850

Audits

(1) Insurers and employers are subject to periodic program and fiscal audits by the division. All reimbursements are subject to subsequent audits, and may be disallowed on any of the grounds set forth in these rules. Disallowed reimbursements may be recovered by the division directly or from future reimbursements by way of offset. If the division finds upon audit that procedures which led to disallowed reimbursements are still being used, the division may withhold further reimbursements until corrections satisfactory to the division are made.

(2) An insurer or employer must maintain claim records, notices, worker payroll records, reports, receipts, and documentation of payment supporting reemployment assistance costs for which reimbursement has been requested or expenditure by Authorization for Payment has been made. These records must be maintained for a period of three years after the last reimbursement request or expenditure by Authorization for Payment.

(3) The division reserves the right to visit the worksite to determine compliance with the agreement under which reemployment assistance has been provided.

Stat. Auth.: ORS 656.455, 656.622, 656.726(4) & 731.475

Stats. Implemented: ORS 656.455, 656.622 & 731.475

Hist.: WCD 1-1987(Admin), f. 2-20-87, ef. 3-16-87; WCD 12-1987, f. 12-17-87, ef. 1-1-88; WCD 32-1990, f. 12-10-90, cert. ef. 12-26-90; WCD 1-1993, f. 1-21-93, cert. ef. 3-1-93, Renumbered from 436-110-0100; WCD 10-1996, f. 3-12-96, cert. ef. 4-5-96; WCD 11-1997, f. 8-28-97, cert. ef. 9-12-97, Renumbered from 436-110-0450; WCD 7-2001, f. 8-14-01, cert. ef. 10-1-01; WCD 8-2007, f. 11-1-07, cert. ef. 12-1-07

436-120-0003

Applicability of Rules

(1) These rules govern vocational assistance pursuant to the Workers' Compensation Law on or after the effective date of these rules except as OAR 436-120 otherwise provides.

(2) The director's decisions under OAR 436-120-0008 regarding eligibility will be based on the rules in effect on the date the insurer issued the notice. The director's decisions regarding the nature and extent of assistance will be based on the rules in effect at the time the assistance was provided. If the director orders future assistance, such assistance must be provided in accordance with the rules in effect at the time assistance is provided.

(3) Under these rules a claim for aggravation or reopening a claim to process a newly accepted condition will be considered a new claim for purposes of vocational assistance eligibility and vocational assistance, except as otherwise provided in these rules.

(4) Under ORS 656.206, when a worker receiving permanent total disability, incurs a new compensable injury, the worker is not entitled to vocational assistance.

(5) The requirement for the director's advance approval of services eligible for claims cost reimbursement pursuant to OAR 436-120-0720(7) will apply to any actions taken after the effective date of these rules.

(6) Applicable to this chapter, the director may, unless otherwise obligated by statute, in the director's discretion waive procedural rules as justice so requires.

(7) Timeliness of any document required by these rules to be filed or submitted to the division is determined as follows:

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(a) If a document is mailed, it will be considered filed on the date it is postmarked.

(b) If a document is faxed or e-mailed, it must be received by the division by 11:59 p.m. Pacific time to be considered filed on that date.

(c) If a document is delivered, it must be delivered during regular business hours to be considered filed on that date.

(8) Time periods allowed for a filing or submission to the division are calculated in calendar days. The first day is not included. The last day is included unless it is a Saturday, Sunday, or legal holiday. In that case, the period runs until the end of the next day that is not a Saturday, Sunday, or legal holiday. Legal holidays are those listed in ORS 187.010 and 187.020.

Stat. Auth.: ORS 656.340(9) & 656.726(4)

Stats. Implemented: ORS 656.283(2) & 656.340

Hist.: WCB 1-1976, f. 3-29-76, ef. 4-1-76; WCD 3-1977(Admin)(Temp), f. 9-29-77, ef. 10-4-77; WCD 1-1978(Admin), f. & ef. 2-1-78; WCD 6-1980(Admin), f. 5-22-80, ef. 6-1-80; WCD 4-1981(Admin), f. 12-4-81, ef. 1-1-82; WCD 11-1982(Admin)(Temp), f. 12-29-82, ef. 1-1-83; WCD 2-1983(Admin), f. & ef. 6-30-83; WCD 5-1983(Admin), f. 12-14-83, ef. 1-1-84; Renumbered from 436-061-0004, 5-1-85; WCD 7-1985(Admin), f. 12-12-85, ef. 1-1-86; WCD 11-1987, f. 12-17-87, ef. 1-1-88; WCD 10-1994, f. 11-1-94, cert. ef. 1-1-95; WCD 6-1996, f. 2-6-96, cert. ef. 3-1-96; WCD 6-2000, f. 4-27-00, cert. ef. 6-1-00; WCD 4-2001, f. 4-13-01, cert. ef. 5-15-01; WCD 7-2002, f. 5-30-02, cert. ef. 7-1-02; WCD 3-2004, f. 3-5-04 cert. ef. 4-1-04; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 8-2007, f. 11-1-07, cert. ef. 12-1-07

436-120-0004

Notices and Reporting Requirements

(1) The insurer must inform a worker with a compensable injury of the employment reinstatement rights and responsibilities of the worker under ORS chapter 659A and this rule. This information must be given:

(a) At the time of claim acceptance, pursuant to ORS 656.262(6);

(b) At the time of contact of the worker under OAR 436-120-0320 about the need for vocational assistance, pursuant to ORS 656.340(2); and

(c) Within five days of receiving knowledge of the attending physician's release of the worker to return to work, pursuant to ORS 656.340(3), the insurer must inform the worker about the opportunity to seek reemployment or reinstatement under ORS 659A.043 and 659A.046, and inform the employer about the worker's reemployment rights.

(2) All notices and warnings to the worker issued pursuant to OAR 436-120 must be in writing, signed and dated, and state the basis for the decision, the effective date of the action, the relevant rule(s), the worker's appeal rights required pursuant to this rule, and the telephone number of the Ombudsman for Injured Workers. However, the insurer's response does not need to be in writing when the insurer approves a worker's request for a particular vocational service. All notices and warnings are subject to the following conditions:

(a) The following headings must be used for the following notices. Should one notice be used for multiple actions, all appropriate headings must be listed:

(A) Eligibility. This notice must:

(i) Inform the worker which category of vocational assistance will be provided: NOTICE OF ELIGIBILITY FOR VOCATIONAL ASSISTANCE and NOTICE OF ENTITLEMENT TO TRAINING (or) NOTICE OF ENTITLEMENT TO DIRECT EMPLOYMENT SERVICES, EFFECTIVE (date) and;

(ii) Include the following statement in bold type:

"You have the right to request a return-to-work plan conference if the insurer does not approve a return-to-work plan within 90 days of determining you entitled to a training plan, or within 45 days of determining you entitled to a direct employment plan. The purpose of the conference will be to identify and remove all obstacles to return-to-work plan completion and approval. The insurer, the worker, the plan developer, and any other parties involved in the return-to-work process must attend the conference. The insurer or the worker may request a conference with the division if other delays in the vocational rehabilitation process occur. Your request for this conference should be directed to the Rehabilitation Review Unit of the Workers' Compensation Division. The address and telephone number of the division are: Rehabilitation Review Unit, Workers' Compensation Division, P.O. Box 14480, Salem, Oregon 97309-0405; 503-378-3351 or 1-800-452-0288."

(B) Ineligibility: NOTICE OF INELIGIBILITY FOR VOCATIONAL ASSISTANCE, EFFECTIVE (date)

(C) Selection or change of provider: SELECTION OF (OR CHANGE OF) VOCATIONAL ASSISTANCE PROVIDER, EFFECTIVE (date)

(D) End of training: NOTICE OF TRAINING END, EFFECTIVE (date)

(E) End of eligibility: NOTICE OF END OF ELIGIBILITY FOR VOCATIONAL ASSISTANCE, EFFECTIVE (date)

(F) Deferral of vocational assistance eligibility determination: NOTICE OF DEFERRAL OF VOCATIONAL ASSISTANCE ELIGIBILITY DETERMINATION, EFFECTIVE (date)

(b) Warning letters do not require specific language in the headings but should include a heading clearly indicating the purpose of the warning.

(c) The insurer must simultaneously send a copy to the worker's representative. Failure to send a copy of the notice to the worker's representative stays the appeal period until the worker's representative receives actual notice.

(d) All notices and warnings except those notifying a worker of eligibility, entitlement to training or deferral of vocational assistance eligibility must contain the worker's appeal rights in bold type, as follows:

"If you disagree with this decision, you should contact (person's name and insurer) within five days of receiving this letter to discuss your concerns.

If you are still dissatisfied, you must contact the Workers' Compensation Division within 60 days of receiving this letter or you will lose your right to appeal this decision. A consultant with the division can talk with you about the disagreement and, if necessary, will review your appeal. The address and telephone number of the division are: Rehabilitation Review Unit, Workers' Compensation Division, P.O. Box 14480, Salem, Oregon 97309-0405; 503-378-3351 or 1-800-452-0288."

(3) Notice of Eligibility for vocational assistance and Notice of Entitlement to Training (or) Notice of Entitlement for Direct Employment Services must include the following:

(a) Selection of the category of vocational assistance. When direct employment services are selected, the notice must state the worker is not entitled to training and must include the appeal rights language in OAR 436-120-0004(2)(d);

(b) The worker's rights and responsibilities;

(c) Procedures for resolving dissatisfaction with an action of the insurer regarding vocational assistance;

(d) The current list of vocational assistance providers, and an explanation of the worker's participation in the selection of a vocational assistance provider. This notice must include the following language in bold type:

"If you have questions about the vocational counselor selection process, contact (use appropriate reference to the insurer). If you still have questions contact the Workers' Compensation Division's toll free number at 1-800-452-0288."

(e) Information about potential reemployment assistance under OAR 436-110.

(4) Notice of Ineligibility for vocational assistance is subject to the following conditions:

(a) The notice must be sent to the worker by both regular and certified mail.

(b) The notice must include information about services which may be available at no cost from the Employment Department or the Office of Vocational Rehabilitation Services, and reemployment assistance under OAR 436-110.

(c) If the notice is based on a finding of "no substantial handicap," it must list some suitable occupations.

(d) If the insurer is not required to determine eligibility pursuant to OAR 436-120-0320(2), no Notice of Ineligibility is required unless the worker or worker's representative requested a determination of eligibility. When the ineligibility is due to no permanent disability award, the notice must inform the worker of entitlement to an eligibility determination upon a final order granting permanent disability.

(5) Notice of Denial of Vocational Service must be given by the insurer.

(6) The approved, denied or amended return-to-work plan must be sent to the worker. Notification of Denial of Return-to-Work Plan must identify any components of the plan that the insurer did not approve.

(7) Notice of End of Training must state whether the worker is entitled to further training. The effective date of the end of training letter is the worker's last date of attendance.

(8) Notice of End of Eligibility for vocational assistance must be sent by both regular and certified mail to the worker.

(9) Notice of Deferral of Vocational Assistance Eligibility Determination is subject to the following conditions:

(a) The notice must be sent to the worker by both regular and certified mail.

(b) The notice must inform the worker that the insurer will not complete the vocational eligibility process because the employer at injury has activated preferred worker benefits and the worker has chosen to accept the job offer from the employer at injury. The notice must also inform the worker that, if the job has not begun by the hire date listed in the job offer letter, the worker can request that the vocational eligibility determination be completed.

(c) This notice must include the following language in bold type:

"If you have questions about the deferral of the vocational eligibility process, contact (use appropriate reference to the insurer). If you still have questions contact the Workers' Compensation Division's toll free number at 1-800-452-0288."

(10) Warnings to the worker must state what the worker must do within a specified time to avoid ineligibility or the ending of eligibility or training.

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(11) The insurer must simultaneously send a copy of the following notices to the department:

- (a) Notice of Eligibility;
- (b) Notice of Ineligibility;
- (c) Approved Return-to-Work Plan and any amendments;
- (d) Notice of End of Training;
- (e) Notice of Ending of Eligibility for Vocational Assistance; and
- (f) Notice of Deferral of Vocational Assistance Eligibility Determination.

(12) The insurer must file a closing status report with the division for each eligible worker within 30 days after eligibility ends. The insurer must report the following information:

(a) The date and reason for ending of eligibility, return-to-work and vocational assistance provider information.

(b) For post-1985 injuries, the insurer must also report cost information for eligibility determination and vocational services provided under these rules as required by the director.

Stat. Auth.: ORS 656.340(9), 656.726(4) & 192.410 - 192.505
Stats. Implemented: ORS 656.340(5) & 656.340(7)

Hist.: WCD 6-2000, f. 4-27-00, cert. ef. 6-1-00, Renumbered from 436-120-0600, 436-120-0610 & 436-120-0620 [WCD 11-1987, f. 12-17-87, ef. 1-1-88; WCD 10-1994, f. 11-1-94, cert. ef. 1-1-95; WCD 6-1996, f. 2-6-96, cert. ef. 3-1-96; WCD 7-2002, f. 5-30-02, cert. ef. 7-1-02; WCD 3-2004, f. 3-5-04 cert. ef. 4-1-04; WCD 6-2005, f. 6-9-05, cert. ef. 7-1-05; WCD 8-2007, f. 11-1-07, cert. ef. 12-1-07]

436-120-0007

Establishing the Adjusted Weekly Wage to Determine Suitable Wage

To determine a suitable wage as defined in OAR 436-120-0005(13), the insurer must first establish the adjusted weekly wage as described in this rule. The insurer must calculate the "adjusted weekly wage" whenever determining or redetermining a worker's eligibility.

(1) For the purposes of this rule, the following definitions apply:

(a) "Adjusted weekly wage" is the wage currently paid as calculated under this rule.

(b) "Cost-of-living adjustments" or "collective bargaining adjustments" are increases or decreases in the wages of all workers performing the same or similar jobs for a specific employer. These adjustments are not variations in wages based on skills, merit, seniority, length of employment, or number of hours worked.

(c) "Earned income" means gross wages, salary, tips, commissions, incentive pay, bonuses and the reasonable value of other consideration (housing, utilities, food, etc.) received from all employers for services performed from all jobs held at the time of injury or aggravation. Earned income also means gross earnings from self-employment after deductions of business expenses excluding depreciation. Earned income does not include fringe benefits such as medical, life or disability insurance, employer contributions to pension plans, or reimbursement of the worker's employment expenses such as mileage or equipment rental.

(d) "Job at aggravation" means the job or jobs the worker held on the date of the aggravation claim; or, for a worker not employed at time of aggravation, the last job or concurrent jobs held prior to the aggravation. Volunteer work does not constitute a job for purposes of this subsection.

(e) "Job at injury" is the job on which the worker originally sustained the compensable injury. For an occupational disease, the job at injury is the job the worker held at the time there is medical verification that the worker is unable to work because of the disability caused by the occupational disease.

(f) "Permanent, year-round employment" is permanent employment in which the worker worked or was scheduled or projected to work in 48 or more calendar weeks a year. Paid leave is counted as work time. Permanent year-round employment includes trial service. It does not include employment with an annual salary set by contract or self-employment.

(g) "Temporary disability" means wage loss replacement for the job at injury.

(h) "Trial service" is employment designed to lead automatically to permanent, year-round employment subject only to the employee's satisfactory performance during the trial service period.

(2) The insurer must determine the nature of the job at injury or the job or jobs at aggravation by contacting the employer or employers to verify the worker's employment status. All figures used in determining a weekly wage by this method must be supported by verifiable documentation such as the worker's state or federal tax returns, payroll records, or reports of earnings or unemployment insurance payments from the Employment Department. The insurer must calculate the worker's adjusted weekly wage as described by this rule.

(3) When the job at injury or the job at aggravation was temporary or seasonal, calculate the worker's average weekly wage as follows, then convert to the adjusted weekly wage as described in section (6) of this rule:

(a) When the worker's regular employment is the job at injury and the worker did not hold more than one job at the time of injury, and did not receive unemployment insurance benefits during the 52 weeks prior to the injury, the worker's average weekly wage is the same as the wage upon which temporary disability is based.

(b) When the worker's regular employment is the job at aggravation and the worker did not hold more than one job at the time of aggravation, and did not receive unemployment insurance benefits during the 52 weeks prior to the aggravation, the worker's average weekly wage is calculated using the same methods used to calculate temporary disability as described in OAR 436-060-0025.

(c) If the worker held more than one job at the time of the injury or aggravation, and did not receive unemployment insurance payments during the 52 weeks prior to the date of the injury or aggravation, divide the worker's earned income by the number of weeks the worker worked during the 52 weeks prior to the date of injury or aggravation.

(d) If the worker held one or more jobs at the time of the injury or aggravation, and received unemployment insurance payments during the 52 weeks prior to the date of the injury or aggravation, combine the earned income with the unemployment insurance payments and divide the total by the number of weeks the worker worked and received unemployment insurance payments during the 52 weeks prior to the date of the injury or aggravation.

(4) When the job at injury was other than as described in section (3) of this rule, use the weekly wage upon which temporary disability was based, and then convert the weekly wage to the adjusted weekly wage as described in section (6) of this rule.

(5) When the job at aggravation was other than as described in section (3) of this rule, the worker's average weekly wage is calculated using the same methods used to calculate temporary disability as described in OAR 436-060-0025, and then convert to the adjusted weekly wage as described in section (6) of this rule.

(6) Adjusted weekly wage: After arriving at the weekly wage pursuant to this rule, establish the adjusted weekly wage by determining the percentage increase or decrease from the date of injury or aggravation, or last day worked prior to aggravation, to the date of calculation, as follows:

(a) Contact the employer at injury or aggravation regarding any cost-of-living or collective bargaining adjustments for workers performing the same job. When the worker held two or more jobs at aggravation, contact the employer for whom the worker worked the most hours. Adjust the worker's weekly wage by any percentage increase or decrease;

(b) If the employer at injury or aggravation is no longer in business and the worker's job was covered by a union contract, contact the applicable union for any cost-of-living or collective bargaining adjustments. Adjust the worker's weekly wage by the percentage increase or decrease; or

(c) If the employer at injury or aggravation is no longer in business or does not currently employ workers in the same job category, adjust the worker's weekly wage by the appropriate factor from the cost-of-living matrix.

Stat. Auth.: ORS 656.340(9) & 656.726(4)

Stats. Implemented: ORS 656.340(5) & (6)

Hist.: WCD 11-1987, f. 12-17-87, ef. 1-1-88, 436-120-0030 Renumbered to 436-120-0075; WCD 10-1994, f. 11-1-94, cert. ef. 1-1-95, Renumbered from 436-120-0025; WCD 6-1996, f. 2-6-96, cert. ef. 3-1-96; Renumbered from 436-120-0310, WCD 6-2000, f. 4-27-00, cert. ef. 6-1-00; WCD 4-2001, f. 4-13-01, cert. ef. 5-15-01; WCD 14-2001(Temp), f. 12-17-01, cert. ef. 1-2-02 thru 6-30-02; WCD 7-2002, f. 5-30-02, cert. ef. 7-1-02; WCD 6-2005, f. 6-9-05, cert. ef. 7-1-05; WCD 8-2007, f. 11-1-07, cert. ef. 12-1-07

436-120-0008

Administrative Review and Contested Cases

(1) Administrative review of vocational assistance matters: Under ORS 656.283(2) and 656.340(4), a worker wanting review of any vocational assistance matter must apply to the director for administrative review. Also, under ORS 656.340(11) and OAR 436-120-0320(13) when the worker and insurer are unable to agree on a vocational assistance provider, the insurer must apply to the director for administrative review. Because effective vocational assistance is best realized in a nonadversarial environment, the first objective of the administrative review is to bring the parties to resolution through alternative dispute resolution procedures, including mediation conferences, whenever possible and appropriate. When a dispute is not resolved through mutual agreement or dismissal, the director will close the record and issue a Director's Review and Order as described in subsections

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(f) and (g) of this section. A worker need not be represented to request or to participate in the administrative review process, which is as follows:

(a) The worker's request for review must be mailed or otherwise communicated to the department no later than the 60th day after the date the worker received written notice of the insurer's action; or, if the worker was represented at the time of the notice, within 60 days of the date the worker's representative received actual notice. Issues raised by the worker where written notice was not provided may be reviewed at the director's discretion.

(b) The worker, insurer, employer at injury, and vocational assistance provider must supply needed information, attend conferences and meetings, and participate in the administrative review process as required by the director. Upon the director's request, any party to the dispute must provide available information within 14 days of the request. The insurer must promptly schedule, pay for, and submit to the director any medical or vocational tests, consultations, or reports required by the director. The worker, insurer, employer at injury, or vocational assistance provider must simultaneously send copies to the other parties to the dispute when sending material to the director. If necessary, the director will assist an unrepresented worker in sending copies to the appropriate parties. Failure to comply with this subsection may result in the following:

(A) If the worker fails to comply without reasonable cause, the director may dismiss the administrative review as described in subsection (d); or, the director may decide the issue on the basis of available information.

(B) If the insurer, vocational assistance provider, or employer at injury fails to comply without reasonable cause, the director may decide the issue on the basis of available information.

(c) At the director's discretion, the director may issue an order of deferral to temporarily suspend administrative review. The order of deferral will specify the conditions under which the review will be resumed.

(d) The director may issue an order of dismissal under appropriate conditions.

(e) The director will issue a letter of agreement when the parties resolve a dispute within the scope of these rules. Any agreement may include an agreement on attorney fees, if any, to be paid to the worker's attorney. The agreement will become effective on the 10th day after the letter of agreement is issued unless the agreement specifies otherwise. Once the agreement becomes final, the director may reconsider approval of the agreement upon the director's own motion or upon a motion by a party. The director may revise the agreement or reinstate the review only under one or more of the following conditions:

(A) One or both parties fail to honor the agreement;

(B) The agreement was based on misrepresentation;

(C) Implementation of the agreement is not feasible because of unforeseen circumstances; or

(D) All parties request revision or reinstatement of the review.

(f) After the parties have had the opportunity to present evidence, and any meetings or conferences deemed necessary by the director have been held, the director will issue a final order. The parties will have 60 days from the mailing date of the order to request a hearing.

(g) The director may on the director's own motion reconsider or withdraw any order that has not become final by operation of law. A party also may request reconsideration of an administrative order upon an allegation of error, omission, misapplication of law, incomplete record, or the discovery of new material evidence which could not reasonably have been discovered and produced during the review. The director may grant or deny a request for reconsideration at the director's sole discretion. A request for reconsideration must be mailed before the administrative order becomes final, or if appealed, before the proposed and final order is issued.

(h) During any reconsideration of the administrative review order, the parties may submit new material evidence consistent with this rule and may respond to such evidence submitted by others.

(i) Any party requesting reconsideration or responding to a reconsideration request must simultaneously notify all other interested parties of their contentions and provide them with copies of all additional information presented.

(j) A request for reconsideration does not stay the 60-day time period within which the parties may request a hearing.

(2) Attorney fees: In any dispute in which a represented worker prevails after a proceeding has commenced before the director, the director will award an attorney fee to be paid by the insurer or self-insured employer as provided in ORS 656.385 (§2, ch. 756, OL 2003). The attorney fee will be proportionate to the benefit to the injured worker. Primary consideration will be given to the results achieved and the time devoted to the case. Absent extraordinary circumstances or agreement by the parties, the

fee may not exceed \$2000, nor fall outside the ranges for fees as provided in the following matrix: [Matrix not included. See ED. NOTE.]

(a) An attorney must submit the following to the director in order to be awarded an attorney fee:

(A) A current, valid retainer agreement, and

(B) A statement of hours spent on the case if greater than two hours.

In the absence of such a statement, the director will assume the time spent on the case was 1-2 hours.

(b) In determining the value of the results achieved, the director may consider, but is not limited to the following:

(A) Where there is a return-to-work plan that includes the disputed service(s), the assumed value is the cost of the disputed service(s) as projected in the plan;

(B) Where the service(s) have not been incorporated in an existing return-to-work plan, the assumed value is the actual or projected cost of the service(s) up to the amount allowed in the fee schedule provided in OAR 436-120-0720;

(C) For the purposes of applying the matrix, the value of an eligibility determination is assumed to be the maximum allowed in the fee schedule provided in OAR 436-120-0720 for completing an eligibility evaluation; the value of vocational assistance or a training plan, unless determined to be otherwise, is assumed to fall within the highest category provided in the above matrix; or

(D) A written agreement between the parties regarding the value of the benefit to the worker submitted to the director prior to the issuance of an order.

(c) If any party believes extraordinary circumstances exist that justify a fee outside of the ranges provided in the above matrix or above \$2000, they may submit a written or faxed statement of the extraordinary circumstances to the director. Extraordinary circumstances are not established by merely exceeding eight hours or exceeding a benefit of \$6000.

(d) In order to provide parties an opportunity to inform the director of agreements, or submit statements of extraordinary circumstances or professional hours for consideration in determining the attorney fee, the director will provide the parties notice by phone or fax at least 3 business days in advance that an order or other written resolution of the dispute will be issued. Any information or statements provided to the director must simultaneously be provided to all other parties to the dispute.

(e) An assessed attorney fee will be paid within 30 days of the date the order authorizing the fee becomes final.

(3) Hearings before an administrative law judge:

(a) Under ORS 656.283(2) and 656.704(2), any party that disagrees with an order issued under subsection (1)(f) of this rule or a dismissal issued under subsection (1)(d) of this rule may request a hearing by filing a request for hearing as provided in OAR 436-001-0019 within 60 days of the mailing date of the order.

(b) Under ORS 656.704(2), any party that disagrees with an order of dismissal based on lack of jurisdiction under subsection (1)(d) of this rule or department denial of reimbursement for vocational assistance costs may request a hearing by filing a request for hearing as provided in OAR 436-001-0019 within 30 days after the party received the dismissal or written denial.

(c) Under ORS 656.704(2), an insurer sanctioned pursuant to OAR 436-120-0900, a vocational assistance provider or certified individual sanctioned pursuant to ORS 656.340(9)(b) and OAR 436-120-0915, a vocational assistance provider denied authorization pursuant to ORS 656.340(9)(a) and OAR 436-120-0800, or an individual denied certification pursuant to ORS 656.340(9)(a) and OAR 436-120-0810 may request a hearing by filing a request for hearing as provided in OAR 436-001-0019 no later than 60 days after the party received notification of the action.

(d) OAR 436-001 applies to the hearing.

(4) Contested case hearings of civil penalties: Under ORS 656.740 an insurer or an employer may appeal a proposed order or proposed assessment of civil penalty pursuant to ORS 656.745 and OAR 436-120-0900 as follows:

(a) The insurer or employer must send the request for hearing in writing to the administrator of the Workers' Compensation Division. The request must specify the grounds upon which the proposed order or assessment is contested.

(b) The party must file the request with the division within 60 days after the mailing date of the notice of the proposed order or assessment.

(c) The division will forward the request and other pertinent information to the Hearings Division of the Workers' Compensation Board.

(d) The Hearings Division will conduct the hearing in accordance with ORS 656.740 and chapter 183.

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

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Stat. Auth.: ORS 656.704(2) & 656.726(4)
Stats. Implemented: ORS 183.310 - 183.555, 656.283(2), 656.340, 656.447, 656.740 & 656.745
Hist.: WCD 9-1982(Admin), f. 5-28-82, ef. 6-1-82; WCD 2-1983(Admin), f. & ef. 6-30-83; Renumbered from 436-061-0970, 5-1-85; WCD 5-1983(Admin), f. 12-14-83, ef. 1-1-84; Renumbered from 436-061-0191, 5-1-85; WCD 7-1985(Admin), f. 12-12-85, ef. 1-1-86; WCD 11-1987, f. 12-17-87, ef. 1-1-88; WCD 10-1994, f. 11-1-94, cert. ef. 1-1-95; Renumbered from 436-120-0210 & 436-120-0260; WCD 6-1996, f. 2-6-96, cert. ef. 3-1-96; WCD 23-1996, f. 12-13-96, cert. ef. 2-1-97; WCD 6-2000, f. 4-27-00, cert. ef. 6-1-00; WCD 4-2001, f. 4-13-01, cert. ef. 5-15-01; WCD 14-2001(Temp), f. 12-17-01, cert. ef. 1-2-02 thru 6-30-02; WCD 7-2002, f. 5-30-02, cert. ef. 7-1-02; WCD 14-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 6-28-03; WCD 3-2004, f. 3-5-04 cert. ef. 4-1-04; WCD 6-2005, f. 6-9-05, cert. ef. 7-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 8-2007, f. 11-1-07, cert. ef. 12-1-07

436-120-0320

Determining Eligibility for Vocational Assistance and Selection of Vocational Assistance Provider

(1) Unless one of the provisions in section (2) or (12) below applies, the insurer must contact a worker with an accepted disabling claim or claim for aggravation to begin the eligibility determination within five days of any of the following:

(a) The insurer's receipt of a request for vocational assistance from the worker. If the insurer does not know the worker's permanent limitations, the insurer must contact the attending physician within 14 days of receiving the request for vocational assistance. The insurer must notify the worker, in writing, if the eligibility determination is postponed until permanent restrictions are known or can be projected.

(b) The insurer's receipt of a medical or investigative report sufficient to document a need for vocational assistance, including medical verification of projected or actual permanent limitations due to the injury.

(c) The insurer's knowledge that the claim qualifies for closure because the worker is medically stationary. If the claim qualifies for closure under ORS 656.268(1)(b) or (c), the insurer may postpone the determination until the worker is medically stationary or until permanent restrictions are known or can be projected, whichever occurs first.

(d) The worker is granted a permanent disability award.

(2) The insurer is not required to determine eligibility if:

(a) Eligibility has previously been determined under the current opening of the claim and there are no newly accepted conditions;

(b) The worker has returned to regular or other suitable employment with the employer at injury or aggravation; or

(c) The worker's claim was closed with no permanent disability award. The following by themselves do not make a worker ineligible for vocational assistance:

(A) A finding that a worker is not entitled to an additional award of permanent disability on aggravation, or

(B) A finding that a worker is not entitled to a permanent disability award because of an offset of permanent disability from a prior claim, or

(C) The worker disposes of permanent disability through a claim disposition agreement (CDA).

(d) The worker's claim was reopened as a result of a Board's Own Motion Order.

(3) The insurer must defer the determination of vocational assistance eligibility when the employer at injury activates preferred worker benefits under OAR 436-110 and the worker agrees to accept the new or modified regular job in writing.

(a) There must be a written job offer which includes the following information:

(A) The start date;

(B) That the job does not begin until the modifications are in place;

(C) Wage and hours;

(D) Job site location; and

(E) Description of job duties.

(b) The insurer must send the worker a Notice of Deferral of Vocational Assistance Eligibility Determination within 14 days of the workers signature accepting the job offer.

(c) If preferred worker benefits cannot modify the job to accommodate the worker's restrictions, as verified by the division, or the employer, the worker, or division terminate the agreement, the insurer must complete the eligibility determination process within 30 days from the date of a determination that preferred worker benefits will not be provided.

(4) If the insurer receives a request for vocational assistance from the worker or the worker's representative and the insurer is not required to determine eligibility under section (2), the insurer must notify the worker in writing, within 14 days of the request and provide:

(a) The reasons the insurer is not required to determine eligibility,

(b) The circumstance which would require the insurer to determine eligibility, and

(c) The appropriate telephone number of the division, with instructions to contact the division with questions about vocational assistance eligibility requirements and procedures.

(5) Nothing in these rules prevents the insurer from finding a worker eligible and providing vocational assistance at any time.

(6) The insurer must complete the eligibility determination within 30 days of the contact required in section (1) or if the eligibility determination was postponed within 30 days of receipt of verification of projected or actual permanent limitations. An eligibility evaluation may include a vocational evaluation that determines the category of assistance as defined in OAR 436-120-0400. The notice required under OAR 436-120-0004(2)(a)(A) must inform the worker which category of assistance will be provided.

(7) If the insurer is unable to determine eligibility or make a decision regarding a particular vocational service because of insufficient data, the insurer must explain to the worker in writing what information is necessary and when it expects to determine eligibility or make a decision.

(8) A vocational counselor certified under OAR 436-120 must determine if a worker meets eligibility criteria.

(9) The insurer must provide the vocational counselor with all existing relevant medical information regarding the worker's physical capacities and limitations.

(10) After the worker's permanent limitations are known or can be projected, the worker must, upon written request from the insurer, provide vocationally relevant information needed to determine eligibility within a reasonable time set by the insurer.

(11) A worker entitled to an eligibility evaluation is eligible for vocational services if all the following additional conditions are met:

(a) The worker is authorized to work in the United States.

(b) The worker is available in Oregon for vocational assistance. The insurer must consider the worker available in Oregon if the worker lives within commuting distance of Oregon or documents, in writing, willingness to relocate to or within commuting distance of Oregon within 30 days of being found eligible. The worker is responsible for costs associated with being available in Oregon. The requirement that the worker be available in Oregon for vocational assistance does not apply if the Oregon subject worker did not work and live in Oregon at the time of the injury.

(c) As a result of the limitations caused by the injury or aggravation, the worker:

(A) Is not able to return to regular employment;

(B) Is not able to return to any other suitable and available work with the employer at injury or aggravation; and

(C) Has a substantial handicap to employment and requires assistance to overcome that handicap.

(d) None of the reasons for ineligibility under OAR 436-120-0350 applies under the current opening of the claim.

(12) A worker whose permanent total disability benefits have been terminated by an order that becomes final is eligible for vocational assistance.

(13) Upon determining the worker eligible, the insurer and worker will jointly select a vocational assistance provider. No later than 20 days from the date the insurer determined the worker eligible, the insurer must either notify the worker of the selection of vocational assistance provider, or if the parties are unable to agree, refer the dispute to the director. The worker and insurer must follow the same procedure to select a new vocational assistance provider.

(14) Unless all parties otherwise agree in writing, vocational assistance will be due at any given time with respect only to one claim of the worker. If the worker is eligible for vocational assistance under two or more claims, and there is a dispute about which claim gives rise to the need for vocational assistance pursuant to these rules, the director will select the claim for the injury which results in the most severe vocational impact. If services are provided under more than one claim at a time pursuant to a written agreement of all parties, time and fee limits may extend beyond the limits otherwise imposed in these rules.

Stat. Auth.: ORS 656.726(4) & 656.340(9)

Stats. Implemented: ORS 656.206, 656.340, OL, Ch. 641

Hist.: WCD 11-1982(Admin)(Temp), f. 12-29-82, ef. 1-1-83; WCD 2-1983(Admin), f. & ef. 6-30-83; WCD 5-1983(Admin), f. 12-14-83, ef. 1-1-84; Renumbered from 436-061-0111, 5-1-85; WCD 7-1985(Admin), f. 12-12-85, ef. 1-1-86; WCD 11-1987, f. 12-17-87, ef. 1-1-88; Renumbered from 436-120-0060; WCD 10-1994, f. 11-1-94, cert. ef. 1-1-95; Renumbered from 436-120-0035; WCD 6-1996, f. 2-6-96, cert. ef. 3-1-96; WCD 6-2000, f. 4-27-00, cert. ef. 6-1-00; Renumbered from 436-120-0330 & 436-120-0370; WCD 4-2001, f. 4-13-01, cert. ef. 5-15-01; WCD 7-2002, f. 5-30-02, cert. ef. 7-1-02; WCD 3-2004, f. 3-5-04 cert. ef. 4-1-04; WCD 6-2005, f. 6-9-05, cert. ef. 7-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 8-2007, f. 11-1-07, cert. ef. 12-1-07

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436-120-0340

Determining Substantial Handicap

(1) A certified vocational counselor must perform a substantial handicap evaluation as part of the eligibility determination unless the insurer finds that the worker has a substantial handicap to employment.

(2) To complete the substantial handicap evaluation the vocational counselor must submit a report documenting the following information:

(a) Relevant work history for at least the preceding five years;
(b) Level of education, proficiency in spoken and written English or other languages, where relevant, and achievement or aptitude test data if it exists;

(c) Adjusted weekly wage as determined under OAR 436-120-0007 and suitable wage as defined by OAR 436-120-0005(13);

(d) Permanent limitations due to the injury;

(e) An analysis of the worker's transferable skills, if any;

(f) A list of physically suitable jobs for which the worker has the knowledge, skills and abilities, which pay a suitable wage, and for which a reasonable labor market is documented to exist as described in subsection (g) below;

(g) An analysis of the worker's labor market utilizing standard labor market reference materials including but not limited to Employment Department (OED) information such as Oregon Wage Information (OWI), Oregon Comprehensive Analysis File and other publications of the Occupational Program Planning System (OPPS) and material developed by the division. When using the OWI data, the presumed standard will be the 10th percentile unless there is sufficient evidence that a higher or lower wage is more appropriate. When such data is not sufficient to make a decision about substantial handicap, the vocational counselor must perform individual labor market surveys as described in OAR 436-120-0410(7); and
(h) Consideration of the vocational impact of any limitations which existed prior to the injury.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.340(5) & (6)

Hist.: WCD 10-1994, f. 11-1-94, cert. ef. 1-1-95; WCD 6-1996, f. 2-6-96, cert. ef. 3-1-96; WCD 6-2000, f. 4-27-00, cert. ef. 6-1-00; WCD 4-2001, f. 4-13-01, cert. ef. 5-15-01; WCD 7-2002, f. 5-30-02, cert. ef. 7-1-02; WCD 3-2004, f. 3-5-04 cert. ef. 4-1-04; WCD 6-2005, f. 6-9-05, cert. ef. 7-1-05; WCD 8-2007, f. 11-1-07, cert. ef. 12-1-07

436-120-0350

Ineligibility and End of Eligibility for Vocational Assistance

A worker is ineligible or the worker's eligibility ends when any of the following conditions apply:

(1) The worker does not or no longer meets the eligibility requirements as defined in OAR 436-120-0320. The insurer must have obtained new information which did not exist or which the insurer could not have discovered with reasonable effort at the time the insurer determined eligibility.

(2) The worker is determined not to have permanent disability after a finding of eligibility.

(3) The worker's lack of suitable employment is not due to the limitations caused by the injury or which existed before the injury. When ending a worker's eligibility, the insurer must have obtained new information which did not exist or which the insurer could not have discovered with reasonable effort at the time the insurer determined eligibility.

(4) The worker has been employed at least for 60 days in suitable employment after the injury or aggravation and any necessary worksite modification is in place, unless OAR 436-120-0350(17) applies.

(5) The worker, prior to beginning an authorized return-to-work plan, refused an offer of suitable employment, or left suitable employment after the injury or aggravation for a reason unrelated to the limitations due to the compensable injury. If the employer-at-injury offers employment to a non-medically stationary worker, the offer must be made in accordance with OAR 436-060.

(6) The worker, prior to beginning an authorized return-to-work plan, refused or failed to make a reasonable effort in available light-duty work intended to result in suitable employment. Prior to finding the worker ineligible or ending eligibility, the insurer must document the existence of one or more suitable jobs which would have been available for the worker upon successful completion of the light-duty work. If the employer-at-injury offers such employment to a non-medically stationary worker, the offer must be made in accordance with OAR 436-060.

(7) The worker, after completing an authorized training plan, refused an offer of suitable employment.

(8) The worker has declined or has become unavailable for vocational assistance for reasonable cause. If the insurer does not believe the worker had reasonable cause, the insurer must warn the worker prior to finding the worker ineligible or ending the worker's eligibility under this section.

Declining vocational assistance to accept modified or new employment that results from an employer at injury activated use of the Preferred Worker Program, under OAR 436-110, will be considered reasonable cause.

(9) The worker has failed, after written warning, to participate in the vocational assistance process, or to provide relevant information. No written warning is required if the worker refuses a suitable training site after the vocational counselor and worker have agreed in writing upon a return-to-work goal.

(10) The worker has failed, after written warning, to comply with the return-to-work plan. No written warning is required if the worker fails to attend 2 consecutive training days and fails, without reasonable cause, to notify the vocational counselor or the insurer.

(11) The worker's lack of suitable employment cannot be resolved by providing vocational assistance. This includes circumstances in which the worker cannot benefit from, or participate in, vocational assistance because of medical conditions unrelated to the injury.

(12) The worker has misrepresented a matter material to evaluating eligibility or providing vocational assistance.

(13) The worker has refused, after written warning, to return property provided by the insurer or reimburse the insurer after the insurer has notified the worker of the repossession; or the worker has misused funds provided for the purchase of property or services. No vocational assistance will be provided under the current or subsequent openings of the claim until the worker has returned the property or reimbursed the funds.

(14) The worker physically abused any party to the vocational process, or after written warning, has continued to sexually harass or threaten to physically abuse any party to the vocational process. This section does not apply if such behavior is the result of a documented medical or mental condition. In such a situation, eligibility should be ended under section (11) of this rule.

(15) The worker has entered into a claim disposition agreement (CDA) which disposes of vocational assistance eligibility. The parties may agree in writing to suspend vocational services pending approval by the Workers' Compensation Board (Board) or an administrative law judge. The insurer must end eligibility when the Board or administrative law judge approves the CDA. No notice regarding the end of eligibility is required.

(16) The worker has received maximum direct employment services and is not entitled to other categories of vocational assistance.

(17) The worker has been suitably employed in modified or new employment that results from employer at injury activation of preferred worker benefits as provided in OAR 436-120-0005(12)(e).

(18) The worker is unavailable for vocational assistance due to short-term incarceration.

Stat. Auth.: ORS 656.340(9) & 656.726(4)

Stats. Implemented: ORS 656.340

Hist.: WCD 11-1982(Temp), f. 12-29-82 eff. 1/1/83; WCD 2-1983, 6-30-83, eff. 6-30-83; WCD 5-1983, 12-14-83, eff. 1-1-84; Renumbered from 436-061-0126, 5-1-85; WCD 7-1985, 12-12-85, eff. 1/1/86; Renumbered from 436-120-0090, WCD 11-1987, 12-17-87, eff. 1-1-88; WCD 10-1994, f. 11-1-94, cert. ef. 1-1-95, Renumbered from 436-120-0045; WCD 6-1996, f. 2-6-96, cert. ef. 3-1-96; WCD 6-2000, f. 4-27-00, cert. ef. 6-1-00; WCD 4-2001, f. 4-13-01, cert. ef. 5-15-01; WCD 14-2001(Temp), f. 12-17-01, cert. ef. 1-2-02 thru 6-30-02; WCD 7-2002, f. 5-30-02, cert. ef. 7-1-02; WCD 3-2004, f. 3-5-04, cert. ef. 4-1-04; WCD 6-2005, f. 6-9-05, cert. ef. 7-1-05; WCD 8-2007, f. 11-1-07, cert. ef. 12-1-07

436-120-0360

Redetermining Eligibility for Vocational Assistance

If a worker was previously found ineligible or the worker's eligibility ended for any of the reasons specified in sections (1) through (8), or any of the conditions described in sections (9) through (11) exists, the insurer must redetermine eligibility upon notification of a change of circumstances. The insurer must complete the eligibility evaluation within 35 days of the following:

(1) The worker, for reasonable cause, declined or was not available for vocational assistance, or the barrier causing the worker's lack of suitable employment could not be resolved by providing vocational assistance, and those circumstances have changed. The insurer may require the worker to provide documentation the barrier no longer exists, including medical or psychological reports relating to noncompensable conditions. If the worker declined vocational assistance to accept modified or new employment that resulted from an employer at injury activated use of the preferred worker benefits, under OAR 436-110, and the job was not suitable, the worker must request redetermination within 30 days of termination of the employment for which preferred worker benefits were provided.

(2) The worker was not available in Oregon, and the worker becomes available. The worker must request redetermination within six months of the worker's receipt of the insurer's notice.

(3) The worker's claim was denied, and the claim is later accepted and all appeals exhausted.

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(4) The worker was not awarded permanent disability and the worker is later awarded permanent disability.

(5) The worker was not authorized to work in the United States, and the worker is now authorized to work in the United States. The time limit set in this section applies to any worker found ineligible or whose eligibility ended because the worker was not authorized to work in the United States regardless of the date the notice of ineligibility or end of eligibility was issued. Within six months of the date of the worker's receipt of the insurer's notice of ineligibility or end of eligibility, the worker must:

(a) Request redetermination; and

(b) Submit evidence to the insurer that the worker has applied for authorization to work in the United States and is awaiting a decision by the U.S. Citizenship and Immigration Services (USCIS). The worker must promptly provide the insurer with a copy of any decision by the USCIS. The insurer must redetermine eligibility upon receipt of documentation of the worker's authorization to work in the United States.

(6) The worker was unavailable for vocational assistance due to short-term incarceration for a matter unrelated to the worker's claim and is now available. Within six months of the date of the worker's receipt of the insurer's notice of ineligibility or end of eligibility, the worker must:

(a) Request redetermination; and

(b) Submit evidence to the insurer that the worker is now available to participate in vocational assistance.

(7) The worker returned to work prior to the worker becoming medically stationary, and the physician later rescinded the release.

(8) The worker returned to work prior to becoming medically stationary, and the worker requests a redetermination within 60 days of the mailing date of the Notice of Closure.

(9) Prior to claim closure a worker's limitations due to the injury became more restrictive.

(10) Prior to claim closure the insurer accepts a new condition which was not considered in the original determination of the worker's eligibility.

(11) The worker's temporary disability compensation is redetermined and increased. The worker must make a written request to the insurer to redetermine vocational eligibility within 60 days of receiving notification of the increase in temporary disability compensation.

Stat. Auth.: ORS 656.340(9) & 656.726(4)

Stats. Implemented: ORS 656.340

Hist.: WCD 7-1985(Admin), f. 12-12-85, ef. 1-1-86; WCD 11-1987, f. 12-17-87, ef. 1-1-88, Renumbered from 436-120-0095; WCD 10-1994, f. 11-1-94, cert. ef. 1-1-95, Renumbered from 436-120-0055; WCD 23-1996; f. 12-13-96, cert. ef. 2-1-97; WCD 6-2000, f. 4-27-00, cert. ef. 6-1-00; WCD 4-2001, f. 4-13-01, cert. ef. 5-15-01; WCD 14-2001(Temp), f. 12-17-01, cert. ef. 1-2-02 thru 6-30-02; WCD 7-2002, f. 5-30-02, cert. ef. 7-1-02; WCD 3-2004, f. 3-5-04 cert. ef. 4-1-04; WCD 6-2005, f. 6-9-05, cert. ef. 7-1-05; WCD 8-2007, f. 11-1-07, cert. ef. 12-1-07

436-120-0400

Selection of Category of Vocational Assistance

(1) The insurer must select the category of vocational assistance prior to referral to a vocational assistance provider. The insurer must notify the worker and document the reason for its decision.

(2) The insurer must select one of the following categories of vocational assistance:

(a) Direct employment services, if the worker has the necessary transferable skills to obtain suitable new employment.

(b) Training, if the worker needs training in order to return to employment which pays a wage significantly closer to 100 percent of the adjusted weekly wage. "Significantly closer" may vary depending on several factors, including, but not limited to, the worker's wage at injury, adaptability, skills, geographic location, limitations and the potential for the worker's income to increase with time as the result of training.

(3) The insurer must reconsider the category of vocational assistance within 30 days of the insurer's knowledge of a change in circumstances including, but not limited to, the following:

(a) A change in the worker's permanent limitations;

(b) A change in the labor market; or

(c) The category of vocational assistance proves to be inappropriate.

Stat. Auth.: ORS 656.340(9) & 656.726(4)

Stats. Implemented: ORS 656.340(7)

Hist.: WCD 11-1987, f. 12-17-87, ef. 1-1-88; WCD 10-1994, f. 11-1-94, cert. ef. 1-1-95, Renumbered from 436-120-0083 & 0085; WCD 6-1996, f. 2-6-96, cert. ef. 3-1-96; WCD 6-2000, f. 4-27-00, cert. ef. 6-1-00; WCD 6-2005, f. 6-9-05, cert. ef. 7-1-05; WCD 8-2007, f. 11-1-07, cert. ef. 12-1-07

436-120-0410

Vocational Evaluation

A certified vocational counselor must complete the vocational evaluation. Vocational evaluation may include one or more of the following:

(1) Vocational testing must be administered by an individual certified to administer the test.

(2) A work evaluation must be performed by a Certified Vocational Evaluation Specialist (CVE), certified by the Commission on Certification of Work Adjustment and Vocational Evaluation Specialists.

(3) On-the-job evaluations must evaluate a worker's work traits, aptitudes, limitations, potentials and habits in an actual job environment.

(a) First, the vocational counselor must perform a job analysis to determine if the job is within the worker's capacities. The insurer must submit the job analysis to the attending physician if there is any question about the appropriateness of the job.

(b) The evaluation should normally be no less than five hours daily for four consecutive days and should normally last no longer than 30 days.

(c) The evaluation does not establish any employer-employee relationship.

(d) A written report must evaluate the worker's performance in the areas originally identified for assessment.

(4) Situational assessment is a procedure that evaluates a worker's aptitude or work behavior in a particular learning or work setting. It may focus on a worker's overall vocational functioning or answer specific questions about certain types of work behaviors.

(a) The situational assessment requires these steps: planning and scheduling observations; observing, describing and recording work behaviors; organizing, analyzing and interpreting data; and synthesizing data including behavioral data from other pertinent sources.

(b) The assessment should normally be no less than five hours daily for four consecutive days and should normally last no longer than 30 days.

(5) Work adjustment is work-related activities that assist workers in understanding the meaning, value, and demands of work. It may include the assistance of a job coach.

(6) Job analysis is a detailed description of the physical and other demands of a job based on direct observation of the job.

(7) Labor market surveys are obtained from direct contact with employers, other actual labor market information, or from other surveys completed within 90 days of the report date.

(a) A labor market survey is needed when standard labor market reference materials do not have adequate information upon which to base a decision, or there are questions about a worker's specific limitations, training and skills, which must be addressed with employers to determine if a reasonable labor market exists.

(b) The person giving the information must have hiring responsibility or direct knowledge of the job's requirements; and the job must exist at the firm contacted.

(c) The labor market survey report must include, but is not limited to, the date of contact; firm name, address and telephone number; name and title of person contacted; the qualifications of persons recently hired; physical requirements; wages paid; condition of hire (full-time, part-time, seasonal, temporary); date and number of last hire(s); and available and anticipated openings.

(d) Specific openings found in the course of a labor market survey are not, in themselves, proof a reasonable labor market exists.

Stat. Auth.: ORS 656.340(9) & 656.726(4)

Stats. Implemented: ORS 656.340(7)

Hist.: WCD 11-1987, f. 12-17-87, ef. 1-1-88; WCD 10-1994, f. 11-1-94, cert. ef. 1-1-95, Renumbered from 436-120-0081; WCD 6-1996, f. 2-6-96, cert. ef. 3-1-96; WCD 6-2000, f. 4-27-00, cert. ef. 6-1-00, Renumbered from 436-120-0420; WCD 4-2001, f. 4-13-01, cert. ef. 5-15-01; WCD 7-2002, f. 5-30-02, cert. ef. 7-1-02; WCD 3-2004, f. 3-5-04 cert. ef. 4-1-04; WCD 6-2005, f. 6-9-05, cert. ef. 7-1-05; WCD 8-2007, f. 11-1-07, cert. ef. 12-1-07

436-120-0430

Direct Employment

(1) The insurer must provide an eligible worker with four months of direct employment services dating from the date the insurer approves a direct employment plan or the completion date of an authorized training plan. Direct employment services include, but are not limited to, the following:

(a) Employment counseling.

(b) Job search skills instruction, which teaches workers how to write resumes, research the job market, locate suitable new employment, complete employment applications, interview for employment, and develop other skills related to looking for suitable new employment.

(c) Job development, which assists the worker to contact appropriate prospective employers, and with related return-to-work activities.

(d) Job analysis.

(2) The insurer must provide return-to-work follow-up for at least 60 days after the worker becomes employed to ensure the work is suitable and

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to provide any necessary assistance which enables the worker to continue the employment.

(3) Direct employment services are available for more than four months if the worker was unable to participate for reasonable cause.

Stat. Auth.: ORS 656.340(9) & 656.726(4)
Stats. Implemented: ORS 656.340(7)

Hist.: WCD 11-1982(Admin)(Temp), f. 12-29-82, ef. 1-1-83; WCD 2-1983(Admin), f. & ef. 6-30-83; WCD 5-1983(Admin), f. 12-14-83, ef. 1-1-84; Renumbered from 436-061-0060, 5-1-85; WCD 7-1985(Admin), f. 12-12-85, ef. 1-1-86; WCD 11-1987, f. 12-17-87, ef. 1-1-88, Renumbered from 436-120-0030; WCD 10-1994, f. 11-1-94, cert. ef. 1-1-95; WCD 6-2000, f. 4-27-00, cert. ef. 6-1-00, Renumbered from 436-120-0075 & 436-120-0083; WCD 14-2001(Temp), f. 12-17-01, cert. ef. 1-2-02 thru 6-30-02; WCD 7-2002, f. 5-30-02, cert. ef. 7-1-02; WCD 6-2005, f. 6-9-05, cert. ef. 7-1-05; WCD 8-2007, f. 11-1-07, cert. ef. 12-1-07

436-120-0440

Training

(1) Training services include plan development, training, monthly monitoring of training progress, and job placement services as necessary.

(2) Training is limited to an aggregate of 16 months, subject to extension to 21 months by the director for a worker with an exceptional disability resulting from the compensable condition(s) and any limitations which existed prior to the injury or an exceptional loss of earning capacity.

(a) "Exceptional disability" is defined as disability equal to or greater than the complete loss, or loss of use, of both legs. Exceptional disability also includes brain injury which results in impairment equal to or greater than Class III as defined in OAR 436-035.

(b) An "exceptional loss of earning capacity" exists when no suitable training plan of 16 months or less is likely to eliminate the worker's substantial handicap to employment. The extension must allow the worker to obtain a wage "significantly closer," as described in OAR 436-120-0400(2)(b), to the worker's adjusted weekly wage and at least 10 percent greater than could be expected with a shorter training program.

(3) A worker enrolled and actively engaged in training must receive temporary disability compensation subject to OAR 436-060, and payment of awards of permanent disability are suspended. At the insurer's discretion, training costs may be paid for periods longer than 21 months, but in no event will temporary disability compensation be paid for a period longer than 21 months.

(4) The selection of plan objectives and kind of training must attempt to minimize the length and cost of training necessary to prepare the worker for suitable employment. Notwithstanding OAR 436-120-0320(11)(b), the director may order the insurer, or the insurer may elect, to provide training outside Oregon if such training would be more timely, appropriate or cost effective than other alternatives. The plan must be developed and monitored by a vocational assistance provider certified pursuant to these rules.

(5) Training status continues during the following breaks:

(a) A regularly scheduled break of not more than six weeks between fixed school terms;

(b) A break of not more than two weeks between the end of one kind of training and the start of another for which the starting date is flexible; and

(c) A period of illness or recuperation which does not prevent completion of the training by the planned date.

(6) On-the-job training prepares the worker for permanent, suitable employment with the training employer and for employment in the labor market at large. On-the-job training must be considered first in developing a training plan. The following conditions apply:

(a) Training time is limited to a duration of 12 months.

(b) The on-the-job training contract between the training employer, the insurer, and the worker must include, but is not limited to, the worker's name; the employer's legal business name, Workers' Compensation Division Employer Registration number, and the name of the individual providing the training; the training plan start and end dates; the job title, the job duties, and the skills to be taught; the base wage and the terms of wage reimbursement; and an agreement that the employer will pay all taxes normally paid on the entire wage and will maintain workers' compensation insurance for the trainee. If the training prepares a worker for a job unique to the training site, the contract must acknowledge that the training may not prepare the worker for jobs elsewhere.

(c) The insurer must not reimburse the training employer 100 percent of the wages for the entire contract period.

(d) The insurer must pay temporary disability compensation as provided in ORS 656.212.

(e) The worker's schedule must be the same as for a regular full-time employee. The schedule may be modified to accommodate the worker's documented medical condition or class schedule.

(7) Skills training is offered through a community college, based on predetermined curriculum, at the training employer's location. Skills training is subject to the following conditions:

(a) Training is limited to 12 months.

(b) Training does not establish any employer-employee relationship with the training employer. The activity is primarily for the worker's benefit. The worker does not receive wages. The training employer makes no guarantee of employing the worker when the training is completed.

(c) The training employer has a sufficient number of employees to accomplish its regular work and the training of the worker, and the worker does not displace an employee.

(d) The worker's schedule must be the same as for a regular full-time employee. The schedule may be modified to accommodate the worker's documented medical condition or class schedule.

(8) Rehabilitation facilities training provides evaluation, training and employment for severely disabled individuals.

(9) Basic education may be offered, with or without other training components, to raise the worker's education to a level to enable the worker to obtain suitable employment. It is limited to six months.

(10) Formal training may be offered through a vocational school licensed by an appropriate licensing body, or community college or other post-secondary educational facility which is part of a state system of higher education. Course load must be consistent with the worker's abilities, limitations and length of time since the worker last attended school. Courses must relate to the vocational goal.

(11) The worker is entitled to job placement assistance after completion of training.

(12) When the worker returns to work following training, the insurer must monitor the worker's progress for at least 60 days to assure the suitability of employment before ending eligibility.

(13) Training ends and the plan must be re-evaluated when any of the following occurs:

(a) A change in the worker's limitations which renders the training inappropriate.

(b) The worker's training performance is unsatisfactory and training is not likely to result in employment in that field. In an academic program, the worker fails to maintain at least a 2.00 grade point average for at least two grading periods or to complete the minimum credit hours required under the training plan. The vocational counselor must report any unsatisfactory performance and the insurer must give the worker a written warning of the possible end of training at the first indication of unsatisfactory performance.

(14) The insurer will not provide any further training to a worker who has completed one training plan unless the worker has sustained a compensable aggravation or newly accepted condition which renders the worker incapable of obtaining suitable employment, or the previous plan was inadequate to prepare the worker for suitable employment because of an error or omission by the insurer.

(15) Training will end if any of the following applies:

(a) The worker has successfully completed training;

(b) The worker's eligibility has ended under OAR 436-120-0350; or

(c) The worker is not enrolled and actively engaged in the training.

However, none of the following will be considered as ending the worker's training status:

(A) A regularly scheduled break of not more than six weeks between fixed school terms;

(B) A break of not more than two weeks between the end of one kind of training and the start of another for which the starting date is flexible; or

(C) A period of illness or recuperation which does not prevent completion of the training by the planned date.

Stat. Auth.: ORS 656.340(9) & 656.726(4)

Stats. Implemented: ORS 656.340

Hist.: WCD 11-1982(Admin)(Temp), f. 12-29-82, ef. 1-1-83; WCD 2-1983(Admin), f. & ef. 6-30-83; Renumbered from 436-061-0060, WCD 5-1983(Admin), f. 12-14-83, ef. 1-1-84; 5-1-85; WCD 7-1985(Admin), f. 12-12-85, ef. 1-1-86; Renumbered from 436-120-0030, WCD 11-1987, f. 12-17-87, ef. 1-1-88; Renumbered from 436-120-0075 & 436-120-0085, WCD 10-1994, f. 11-1-94, cert. ef. 1-1-95; Renumbered from 436-120-0450 & 436-120-0460, WCD 6-2000, f. 4-27-00, cert. ef. 6-1-00; WCD 4-2001, f. 4-13-01, cert. ef. 5-15-01; WCD 7-2002, f. 5-30-02, cert. ef. 7-1-02; WCD 6-2005, f. 6-9-05, cert. ef. 7-1-05; WCD 8-2007, f. 11-1-07, cert. ef. 12-1-07

436-120-0455

Optional Services

(1) Optional services are services provided to an ineligible worker or services provided to an eligible worker in excess of those described in these rules. Such services are at the discretion of an insurer.

(2) The insurer must not use optional services to circumvent the intent of these rules.

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Stat. Auth.: ORS 656.283, 656.340, 656.704 & 656.726
Stats. Implemented: ORS 656
Hist.: WCD 10-1994, f. 11-1-94, cert. ef. 1-1-95; Renumbered from 436-120-0910, WCD 6-2000, f. 4-27-00, cert. ef. 6-1-00; WCD 8-2007, f. 11-1-07, cert. ef. 12-1-07

436-120-0500

Return-to-Work Plans: Development and Implementation

(1) A return-to-work plan should be a collaborative effort between the vocational counselor and the injured worker, and should include all the rights and responsibilities of the worker, the insurer, and the vocational counselor. Prior to submitting the plan to the insurer, the vocational counselor must review the plan and plan support with the worker. Certain information may be excluded, as allowed by OAR 436-010. The injured worker must be given the opportunity to review the plan with the worker's representative prior to signing it. The vocational assistance provider must confirm the worker's understanding of and agreement with the plan by obtaining the worker's signature. The counselor must submit copies signed by the vocational counselor and the worker to all parties. If the insurer lacks sufficient information to make a decision, the insurer must advise the parties what information is needed and when it expects to make a decision.

(2) If the insurer does not approve a return-to-work plan within 90 days of determining the worker is entitled to a training plan, or within 45 days of determining the worker is entitled to a direct employment plan, the insurer must contact the division within five days to schedule a conference. The purpose of the conference will be to identify and remove all obstacles to return-to-work plan completion and approval. The insurer, the worker, the plan developer, and any other parties involved in the return-to-work process must attend the conference. The conference may be postponed for a period of time agreeable to the parties. The insurer or the worker may request a conference with the division if other delays in the vocational rehabilitation process occur.

(3) If, during development of a return-to-work plan, an employer offers the worker a job, the insurer must perform a job analysis, obtain approval from the attending physician, verify the suitability of the wage, and confirm the offer is for a bona fide, suitable job as defined in OAR 436-120-0005(12). If the job is suitable, the insurer must help the worker return to work with the employer. The insurer must provide return-to-work follow-up during the first 60 days after the worker returns to work. If return to work with the employer is unfeasible or, during the 60-day follow-up the job proves unsuitable, the insurer must immediately resume development of the return-to-work plan.

(4) If the vocational goal or category of assistance is later changed, the insurer must amend the plan. All amendments to the plan must be initiated by the insurer, vocational assistance provider, and the worker.

Stat. Auth.: ORS 656.340(9) & 656.726(4)
Stats. Implemented: ORS 656.340(9)
Hist.: WCD 5-1983(Admin), f. 12-14-83, ef. 1-1-84; Renumbered from 436-061-0172, 5-1-85; WCD 7-1985(Admin), f. 12-12-85, ef. 1-1-86; WCD 11-1987, f. 12-17-87, ef. 1-1-88; WCD 10-1994, f. 11-1-94, cert. ef. 1-1-95; Renumbered from OAR 436-120-0105 & 436-120-0170; WCD 6-1996, f. 2-6-96, cert. ef. 3-1-96; WCD 23-1996, f. 12-13-96, cert. ef. 2-1-97; Renumbered from 436-120-0600, WCD 6-2000, f. 4-27-00, cert. ef. 6-1-00; WCD 4-2001, f. 4-13-01, cert. ef. 5-15-01; WCD 7-2002, f. 5-30-02, cert. ef. 7-1-02; WCD 3-2004, f. 3-5-04 cert. ef. 4-1-04; WCD 6-2005, f. 6-9-05, cert. ef. 7-1-05; WCD 8-2007, f. 11-1-07, cert. ef. 12-1-07

436-120-0510

Return-to-Work Plan Support

(1) The injured worker and vocational counselor must work together to develop a return-to-work plan that includes consideration of the following:

- (a) The injured worker's transferable skills;
- (b) The injured worker's physical and mental capacities and limitations;
- (c) The injured worker's vocational interests;
- (d) The injured worker's educational background and academic skill level;
- (e) The injured worker's pre-injury wage; and
- (f) The injured worker's place of residence and that labor market.

(2) Return-to-work plan support must contain, but is not limited to, the following:

- (a) Specific vocational goal(s) and projected return-to-work wage(s).
- (b) A description of the worker's current medical condition, relating the worker's permanent limitations to the vocational goals.
- (c) A description of the worker's education and work history, including job durations, wages, Standard Occupational Classification (SOC) codes, Dictionary of Occupational Titles (DOT) codes or other standardized job titles and codes, and specific job duties.
- (d) If a direct employment plan, a description of the worker's transferable skills which relate to the vocational goals and a discussion of why

training will not bring the worker a wage significantly closer to 100 percent of the adjusted weekly wage at the time of injury.

(e) If a training plan, a discussion of why direct employment services will not return the worker to suitable employment.

(f) A summary of the results of any evaluations or testing. If the results do not support the goals, the vocational assistance provider must explain why the goals are appropriate.

(g) A summary of current labor market information which shows the labor market supports the vocational goals and documents that the worker has been informed of the condition of the labor market.

(h) A labor market survey as prescribed in 436-120-0410(7), if needed.

(i) If the labor market information does not support the goals, the vocational assistance provider must explain why the goals are appropriate. The worker and worker's representative, if any, must acknowledge in writing an awareness of the poor labor market conditions and a willingness to proceed with the plan in spite of these conditions. In the case of a training plan, this acknowledgment must include an understanding the insurer will provide no additional training should the worker be unable to find suitable employment because of the labor market.

(j) A job analysis prepared by the vocational assistance provider, signed by the worker and by the attending physician or a qualified facility designated by the attending physician, and based on a visit to a worksite comparable to what the worker could expect after completing training. If the attending physician is unable or unwilling to address the job analysis and does not designate a facility as described above, the insurer may submit the job analysis to a qualified facility of its choice. The insurer must submit the resulting information to the attending physician for concurrence. If the attending physician has not responded within 30 days of the date of request for concurrence, the plan may proceed.

(k) A signed on-the-job training contract, if applicable.

(l) A description of the curriculum, which must be term by term if the curriculum is for formal training.

(m) If material pertinent to a return-to-work plan is contained in a pre-employment eligibility the insurer may attach a copy of the evaluation to the plan.

Stat. Auth.: ORS 656.340(9) & 656.726(4)
Stats. Implemented: ORS 656.340
Hist.: WCD 11-1987, f. 12-17-87, ef. 1-1-88; WCD 10-1994, f. 11-1-94, cert. ef. 1-1-95; WCD 6-2000, f. 4-27-00, cert. ef. 6-1-00, Renumbered from 436-120-0105; WCD 4-2001, f. 4-13-01, cert. ef. 5-15-01; WCD 7-2002, f. 5-30-02, cert. ef. 7-1-02; WCD 6-2005, f. 6-9-05, cert. ef. 7-1-05; WCD 8-2007, f. 11-1-07, cert. ef. 12-1-07

436-120-0520

Return-to-Work Plan: Responsibilities of the Eligible Worker and the Vocational Assistance Provider

(1) The worker must participate and maintain contact with the vocational counselor throughout plan development and as required in the plan, and must inform the vocational counselor of anything which might affect the worker's participation in or successful completion of the plan. If the worker stops attending training for any reason, the worker must notify the vocational counselor by the close of the next working day.

(2) Vocational counselors are responsible for the following:

(a) During plan development, the vocational counselor must provide resource materials about jobs, training programs (if appropriate), labor markets and other pertinent information to help the worker select a vocational goal; direct information gathering; and otherwise help the worker analyze and evaluate options.

(b) The vocational counselor must help the worker plan the curriculum and help the worker enroll. The vocational assistance provider must contact the worker, trainers and training facility counselors to the extent necessary to assure the worker's participation and progress.

Stat. Auth.: ORS 656.340(9) & 656.726(4)
Stats. Implemented: ORS 656.340
Hist.: WCD 11-1987, f. 12-17-87, ef. 1-1-88; WCD 10-1994, f. 11-1-94, cert. ef. 1-1-95; Renumbered from 436-120-0115; WCD 6-2000, f. 4-27-00, cert. ef. 6-1-00; WCD 8-2007, f. 11-1-07, cert. ef. 12-1-07

436-120-0530

Return-to-Work Plan Review

The director may review return-to-work plans and supporting information. If the director finds a return-to-work plan or its supporting information does not conform to these rules:

(1) The director must notify the insurer and vocational assistance provider in writing of the preliminary finding of nonconformance. The notification must inform the insurer of changes or information required to bring the plan into conformance.

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(2) The insurer must, within 30 days of notification, make appropriate changes, supply additional information requested by the division, or explain why no change(s) should be made.

(3) If the insurer does not respond timely or is unable to bring the plan into conformance, the director will return the plan to the parties with notification that the plan does not conform to OAR 436-120 and may order the insurer to develop a plan that conforms to the rules.

Stat. Auth.: ORS 656.340(9) & 656.726(4)
Stats. Implemented: ORS 656.340

Hist.: WCD 5-1983(Admin), f. 12-14-83, ef. 1-1-84; Renumbered from 436-061-0172, 5-1-85; WCD 7-1985(Admin), f. 12-12-85, ef. 1-1-86; WCD 11-1987, f. 12-17-87, ef. 1-1-88; WCD 10-1994, f. 11-1-94, cert. ef. 1-1-95; WCD 10-1994, f. 11-1-94, cert. ef. 1-1-95, Renumbered from 436-120-0170 & 436-120-0215; WCD 6-1996, f. 2-6-96, cert. ef. 3-1-96; WCD 6-2000, f. 4-27-00, cert. ef. 6-1-00; WCD 7-2002, f. 5-30-02, cert. ef. 7-1-02; WCD 8-2007, f. 11-1-07, cert. ef. 12-1-07

436-120-0700

Direct Worker Purchases

(1) The insurer must provide direct worker purchases as necessary for an eligible worker's participation in vocational assistance and to meet the requirements of a suitable job. A worker is no longer eligible for these purchases once eligibility ends unless the purchases are necessary to complete a plan. Direct worker purchases include partial purchase, lease, rental and payment.

(2) Direct worker purchases will not include purchases of real property; payment of fines or other penalties; or payment of additional driver's license costs, increased insurance costs or any other costs attributable to problems with the worker's driving record.

(3) In making its decision regarding a direct worker purchase, the insurer may choose the least expensive, adequate alternative. If the worker wants a direct worker purchase which is more expensive than that authorized by the insurer, the worker may select that alternative, and the worker shall pay the difference in cost.

(4) Within 14 days of its receipt of a request for a direct worker purchase, the insurer must approve the purchase or notify the worker of its denial.

(5) The insurer must pay for approved direct worker purchases in time to prevent delay in the provision of services.

(6) The worker may pay for mileage, child or senior care, or for purchases such as clothing, books and supplies or the worker may request an advance of any of these costs based on documentation of need.

(a) The insurer must reimburse costs within 28 days of receiving the written request from the worker and any required supporting documentation.

(b) The insurer must return denied requests for reimbursement to the worker within 28 days of the insurer's receipt with an explanation of the reason for nonpayment.

(7) The insurer must assign to the worker right and title to the nonexpendable direct worker purchases paid by the insurer as follows:

(a) The insurer must make such assignment no later than the 60th day of continuous employment unless the worker remains eligible and the suitability of the employment is in question.

(b) The insurer may repossess nonexpendable property if the worker no longer requires the property for training or employment.

(c) The insurer may require repayment of advancements or reimbursements if the worker misrepresented information material to the purchase decision or if the worker used the funds for something other than the approved purchase.

Stat. Auth.: ORS 656.340(9) & 656.726(3)
Stats. Implemented: ORS 656.340

Hist.: WCD 11-1987, f. 12-17-87, ef. 1-1-88; WCD 10-1994, f. 11-1-94, cert. ef. 1-1-95, Renumbered from 436-120-0087; WCD 6-2000, f. 4-27-00, cert. ef. 6-1-00; WCD 8-2007, f. 11-1-07, cert. ef. 12-1-07

436-120-0710

Direct Worker Purchases: Kinds

The insurer must provide the direct worker purchases described in sections (1) through (12) of this rule without regard to the worker's pre- or post-injury income. The insurer may not require the worker to submit a financial statement in order to qualify for direct worker purchases listed in sections (1) through (12). In determining the necessity of direct worker purchases described in sections (13) through (18), the insurer must consider, among all factors, the worker's pre-injury net income as compared with the worker's post-injury net income. Permanent partial disability award payments will not be considered as income. For the insurer to find the purchase necessary, the worker's pre-injury net income, as adjusted by the cost-of-living matrix, must be greater than the worker's post-injury net income, unless the worker can establish financial hardship. The insurer may require

the worker to provide information about expenditures or family income when the worker claims a financial hardship.

(1) Tuition, fees, books and supplies for training or studies. Payment is limited to those items identified as mandatory by the instructional facility, trainer or employer. The insurer must pay the cost in full, and will not require the worker to apply for grants to pay for tuition, books or other expenses associated with training.

(2) Wage reimbursement for on-the-job training. The amount must be stipulated in a contract between the training employer and the insurer.

(3) Travel expenses for transportation, meals and lodging required for participation in vocational assistance. For the purposes of this section, "participation in vocational assistance" includes, but is not limited to job search, required meetings with the vocational assistance provider, and meetings with employers or at training sites as required by the plan or plan development. The conditions and rates for payment of travel expenses are as follows:

(a) Transportation. Costs will be paid at public transportation rates when public transportation is available; otherwise, mileage will be paid at the rate of reimbursement for State of Oregon classified employees. Costs incidental to mileage, such as parking fees, also will be paid. For workers receiving temporary total disability or equivalent income, private car mileage will be paid only for mileage in excess of the miles the worker traveled to and from work at the time of injury. Mileage payment in conjunction with moving expenses will be allowed only for one vehicle and for a single one-way trip. To receive reimbursement for private car mileage, the worker must provide the insurer with a copy of the driver's valid driver's license and proof of insurance coverage.

(b) Meals and lodging, overnight travel. For overnight travel, meal and lodging expense will be reimbursed at the rate of reimbursement for State of Oregon classified employees.

(c) Special travel costs. Payment will be made in excess of the amounts specified in this section when special transportation or lodging is necessary because of the physical needs of the worker, or when the insurer finds prevailing costs in the travel area are substantially higher than average.

(4) Tools and equipment for training or employment. Payment is limited to items identified as mandatory for the training or initial employment, such as starter sets. Purchases will not include what the trainer or employer ordinarily would provide to all employees or trainees in the training or employment, or what the worker possesses.

(5) Moving expenses. Payment is limited to workers with employment or training outside reasonable commuting distance. In determining the necessity of paying moving expenses, the insurer may consider the availability of employment or training which does not require moving, or which requires less than the proposed moving distance. Payment is limited to moving household goods weighing not more than 10,000 pounds. If necessary, payment includes reasonable costs of meals and lodging for the worker's family and mileage pursuant to subsection (3)(a) of this rule.

(6) Second residence allowance. The purpose of the second residence is to enable the worker to participate in training outside reasonable commuting distance. The allowance must equal the rental expense reasonably necessary, plus not more than \$200 a month toward all other expenses of the second residence, excluding refundable deposits. In order to qualify for second residence allowance, the worker must maintain a permanent residence.

(7) Primary residence allowance. This allowance is applicable when the worker must change residence for training or employment. Payment includes the first month's rent and the last month's rent only if required prior to moving in.

(8) Medical examinations and psychological examinations for conditions not related to the compensable injury when necessary for determining the worker's ability to participate in vocational assistance.

(9) Physical or work capacities evaluations.

(10) Living expense allowance during vocational evaluation. Payment is limited to workers involved in a vocational evaluation at least five hours daily for four or more consecutive days, and not receiving temporary disability payments. The worker will not be barred from receiving a living expense allowance if the worker is unable to participate five hours daily because of limitations caused by the injury. Payment must be based on the worker's temporary total disability rate if the worker's claim were reopened.

(11) Work adjustment, on-the-job evaluation, or situational assessment cost(s).

(12) Membership fees and occupational certifications, licenses, and related testing costs. Payment under this category is limited to \$500.

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(13) Clothing required for participation in vocational assistance or for employment. Allowable purchases do not include items the trainer or employer would provide or the worker possesses.

(14) Child or disabled adult care services. These services are payable when required to enable the worker to participate in vocational assistance at rates prescribed by the State of Oregon's Department of Human Services. For workers receiving temporary total disability compensation or equivalent income, these costs will be paid only when in excess of what the worker paid for such services at the time of injury, adjusted using the cost-of-living matrix.

(15) Dental work, eyeglasses, hearing aids and prosthetic devices. These are not related to the compensable injury and enable the worker to obtain suitable employment or participate in training.

(16) Dues and fees of a labor union. Payment will be limited to initiation fees, or back dues and one month's current dues.

(17) Vehicle rental or lease. There is no reasonable alternative enabling the worker to participate in vocational assistance or accept an available job. The worker must provide the insurer with proof of a valid driver's license and insurance coverage. Payment under this category is limited to \$1,000.

(18) Any other direct worker purchase the insurer considers necessary for the worker's participation as described in the introductory paragraph of this rule. Payment under this category is limited to \$1,000.

Stat. Auth.: ORS 656.340(9) & 656.726(4)
Stats. Implemented: ORS 656.340

Hist.: WCD 11-1987, f. 12-17-87, ef. 1-1-88; WCD 10-1994, f. 11-1-94, cert. ef. 1-1-95, Renumbered from 436-120-0087; WCD 6-1996, f. 2-6-96, cert. ef. 3-1-96; WCD 6-2000, f. 4-27-00, cert. ef. 6-1-00; WCD 4-2001, f. 4-13-01, cert. ef. 5-15-01; WCD 7-2002, f. 5-30-02, cert. ef. 7-1-02; WCD 3-2004, f. 3-5-04 cert. ef. 4-1-04; WCD 8-2007, f. 11-1-07, cert. ef. 12-1-07

436-120-0720

Fee Schedule and Conditions for Payment of Vocational Assistance Costs

(1) The director has established the following fee schedule for professional costs and direct worker purchases. The schedule sets maximum spending limits per claim opening for each category; however, the insurer may spend more than the maximum limit if the insurer determines the individual case so warrants. Spending limits are to be adjusted annually, effective July 1. The annual adjustment is based on the conversion factor described in OAR 436-120-0005(2) and published with the cost-of-living matrix.

(2) For workers found to have an exceptional disability or exceptional loss of earning capacity as defined in OAR 436-120-0440 the fee schedule spending limits for the Training category and DE/Training Combined category listed below must be increased by 30%.

(3) Amounts include professional costs, travel/wait, and other travel expenses: [Table not included. See ED. NOTE.]

(4) Wage reimbursement for on-the-job training contracts are not covered by the fee schedule.

(5) Services and direct worker purchases provided after eligibility ends to complete a plan or employment is subject to the maximum amounts in effect at the time of closure.

(6) The insurer must pay, within 60 days of receipt, the vocational assistance provider's billing for services provided under the insurer-vocational assistance provider agreement. The insurer must not deny payment on the grounds the worker was not eligible for the assistance if the vocational assistance provider performed the services in good faith without knowledge of the ineligibility.

(7) An insurer entitled to claims cost reimbursement pursuant to OAR 436-110 for services provided pursuant to OAR 436-120 is subject to the following limitations:

(a) Optional services are not reimbursable.

(b) The insurer must obtain the director's approval in advance for any (waiver of the provisions of OAR 436-120).

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 656.340(9) & 656.726(4)
Stats. Implemented: ORS 656.340 & 656.258

Hist.: WCD 6-1980(Admin), f. 5-22-80, ef. 6-1-80; WCD 4-1981(Admin), f. 12-4-81, ef. 1-1-82; WCD 11-1982(Admin)(Temp), f. 12-29-82, ef. 1-1-83; WCD 2-1983(Admin), f. & ef. 6-30-83; WCD 5-1983(Admin), f. 12-14-83, ef. 1-1-84; Renumbered from 436-061-0120, 5-1-85; WCD 7-1985(Admin), f. 12-12-85, ef. 1-1-86; WCD 11-1987, f. 12-17-87, ef. 1-1-88; WCD 10-1994, f. 11-1-94, cert. ef. 1-1-95, Renumbered from 436-120-0070 & 436-120-0215; WCD 6-1996, f. 2-6-96, cert. ef. 3-1-96; WCD 6-2000, f. 4-27-00, cert. ef. 6-1-00; WCD 4-2001, f. 4-13-01, cert. ef. 5-15-01; WCD 7-2002, f. 5-30-02, cert. ef. 7-1-02; WCD 3-2004, f. 3-5-04 cert. ef. 4-1-04; WCD 6-2005, f. 6-9-05, cert. ef. 7-1-05; WCD 8-2007, f. 11-1-07, cert. ef. 12-1-07

436-120-0800

Authorization of Vocational Assistance Providers

(1) A vocational assistance provider must be authorized by the director under this rule.

(2) A vocational assistance provider must submit an application which includes the following:

(a) A description of the specific vocational services to be provided and verification of staff certifications pursuant to these rules;

(b) The plan for supervising and training staff; and

(c) Evidence of compliance with applicable state and federal requirements.

(3) The director may approve or deny authorization based on the completed application and the department's certification records.

(a) The authorization will specify the scope of authorized vocational services as determined by the vocational assistance provider's staff certifications.

(b) Vocational assistance providers whose authorization is denied under this rule may appeal as described in OAR 436-120-0008.

(4) An authorized vocational assistance provider must:

(a) Notify the division within 30 days of any changes in office address, telephone number, contact person or staff, and update the roster of certified staff which includes staff certification numbers.

(b) Adequately train and supervise certified staff; and

(c) Provide each certified staff person with department rules, bulletins, and other information, as provided by the director.

(d) The vocational assistance provider must maintain the worker's vocational assistance files for four years after the end of vocational assistance with that vocational assistance provider, or in a pre-1986 case, for five years after the end of vocational assistance with that provider.

Stat. Auth.: ORS 656.340(9) & 656.726(4)

Stats. Implemented: ORS 656.340

Hist.: WCD 4-1981(Admin), f. 12-4-81, ef. 1-1-82; WCD 8-1981(Admin)(Temp), f. 12-31-81, ef. 1-1-82; WCD 9-1982(Admin), f. 5-28-82, ef. 6-1-82; WCD 2-1983(Admin), f. & ef. 6-30-83; WCD 5-1983(Admin), f. 12-14-83, ef. 1-1-84; Renumbered from 436-061-0180, 5-1-85; WCD 7-1985(Admin), f. 12-12-85, ef. 1-1-86; WCD 11-1987, f. 12-17-87, ef. 1-1-88; WCD 10-1994, f. 11-1-94, cert. ef. 1-1-95, Renumbered from 436-061-0200 & 436-120-0203; WCD 6-1996, f. 2-6-96, cert. ef. 3-1-96; WCD 6-2000, f. 4-27-00, cert. ef. 6-1-00; WCD 7-2002, f. 5-30-02, cert. ef. 7-1-02; WCD 8-2007, f. 11-1-07, cert. ef. 12-1-07

436-120-0810

Certification of Individuals

Individuals determining workers' eligibility and providing vocational assistance must be certified by the director and on the staff of an authorized vocational assistance provider, insurer, or self-insured employer.

(1) An applicant for certification must submit an application, as prescribed by the director, demonstrating the qualifications for the specific classification of certification as described in OAR 436-120-0830.

(2) Department certification is not required to perform work evaluations, but the work evaluator must be certified by the professional organizations described in OAR 436-120-0410(2).

(3) The director may approve or disapprove an application for certification based on the individual's application.

(a) Certification will be granted for five years. A vocational counselor who is nationally certified as described in OAR 436-120-0830(1)(a) will be granted an initial certification period to coincide with their national certification.

(b) Individuals whose certification is denied under this rule may appeal as described in OAR 436-120-0008.

Stat. Auth.: ORS 656.340(9) & 656.726(4)

Stats. Implemented: ORS 656.340

Hist.: WCD 11-1987, f. 12-17-87, ef. 1-1-88; WCD 10-1994, f. 11-1-94, cert. ef. 1-1-95, Renumbered from 436-120-0205; WCD 6-1996, f. 2-6-96, cert. ef. 3-1-96; WCD 6-2000, f. 4-27-00, cert. ef. 6-1-00; WCD 6-2005, f. 6-9-05, cert. ef. 7-1-05; WCD 8-2007, f. 11-1-07, cert. ef. 12-1-07

436-120-0820

Renewal of Certification

(1) A certified individual must renew their certification every five years by submitting the following documentation to the director no later than 30 days prior to the end of their certification period:

(a) Current certification by the Commission on Rehabilitation Counselor Certification (CRCC) or the Commission for Case Managers Certification (CCMC) or the Certification of Disability Management Specialists Commission (CDMSC); or

(b) Verification of a minimum of 60 hours of continuing education units pursuant to this rule within the five years prior to renewal. At least seven and one-half hours must be for training in ethical practices in rehabilitation counseling.

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(2) The department will accept continuing education units for training approved by the CRCC, CCMC or the CDMSC; courses in or related to psychology, sociology, counseling, and vocational rehabilitation, if given by an accredited institution of higher learning; training presented by the department pertaining to OAR 436-120, 436-105, and 436-110; and any continuing education program certified by the department for vocational rehabilitation providers. Sixty minutes of continuing education will count as one unit, except as noted in section (3) of this rule.

(3) In the case of college course work, the department will grant credit only for grades of C or above and will multiply the number of credit hours by six to establish the number of continuing education units.

(4) Failure to meet the requirements of this section will cause an individual's certification to expire. Such an individual may reapply for certification upon completion of the required 60 hours of continuing education.

Stat. Auth.: ORS 656.340(9) & 656.726(4)

Stats. Implemented: ORS 656.340

Hist.: WCD 10-1994, f. 11-1-94, cert. ef. 1-1-95; WCD 6-1996, f. 2-6-96, cert. ef. 3-1-96; WCD 6-2000, f. 4-27-00, cert. ef. 6-1-00; WCD 4-2001, f. 4-13-01, cert. ef. 5-15-01; WCD 7-2002, f. 5-30-02, cert. ef. 7-1-02; WCD 8-2007, f. 11-1-07, cert. ef. 12-1-07

436-120-0830

Classification of Vocational Assistance Staff

Individuals providing vocational assistance will be classified as follows:

(1) Vocational Rehabilitation Counselor certification allows the individual to determine eligibility and provide vocational assistance services. Vocational Rehabilitation Counselor certification requires:

(a) Certification by the following national certifying organizations: Commission on Rehabilitation Counselor Certification (CRCC), the Commission for Case Managers Certification (CCMC), or the Certification of Disability Management Specialists Commission (CDMSC);

(b) A master's degree in vocational rehabilitation counseling and at least six months of direct experience;

(c) A master's degree in psychology, counseling, or a field related to vocational rehabilitation, and 12 months of direct experience; or

(d) A bachelor's or higher degree and 24 months of direct experience. Thirty-six months of direct experience may substitute for a bachelor's degree.

(2) Vocational Rehabilitation Intern certification allows an individual who does not meet the requirements for certification as a Vocational Rehabilitation Counselor the opportunity to gain direct experience. Vocational Rehabilitation Intern certification requires a master's degree in psychology, counseling, or a field related to vocational rehabilitation; or a bachelor's degree and 12 months of direct experience. Thirty-six months of direct experience may substitute for a bachelor's degree. The Vocational Rehabilitation Intern certification is subject to the following conditions:

(a) The intern must be supervised by a certified Vocational Rehabilitation Counselor who must co-sign and assume responsibility for all the intern's eligibility determinations, return-to-work plans, vocational and billing reports.

(b) When the intern has met the experience requirements, the intern may apply for certification as a Vocational Rehabilitation Counselor.

(3) Return-to-Work Specialist certification allows the person to provide job search skills instruction; job development; return-to-work follow-up and labor market survey; and to determine eligibility for vocational assistance, except where such determination requires a judgment as to whether the worker has a substantial handicap to employment. This certification requires 24 months of direct experience. Full-time (or the equivalent) additional college coursework in psychology, counseling, education, a human services related field, or a field related to vocational rehabilitation may substitute for up to 18 months of direct experience, on a month-for-month basis. To conduct only labor market research and/or job development does not require certification when conducted under the supervision of a certified vocational rehabilitation counselor.

(4) To meet the direct experience requirements for Vocational Rehabilitation Counselor, the individual must:

(a) Perform return-to-work plan development and implementation for the required number of months; or

(b) Perform three or more of the qualifying job functions listed in paragraphs (A) through (J) of this subsection for the required number of months, with at least six months of the experience in one or more of functions listed in paragraphs (A) through (D) of this subsection. The qualifying job functions are:

(A) Return-to-work plan development and implementation;

(B) Employment counseling;

(C) Job development;

(D) Early return-to-work assistance which must include working directly with workers and their employers;

(E) Vocational testing;

(F) Job search skills instruction;

(G) Job analysis;

(H) Transferable skills assessment or employability evaluations;

(I) Return-to-work plan review and approval; or

(J) Employee recruitment and selection for a wide variety of occupations.

(5) To meet the direct experience requirements for Vocational Rehabilitation Intern or Return-to-Work Specialist, the individual must:

(a) Perform return-to-work plan development and implementation for the required number of months; or

(b) Perform three or more of the qualifying job functions listed in paragraphs (4)(b)(A) through (J) of this rule for the required number of months.

(6) To receive credit for direct experience, the individual must:

(a) Perform one or more of the qualifying job functions listed in paragraphs (4)(b)(A) through (J) of this rule at least 50 percent of the work time for each month of direct experience credit. Qualifying job functions performed in a job which is less than full time will be prorated. For purposes of this rule, full time will be 40 hours a week. An individual will not receive credit for any function performed less than 160 hours.

(b) Provide any documentation required by the director, including work samples. The director may also require verification by the individual's past or present employers.

(7) All degrees must be from accredited institutions and documented by a copy of the transcript(s) with the application for certification.

Stat. Auth.: ORS 656.340(9) & 656.726(4)

Stats. Implemented: ORS 656.340

Hist.: WCD 11-1987, f. 12-17-87, ef. 1-1-88; WCD 10-1994, f. 11-1-94, cert. ef. 1-1-95, Renumbered from 436-120-0205; WCD 6-1996, f. 2-6-96, cert. ef. 3-1-96; WCD 6-2000, f. 4-27-00, cert. ef. 6-1-00; WCD 7-2002, f. 5-30-02, cert. ef. 7-1-02; WCD 3-2004, f. 3-5-04 cert. ef. 4-1-04; WCD 8-2007, f. 11-1-07, cert. ef. 12-1-07

436-120-0840

Professional Standards for Authorized Vocational Assistance Providers and Certified Individuals

(1) Authorized vocational assistance providers and certified individuals must:

(a) Determine eligibility and provide assistance in an objective manner not subject to any conditions other than those prescribed in these rules;

(b) Fully inform the worker of the categories and kinds of vocational assistance pursuant to OAR 436-120 and reemployment assistance pursuant to OAR 436-110;

(c) Document all case activities in legible file notes or reports;

(d) Provide only vocationally relevant information about workers in written and oral reports;

(e) Recommend workers only for suitable employment;

(f) Fully inform the worker of the purpose and results of all testing and evaluations and

(g) Comply with generally accepted standards of conduct in the vocational rehabilitation profession.

(2) Authorized vocational assistance providers and certified individuals must not:

(a) Provide evaluations or assistance if there is a conflict of interest or prejudice concerning the worker;

(b) Enter into any relationship with the worker to promote personal gain, or the gain of a person or organization in which the vocational assistance provider or certified individual has an interest;

(c) Engage in, or tolerate, sexual harassment of a worker. "Sexual harassment" means deliberate or repeated comments, gestures or physical contact of a sexual nature;

(d) Violate any applicable state or federal civil rights law;

(e) Commit fraud, misrepresent, or make a serious error or omission, in connection with an application for authorization or certification;

(f) Commit fraud, misrepresent, or make a serious error or omission in connection with a report or return-to-work plan, or the vocational assistance activities or responsibilities of a vocational assistance provider under OAR chapter 436;

(g) Engage in collusion to withhold information, or submit false or misleading information relevant to the determination of eligibility or provision of vocational assistance;

(h) Engage in collusion to violate these rules or other rules of the department, or any policies, guidelines or procedures issued by the director;

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(i) Fail to comply with an order by the director to provide specific vocational assistance, except as provided in ORS 656.313; or

(j) Instruct any individual to make decisions or engage in behavior which is contrary to the requirements of these rules.

Stat. Auth.: ORS 656.340(9) & 656.726(4)

Stats. Implemented: ORS 656.313, 656.340

Hist.: WCD 11-1987, f. 12-17-87, eff. 1-1-88; WCD 10-1994, f. 11-1-94, cert. ef. 1-1-95, Renumbered from 436-120-0207; WCD 6-2000, f. 4-27-00, cert. ef. 6-1-00; WCD 7-2002, f. 5-30-02, cert. ef. 7-1-02; WCD 3-2004, f. 3-5-04 cert. ef. 4-1-04; WCD 8-2007, f. 11-1-07, cert. ef. 12-1-07

436-120-0900

Audits, Penalties and Sanctions

(1) Insurers and employers at injury must fully participate in any department audit, periodic program review, investigation or review, and provide records and other information as requested.

(2) If the director finds the insurer or employer at injury failed to comply with OAR 436-120, the director may impose one or more of the following sanctions:

(a) Reprimand by the director.

(b) Recovery of reimbursements.

(c) Denial of reimbursement requests.

(d) An insurer or employer may be assessed a civil penalty under ORS 656.745 for any violation of statutes, rules, or orders of the director.

(3) In determining the amount of a civil penalty to be assessed the director may consider:

(a) The degree of harm inflicted on the worker;

(b) Whether there have been previous violations or warnings; and

(c) Other matters as justice may require.

(4) Pursuant to ORS 656.447, the director may suspend or revoke an insurer's authority to issue guaranty contracts upon determination that the insurer has failed to comply with these rules.

Stat. Auth.: ORS 656.340 & 656.726(4)

Stats. Implemented: ORS 656.340, 656.447 & 656.745(1) & (2)

Hist.: WCD 4-1981, f. 12-4-81, eff. 1-1-82; WCD 2-1983, f. 6-30-83, eff. 6-30-83; WCD 5-1983, f. 12-14-83, eff. 1-1-84; Renumbered from 436-061-0981, 5-1-85; WCD 7-1985, f. 12-12-85, eff. 1-1-86; WCD 11-1987, f. 12-17-87, eff. 1-1-88; WCD 10-1994, f. 11-1-94, cert. ef. 1-1-95, Renumbered from 436-120-0255 & 436-120-0270; WCD 6-2000, f. 4-27-00, cert. ef. 6-1-00; WCD 7-2002, f. 5-30-02, cert. ef. 7-1-02; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 8-2007, f. 11-1-07, cert. ef. 12-1-07

436-120-0915

Sanctions of Authorized Vocational Assistance Providers and Certified Individuals

(1) Vocational assistance providers and certified individuals must fully participate in any department audit, periodic program review, investigation or review, and provide records and other information as requested.

(2) If the director finds any authorized vocational assistance provider or certified individual failed to comply with OAR 436-120, the director may impose one or more of the following sanctions:

(a) Reprimand by the director.

(b) Probation, in which the department systematically monitors the vocational assistance provider's or individual's compliance with OAR 436-120 for a specified length of time. Probation may include the requirement an individual receive supervision, or successfully complete specified training, personal counseling or drug or alcohol treatment.

(c) Suspension, which is the termination of authorization or certification to determine eligibility and provide vocational assistance to Oregon injured workers for a specified period of time. The vocational assistance provider or individual may reapply for authorization or certification at the end of the suspension period. If granted, the vocational assistance provider or individual will be placed on probation as described in subsection (2)(b) of this rule.

(d) Revocation, which is a permanent termination of authorization or certification to determine eligibility and provide vocational assistance to Oregon injured workers.

(3) The director will investigate violations of OAR 436-120 and may impose a sanction under these rules. Before issuing a suspension or revocation, the director will send a notice of the proposed action and provide the opportunity for a show-cause hearing. The process is as follows:

(a) The director will send by certified mail a written notice of intended suspension or revocation and the grounds for such action. The notice must advise of the right to participate in a show-cause hearing.

(b) The vocational assistance provider or individual has 10 days from the date of receipt of the notification of proposed action in which to request a show-cause hearing.

(c) If the vocational assistance provider or individual does not request a show-cause hearing, the proposed suspension or revocation will become final.

(d) If the vocational assistance provider or individual requests a show-cause hearing, the director will send a notification of the date, time and place of the hearing.

(e) After the show-cause hearing, the director will issue a final order which may be appealed as described in OAR 436-120-0008(3).

(4) For the purposes of section (3) "show-cause hearing" means an informal meeting with the director in which the vocational assistance provider or certified individual will be provided an opportunity to be heard and present evidence regarding any proposed actions by the director to suspend or revoke a vocational assistance provider or certified individual's authority to provide vocational assistance services to injured workers.

(5) The director may bar a vocational assistance provider or individual who has received a suspension or revocation under this rule from sponsoring or teaching continuing education programs.

Stat. Auth.: ORS 656.340(9) & 656.726(4)

Stats. Implemented: ORS 656.340

Hist.: WCD 11-1987, f. 12-17-87, eff. 1-1-88; Renumbered from 436-120-0207, WCD 10-1994, f. 11-1-94, cert. ef. 1-1-95; Renumbered from 436-120-0850, WCD 6-2000, f. 4-27-00, cert. ef. 6-1-00; WCD 4-2001, f. 4-13-01, cert. ef. 5-15-01; WCD 7-2002, f. 5-30-02, cert. ef. 7-1-02; WCD 8-2007, f. 11-1-07, cert. ef. 12-1-07

Rule Caption: Affecting standards of professional conduct for health care providers who perform independent medical examinations.

Adm. Order No.: WCD 9-2007

Filed with Sec. of State: 11-1-2007

Certified to be Effective: 12-4-07

Notice Publication Date: 9-1-2007

Rules Amended: 436-010-0265

Subject: Amendments to OAR 436-010, "Medical Services":

• Adopting standards of professional conduct for health care providers who perform independent medical examinations, which apply if the provider's professional regulatory board has not adopted standards for performing such examinations (HB 2943)

Direct questions to: Fred Bruyns, Rules Coordinator; phone 503-947-7717; fax 503-947-7581; or e-mail fred.h.bruyns@state.or.us. Rules are available on the internet: <http://www.wcd.oregon.gov/policy/rules/rules.html>

For a copy of the rules, contact Publications at 503-947-7627, Fax 503-947-7630.

Rules Coordinator: Fred Bruyns—(503) 947-7717

436-010-0265

Insurer Medical Examinations (IME)

(1) The insurer may obtain three medical examinations of the worker by medical service providers of its choice for each opening of the claim. These examinations may be obtained prior to or after claim closure. Effective July 1, 2006, the insurer must choose a provider to perform the independent medical examination from the director's list described in section (13) of this rule. A claim for aggravation, Board's Own Motion, or reopening of a claim where the worker becomes enrolled or actively engaged in training according to rules adopted under ORS 656.340 and 656.726 permits a new series of three medical examinations. For purposes of this rule, "independent medical examination" (IME) means any medical examination including a physical capacity or work capacity evaluation or consultation that includes an examination, except as provided in section (5) of this rule, that is requested by the insurer and completed by any medical service provider, other than the worker's attending physician or authorized nurse practitioner. The examination may be conducted by one or more providers with different specialty qualifications, generally done at one location and completed within a 72-hour period. If the providers are not at one location, the examination is to be completed within a 72-hour period and at locations reasonably convenient to the worker.

(2) When the insurer has obtained the three medical examinations allowed under this rule and wishes to require the worker to attend an additional examination, the insurer must first notify and request authorization from the director. Insurers that fail to first notify and request authorization from the director, may be assessed a civil penalty. The process for requesting such authorization will be as follows:

(a) The insurer must submit a request for such authorization to the director in a form and format as prescribed by the director in Bulletin 252 including, but not limited to, the reasons for an additional IME, the conditions to be evaluated, dates, times, places, and purposes of previous examinations, copies of previous IME notification letters to the worker, and any

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other information requested by the director. A copy of the request must be provided to the worker and the worker's attorney; and

(b) The director will review the request and determine if additional information is necessary prior to issuing an order approving or disapproving the request. Upon receipt of a written request for additional information from the director, the parties have 14 days to respond. If the parties do not provide the requested information, the director will issue an order approving or disapproving the request based on available information.

(3) In determining whether to approve or deny the request for an additional IME, the director may give consideration, but is not limited, to the following:

(a) Whether an IME involving the same discipline(s) or review of the same condition has been completed within the past six months.

(b) Whether there has been a significant change in the worker's condition.

(c) Whether there is a new condition or compensable aspect introduced to the claim.

(d) Whether there is a conflict of medical opinion about a worker's medical treatment or medical services, impairment, stationary status, or other issue critical to claim processing/benefits.

(e) Whether the IME is requested to establish a preponderance for medically stationary status.

(f) Whether the IME is medically harmful to the worker.

(g) Whether the IME requested is for a condition for which the worker has sought treatment or services, or the condition has been included in the compensable claim.

(4) Any party aggrieved by the director's order approving or disapproving a request for an additional IME may request a hearing by the Hearings Division of the board under ORS 656.283 and OAR chapter 438.

(5) For purposes of determining the number of IMEs, any examinations scheduled but not completed are not counted as a statutory IME. The following examinations are not considered IMEs and do not require approval as outlined in section (2) of this rule:

(a) An examination conducted by or at the request or direction of the worker's attending physician or authorized nurse practitioner;

(b) An examination obtained at the request of the director;

(c) An elective surgery consultation obtained in accordance with OAR 436-010-0250(3);

(d) An examination of a permanently totally disabled worker required under ORS 656.206(5);

(e) A closing examination by a consulting physician that has been arranged by the insurer, the worker's attending physician or authorized nurse practitioner in accordance with OAR 436-010-0280;

(f) A consultation requested by the Managed Care Organization (MCO) for the purpose of clarifying or refining a plan for continuing medical services as provided under its contract.

(6) Examinations must be at times and intervals reasonably convenient to the worker and must not delay or interrupt proper treatment of the worker.

(7) When the insurer requires a worker to attend an IME, the insurer must comply with the notification and reimbursement requirements found in OAR 436-009-0025 and 436-060-0095.

(8) A medical provider who unreasonably fails to timely provide diagnostic records required for an IME in accordance with OAR 436-010-0230(9) and 436-010-0240(10) may be assessed a penalty under ORS 656.325.

(9) When a worker objects to the location of an IME, the worker may request review by the director within six business days of the mailing date of the appointment notice.

(a) The request may be made in-person, by telephone, facsimile, or mail.

(b) The director may facilitate an agreement between the parties regarding location.

(c) If necessary, the director will conduct an expedited review and issue an order regarding the reasonableness of the location.

(d) The director will determine if there is substantial evidence to support a finding that the travel is medically contraindicated, or unreasonable based on a showing of good cause.

(A) For the purposes of this rule, "medically contraindicated" means that the travel required to attend the IME exceeds the travel or other limitations imposed by the attending physician, authorized nurse practitioner or other persuasive medical evidence, and alternative methods of travel will not overcome the limitations.

(B) For the purposes of this rule, "good cause" means the travel would impose a hardship for the worker that outweighs the right of the insurer or self-insured employer to select an IME location of its choice.

(10) If a worker fails to attend an IME without notifying the insurer or self-insured employer before the date of the examination or without sufficient reason for not attending, the director may impose a monetary penalty against the worker for such failure under OAR 436-010-0340.

(11) When scheduling an IME, the insurer must ensure the medical service provider has:

(a) An Invasive Medical Procedure Authorization (Form 440-3227), if applicable; and

(b) A Worker IME Survey (Form 440-0858), with instructions to give the form(s) to the worker at the time of the IME.

(12) If a medical service provider intends to perform an invasive procedure as part of an IME, the provider must explain the risks involved in the procedure to the worker and the worker's right to refuse the procedure. The worker then must check the applicable box on Form 440-3227 either agreeing to the procedure or declining the procedure, and sign the form. For the purposes of this rule, an invasive procedure is a procedure in which the body is entered by a needle, tube, scope, or scalpel.

(13) Any medical service provider wishing to perform an IME or a Worker Requested Medical Exam (WRME) under ORS 656.325(1)(e) and OAR 436-060-0147 for a workers' compensation claim must meet the director's criteria and be included on the list of authorized providers maintained by the Director of the Department of Consumer and Business Services under ORS 656.328.

(a) To be on the director's list to perform IMEs or WRMEs, a medical service provider must:

(A) Hold a current license and be in good standing with the professional regulatory board that issued the license, for example the Oregon Board of Medical Examiners.

(B) Complete a director-approved three-hour initial training course regarding IMEs. The training curriculum must include, at a minimum, all topics listed in Appendix B.

(i) Any party may request the director to place a provider on the director's list with less than the three-hour training. At the director's discretion, providers may be placed on the director's list to perform IMEs with less than the three-hour required training when extraordinary circumstances exist in a given case or if the worker and the insurer agree that a certain provider may perform the examination. Providers placed on the director's list in this circumstance are limited to being on the director's list only for the time required for the examination at issue.

(ii) When determining if extraordinary circumstances exist in a given case, the director may consider, but is not limited to, such factors as: medical specialty needed; number of IMEs the provider has performed in a calendar year; where the worker lives; and factors that would make the three-hour training unreasonable in a given case.

(C) Submit the Application for Independent Medical Exam Medical Service Provider Authorization (Form 440-3930) to the director. On the application, the provider must supply his or her license number, the name of the training vendor, and the date the provider completed a director-approved initial training course regarding IMEs. By signing and submitting the application form, the provider agrees to abide by:

(i) The standards of professional conduct for performing IMEs adopted by the provider's regulatory board, or the independent medical examination standards published in Appendix C, which apply if the provider's regulatory board does not adopt standards of conduct for IMEs. Providers on the director's list of authorized IME providers as of June 7, 2007, remain authorized to perform IMEs and do not need to reapply; and

(ii) All relevant workers' compensation laws and rules.

(b) Any party may make a written request to the director to add a provider to the director's list according to subsection (a).

(c) A provider may be sanctioned or excluded from the director's list of providers authorized to perform IMEs after a finding by the director that the provider:

(A) Violated the standards of either the professional conduct for performing IMEs adopted by the provider's regulatory board or the independent medical examination standards published in Appendix C, whichever applies;

(B) Failed to comply with the requirements of this rule, as determined by the director;

(C) Has a current restriction on their license or is under a current disciplinary action from their professional regulatory board;

(D) Has entered into a voluntary agreement with his or her regulatory board which the director determines is detrimental to performing IMEs;

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- (E) Violated workers' compensation laws or rules; or
- (F) Has failed to attend training required by the director.

(d) Within 60 days of the director's decision to exclude a provider from the director's list, the provider may appeal the decision under ORS 656.704(2) and OAR 436-001-0019.

(14) The medical service provider conducting the examination will determine the conditions under which the examination will be conducted. Subject to the provider's approval, the worker may use a video camera or tape recorder to record the examination.

(15) If there is a finding by the director, an administrative law judge, the Workers' Compensation Board, or the court, that the IME was performed by a provider who was not on the director's list of authorized IME providers at the time of the examination, the insurer shall not use the IME report nor shall the report be used in any subsequent proceeding.

(16) Except as provided in subsection (a) of this section, a worker may elect to have an observer present during the IME.

(a) An observer is not allowed in a psychological examination unless the examining provider approves the presence of the observer.

(b) The worker must submit a signed observer form (440-3923A) to the examining provider acknowledging that the worker understands the worker may be asked sensitive questions during the examination in the presence of the observer. If the worker does not sign form 440-3923A, the provider may exclude the observer.

(c) An observer cannot participate in or obstruct the examination.

(d) The worker's attorney or any representative of the worker's attorney shall not be an observer. Only a person who does not receive compensation in any way for attending the examination can be an injured worker's observer.

(e) The IME provider must verify that the injured worker and any observer have been notified of the requirement in sub-section (b).

(17) Upon completion of the examination, the examining medical service provider must:

(a) Give the worker a copy of the IME Survey (Form 440-0858) on the day of the examination; and

(b) Send the insurer a copy of the report and, if applicable, the observer form (440-3923A) or the invasive procedure form (440-3227), or both.

(c) Sign a statement at the end of the report verifying who performed the examination and dictated the report, the accuracy of the content of the report, and acknowledging that any false statements may result in sanction by the director.

(18) The insurer must forward a copy of the signed report to the attending physician or authorized nurse practitioner within 72 hours of its receipt of the report.

(19) A complaint about an IME may be sent to the director for investigation. The director will determine the appropriate action to take in a given case, which may include consultation with or referral to the appropriate regulatory board.

(20) Training must be approved by the director before it is given. Any party may submit medical service provider IME training curriculum to the director for approval. The curriculum must include training outline, goals, objectives, specify the method of training and the number of training hours, and must include all topics addressed in Appendix B.

(21) Within 21 days of the IME training, the training supplier must send the director the date of the training and a list of all medical providers who completed the training, including names, license numbers, and addresses.

(22) Insurer claims examiners must be trained and certified in accordance with OAR 436-055 regarding appropriate interactions with IME medical service providers.

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

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.252, 656.325, 656.245, 656.248, 656.260, 656.264

Hist.: WCD 11-1998, f. 12-16-98, cert. ef. 1-1-99; WCD 3-1999(Temp), f. & cert. ef. 2-11-99 thru 8-10-99; WCD 7-1999, f. & cert. ef. 4-28-99; WCD 13-2001, f. 12-17-01, cert. ef. 1-1-02; WCD 9-2002, f. 9-27-02, cert. ef. 11-1-02; WCD 14-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 6-28-04; WCD 3-2004, f. 3-5-04 cert. ef. 4-1-04; WCD 2-2005, f. 3-24-05, cert. ef. 4-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 5-2006, f. 6-15-06, cert. ef. 7-1-06; WCD 4-2007(Temp), f. & cert. ef. 6-7-07 thru 12-3-07; WCD 9-2007, f. 11-1-07, cert. ef. 12-4-07

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Rule Caption: Affecting workers' compensation medical data reporting, managed care organizations, claims processing, and disability rating standards.

Adm. Order No.: WCD 10-2007

Filed with Sec. of State: 11-1-2007

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Rules Adopted: 436-160-0400, 436-160-0410, 436-160-0420, 436-160-0430

Rules Amended: 436-009-0005, 436-009-0010, 436-009-0020, 436-009-0030, 436-009-0040, 436-015-0005, 436-015-0030, 436-015-0040, 436-015-0120, 436-035-0005, 436-035-0110, 436-035-0350, 436-035-0390, 436-035-0420, 436-035-0500, 436-040-0002, 436-040-0003, 436-040-0005, 436-040-0006, 436-040-0008, 436-040-0010, 436-040-0020, 436-040-0030, 436-040-0040, 436-040-0050, 436-040-0060, 436-040-0070, 436-040-0080, 436-040-0090, 436-040-0100, 436-045-0008, 436-045-0030, 436-060-0008, 436-060-0010, 436-060-0015, 436-060-0018, 436-060-0055, 436-060-0060, 436-060-0140, 436-060-0147, 436-060-0150, 436-160-0004, 436-160-0005, 436-160-0030, 436-160-0060, 436-160-0080

Subject: Amendments to OAR 436, 009, "Oregon Medical Fee and Payment Rules" and OAR 436-160, "Electronic Data Interchange" (EDI):

- Requiring hospitals and other health care providers to include sufficient data on their billings so insurers and DCBS can identify the providers

- Requiring insurers to report medical billing data to DCBS using standards for electronic data interchange adopted by the International Association of Industrial Accident Boards and Commissions

- Listing the data elements reportable to DCBS; testing procedures for EDI; phase-in dates for EDI and when insurers and self-insured employers are subject; procedures for requesting deferral of EDI reporting

Amendments to OAR 436-015, "Managed Care Organizations":

- Deleting requirement that managed care organizations send to the director copies of all new or amended treatment standards, protocols, and guidelines for the director's review and approval; deleting related definitions (SB 563)

- Amending penalty provisions affecting managed care organizations (HB 2218)

Amendments to OAR 436-035, "Disability Rating Standards":

- Deleting procedures for temporary rule promulgation to address disability in individual claims (when medical conditions are not addressed by current standards), and addressing such conditions in the director's order on reconsideration (HB 2218)

- Clarifying the definition of "direct medical sequela"

- Correcting the description of impairment involving angulation or malalignment of the humerus

- Clarifying how to rate impairment for surgery involving one or more discs or vertebrae

- Eliminating provision that if a value of impairment is determined for damage to the brain, no additional value for speech or psychiatric impairment is allowed

- Provide standards for rating impairment for vaginal prolapse

Amendments to OAR 436-040, "Workers with Disabilities Program":

- Replacing the term "Handicapped Workers" with "Workers with Disabilities" (SB 83)

Amendments to OAR 436-045, "Reopened Claims Program":

- Replacing the term "Handicapped Workers" with "Workers with Disabilities" (SB 83)

Amendments to OAR 436-060, "Claims Administration":

- Describing how insurers must process requests for a lump sum payments of permanent partial disability awards (HB 2218)

- Including "administrative law judge" as a person who may approve or disapprove a claims disposition agreement (SB 253)

- Explaining how DCBS will publish the maximum reimbursable amount for medical services for non-disabling claims (SB 762)

- Revising time frame for employers' first aid record-keeping (to be consistent with Oregon OSHA requirements)

- Reducing the documentation a worker must submit when appealing an insurer's refusal to reclassify a claim

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• Clarifying conditions under which the insurer must notify health care providers when a workers' compensation claim is denied or partially denied

Direct questions to: Fred Bruyns, Rules Coordinator; phone 503-947-7717; fax 503-947-7581; or e-mail fred.h.bruyns@state.or.us. Rules are available on the internet: <http://www.wcd.oregon.gov/policy/rules/rules.html>

For a copy of the rules, contact Publications at 503-947-7627, Fax 503-947-7630.

Rules Coordinator: Fred Bruyns—(503) 947-7717

436-009-0005

Definitions

(1) Unless a term is specifically defined elsewhere in these rules or the context otherwise requires, the definitions of ORS chapter 656 and OAR 436-010-0005 are hereby incorporated by reference and made part of these rules.

(2) Abbreviations used in these rules are either defined in the rules in which they are used or defined as follows:

- (a) ANSI means the American National Standards Institute.
- (b) CMS means Centers for Medicare & Medicaid Services.
- (c) CPT® means Current Procedural Terminology published by the American Medical Association.

(d) DME means durable medical equipment.

(e) DRG means diagnosis related group.

(f) EDI means electronic data interchange.

(g) HCPCS means Healthcare Common Procedure Coding System published by CMS.

(h) IAIABC means International Association of Industrial Accident Boards and Commissions.

(i) ICD-9-CM means International Classification of Diseases, Ninth Revision, Clinical Modification, Vol. 1, 2 & 3 by US Department of Health and Human Services.

(j) MCO means managed care organization.

(k) NPI means National Provider Identifier.

(l) OSC means Oregon specific code.

(m) PCE means physical capacity evaluation.

(n) RBRVS means Medicare Resource-Based Relative Value Scale published by CMS.

(o) RVU means relative value unit.

(p) WCE means work capacity evaluation.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.726(4)

Hist.: WCD 12-1996, f. 5-6-96, cert. ef. 6-1-96; WCD 20-1996, f. 10-2-96, cert. ef. 1-1-97; WCD 5-1998, f. 4-3-98, cert. ef. 7-1-98; WCD 9-1999, f. 5-27-99, cert. ef. 7-1-99; WCD 3-2002, f. 2-25-02, cert. ef. 4-1-02; WCD 6-2003, f. 5-28-03, cert. ef. 7-1-03; WCD 3-2004, f. 3-5-04, cert. ef. 4-1-04; WCD 3-2006, f. 3-14-06, cert. ef. 4-1-06; WCD 2-2007, f. 5-23-07, cert. ef. 7-1-07; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08

436-009-0010

General Requirements for Medical Billings

(1) Only treatment that falls within the scope and field of the practitioner's license to practice will be paid under a worker's compensation claim.

(2) Billings must include the worker's full name and date of injury, the employer's name and, if available, the insurer's claim number and the provider's NPI. If the NPI is not available, then the provider must provide its license number and FEIN. For provider types not licensed by the state, "999999" must be used. All medical providers must submit bills to the insurer or managed care organization, as provided by their contract for medical services, on a completed current UB-04 (CMS 1450) or CMS 1500 form, except for:

(a) Dental billings, which must be submitted on American Dental Association dental claim forms;

(b) Pharmacy billings, which must be submitted on the most current National Council for Prescription Drug Programs (NCPDP) form; and

(c) EDI transmissions of medical bills under OAR 436-009-0030(3)(c).

(d) Computer-generated reproductions of forms referenced in subsections (2)(a) and (b) may also be used.

(3)(a) All original medical provider billings must be accompanied by legible chart notes documenting services which have been billed and identifying the person performing the service and license number of the person providing the service. Medical providers are not required to provide their license number if they are already providing a national identification number.

(b) When processing billings via EDI, the insurer may waive the requirement that billings be accompanied by chart notes. The insurer remains responsible for payment of only compensable medical services. The medical provider may submit their chart notes separately or at regular intervals as agreed with the insurer.

(4) When billing for medical services, a medical service provider must use codes listed in CPT® 2007 or Oregon Specific Codes (OSC) that accurately describe the service. If there is no specific CPT® code or OSC, a medical service provider must use the appropriate HCPCS code, if available, to identify the medical supply or service. Pharmacy billings must use the National Drug Code (NDC) to identify the drug or biological billed. A "zz" modifier must be used when billing electronically for services that use an OSC.

(a) If there is no specific code for the medical service, the medical service provider shall use the appropriate unlisted code from HCPCS or the unlisted code at the end of each medical service section of CPT® 2007 and provide a description of the service provided.

(b) Any service not identifiable with a code number must be adequately described by report.

(5) Medical providers must submit billings for medical services in accordance with this section.

(a) Bills must be submitted within:

(A) 60 days of the date of service.

(B) 60 days after the medical provider has received notice or knowledge of the responsible workers' compensation insurer or processing agent; or

(C) 60 days after any litigation affecting the compensability of the service is final, if the provider receives written notice of the final litigation from the insurer.

(b) A medical service billing submitted later than the time frames in subsection (a) of this section may be payable in full if the provider establishes good cause for submitting the bill late. Good cause may include, but is not limited to, such issues as extenuating circumstances or circumstances considered outside the control of the provider.

(c) A bill rendered over twelve months after the date of service is not payable, except when a provision of subsection (a) of this section is the reason the billing was rendered after twelve months.

(6) When rebilling, medical providers must indicate that the charges have been previously billed.

(7) The medical provider must bill their usual fee charged to the general public. The submission of the bill by the medical provider shall serve as a warrant that the fee submitted is the usual fee of the medical provider for the services rendered. The department shall have the right to require documentation from the medical provider establishing that the fee under question is the medical provider's usual fee charged to the general public. For purposes of this rule, "general public" means any person who receives medical services, except those persons who receive medical services subject to specific billing arrangements allowed under the law which require providers to bill other than their usual fee.

(8) Medical providers shall not submit false or fraudulent billings, including billing for services not provided. As used in this section, "false or fraudulent" means an intentional deception or misrepresentation with the knowledge that the deception could result in unauthorized benefit to the provider or some other person. A request for pre-payment for a deposition is not considered false or fraudulent.

(9) When a worker with two or more separate compensable claims receives treatment for more than one injury or illness, costs must be divided among the injuries or illnesses, irrespective of whether there is more than one insurer.

(10) Workers may make a written request to a medical provider to receive copies of medical billings. Upon receipt of a request, the provider may furnish the worker a copy during the next billing cycle, but no later than 30 days following receipt of the request. Thereafter, worker copies must be furnished during the regular billing cycle.

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

Stat. Auth.: ORS 656.245, 656.252, 656.254

Stats. Implemented: ORS 656.245, 656.252, 656.254

Hist.: WCD 12-1996, f. 5-6-96, cert. ef. 6-1-96; WCD 20-1996, f. 10-2-96, cert. ef. 1-1-97; WCD 9-1999, f. 5-27-99, cert. ef. 7-1-99; WCD 2-2000, f. 3-15-00, cert. ef. 4-1-00; WCD 2-2001, f. 3-8-01, cert. ef. 4-1-01; WCD 8-2001, f. 9-13-01, cert. ef. 9-17-01; WCD 3-2002, f. 2-25-02, cert. ef. 4-1-02; WCD 6-2003, f. 5-28-03, cert. ef. 7-1-03; WCD 3-2004, f. 3-5-04, cert. ef. 4-1-04; WCD 2-2005, f. 3-24-05, cert. ef. 4-1-05; WCD 3-2006, f. 3-14-06, cert. ef. 4-1-06; WCD 2-2007, f. 5-23-07, cert. ef. 7-1-07; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08

436-009-0020

Hospital Fees

(1) Hospital inpatient charges billed to insurers must include ICD-9-CM diagnostic and procedural codes. Hospitals must include their NPI on

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all bills. Unless otherwise provided for by a governing MCO contract, insurers must pay hospitals for inpatient services using the current adjusted cost/charge ratio (see Bulletin 290). For purposes of this rule, hospital inpatient services include, but are not limited to, those bills coded "111" through "118" in space #4 on the UB-04 billing form. The audited bill must be multiplied by the hospital's adjusted cost/charge ratio to determine the allowable payment.

(2) Hospital outpatient charges billed to insurers must include revenue codes, ICD-9-CM diagnostic and procedural codes, CPT® codes, HCPCS codes, and National Drug Codes (NDC), where applicable. Hospitals must include their NPI on all bills. Unless otherwise provided for by a governing MCO contract, insurers must pay hospitals for outpatient services according to the following: the insurer must first separate out and pay charges for services by physicians and other licensed medical service providers assigned a code under the CPT® and assigned a value in RBRVS for physician fees as identified by the revenue codes indicating professional services. These charges must be subtracted from the total bill and the adjusted cost/charge ratio applied only to the balance. For all outpatient therapy services (physical therapy, occupational therapy, and speech language pathology), use the Year 2007 transitional non-facility total column. All other charges billed using both the hospital name and tax identification number will be paid as if provided by the hospital.

(3) Each hospital's CMS 2552 form and financial statement shall be the basis for determining its adjusted cost/charge ratio. If a current form 2552 is not available, then financial statements may be used to develop estimated data. If the adjusted cost/charge ratio is determined from estimated data, the hospital will receive the lower ratio of either the hospital's last published cost/charge ratio or the hospital's cost/charge ratio based on estimated data.

(a) The basic cost/charge ratio shall be developed by dividing the total net expenses for allocation shown on Worksheet A, and as modified in subsection (b), by the total patient revenues from Worksheet G-2.

(b) The net expenses for allocation derived from Worksheet A shall be modified by adding, from Worksheet A-8, the expenses for:

(A) Provider-based physician adjustment;

(B) Patient expenses such as telephone, television, radio service, and other expenses determined by the department to be patient-related expenses; and

(C) Expenses identified as for physician recruitment.

(c) The basic cost/charge ratio shall be further modified to allow a factor for bad debt and the charity care provided by each hospital. The adjustment for bad debt and charity care is calculated in two steps. Step one: Add the dollar amount for net bad debt to the dollar amount for charity care. Divide this sum by the dollar amount of the total patient revenues, from Worksheet G-2, to compute the bad debt and charity ratio. Step two: Multiply the bad debt and charity ratio by the basic cost/charge ratio calculated in subsection (3)(a) to obtain the factor for bad debt and charity care.

(d) The basic cost/charge ratio shall be further modified to allow an adequate return on assets. The director will determine a historic real growth rate in the gross fixed assets of Oregon hospitals from the audited financial statements. This real growth rate and the projected growth in a national fixed weight price deflator will be added together to form a growth factor. This growth factor will be multiplied by the total fund balance, from Worksheet G of each hospital's CMS 2552 to produce a fund balance amount. The fund balance amount is then divided by the total patient revenues from Worksheet G-2, to compute the fund balance factor.

(e) The factors resulting from subsections (3)(c) and (3)(d) of this rule will be added to the ratio calculated in subsection (3)(a) of this rule to obtain the adjusted cost/charge ratio. In no event will the adjusted cost/charge ratio exceed 1.00.

(f) The adjusted cost/charge ratio for each hospital will be revised annually, at a time based on their fiscal year, as described by bulletin. Each hospital must submit a copy of their CMS 2552 and financial statements each year within 150 days of the end of their fiscal year to the Information Management Division, Department of Consumer and Business Services. The adjusted cost/charge ratio schedule will be published by bulletin twice yearly, effective for the six-month period beginning April 1 and the six-month period beginning October 1.

(g) For newly formed or established hospitals for which no CMS 2552 has been filed or for which there is insufficient data, or for those hospitals that do not file Worksheet G-2 with the submission of their CMS 2552, the division shall determine an adjusted cost/charge ratio for the hospital based upon the adjusted cost/charge ratios of a group of hospitals of similar size or geographic location.

(h) If the financial circumstances of a hospital unexpectedly or dramatically change, the division may revise the hospital's adjusted cost/charge ratio to allow equitable payment.

(i) If audit of a hospital's CMS 2552 by the CMS produces significantly different data from that obtained from the initial filing, the division may revise the hospital's adjusted cost/charge ratio to reflect the data developed subsequent to the initial calculation.

(j) Notwithstanding subsections (c) through (i) of this section the payment to out-of-state hospitals, may be negotiated between the insurer and the hospital.

(A) Any agreement for payment less than the billed amount must be in writing and signed by a hospital and insurer representative.

(B) The agreement must include language that the hospital will not bill the worker any remaining balance and that the negotiated amount is considered payment in full.

(C) If the insurer and the hospital are unable to reach agreement within 60 days of the insurer's receipt of the bill, either party may bring the issue to the director for resolution. The director may order payment up to the amount billed considering factors such as, but not limited to, reasonableness, usual fees for similar services by facilities in similar geographic areas, case specific services, and any extenuating circumstances.

(k) Notwithstanding sections (1) and (2) of this rule, the director may exclude rural hospitals from imposition of the adjusted cost/charge ratio based upon a determination of economic necessity. The rural hospital exclusion will be based on the financial health of the hospital reflected by its financial flexibility index, as originally developed by Dr. William Cleverley. All rural hospitals having a financial flexibility index at or below the median for hospitals nationwide with a bond rating of BBB+, BBB, or BBB- will qualify for the rural exemption. Rural hospitals that are designated as critical access hospitals under the Oregon Medicare Rural Hospital Flexibility Program are automatically exempt from imposition of the adjusted cost/charge ratio.

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

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

Stat. Auth.: ORS 656.726(4), 656.012, 656.236(5), 656.327(2), 656.313(4)(d)

Stats. Implemented: ORS 656.248, 656.252, 656.256, sec. 2, Ch. 771, OL 1991

Hist.: WCD 5-1982(Admin), f. 2-23-82, ef. 3-1-82; WCD 1-1984(Admin), f. & ef. 1-16-84; WCD 2-1985(Admin), f. 4-29-85, ef. 6-3-85; Renumbered from 436-069-0701, 5-1-85; WCD 3-1985(Admin)(Temp), f. & ef. 9-4-85; WCD 4-1985(Admin)(Temp), f. & ef. 9-11-85; WCD 6-1985(Admin), f. 12-10-85, ef. 1-1-86; WCD 1-1986(Admin)(Temp), f. 2-5-86, ef. 2-6-86; WCD 2-1986(Admin), f. 3-10-86, ef. 3-17-86; WCD 2-1987(Admin), f. 2-20-87, ef. 3-16-87; WCD 1-1988, f. 1-20-88, cert. ef. 2-1-88; WCD 6-1988, f. 9-6-88, cert. ef. 9-15-88; WCD 2-1989, f. 8-21-89, cert. ef. 9-1-89; WCD 1-1990, f. 1-5-90, cert. ef. 2-1-90; WCD 12-1990(Temp), f. 6-20-90, cert. ef. 7-1-90; WCD 15-1990, f. & cert. ef. 8-7-90; WCD 30-1990, f. 12-10-90, cert. ef. 12-26-90; WCD 11-1992, f. 6-11-92, cert. ef. 7-1-92; WCD 13-1994, f. 12-20-94, cert. ef. 2-1-95; WCD 18-1995(Temp), f. & cert. ef. 12-4-95; WCD 12-1996, f. 5-6-96, cert. ef. 6-1-96, Renumbered from 436-010-0090; WCD 20-1996, f. 10-2-96, cert. ef. 1-1-97; WCD 5-1997, f. 4-21-97, cert. ef. 7-1-97; Administrative correction 6-18-97; WCD 8-1997(Temp), f. & cert. ef. 7-9-97; WCD 16-1997, f. & cert. ef. 12-15-97; WCD 5-1998, f. 4-3-98, cert. ef. 7-1-98; WCD 9-1999, f. 5-27-99, cert. ef. 7-1-99; WCD 2-2001, f. 3-8-01, cert. ef. 4-1-01; WCD 3-2002, f. 2-25-02 cert. ef. 4-1-02; WCD 6-2003, f. 5-28-03, cert. ef. 7-1-03; WCD 3-2004, f. 3-5-04 cert. ef. 4-1-04; WCD 2-2005, f. 3-24-05, cert. ef. 4-1-05; WCD 3-2006, f. 3-14-06, cert. ef. 4-1-06; WCD 2-2007, f. 5-23-07, cert. ef. 7-1-07; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08

436-009-0030

Insurer's Duties and Responsibilities

(1) The insurer must pay for medical services related to a compensable injury claim, except as provided by OAR 436-060-0055.

(2) The insurer, or its designated agent, may request from the medical provider, any and all necessary records needed to review accuracy of billings. The medical provider may charge an appropriate fee for copying documents in accordance with OAR 436-009-0070(1). If the evaluation of the records must be conducted on-site, the provider must furnish a reasonable work-site for the records to be reviewed at no cost. These records must be provided or made available for review within 14 days of a request.

(3) Insurers must date stamp medical bills and reports upon receipt and pay bills for medical services on accepted claims within 45 days of receipt of the bill, if the billing is submitted in proper form in accordance with OAR 436-009-0010(2) through (4) and clearly shows that the treatment is related to the accepted compensable injury or disease. Billings not submitted in the proper form must be returned to the medical provider within 20 days of receipt of the bill with a written explanation describing why the bill was not paid or what needs to be corrected. A request for chart notes on EDI billings must be made to the medical provider within 20 days of receipt of the bill. The number of days between the date the insurer returns the billing or requests for chart notes from the provider and the date the insurer receives the corrected billing or chart notes, shall not apply toward the 45 days within which the insurer is required to make payment.

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(a) The insurer must retain a copy of each medical provider's bill received by the insurer or must be able to reproduce upon request data relevant to the bill, including but not limited to, provider name, date of service, date the insurer received the bill, type of service, billed amount, coding submitted by the medical provider as described in OAR 436-009-0010(2), and insurer action, for any non-payment or fee reduction other than a fee schedule reduction. This includes all bills submitted to the insurer even when the insurer determines no payment is due. The insurer must provide the specific reason(s) for non-payment or reduced payment of the billing, in writing, to the submitting medical provider.

(b) Any service billed with a code number commanding a higher fee than the services provided shall be returned to the medical provider for correction or paid at the value of the service provided.

(c) When a medical provider submits a bill electronically, it shall be considered "mailed" in accordance with OAR 436-010-0005.

(4) Payment of medical bills is required within 14 days of any action causing the service to be payable, or within 45 days of the insurer's receipt of the bill, whichever is later.

(5) Failure to pay for medical services timely may render the insurer liable to pay a reasonable monthly service charge for the period payment was delayed, if the provider customarily levies such a service charge to the general public.

(6) When there is a dispute over the amount of a bill or the appropriateness of services rendered, the insurer must, within 45 days, pay the undisputed portion of the bill and at the same time provide specific reasons for non-payment or reduction of each medical service code. Resolution of billing disputes, including possible overpayment disputes, must be made in accordance with OAR 436-009-0008, 436-010-0008 and 436-015.

(7) Bills for medical services rendered at the request of the insurer and bills for information submitted at the request of the insurer, which are in addition to those required in OAR 436-010-0240 must be paid for within 45 days of receipt by the insurer even if the claim is denied.

(8) The insurer must establish an audit program for bills for all medical services to determine that the bill reflects the services provided, that appropriate prescriptions and treatment plans are completed in a timely manner, that payments do not exceed the maximum fees adopted by the director, and that bills are submitted in a timely manner. The audit shall be continuous and shall include no fewer than 10 percent of medical bills. The insurer must provide upon request documentation establishing that the insurer is conducting a continuous audit of medical bills. This documentation must include, but not be limited to, medical bills, internal audit forms, and any medical charge summaries prepared by private medical audit companies.

(9) The insurer must pay a medical provider for any bill related to the claimed condition received by the insurer on or before the date the terms of a disputed claim settlement (DCS) were agreed on, but was either not listed in the approved DCS or was not paid to the medical provider as set forth in the approved DCS. Payment must be made by the insurer as prescribed by ORS 656.313(4)(d) and OAR 438-009-0010(2)(g) as if the bill had been listed in the approved settlement or as set forth in the approved DCS, except if the DCS payments have already been made, the payment must not be deducted from the settlement proceeds. Payment must be made within 45 days of the insurer's knowledge of the outstanding bill.

(10) Insurers that had at least 100 accepted disabling claims in the previous calendar year, as determined by the director, are required to submit detailed medical bill payment data to the Information Management Division of the Department of Consumer and Business Services at 350 Winter St NE, Room 300, PO Box 14480, Salem OR 97309-0405.

Once an insurer has reached the minimum number of accepted disabling claims, they must continue to report in subsequent years unless there is a significant decrease below the 100 claim minimum which is expected to continue. The director will notify the affected insurers when they reach the minimum. If the insurer drops below the 100 disabling claim level or encounters other significant hardships, the insurer may apply to the director for exemption from the reporting requirement. The reporting requirements are as follows:

(a) The transmission data and format requirements are included in **Appendices A and B**, which the director adopts by reference. To determine which appendix applies to required reporting insurers, see below.

(b) Each insurer must continue to report according to Appendix A until successfully completing IAIABC ANSI 837 testing. Once successfully completing testing, the insurer may only report via IAIABC ANSI 837.

(c) Group 1 is all required reporting insurers who are currently reporting data via IAIABC ANSI 837 in another jurisdiction. Each insurer in Group 1 must begin testing on July 1, 2008.

(d) Group 2 is the State Accident Insurance Fund Corporation. Group 2 must begin testing on April 1, 2009.

(e) Group 3 is all other required reporting insurers. Each insurer in Group 3 must begin testing on October 1, 2009.

(11) An insurer may request, in writing, additional time to report the requested data elements according to Appendix B. The insurer must demonstrate that the date to begin testing creates an undue hardship. The request must include a plan to begin testing within 12 months of the group's testing date, and may not extend beyond January 1, 2010.

(12) Undue hardship is demonstrated by providing the total required expenses to begin testing; the reporting cost per bill if transmitted directly by the insurer; and the total cost per bill if reported by a vendor.

(13) If the director allows additional time, the insurer must continue to report all medical billing data under Appendix A during the testing.

(14) The director may audit an insurer's actual payments reported for individual claims. An insurer is subject to a civil penalty if an audit determines that the insurer's error rate is 15 percent or higher in any field.

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

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.252, 656.325, 656.245, 656.248, 656.260 & 656.264

Hist.: WCD 12-1996, f. 5-6-96, cert. ef. 6-1-96; WCD 20-1996, f. 10-2-96, cert. ef. 1-1-97; WCD 5-1997, f. 4-21-97, cert. ef. 7-1-97; WCD 5-1998, f. 4-3-98, cert. ef. 7-1-98; WCD 9-1999, f. 5-27-99, cert. ef. 7-1-99; WCD 2-2000, f. 3-15-00, cert. ef. 4-1-00; WCD 3-2002, f. 2-25-02, cert. ef. 4-1-02; WCD 6-2003, f. 5-28-03, cert. ef. 7-1-03; WCD 3-2004, f. 3-5-04, cert. ef. 4-1-04; WCD 2-2005, f. 3-24-05, cert. ef. 4-1-05; WCD 3-2006, f. 3-14-06, cert. ef. 4-1-06; WCD 2-2007, f. 5-23-07, cert. ef. 7-1-07; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08

436-009-0040

Calculating Medical Provider Fees

(1) The insurer must pay for medical services at the provider's usual fee or in accordance with the fee schedule whichever is less. Insurers must pay for medical services that have no fee schedule at the provider's usual fee. For all MCO enrolled claims, the insurer must pay for medical services at the provider's usual fee or according to the fee schedule, whichever is less, unless otherwise provided by MCO contract. Where there is no maximum payment established by the fee schedule, an insurer may challenge the reasonableness of a provider's billing on a case by case basis by asking the director to review the billing under OAR 436-009-0008. If the director determines the amount billed is unreasonable, the director may establish a different fee to be paid to the provider based on at least one of, but not limited to, the following: reasonableness, the usual fees of similar providers, the services provided in the specific case, fees for similar services in similar geographic regions, and any extenuating circumstances.

(2)(a) When using RBRVS, the RVU is determined by reference to the appropriate CPT® code. Where the procedure is performed inside the medical service provider's office, use Year 2007 transitional non-facility total column. Where the procedure is performed outside the medical service provider's office, use Year 2007 transitional facility total column. Use the global column to identify the follow up days when applicable. For all outpatient therapy services (physical therapy, occupational therapy, and speech language pathology), use the Year 2007 transitional non-facility total column. No other column applies.

(b) When an Oregon Specific Code is assigned, the RVU for multi-disciplinary program services is found in OAR 436-009-0060(5), or for other services in OAR 436-009-0070(12).

(c) When using the American Society of Anesthesiologists Relative Value Guide, a basic unit value is determined by reference to the appropriate Anesthesia code. The anesthesia value includes the basic unit value, time units, and modifying units.

(3) Payment according to the fee schedule must be determined by multiplying the assigned RVU or basic unit value by the applicable conversion factor. Where the code is designated by an RVU of "0.00" or IC (individual consideration) for Anesthesia codes, the insurer must pay at the provider's usual rate.

(4) The table below lists the conversion factors to be applied to services, assigned an RVU, rendered by all medical providers.

Service Categories Conversion Factors

Evaluation / Management — \$59.79

Anesthesiology — \$53.45

Surgery — \$93.66

Radiology — \$68.00

Lab & Pathology — \$60.00

Medicine — \$75.04

Physical Medicine and Rehabilitation — \$65.79

Multidisciplinary and Other Oregon-Specific Codes — \$60.00

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.248

Hist.: WCD 9-1999, f. 5-27-99, cert. ef. 7-1-99; WCD 2-2000, f. 3-15-00, cert. ef. 4-1-00; WCD 2-2001, f. 3-8-01, cert. ef. 4-1-01; WCD 3-2002, f. 2-25-02, cert. ef. 4-1-02; WCD 6-2003, f. 5-28-03, cert. ef. 7-1-03; WCD 3-2004, f. 3-5-04, cert. ef. 4-1-04; WCD 2-2005, f. 3-

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24-05, cert. ef. 4-1-05; WCD 3-2006, f. 3-14-06, cert. ef. 4-1-06; WCD 2-2007, f. 5-23-07, cert. ef. 7-1-07; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08

436-015-0005

Definitions

Unless a term is specifically defined elsewhere in these rules or the context otherwise requires, the definitions of ORS chapter 656 and OAR 436-010-0005 are hereby incorporated by reference and made a part of these rules.

(1) "GSA" means a geographic service area.

(2) "Health Care Provider" means an entity or group of entities, organized to provide health care services or organized to provide administrative support services to those entities providing health care services. An entity solely organized to become an MCO under these rules is not, in and of itself, a health care provider.

(3) "Managed Care Organization" or "MCO" means an organization formed to provide medical services and certified in accordance with these rules.

(4) "Primary Care Physician" means a physician qualified to be an attending physician according to ORS 656.005(12)(b)(A) and who is a general practitioner, family practitioner, or internal medicine practitioner.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.260, OL 2007 Ch. 423

Hist.: WCD 11-1990(Temp), f. 6-19-90, cert. ef. 7-1-90; WCD 33-1990, f. 12-12-90, cert. ef. 12-26-90; WCD 4-1991, f. & cert. ef. 6-14-91; WCD 2-1992, f. 1-10-92, cert. ef. 2-1-92; WCD 14-1994, f. 12-20-94, cert. ef. 2-1-95; WCD 13-1996, f. 5-6-96, cert. ef. 6-1-96; WCD 12-1998, f. 12-16-98, cert. ef. 1-1-99; WCD 3-2002, f. 2-25-02 cert. ef. 4-1-02; WCD 4-2006(Temp), f. 5-11-06, cert. ef. 6-1-06 thru 11-27-06; WCD 7-2006, f. 10-19-06, cert. ef. 11-28-06; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08

436-015-0030

Applying for Certification

(1) A health care provider or group of medical service providers applying for certification as an MCO must submit to the director, within 120 days of the filing of the Notice of Intent to Form, the following:

(a) Four copies of an application which includes specific information indicating the manner in which the MCO will be able to meet the provisions of these rules;

(b) The MCO certification of incorporation and a copy of the MCO by-laws;

(c) A non-refundable fee of \$1,500 which will be deposited in the Department of Consumer and Business Services Fund; and

(d) The approved MCO plan.

(2) The MCO shall provide a description of the initial GSA. The GSA shall be designated by a listing of the postal zip codes in the service area.

(3) The MCO plan shall provide a description of the times, places, and manner of providing services under the plan adequate to ensure that workers governed by the MCO shall be able to:

(a) Access an MCO provider panel with a minimum of one attending physician within the MCO for every 1,000 workers covered by the plan;

(b) Receive initial treatment by the worker's choice of an attending physician or authorized nurse practitioner within 24 hours of the MCO's knowledge of the need or a request for treatment;

(c) Receive initial treatment by the worker's choice of an attending physician or authorized nurse practitioner in the MCO within 5 working days, subsequent to treatment by a physician outside the MCO;

(d) Receive treatment by an MCO physician in cases requiring emergency in-patient hospitalization;

(e) Receive information on a 24-hour basis regarding medical services available within the MCO which shall include the worker's right to receive emergency or urgent care, and the hours of regular MCO operation if assistance is needed to select an attending physician or answer other questions;

(f) Seek treatment from any category of medical service provider as defined in subsection (6)(a) of this rule and have a choice of at least 3 medical service providers within each category. The worker shall also have at least 3 choices, as needed, of ancillary service providers including, but not limited to, physical therapists and psychologists. Treatment by all medical service providers including attending physicians will be governed by the MCO treatment standards and protocols;

(g) Access medical providers, including attending physicians, within a reasonable distance from the worker's place of employment, considering the normal patterns of travel. For purposes of this rule, 30 miles (one way) in urban areas and 60 miles (one way) in rural areas will be considered a reasonable distance;

(h) Receive treatment by a non-MCO medical service provider when the enrolled worker resides outside the MCO's geographical service area. Such workers may only select non-MCO providers if they practice closer to

the worker's residence than an MCO provider of the same category and if they agree to the terms and conditions of the MCO;

(i) Receive services that meet quality, continuity, and other treatment standards which will provide all medical and health care services in a manner that is timely, effective, and convenient for the worker; and

(j) Receive specialized medical services the MCO is not otherwise able to provide. The application must include a description of the times, places, and manner of providing such specialized medical services.

(4) The MCO plan must provide a procedure which allows for workers to receive compensable medical treatment from a primary care physician or authorized nurse practitioner who is not a member of the MCO. The procedure must identify the criteria the MCO will use for approval or disapproval of such treatment, and provide written notice of the MCO physician qualification procedures to the worker.

(5) The MCO shall provide:

(a) Copies of contract agreement(s) or other documents signed by the MCO and each participating medical service provider/health care provider representative which verify membership; and

(b) A list of the names, addresses, and specialties of the individuals who will provide services under the managed care plan together with appropriate evidence of any licensing, registration or certification requirements for that individual to practice. This list shall indicate which medical service providers will act as attending physicians in each GSA within the MCO.

(6) The MCO plan shall provide:

(a) An adequate number of medical service providers from each provider category. For purposes of these rules, the categories include acupuncturist, chiropractor, dentist, naturopath, optometrist, osteopath, physician, and podiatrist, as listed in ORS 676.110. The requirements of this section must be met unless the MCO shows evidence that the minimum number is not available within a GSA.

(b) A process that allows workers to select a nurse practitioner authorized to provide compensable medical services under ORS 656.245 and OAR 436-010. If the MCO has fewer than three authorized nurse practitioners from which workers can choose within a GSA, the MCO must allow workers to seek treatment outside the MCO from authorized nurse practitioners, consistent with the MCO's treatment and utilization standards. Treatment must also be consistent with ORS 656.245(2)(b)(C), which limits the authorization of treatment of the worker by a nurse practitioner to 90 days and authorization of payment of temporary disability benefits for a period not to exceed 60 days from the date of the first visit on the initial claim. Such authorized nurse practitioners are not themselves bound by the MCO's treatment and utilization standards; however, workers are subject to those standards.

(c) A program which specifies the criteria for selection and de-selection of physicians and the process for peer review. The processes for terminating a physician and peer review shall provide for adequate notice and hearing rights for any physician.

(7) The MCO plan must provide adequate methods for monitoring and reviewing contract matters between its providers and the MCO to ensure appropriate treatment or to prevent inappropriate or excessive treatment including but not limited to:

(a) A program of peer review and utilization review to prevent inappropriate or excessive treatment including, but not limited to, the following:

(A) A pre-admission review program of elective admissions to the hospital and of elective surgeries.

(B) Individual case management programs, which identify ways to provide appropriate care for less money for cases which are likely to prove very costly, such as physical rehabilitation or psychiatric care.

(C) Physician profile analysis which may include such information as each physician's total charges, number and costs of related services provided, time loss of claimant, and total number of visits in relation to care provided by other physicians to patients with the same diagnosis. A physician's profile shall not be released to anyone outside the MCO without the physician's specific written consent except that the physician's profile shall be released to the director without the necessity of obtaining such consent.

(D) Concurrent review programs, which periodically review the worker's care after treatment has begun, to determine if continued care is medically necessary.

(E) Retrospective review programs, which examine the worker's care after treatment has ended, to determine if the treatment rendered was excessive or inappropriate.

(F) Second surgical opinion programs which allow workers to obtain the opinion of a second physician when elective surgery is recommended. Second surgical opinions must be required prior to repeat surgeries.

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(b) A quality assurance program which includes, but is not limited to:
(A) A system for resolution and monitoring of problems and complaints which includes, but is not limited to, the problems and complaints of workers and medical service providers;

(B) Physician peer review which shall be conducted by a group designated by the MCO or the director and which must include, but is not limited to, members of the same healing art in which the physician practices;

(C) A standardized claimant medical record keeping system designed to facilitate entry of information into computerized databases for purposes of quality assurance.

(c) A program for monitoring and reviewing other contract matters that meets the requirements of ORS 656.260(4) and which are not covered under peer review, service utilization review, dispute resolution, and quality assurance.

(8) The MCO plan must include a procedure for internal dispute resolution to resolve complaints by enrolled injured workers, medical providers, and insurers in accordance with OAR 436-015-0110. The internal dispute resolution procedure shall include a provision allowing the waiver of the time period to appeal a decision to the MCO upon a showing of good cause.

(9) The MCO plan must include a summary of the process used by the MCO to develop and review treatment standards, protocols, and guidelines. This summary must include, but is not limited to:

(a) A description of the medical expertise or specialties of the clinicians involved;

(b) A description regarding what the protocols and guidelines are based on;

(c) The criteria used by the MCO in selecting the conditions for which the MCO implements treatment protocols and guidelines;

(d) A description of the criteria used by the MCO to determine when it needs to review or revise its treatment standards, protocols, and guidelines;

(e) How the MCO makes the standards, protocols, and guidelines available to its panel providers and how it notifies them of any changes;

(f) Sufficient flexibility to allow treatment outside the standards, protocols, and guidelines if such treatment is supported by persuasive professional medical judgment and reasoning; and

(g) A description of how the MCO will ensure the worker continues to receive appropriate care in a timely, effective and convenient manner throughout the dispute resolution process.

(10) The MCO plan shall provide other programs that meet the requirements of ORS 656.260(4) including:

(a) A program involving cooperative efforts by the workers, the employer, the insurer, and the MCO to promote early return to work for enrolled injured workers; and

(b) A program involving cooperative efforts by the workers, the employer, and the MCO to promote workplace safety and health consultative and other services. The program shall include:

(A) Identification of how the MCO will promote such services.

(B) A method by which the MCO will report to the insurer within 30 days of knowledge of occupational injuries and illnesses involving serious physical harm as defined by OAR 437-001, occupational injury and illness trends as observed by the MCO, and any observations that indicate an injury or illness was caused by a lack of diligence of the employer.

(C) A method by which an MCO's knowledge of needed loss control services will be communicated to the insurer for determining the need for services as detailed in OAR 437-001.

(D) A provision that all notifications to the insurer from the MCO shall be considered as a request to the insurer for services as detailed in OAR 437-001.

(E) A provision that the MCO shall maintain complete files of all notifications for a period of 3 years following the date that notification was given by the MCO.

(11) The MCO shall establish one place of business in this state where the organization administers the plan, keeps membership records and other records as required by OAR 436-015-0050.

(12) The MCO plan must include a procedure for timely and accurate reporting to the director necessary information regarding medical and health care service costs and utilization in accordance with OAR 436-015-0040 and OAR 436-009.

(13) The MCO shall designate an in-state communication liaison for the department and the insurers at the MCO's established in-state location. The responsibilities of the liaison shall include, but not be limited to:

(a) Coordinating and channeling all outgoing correspondence and medical bills;

(b) Unless otherwise provided by the MCO contract, providing centralized receipt and distribution of all reimbursements back to the MCO members and primary care physicians; and

(c) Serving as a member on the quality assurance committee.

(14) The MCO must provide satisfactory evidence of ability to meet the financial requirements necessary to ensure delivery of service in accordance with the plan.

(15) The MCO plan shall describe the reimbursement procedures for all services provided in accordance with the MCO plan. The members must comply with the following billing and report processing procedures:

(a) Submit all bills in accordance with the MCO contract with the insurer.

(b) Submit all reports and related correspondence to the insurer's authorized claims processing location with copies to the MCO in-state communication liaison or as otherwise provided by the contract.

(16) The MCO plan shall provide a procedure within the MCO plan to provide financial incentives to reduce service costs and utilization without sacrificing the quality of service.

(17) The MCO plan must describe how the MCO will provide insurers with information that will inform workers of all choices of medical service providers within the plan and how workers can access those providers.

(18) Within 45 days of receipt of all information required for certification, the director shall notify the applicant of the effective date of the certification and the initial geographical service area of the MCO. If the certification is denied, the applicant will be provided with the reason therefore.

(19) The application for certification for an MCO shall not be approved if the MCO fails to meet the requirements of these rules.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.260, OL 2007 Ch. 423

Hist.: WCD 11-1990(Temp), f. 6-19-90, cert. ef. 7-1-90; WCD 33-1990, f. 12-12-90, cert. ef. 12-26-90; WCD 2-1992, f. 1-10-92, cert. ef. 2-1-92; WCD 14-1994, f. 12-20-94, cert. ef. 2-1-95; WCD 13-1996, f. 5-6-96, cert. ef. 6-1-96; WCD 12-1998, f. 12-16-98, cert. ef. 1-1-99; WCD 3-2002, f. 2-25-02 cert. ef. 4-1-02; WCD 14-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 6-28-03; WCD 6-2004, f. 6-14-04, cert. ef. 6-29-04; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 4-2006(Temp), f. 5-11-06 thru 11-27-06, cert. ef. 6-1-06; WCD 7-2006, f. 10-19-06, cert. ef. 11-28-06; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08

436-015-0040

Reporting Requirements for an MCO

(1) In order to ensure the MCO complies with the requirements of these rules, each MCO shall provide the director with a copy of the entire text of any MCO/insurer contract agreement, signed by the insurer and the MCO, within 30 days of execution of such contracts. Amendments, addendums, and cancellations, together with the entire text of the underlying contracts, shall be submitted to the director within 30 days of execution.

(2) Notwithstanding section (1), when an MCO/insurer contract agreement contains a specific expiration or termination date, the MCO must provide the director with a copy of a contract extension, signed by the insurer and MCO, no later than the contract's date of expiration or termination, or workers will no longer be subject to the contract after it expires or terminates without renewal pursuant to ORS 656.245(4)(a).

(3) Any amendment to the approved MCO plan must be submitted to the director for approval. The MCO shall not take any action based on the amendment until the amended plan is approved.

(4) Within 45 days of the end of each calendar quarter, each MCO shall provide the following information, current on the last day of the quarter, in a form and format as prescribed by the director: specify quarter being reported, MCO certification number, membership listings by category of medical service provider (in coded form), including provider names, specialty (in coded form), Tax ID number, Oregon license number, business address and phone number. (All fields are required unless specifically excepted by bulletin.) When a medical provider has multiple offices, only one office location in each geographical service area needs to be reported. In addition, the updated membership listing shall include the names and addresses of all health care providers participating in the MCO.

(5) By April 30 of each year, each MCO shall provide the director with the following information for the previous calendar year:

(a) A summary of any sanctions or punitive actions taken by the MCO against its members;

(b) A summary of actions taken by the MCO's peer review committee; and

(c) An affidavit that the approved MCO plan is consistent with the MCO's business practices, and that any amendments to the plan have been approved by the director.

(6) An MCO must report any new board members or shareholders to the director within 14 days of such changes. These parties must submit affi-

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claims certifying they have no interest in an insurer or other non-qualifying employer as described under OAR 436-015-0009.

(7) Nothing in this rule limits the director's ability to require information from the MCO as necessary to monitor the MCO's compliance with the requirements of these rules.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.260, OL 2007 Ch. 423

Hist.: WCD 11-1990(Temp), f. 6-19-90, cert. ef. 7-1-90; WCD 33-1990, f. 12-12-90, cert. ef. 12-26-90; WCD 2-1992, f. 1-10-92, cert. ef. 2-1-92; WCD 13-1992, f. & cert. ef. 9-21-92; WCD 14-1994, f. 12-20-94, cert. ef. 2-1-95; WCD 13-1996, f. 5-6-96, cert. ef. 6-1-96; WCD 12-1998, f. 12-16-98, cert. ef. 1-1-99; WCD 3-2002, f. 2-25-02 cert. ef. 4-1-02; WCD 6-2004, f. 6-14-04, cert. ef. 6-29-04; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 4-2006(Temp), f. 5-11-06, cert. ef. 6-1-06 thru 11-27-06; WCD 7-2006, f. 10-19-06, cert. ef. 11-28-06; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08

436-015-0120

Sanctions and Civil Penalties

(1) If the director finds any violation of OAR 436-015, or if the MCO fails to meet any of the requirements of the certified plan, the director may impose one or more of the following sanctions against any MCO:

(a) Reprimand by the director;

(b) Civil penalty as provided under ORS 656.745(2) and (3). All penalties collected under this section shall be paid into the Department of Consumer and Business Services Fund. In determining the amount of penalty to be assessed, the director shall consider:

(A) The degree of harm inflicted on the worker, insurer, or medical provider;

(B) Whether there have been previous violations; and

(C) Whether there is evidence of willful violation.

(c) Suspension or revocation of the MCO's certification pursuant to OAR 436-015-0080.

(2) If the director determines that an insurer has entered into a contract with an MCO which violates OAR 436-015 or the MCO's certified plan, the insurer shall be subject to civil penalties as provided in ORS 656.745.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.260, OL 2007 Ch. 423

Hist.: WCD 11-1990(Temp), f. 6-19-90, cert. ef. 7-1-90; WCD 33-1990, f. 12-12-90, cert. ef. 12-26-90; WCD 4-1991, f. & cert. ef. 6-14-91; WCD 2-1992, f. 1-10-92, cert. ef. 2-1-92; WCD 14-1994, f. 12-20-94, cert. ef. 2-1-95; WCD 13-1996, f. 5-6-96, cert. ef. 6-1-96; WCD 12-1998, f. 12-16-98, cert. ef. 1-1-99; WCD 3-2002, f. 2-25-02 cert. ef. 4-1-02; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08

436-035-0005

Definitions

As used in OAR 436-035-0001 through 436-035-0500, unless the context requires otherwise:

(1) "Activities of Daily Living (ADL)" include, but are not limited to, the following personal activities required by an individual for continued well-being: eating/nutrition; self-care and personal hygiene; communication and cognitive functions; and physical activity, e.g., standing, walking, kneeling, hand functions, etc.

(2) "Ankylosis" means a bony fusion, fibrous union or arthrodesis of a joint. Ankylosis does not include pseudarthrosis or articular arthropathies.

(3) "Combined condition" means a preexisting condition and a compensable condition contribute to the worker's overall disability or need for treatment.

(4) "Date of Issuance", for purposes of these rules, means the mailing date of a Notice of Closure, Determination Order or Order on Reconsideration under ORS 656.268 and 656.283(7).

(5) "Dictionary of Occupational Titles" or (DOT) means the publication of the same name by the U.S. Department of Labor, Fourth Edition Revised 1991.

(6) "Direct medical sequela" means a condition which originates or stems from an accepted condition that is clearly established medically. Disability from direct medical sequelae is rated under these rules and ORS 656.268(14). For example: The accepted condition is low back strain with herniated disc at L4-5. The worker develops permanent weakness in the leg and foot due to radiculopathy. The weakness is considered a "direct medical sequela" of the herniated disc.

(7) "Earning Capacity" means impairment as modified by age, education and adaptability.

(8) "Impairment" means a compensable, permanent loss of use or function of a body part/system related to the compensable condition, determined under these rules, OAR 436-010-0280 and ORS 656.726(4)(f).

(9) "Irreversible findings" for the purposes of these rules are:

ARM

Arm angulation

Radial head resection

Shortening

EYE

Enucleation

Lens implant

Lensectomy

GONADAL

Loss of gonads resulting in absence of, or an abnormally high, hormone level

HAND

Carpal bone fusion

Carpal bone removal

KIDNEY

Nephrectomy

LEG

Knee angulation

Length discrepancy

Meniscectomy

Patellectomy

LUNG

Lobectomy

SHOULDER

Acromionectomy

Clavicle resection

SPINE

Compression fractures

Diskectomy

Laminectomy

SPLEEN

Splenectomy

URINARY TRACT DIVERSION

Cutaneous ureterostomy without intubation

Nephrostomy or intubated ureterostomy

Uretero-Intestinal

OTHER

Amputations/resections

Ankylosed/fused joints

Displaced pelvic fracture ("healed" with displacement)

Loss of opposition

Organ transplants (heart, lung, liver, kidney)

Prosthetic joint replacements

(10) "Medical arbiter" means a physician(s) under ORS 656.005(12)(b)(A) appointed by the Director under OAR 436-010-0330.

(11) "Offset" means to reduce a current permanent partial disability award, or portions thereof, by a prior Oregon workers' compensation permanent partial disability award from a different claim.

(12) "Physician's release" means written notification, provided by the attending physician to the worker and the worker's employer or insurer, releasing the worker to work and describing any limitations the worker has.

(13) "Preponderance of medical evidence" or "opinion" does not necessarily mean the opinion supported by the greater number of documents or greater number of concurrences; rather it means the more probative and more reliable medical opinion based upon factors including, but not limited to, one or more of the following:

(a) The most accurate history;

(b) The most objective findings;

(c) Sound medical principles; or

(d) Clear and concise reasoning.

(14) "Redetermination" means a reevaluation of disability under ORS 656.267, 656.268(9), 656.273 and 656.325.

(15) "Regular work" means the job the worker held at the time of injury.

(16) "Scheduled disability" means a compensable permanent loss of use or function which results from injuries to those body parts listed in ORS 656.214(3)(a) through (5).

(17) "Social-vocational factors" means age, education and adaptability factors under ORS 656.726(4)(f).

(18) "Superimposed condition" means a condition that arises after the compensable injury or disease which contributes to the worker's overall disability or need for treatment but is not the result of the original injury or disease. Disability from a superimposed condition is not rated. For example: The accepted condition is a low back strain. Two months after the injury, the worker becomes pregnant (non-work related). The pregnancy is considered a "superimposed condition."

(19) "Unscheduled disability" means a compensable condition that results in a permanent loss of earning capacity as described in these rules and arising from those losses under OAR 436-035-0330 through 436-035-0450.

(20) "Work Disability", for the purposes of determining permanent disability, means the separate factoring of impairment as modified by age, education, and adaptability to perform the job at which the worker was injured

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

Stat. Auth.: ORS 656.726

Stats. Implemented: ORS 656.005, 656.214, 656.268 & 656.726

Hist.: WCD 2-1988, f. 6-3-88, cert. ef. 7-1-88; WCD 7-1988, f. 12-21-88, cert. ef. 1-1-89; WCD 18-1990(Temp), f. 9-14-90, cert. ef. 10-1-90; WCD 20-1990(Temp), f. & cert. ef. 11-20-90; WCD 2-1991, f. 3-26-91, cert. ef. 4-1-91; WCD 6-1992, f. 2-14-92, cert. ef. 3-13-92;

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WCD 3-1996, f. 1-29-96, cert. ef. 2-17-96; WCD 1-1997, f. 1-9-97, cert. ef. 2-15-97; WCD 6-1998, f. 5-13-98, cert. ef. 7-1-98; WCD 2-2003, f. 1-15-03 cert. ef. 2-1-03; WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08

436-035-0110

Other Upper Extremity Findings

(1) Loss of palmar sensation in the hand, finger(s), or thumb is rated according to the location and quality of the loss, and is measured by the two point discrimination method, as noted by the AMA Guides, 3rd Ed. Rev., 1990.

(a) If enough sensitivity remains to distinguish two pin pricks applied at the same time (two point), the following apply: [Rating not included. See ED. NOTE.]

(b) In determining sensation findings for a digit which has been resected or amputated, the value is established by comparing the remaining overall length of the digit to the table in subsection (1)(c) of this rule and rating the length equivalency. For Example: Amputation of 1/2 the middle phalanx of the index finger with total sensory loss extending from the level of amputation to the metacarpophalangeal joint, results in a value for 1/2 the digit or 33%.

(c) Loss of sensation in the finger(s) or thumb is rated as follows: [Rating not included. See ED. NOTE.]

(d) If the level of the loss is less than 1/2 the distal phalanx or falls between the levels in subsection (c) of this section, rate at the next highest (or more proximal) level.

(e) In determining sensation impairment in a digit in which the sensation loss does not extend to the distal end of the digit, the value is established by determining the value for loss from the distal end of the digit to the proximal location of the loss, and subtracting the value for loss from the distal end of the digit to the distal location of the loss. [Rating not included. See ED. NOTE.]

(f) Any portion of palmar sensation loss is rated as follows: [Rating not included. See ED. NOTE.]

(g) Loss of sensation on the dorsal side of the hand, fingers or thumb is not considered a loss of function, so no value is allowed.

(h) Sensory loss in the forearm or arm is not considered a loss of function, therefore no value is allowed.

(i) When there are multiple losses of palmar sensation in a single body part (e.g. hand, finger(s), or thumb), the impairment values are first combined for an overall loss of sensation value for the individual digit or hand. This value is then combined with other impairment values for that digit or hand prior to conversion.

(j) Hypersensitivity resulting in a loss of use in the digits or palm, is valued utilizing the above loss of sensation tables. Mild hypersensitivity is valued at the equivalent impairment level as less than normal sensation, moderate hypersensitivity the equivalent of protective sensation loss, and severe hypersensitivity the equivalent of a total loss of sensation.

(2) When surgery or an injury results in arm length discrepancies involving the injured arm, the following values are given on the affected arm for the length discrepancy: [Values not included. See ED. NOTE.]

(3) Joint instability in the finger(s), thumb, or hand is rated according to the body part affected: [Rating not included. See ED. NOTE.]

(4) Lateral deviation or malalignment of the upper extremity is valued as follows:

(a) Increased lateral deviation at the elbow is determined as follows: [Values not included. See ED. NOTE.]

(b) Fracture resulting in angulation or malalignment, other than at the elbow, is determined as follows: [Values not included. See ED. NOTE.]

(5) Surgery on the upper extremity is valued as follows:

(a) Finger/Thumb Surgery Finger Impairment Prosthetic joint replacement 1/2 the lowest ankylosis value for the involved joint [Values not included. See ED. NOTE.]

(b) Forearm/Hand Surgery Forearm/Hand Impairment Carpalometacarpal arthroplasty 1/2 the lowest ankylosis value for the involved joint; [Values not included. See ED. NOTE.]

(6) Dermatological conditions, including burns, which are limited to the arm, forearm, hand, fingers, or thumb are rated according to the body part affected. The percentages indicated in the classes below are applied to the affected body part(s), e.g. a Class 1 dermatological condition of the thumb is 3% of the thumb, or a Class 1 dermatological condition of the hand is 3% of the hand, or a Class 1 dermatological condition of the arm is 3% of the arm. Contact dermatitis of an upper extremity is rated in this section unless it is an allergic systemic reaction, which is also rated under OAR 436-035-0450. Contact dermatitis for a body part other than the upper or lower extremities is rated under OAR 436-035-0440. Impairments may

or may not show signs or symptoms of skin disorder upon examination but are rated according to the following classes:

(a) Class 1: 3% for the affected body part if treatment results in no more than minimal limitation in the performance of activities of daily living, although exposure to physical or chemical agents may temporarily increase limitations.

(b) Class 2: 15% for the affected body part if intermittent treatments and prescribed examinations are required, and the worker has some limitations in the performance of activities of daily living.

(c) Class 3: 38% for the affected body part if regularly prescribed examinations and continuous treatments are required, and the worker has many limitations in the performance of activities of daily living.

(d) Class 4: 68% for the affected body part if continuous prescribed treatments are required. The treatment may include periodically having the worker stay home or admitting the worker to a care facility, and the worker has many limitations in the performance of activities of daily living.

(e) Class 5: 90% for the affected body part if continuous prescribed treatment is required. The treatment necessitates having the worker stay home or being permanently admitted to a care facility, and the worker has severe limitations in the performance of activities of daily living.

(7) Vascular dysfunction of the upper extremity is valued according to the affected body part, using the following classification table:

(a) Class 1: 3% for the affected body part if the worker experiences only transient edema; and on physical examination, the findings are limited to the following: loss of pulses, minimal loss of subcutaneous tissue of fingertips, calcification of arteries as detected by radiographic examination, asymptomatic dilation of arteries or veins (not requiring surgery and not resulting in curtailment of activity), or cold intolerance (e.g. Raynaud's phenomenon) which results in a loss of use or function that occurs with exposure to temperatures below freezing (0° Centigrade).

(b) Class 2: 15% for the affected body part if the worker experiences intermittent pain with repetitive exertional activity; or there is persistent moderate edema incompletely controlled by elastic supports; or there are signs of vascular damage such as a healed stump of an amputated digit, with evidence of persistent vascular disease, or a healed ulcer; or cold intolerance (e.g. Raynaud's phenomenon) which results in a loss of use or function that occurs on exposure to temperatures below 4° Centigrade.

(c) Class 3: 35% for the affected body part if the worker experiences intermittent pain with moderate upper extremity usage; or there is marked edema incompletely controlled by elastic supports; or there are signs of vascular damage such as a healed amputation of two or more digits, with evidence of persistent vascular disease, or superficial ulceration; or cold intolerance (e.g. Raynaud's phenomenon) which results in a loss of use or function that occurs on exposure to temperatures below 10° Centigrade.

(d) Class 4: 63% for the affected body part if the worker experiences intermittent pain upon mild upper extremity usage; or there is marked edema that cannot be controlled by elastic supports; or there are signs of vascular damage such as an amputation at or above the wrist, with evidence of persistent vascular disease, or persistent widespread or deep ulceration involving one extremity; or cold intolerance (e.g. Raynaud's phenomenon) which results in a loss of use or function that occurs on exposure to temperatures below 15° Centigrade.

(e) Class 5: 88% for the affected body part if the worker experiences constant and severe pain at rest; or there are signs of vascular damage involving more than one extremity such as amputation at or above the wrist, or amputation of all digits involving more than one extremity with evidence of persistent vascular disease, or persistent widespread deep ulceration involving more than one extremity; or cold intolerance such as Raynaud's phenomenon which results in a loss of use or function that occurs on exposure to temperatures below 20° Centigrade.

(f) If partial amputation of the affected body part occurs as a result of vascular disease, the impairment values are rated separately.

(8) Injuries to unilateral spinal nerve roots or brachial plexus with resultant loss of strength in the arm, forearm or hand are determined according to the specific nerve root which supplies (innervates) the weakened muscle(s), as described in the following table and modified under OAR 436-035-0011(7): [Table not included. See ED. NOTE.]

(a) SPINAL NERVE ROOT Arm Impairment: [Table not included. See ED. NOTE.]

(b) For loss of strength in bilateral extremities, each extremity is rated separately.

(9) When a spinal nerve root or brachial plexus are not injured, valid loss of strength in the arm, forearm or hand, substantiated by clinical findings, is valued based on the peripheral nerve supplying (innervating) the muscle(s) demonstrating the decreased strength, as described in the follow-

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ing table and as modified under OAR 436-035-0011(7). [Table not included. See ED. NOTE.]

(a) Loss of strength due to an injury in a single finger or thumb receives a value of zero.

(b) Decreased strength due to an amputation receives no rating for weakness in addition to that given for the amputation.

(c) Decreased strength due to a loss in range of motion receives no rating for weakness in addition to that given for the loss of range of motion.

(d) When loss of strength is present in the shoulder, refer to OAR 436-035-0330 for determination of the impairment.

(10) For motor loss in any part of an arm which is due to brain or spinal cord damage, impairment is valued as follows:

(a) Severity of Motor Loss Arm Impairment: [Value not included. See ED. NOTE.]

(b) When a value is granted under subsection (a) of this section, additional impairment values are not allowed for weakness, chronic condition, or reduced range of motion in the same extremity.

(c) For bilateral extremity loss, each extremity is rated separately.

(11) Neurological dysfunction resulting in cold intolerance in the upper extremity is valued according to the affected body part utilizing the same classifications for cold intolerance due to vascular dysfunction in section (7) of this rule.

[ED. NOTE: Ratings and Values referenced are available from the agency.]

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

Stat. Auth.: ORS 656.726

Stats. Implemented: ORS 656.005, 656.214, 656.268 & 656.726

Hist.: WCD 4-1980(Admin), f. 3-20-80, ef. 4-1-80; WCD 5-1981(Admin), f. 12-30-81, ef. 1-1-82; Renumbered from 436-065-0530, 5-1-85; WCD 2-1988, f. 6-3-88, cert. ef. 7-1-88; WCD 5-1988, f. 8-22-88, cert. ef. 8-1-9-88; WCD 5-1988, f. 9-2-88, cert. ef. 8-19-88; WCD 7-1988, f. 12-21-88, cert. ef. 1-1-89; Renumbered from 436-030-0220; WCD 2-1991, f. 3-26-91, cert. ef. 4-1-91; WCD 6-1992, f. 2-14-92, cert. ef. 3-13-92; WCD 3-1996, f. 1-29-96, cert. ef. 2-17-96; WCD 1-1997, f. 1-9-97, cert. ef. 2-15-97; WCD 6-1998, f. 5-13-98, cert. ef. 7-1-98; WCD 2-2003, f. 1-15-03 cert. ef. 2-1-03; WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08

436-035-0350

General Spinal Findings

(1) The following ratings are for fractured vertebrae:

(a) For a compression fracture of a single vertebral body: [Tables not included. See ED. NOTE.]

(b) A fracture of one or more of the posterior elements of a vertebra (spinous process, pedicles, laminae, articular processes, or transverse processes) is valued per vertebra as follows: [Tables not included. See ED. NOTE.]

(2) For the purposes of this section, the cervical, thoracic, and lumbosacral regions are considered separate body parts. Values determined within one body part are first added, then the total impairment value is obtained by combining the different body part values. The following values are for surgical procedures performed on the spine. [Tables not included. See ED. NOTE.]

(3) For injuries that result in loss of strength in the back, refer to OAR 436-035-0330(17) and (18).

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

Stat. Auth.: ORS 656.726

Stats. Implemented: ORS 656.005, 656.214, 656.268 & 656.726

Hist.: WCD 4-1980(Admin), f. 3-20-80, ef. 4-1-80; WCD 5-1981(Admin), f. 12-30-81, ef. 1-1-82; Renumbered from 436-065-0610, 5-1-85; WCD 2-1988, f. 6-3-88, cert. ef. 7-1-88; WCD 5-1988, f. 8-22-88, cert. ef. 8-19-88; WCD 5-1988(Temp), f. 9-2-88, cert. ef. 8-19-88; WCD 7-1988, f. 12-21-88, cert. ef. 1-1-89; Renumbered from 436-030-0490; WCD 18-1990(Temp), f. 9-14-90, cert. ef. 10-1-90; WCD 2-1991, f. 3-26-91 & cert. ef. 4-1-91; WCD 6-1992, f. 2-14-92, cert. ef. 3-13-92; WCD 3-1996, f. 1-29-96, cert. ef. 2-17-96; WCD 1-1997, f. 1-9-97, cert. ef. 2-15-97; WCD 6-1998, f. 5-13-98, cert. ef. 7-1-98; WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08

436-035-0390

Cranial Nerves/Brain

(1) Impairment of the First Cranial Nerve (Olfactory) resulting in either complete inability to detect odors or alteration of the sense of smell is 3% impairment.

(2) Ratings given for impairment of the Second Cranial Nerve (Optic) are figured according to their effects on vision under OAR 436-035-0260.

(3) Ratings given for impairment in the Third Cranial Nerve (Oculomotor), Fourth Cranial Nerve (Trochlear), and Sixth Cranial Nerve (Abducens) are determined according to their effects on ocular motility under OAR 436-035-0260.

(4) Ratings given for impairment of the Fifth Cranial Nerve (Trigeminal) are as follows:

(a) For loss or alteration of sensation in the Trigeminal distribution on one side: 10%; on both sides: 35%

(b) The rating given for loss of motor function in one Trigeminal Nerve is 5%.

(c) The rating given for loss of motor function of both Trigeminal Nerves is determined under OAR 436-035-0385 and 436-035-0420.

(5) Ratings given for impairment of the Sixth Cranial Nerve (Abducens) are described in section (3) of this rule.

(6) Ratings given for impairment of the Seventh Cranial Nerve (Facial) are as follows:

(a) No rating is given for loss of sensation from impairment of one or both Facial Nerves.

(b) If impairment of one or both Facial Nerves results in loss or alteration of the sense of taste, the rating is 3%.

(c) Motor loss on one side of the face due to impairment of the Facial Nerve is rated at 15% for a complete loss, or 5% for a partial loss.

(d) Motor loss on both sides of the face due to impairment of the Facial Nerve is rated at 45% for a complete loss, or 20% for a partial loss.

(7) Ratings given for impairment of the Eighth Cranial Nerve (Auditory) are determined according to their effects on hearing under OAR 436-035-0250. Other ratings for loss of function most commonly associated with this nerve include the following:

(a) For permanent disturbances resulting in disequilibrium which limits activities the impairment is rated according to the following:

(A) 8% when signs of disequilibrium are present with supporting objective findings and the usual activities of daily living are performed without assistance.

(B) 23% when signs of disequilibrium are present with supporting objective findings and the usual activities of daily living can be performed without assistance, and the worker is unable to operate a motor vehicle.

(C) 48% when signs of disequilibrium are present with supporting objective findings and the usual activities of daily living cannot be performed without assistance.

(D) 80% when signs of disequilibrium are present with supporting objective findings and the usual activities of daily living cannot be performed without assistance, and confinement to the home or other facility is necessary.

(b) Tinnitus which by a preponderance of medical opinion requires job modification is valued at 5%. No additional impairment value is allowed for "bilateral" tinnitus.

(8) Ratings given for impairment of the Ninth Cranial Nerve (Glossopharyngeal), Tenth Cranial Nerve (Vagus), and Eleventh Cranial Nerve (Cranial Accessory) are as follows:

(a) Impairment of swallowing due to damage to the Ninth, Tenth, or Eleventh Cranial Nerves is determined under OAR 436-035-0420.

(b) Speech impairment due to damage to the Ninth, Tenth, or Eleventh Cranial Nerves is rated according to the classifications in OAR 436-035-0385(8).

(9) Ratings given for impairment of the Twelfth Cranial Nerve (Hypoglossal) are as follows:

(a) No rating is allowed for loss on one side.

(b) Bilateral loss is rated as in section (8) of this rule.

(10) Impairment for injuries that have resulted in damage to the brain is determined based upon a preponderance of medical opinion which applies or describes the following criteria.

(a) The existence and severity of the claimed residuals and impairments must be objectively determined by observation or examination or a preponderance of evidence, and must be within the range reasonably considered to be possible, given the nature of the original injury, based upon a preponderance of medical opinion.

(b) The residuals must be a direct result of organic injury to the brain. For example, emotional or behavioral disturbances must result directly from injury to the brain. Emotional disturbances which are reactive to other residuals, but which are not directly organically based, such as frustration or depressed mood about memory deficits or work limitations, are not included under these criteria and must be addressed separately.

(c) The distinctions between Classes are intended to reflect, at their most fundamental level, the impact of the residuals on two domains: impairment of activities of daily living, and impairment of employment capacity.

(d) Where the residuals from the accepted condition and any direct medical sequelae place the worker between one or more classes, the worker is entitled to be placed in the highest class that describes the worker's impairment. There is no averaging of impairment values when a worker falls between classes.

(e) As used in these rules, Episodic Neurologic Disorder refers to and includes any of the following:

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- (A) Any type of seizure disorder;
- (B) Vestibular disorder, including disturbances of balance or sensorimotor integration;
- (C) Neuro-ophthalmologic or oculomotor visual disorder, such as diplopia;
- (D) Headaches. [Ratings not included. See ED. NOTE.]

(11) For the purpose of section (10) of this rule, the Rancho Los Amigos-Revised levels are based upon the Eight States Levels of Cognitive Recovery developed at the Rancho Los Amigos Hospital and co-authored by Chris Hagen, PhD, Danese Malkumus, M.A., and Patricia Durham, M.S., in 1972. These levels were revised by Danese Malkumus, M.A., and Kathryn Standenip, O.T.R., in 1974, revised by Chris Hagen, PhD, in 1999 to include ten levels, referred to as Rancho-R.

(12) For brain damage that has resulted in the loss of use or function of any upper or lower extremities, a value may be allowed for the affected body part(s). Refer to the appropriate section of these standards for that determination.

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

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

Stat. Auth.: ORS 656.726

Stats. Implemented: ORS 656.005, 656.214, 656.268 & 656.726

Hist.: WCD 4-1980(Admin), f. 3-20-80, ef. 4-1-80; WCD 5-1981(Admin), f. 12-30-81, ef. 1-1-82; Renumbered from 436-065-0645, 5-1-85; WCD 2-1988, f. 6-3-88, cert. ef. 7-1-88; WCD 7-1988, f. 12-21-88, cert. ef. 1-1-89; Renumbered from 436-030-0530; WCD 18-1990(Temp), f. 9-14-90, cert. ef. 10-1-90; WCD 2-1991, f. 3-26-91, cert. ef. 4-1-91; WCD 6-1992, f. 2-14-92, cert. ef. 3-13-92; WCD 3-1996, f. 1-29-96, cert. ef. 2-17-96; WCD 2-2003, f. 1-15-03 cert. ef. 2-1-03; WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08

436-035-0420

Gastrointestinal and Genitourinary Systems

(1) Impairments in mastication (chewing) and deglutition (swallowing) are determined based on the following criteria:

(a) Diet limited to semi-solid or soft foods — 8%

(b) Diet limited to liquid foods — 25%

(c) Eating requires tube feeding or gastrostomy — 50%

(2) Impairment of the upper digestive tract (esophagus, stomach and duodenum, small intestine, pancreas) is valued according to the following classes: [Classes not included. See ED. NOTE.]

(3) Colonic and rectal impairment is rated according to the following classes: [Classes not included. See ED. NOTE.]

(4) Anal impairment is rated according to the following classes: [Classes not included. See ED. NOTE.]

(5) Liver impairment is determined according to the following classes: [Classes not included. See ED. NOTE.]

(6) Biliary tract impairment is determined according to the following classes: [Classes not included. See ED. NOTE.]

(7) Impairment of the Upper Urinary Tract is determined according to the following classes: [Classes not included. See ED. NOTE.]

(8) Impairment of the Bladder: When evaluating permanent impairment of the bladder, the status of the upper urinary tract must also be considered. The appropriate impairment values for both are combined under OAR 436-035-0011(5). Impairment of the bladder is determined according to the following classes: [Classes not included. See ED. NOTE.]

(9) Urethra: When evaluating permanent impairment of the urethra, one must also consider the status of the upper urinary tract and bladder. The values for all parts of the urinary system are combined under OAR 436-035-0011(5). Impairment of the urethra is determined according to the following classes: [Classes not included. See ED. NOTE.]

(10) Penile Sexual Dysfunction: When evaluating permanent impairment due to sexual dysfunction of the penis, one must also consider the status of the urethra upper urinary tract and bladder. The values for all parts of the system are combined under OAR 436-035-0011(6). Loss or alteration of the gonads is valued under OAR 436-035-0430. Impairment due to sexual dysfunction of the penis is determined according to the following classes for men 40 to 65 years of age. [Classes not included. See ED. NOTE.]

(11) Cervix/Uterus: When evaluating permanent impairment of the cervix/uterus, one must also consider the status of the urethra, upper urinary tract and bladder. The values for all parts of the system are combined under OAR 436-035-0011(5). Loss or alteration of the gonads is valued under OAR 436-035-0430. Impairment of the cervix/uterus is determined according to the following classes: [Classes not included. See ED. NOTE.]

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

Stat. Auth.: ORS 656.726

Stats. Implemented: ORS 656.005, 656.214, 656.268 & 656.726

Hist.: WCD 2-1988, f. 6-3-88, cert. ef. 7-1-88; WCD 5-1988(Temp), f. 8-22-88, cert. ef. 8-19-88; WCD 7-1988, f. 12-21-88, cert. ef. 1-1-89; WCD 18-1990(Temp), f. 9-14-90, cert. ef. 10-1-90; WCD 2-1991, f. 3-26-91, cert. ef. 4-1-91; WCD 6-1998, f. 5-13-98, cert. ef. 7-1-98; WCD 2-2003, f. 1-15-03 cert. ef. 2-1-03; WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08

436-035-0500

Rating Standard for Individual Claims

(1) This rule applies to the rating of permanent disability under Chapter 656 in individual cases under ORS 656.726(4)(f) which requires the director to determine the rating standard in cases where the director finds that the worker's impairment is not addressed in the disability standards.

(2) Rating standards determined under ORS 656.726(4)(f) will be written into the director's order on reconsideration and will apply solely to the rating of that claim.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.005, 656.214, 656.268, 656.726, (§7, ch. 270, OL 2007)

Hist.: WCD 16-1992(Temp), Case #A58-7576 & Case #D60-5352, f. & ef. 12-31-92 - 6-29-93; WCD 2-1993(Temp), Case #A58-2159, B59-4533, E61-4228, & I59-2031, f. & ef. 4-28-93 - 10-25-93; WCD 4-1993, f. & cert. ef. 6-29-93; WCD 5-1993(Temp), Case #164-3064, f. & cert. ef. 9-2-93 - 3-2-94; WCD 6-1993(Temp), Case #164-3064, f. & cert. ef. 10-22-93 - 4-19-94; WCD 4-1994(Temp), f. & cert. ef. 5-26-94; WCD 6-1994(Temp), f. & cert. ef. 7-15-94; WCD 8-1994(Temp), f. & cert. ef. 8-31-94; WCD 11-1994(Temp), f. & cert. ef. 11-10-94; WCD 1-1995(Temp), f. & cert. ef. 1-26-95; WCD 2-1995(Temp), f. & cert. ef. 3-2-95; WCD 3-1995(Temp), f. & cert. ef. 4-13-95; WCD 4-1995(Temp), f. & cert. ef. 5-31-95; WCD 5-1995(Temp), f. & cert. ef. 7-11-95; WCD 14-1995(Temp), f. & cert. ef. 10-5-95; WCD 16-1995(Temp), f. & cert. ef. 11-2-95; WCD 19-1995(Temp), f. & cert. ef. 12-7-95; WCD 4-1996(Temp), f. & cert. ef. 2-1-96; WCD 11-1996(Temp), f. & cert. ef. 3-20-96; WCD 15-1996(Temp), f. & cert. ef. 7-3-96; WCD 18-1996, f. 8-6-96, cert. ef. 8-7-96; WCD 22-1996(Temp), f. & cert. ef. 10-31-96; WCD 1-1997, f. 1-9-97, cert. ef. 2-15-97; WCD 2-1997(Temp), f. & cert. ef. 1-15-97; WCD 3-1997(Temp), f. 3-12-97, cert. ef. 3-13-97; WCD 6-1997(Temp), f. & cert. ef. 5-14-97; WCD 12-1997(Temp), f. & cert. ef. 9-9-97; WCD 4-1998(Temp), f. & cert. ef. 3-31-98 thru 9-26-98; WCD 7-1998(Temp), f. 7-13-98, cert. ef. 7-15-98 thru 1-11-99; WCD 9-1998(Temp), f. & cert. ef. 10-15-98 thru 4-12-99; WCD 1-1999(Temp), f. 1-12-99, cert. ef. 1-15-99 thru 7-13-99; WCD 5-1999(Temp), f. & cert. ef. 4-15-99 thru 10-12-99; WCD 10-1999(Temp), f. & cert. ef. 7-15-99 thru 1-10-2000; WCD 12-1999(Temp), f. 10-14-99, cert. ef. 10-15-99 thru 4-12-00; WCD 1-2000(Temp), f. 1-12-00, cert. ef. 1-14-00 thru 7-12-00; WCD 5-2000(Temp), f. 4-13-00, cert. ef. 4-14-00 thru 10-10-00; WCD 7-2000(Temp), f. 7-14-00, cert. ef. 7-14-00 thru 1-9-01; WCD 8-2000(Temp), f. & cert. ef. 10-13-00 thru 4-10-01; WCD 1-2001(Temp), f. & cert. ef. 1-12-01 thru 7-10-01; WCD 3-2001(Temp), f. & cert. ef. 4-13-01 thru 10-9-01; WCD 6-2001(Temp), f. & cert. ef. 7-13-01 thru 1-8-02; WCD 9-2001(Temp), f. & cert. ef. 10-12-01 thru 4-9-02; WCD 1-2002(Temp), f. & cert. ef. 1-15-02 thru 7-13-02; WCD 5-2002(Temp), f. 4-12-02, cert. ef. 4-15-02 thru 10-11-02; WCD 8-2002(Temp), f. 7-12-02 cert. ef. 7-15-02 thru 1-10-03; WCD 11-2002(Temp), f. 10-11-02, cert. ef. 10-15-02 thru 4-12-03; WCD 1-2003(Temp), f. & cert. ef. 1-15-03 thru 7-13-03; WCD 2-2003, f. 1-15-03 cert. ef. 2-1-03; WCD 4-2003(Temp), f. 4-14-03, cert. ef. 4-15-03 thru 10-11-03; WCD 7-2003(Temp), f. & cert. ef. 7-15-03 thru 1-10-04; WCD 1-2004(Temp), f. & cert. ef. 1-21-04 thru 7-18-04; WCD 5-2004(Temp), f. & cert. ef. 4-19-04 thru 10-15-04; WCD 7-2004(Temp), f. & cert. ef. 7-15-04 thru 1-10-05; WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 3-2005(Temp), f. & cert. ef. 5-13-05 thru 11-8-05; Administrative correction 11-18-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 6-2006(Temp), f. & cert. ef. 7-17-06 thru 1-12-07; Administrative correction 1-16-07; WCD 5-2007(Temp), f. & cert. ef. 6-27-07 thru 12-23-07; WCD 6-2007(Temp), f. & cert. ef. 10-29-07 thru 4-25-08; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08

436-040-0002

Purpose

The purpose of these rules is to establish guidelines for the administration of the Workers with Disabilities Program established to encourage the employment or reemployment of workers with disabilities.

Stat. Auth.: ORS 656

Stats. Implemented: ORS 656.628, §286, ch. 70, OL 2007

Hist.: WCD 1-1982(Admin), f. 1-20-82, ef. 2-1-82; WCD 6-1983(Admin), f. 12-20-83, ef. 1-1-84; Renumbered from 436-064-0008, 5-1-85; WCD 3-1989, f. 12-22-89, cert. ef. 1-1-90; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08

436-040-0003

Applicability of Rules

(1) These rules are effective December 26, 1990, and apply to all applications for relief submitted prior to May 1, 1990 and all requests for reimbursement from the Workers with Disabilities Program filed with the director on or after December 26, 1990 for injuries occurring on or after November 1, 1981.

(2) These rules carry out the provisions of ORS 656.628.

Stat. Auth.: ORS 656.726

Stats. Implemented: ORS 656.236, §286, ch. 70, OL 2007

Hist.: WCD 1-1982(Admin), f. 1-20-82, ef. 2-1-82; WCD 6-1983(Admin), f. 12-20-83, ef. 1-1-84; Renumbered from 436-064-0003, 5-1-85; WCD 6-1987, f. 12-18-87, ef. 1-1-88; WCD 3-1989, f. 12-22-89, cert. ef. 1-1-90; WCD 6-1990(Temp), f. 6-18-90, cert. ef. 7-1-90; WCD 22-1990, f. 11-29-90, cert. ef. 12-26-90; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08

436-040-0005

Definitions

Except where the context requires otherwise, these rules are governed by the following definitions:

(1) "Compensation" means all benefits, including medical services and attorney fees, provided for a compensable injury to a subject worker or the worker's beneficiaries. However, it does not include expenses as defined by the National Council on Compensation Insurance, in its Workers' Compensation Statistical Plan, Part IV.

(2) "Deductible" means the initial \$1,000 of cumulative compensation paid on qualifying claim(s) applied once per worker with a disability.

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(3) "Director" means the director of the Department of Consumer and Business Services or the director's delegate for the matter.

(4) "Division" means the Workers' Compensation Division of the Department of Consumer and Business Services.

(5) "Employer" means an employer who qualifies pursuant to the provisions of ORS 656.017, either as a carrier-insured employer or as a self-insured employer under ORS 656.407.

(6) "Worker with a disability" means a worker who is afflicted with, or subject to, any permanent physical or mental impairment, whether congenital or due to an injury or disease, including periodic impairment of consciousness or muscular control of such character that the impairment would prevent the worker from obtaining or retaining employment.

(7) "Workers with Disabilities Claim Reserve" means the total anticipated liability (paid plus future reimbursable costs) regardless of any relief granted under the Workers with Disabilities Program.

(8) "Workers with Disabilities Program" means the program established under ORS 656.628.

(9) "Paying Agency" means the insurer, self-insured employer, or designated representative of the self-insured employer, responsible for paying compensation for a compensable injury.

(10) "Settlement" means any agreement produced as a result of the act or process of settling differences between a paying agent and a worker with a disability, or disposition of a claim pursuant to ORS 656.236 or 656.289.

Stat. Auth.: ORS 656.726

Stats. Implemented: ORS 656.628, §286, ch. 70, OL 2007

Hist.: WCD 1-1982(Admin), f. 1-20-82, ef. 2-1-82; WCD 6-1983(Admin), f. 12-20-83, ef. 1-1-84; Renumbered from 436-064-0005, 5-1-85; WCD 6-1987, f. 12-18-87, ef. 1-1-88; WCD 3-1989, f. 12-22-89, cert. ef. 1-1-90; WCD 6-1990(Temp), f. 6-18-90, cert. ef. 7-1-90; WCD 22-1990, f. 11-29-90, cert. ef. 12-26-90; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08

436-040-0006

Administration of Rules

For the purpose of administration of the Workers with Disabilities Program, orders of the division are deemed orders of the director.

Stat. Auth.: ORS 656.726

Stats. Implemented: ORS 656.628, §286, ch. 70, OL 2007

Hist.: WCD 1-1982(Admin), f. 1-20-82, ef. 2-1-82; WCD 6-1983(Admin), f. 12-20-83, ef. 1-1-84; Renumbered from 436-064-0010, 5-1-85; WCD 6-1987, f. 12-18-87, ef. 1-1-88; WCD 3-1989, f. 12-22-89, cert. ef. 1-1-90; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08

436-040-0008

Administrative Review

(1) If a paying agency or employer is aggrieved by a decision of the division, the director may be petitioned for reconsideration.

(2) The director shall examine the application and such further evidence filed, and enter an order. Copies of the order will be sent to the paying agency, the division, and employer, if applicable. Granting or denying reimbursement from the Workers with Disabilities Program is at the sole discretion of the director. Pursuant to ORS 656.628(7), the director's order is final and not subject to review by any court or other administrative body.

(3) In adopting these rules, the director reserves the right to reexamine any liability created against the Workers' Benefit Fund and to modify or terminate such liability, where such action is justified.

Stat. Auth.: ORS 656.726

Stats. Implemented: ORS 656.628, §286, ch. 70, OL 2007

Hist.: WCD 1-1982(Admin), f. 1-20-82, ef. 2-1-82; WCD 6-1983(Admin), f. 12-20-83, ef. 1-1-84; Renumbered from 436-064-0998, 5-1-85; WCD 6-1987, f. 12-18-87, ef. 1-1-88; WCD 3-1989, f. 12-22-89, cert. ef. 1-1-90; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08

436-040-0010

Criteria for Eligibility

(1) The criteria used to determine eligibility for relief from the Workers with Disabilities Program are:

(a) Without regard to employer knowledge, a worker must have a permanent physical or mental impairment, whether congenital or due to an injury or disease which would prevent the worker from obtaining or retaining employment. For the purpose of this section, a worker has a preexisting permanent impairment if it is equal to or greater than twenty five percent (25%) of the whole person.

(b) There must be a subsequent compensable injury or injuries:

(A) To the worker with a disability resulting in cumulative claim(s) costs in excess of \$1,000; or

(B) To other workers employed by the disabled worker's employer resulting in cumulative claim(s) costs in excess of \$1,000.

(c) The insurer or employer must demonstrate that the subsequent injury or injuries:

(A) Would not have been sustained except for the disabled worker's impairment; or

(B) Would not have occurred, to workers of the same employer, except for the act or omission of a worker with a disability which resulted from the disabled worker's impairment; or

(C) Resulted in disability which is at least one-fourth greater by reason of the worker's preexisting impairment, as determined by the division.

(2) An employer declared noncomplying in accordance with ORS 656.052 is not eligible for relief from the Workers with Disabilities Program for injuries to subject workers occurring during any period of non-compliance.

(3) A paying agency is not eligible for reimbursement from the Workers with Disabilities Program for any claim occurring to a worker during a period for which the employer is receiving premium reimbursement from the Reemployment Assistance Program, for that worker, pursuant to ORS 656.622(3).

Stat. Auth.: ORS 656.726

Stats. Implemented: ORS 656.628, §286, ch. 70, OL 2007

Hist.: WCD 1-1982(Admin), f. 1-20-82, ef. 2-1-82; WCD 6-1983(Admin), f. 12-20-83, ef. 1-1-84; Renumbered from 436-064-0100, 5-1-85; WCD 6-1987, f. 12-18-87, ef. 1-1-88; WCD 3-1989, f. 12-22-89, cert. ef. 1-1-90; WCD 6-1990(Temp), f. 6-18-90, cert. ef. 7-1-90; WCD 22-1990, f. 11-29-90, cert. ef. 12-26-90; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08

436-040-0020

Limitation of Program

(1) Reimbursement is limited to the monies available in the Workers' Benefit Fund.

(2) In the event of insufficient reserves in the Workers' Benefit Fund, the director shall have final authority to determine an equitable distribution which will proportionately distribute the available funds among the claims which have qualified for reimbursement from the Workers with Disabilities Program.

Stat. Auth.: ORS 656.726

Stats. Implemented: ORS 656.628, §286, ch. 70, OL 2007

Hist.: WCD 1-1982(Admin), f. 1-20-82, ef. 2-1-82; WCD 6-1983(Admin), f. 12-20-83, ef. 1-1-84; Renumbered from 436-064-0200, 5-1-85; WCD 6-1987, f. 12-18-87, ef. 1-1-88; WCD 3-1989, f. 12-22-89, cert. ef. 1-1-90; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08

436-040-0030

Application for Determination of Relief From the Workers with Disabilities Program

(1) The paying agency must provide the director adequate evidence to establish eligibility for determination of relief from the Workers with Disabilities Program.

(2) When the deductible has been met and possible eligibility for relief becomes known, the paying agency shall make prompt application to the division requesting determination of relief from the Workers with Disabilities Program in a form prescribed by the director.

(3) The application shall be submitted prior to the date of the last valuation affecting an employer's experience rating, prior to the last valuation for retrospective rating, whichever is the last to occur and prior to the employer ceasing to do business. The application shall be supported by sufficient evidence establishing eligibility for reimbursement under the general provisions herein and in accordance with OAR 436-040-0010. For employers that are not experience rated, application shall be submitted prior to the date there would have been a last valuation, had the employer been so rated, and prior to the employer ceasing to do business. The preceding application time frames do not apply to self-insured employers or their paying agencies.

(4) To meet the requirements of OAR 436-040-0030(3), the paying agency shall:

(a) Specify the condition which caused permanent impairment and which constituted a handicap;

(b) Specify whether this request is based on a causal or contributory relationship pursuant to OAR 436-040-0010(1)(c);

(c) Provide documentation describing prior impairment: such as medical reports, direct information from the worker, employer documentation, prior Determination Orders, Opinion and Orders, and Orders on Review;

(5) The division will review the application to assure it is complete and the \$1,000 deductible has been met. The application, supporting documentation, and claims involved will then be submitted to the division for an eligibility determination.

Stat. Auth.: ORS 656.726

Stats. Implemented: ORS 656.628, §286, ch. 70, OL 2007

Hist.: WCD 1-1982(Admin), f. 1-20-82, ef. 2-1-82; WCD 6-1983(Admin), f. 12-20-83, ef. 1-1-84; Renumbered from 436-064-0300, 5-1-85; WCD 6-1987, f. 12-18-87, ef. 1-1-88; WCD 3-1989, f. 12-22-89, cert. ef. 1-1-90; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08

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436-040-0040

Eligibility Determination

(1) The division shall determine whether a claim qualifies for reimbursement, and the percentage of the reimbursement.

(2) The division shall issue a determination order accepting or denying the application within 30 calendar days after receipt of the application and supporting documentation.

(3) The reimbursement percentage shown on the determination order will be:

(a) 100% after the \$1,000 deductible in those cases qualifying under OAR 436-040-0010(1)(c)(A) and (B); or

(b) In direct proportion to the percentage the resulting disability was increased as a result of the preexisting impairment in those cases qualifying under OAR 436-040-0010(1)(c)(C).

Stat. Auth.: ORS 656.726

Stats. Implemented: ORS 656.628

Hist.: WCD 1-1982(Admin), f. 1-20-82, ef. 2-1-82; WCD 6-1983(Admin), f. 12-20-83, ef. 1-1-84; from 436-064-0310, 5-1-85; WCD 6-1987, f. 12-18-87, ef. 1-1-88; WCD 3-1989, f. 12-22-89, cert. ef. 1-1-90; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08

436-040-0050

Reimbursement

(1) Reimbursement will be made to the paying agency based on the percentage of reimbursement ordered by the division.

(2) Request for reimbursement shall not be made until the deductible has been met.

(3) Requests for reimbursement are not to include: costs incurred for conditions unrelated to the compensable claim; costs incurred due to inaccurate, untimely, or improper processing; expenses; and settlement amounts not approved by the division, to which the parties agreed after relief was granted.

(4) The division will authorize reimbursement to the paying agency quarterly after receipt and approval of documentation of compensation paid from the paying agency. Documentation shall include, but not be limited to:

(a) Net amounts paid separated into disability benefits by type, and medical benefits for corresponding quarterly time periods;

(b) The current Worker with a Disability Claim Reserve as defined in these rules;

(c) Payment certification statement; and

(d) Any other information deemed necessary by the director.

(5) For purposes of subsection 4(a) of this rule, "net amounts paid" means the total compensation paid less any recoveries, including but not limited to, third party recovery, Retroactive Program reimbursement and Rehabilitation Program reimbursement.

(6) Periodically the division will audit the physical file of the paying agency to validate the amount reimbursed. Reimbursement shall not be approved if, upon such audit, any of the following are found to apply:

(a) Compensation has been paid as a result of untimely, inaccurate, or improper claims processing;

(b) Compensation has been paid for treatment of any condition unrelated to the compensable claim for which Workers with Disabilities Program relief was granted.

(c) The compensability of the accepted claim is questionable and the rationale for acceptance has not been reasonably documented, as required under generally accepted claims management procedures;

(d) The separate payments of compensation have not been documented, as required under generally accepted accounting procedures;

(e) For applications received after January 1, 1990, the subject employer was no longer doing business at the time of application for the Workers with Disabilities Program determination; that the employer was on a retrospective rating plan that was closed prior to the application for the Workers with Disabilities Program determination; or, if not on an open retrospective rating plan, that the last valuation for experience rating modification purposes that could affect the employer was completed prior to the application for the Workers with Disabilities Program determination;

(f) The insurer did not adjust the claims reserve value used in dividend, retrospective evaluation, or any claim valuation for experience rating determination to the percentage level specified in the order of acceptance, allowing for the \$1,000 compensation minimum, or did not make the necessary monetary adjustments with the employer; or

(g) The insurance carrier is not able to provide applicable records relating to experience rating, retrospective rating or dividend calculations at the time of audit or within ten working days thereafter. Any reimbursements received on claims, for which the insurer is unable to provide records, will be returned to the division at least until the next annual audit is conducted and all applicable records are reviewed.

(7) The division will authorize reimbursement to insurance companies only for compensation which could reasonably be projected at the first of either to occur;

(a) The last claim evaluation which would affect the employer's experience rating modification or retrospective rating adjustment, whichever is later; or

(b) For applications received after January 1, 1990, the employer ceases to do business, if that occurs first.

(8) The insurance company shall submit a claim valuation to the division at the first to occur of:

(a) The last claim valuation date which would affect the employer's experience rating modification or retrospective rating adjustment, whichever is later (usually three and one half years after the inception of the policy period); or

(b) For applications received after January 1, 1990, the employer ceases to do business. The valuation shall include future reserves for the claim at that time. The division will verify the future reserves are reasonable and based on the appropriate valuation date. If the division determines the submitted claim valuation is unreasonable or based on inappropriate information, the division may establish the claim valuation or adjust the claim valuation period. The claim valuation, when approved by the division, shall be the maximum Worker with a Disability Claim Reserve used as the basis for reimbursement for the claim.

(9) When a claim is settled by a Compromise and Release or a Disputed Claims Settlement, the department shall review and modify the final reserve to reflect resulting changes in liability. The paying agent shall be notified of any change in the final reserve. A director review of this action will be considered only when paid claim costs have exceeded the established reserve.

(10) In the event that a denied claim is found compensable by a hearing referee, the Workers' Compensation Board, or the Court of Appeals, and that decision is reversed by a higher level of appeal, the paying agency shall receive reimbursement for claim payments required to be made while the claim was in accepted status.

Stat. Auth.: ORS 656.726

Stats. Implemented: ORS 656.628, §286, ch. 70, OL 2007

Hist.: WCD 1-1982(Admin), f. 1-20-82, ef. 2-1-82; WCD 6-1983(Admin), f. 12-20-83, ef. 1-1-84; Renumbered from 436-064-0315, 5-1-85; WCD 6-1987, f. 12-18-87, ef. 1-1-88; WCD 3-1989, f. 12-22-89, cert. ef. 1-1-90; WCD 6-1990(Temp), f. 6-18-90, cert. ef. 7-1-90; WCD 22-1990, f. 11-29-90, cert. ef. 12-26-90; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08

436-040-0060

Effects on Rates; Reporting

(1) Where an order of acceptance has established the percentage of reimbursement to an insured, the incurred claim cost above \$1,000, prior to reimbursement, shall be reduced by that percentage. The net incurred cost after such reduction shall be used in any dividend calculation, retrospective rating evaluation or experience rating computation, retroactively if necessary, and shall be reported at that net incurred cost to the rating organization. Any subsequent reevaluation of the claims reserve requirements under the rules of the Unit Statistical Plan Manual shall be similarly reduced by the percentage of reimbursement.

(2) The paying agency "eligible for" or receiving reimbursement from the Workers with Disabilities Program, shall report the subject claims in such method and manner as the insurance commissioner shall require. Notwithstanding the reporting requirements of the Insurance Commissioner and an authorized rating organization, the paying agency must be able to document that such reimbursed costs are not and will not be included in data reported that will affect the rates and/or dividend eligibility.

(3) If compensation reported to the appropriate rating organization subsequently becomes eligible for reimbursement from the Workers with Disabilities Program, the insured paying agency shall immediately file a "reevaluation of losses" report, pursuant to the Insurance Commissioner's rules, with a rating organization licensed by the Insurance Commissioner.

(4) If compensation used by the division for experience rating purposes becomes eligible for reimbursement from the Workers with Disabilities Program, the self-insured paying agency may file a request for reevaluation of experience rating modification(s) with the division. Any necessary calculation(s) will be made, retroactively if necessary, when the annual experience rating modification is calculated.

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

Stat. Auth.: ORS 656.726

Stats. Implemented: ORS 656.628, §286, ch. 70, OL 2007

Hist.: WCD 1-1982(Admin), f. 1-20-82, ef. 2-1-82; WCD 6-1983(Admin), f. 12-20-83, ef. 1-1-84; Renumbered from 436-064-0320, 5-1-85; WCD 6-1987, f. 12-18-87, ef. 1-1-88; WCD 3-1989, f. 12-22-89, cert. ef. 1-1-90; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08

ADMINISTRATIVE RULES

436-040-0070

Settlements

(1) Any settlement of the claim by the parties is not eligible for reimbursement from the Workers with Disabilities Program unless made with the prior written approval of the division.

(2) Requests for written approval of proposed settlements should include:

(a) A copy of the proposed settlement;

(b) Correspondence between the paying agency and the claimant or claimant's representative which establishes the basis for settlement or a statement from the paying agency of how the amount of the settlement was calculated;

(c) Additional medical reports not available at the time of the determination; and

(d) Other material which would support the proposed settlement as an appropriate manner to handle the claim.

(3) The paying agency shall submit settlements to the division in the format prescribed by the director.

Stat. Auth.: ORS 656.726

Stats. Implemented: ORS 656.628, §286, ch. 70, OL 2007

Hist.: WCD 1-1982(Admin), f. 1-20-82, ef. 2-1-82; WCD 6-1983(Admin), f. 12-20-83, ef. 1-1-84; Renumbered from 436-064-0325, 5-1-85; WCD 6-1987, f. 12-18-87, ef. 1-1-88; WCD 3-1989, f. 12-22-89, cert. ef. 1-1-90; WCD 6-1990(Temp), f. 6-18-90, cert. ef. 7-1-90; WCD 22-1990, f. 11-29-90, cert. ef. 12-26-90; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08

436-040-0080

Third Party Recoveries

(1) If a third party recovery is made prior to a claim qualifying for Workers with Disabilities Program relief, compensation recovered shall be credited against the compensation of the claim prior to any request for reimbursement.

(2) The Workers with Disabilities Program shall be a party to any third party recovery on a claim if payment from the program has been made prior to the third party recovery as provided in ORS 656.591 and 656.593(1)(c).

Stat. Auth.: ORS 656.726

Stats. Implemented: ORS 656.628, §286, ch. 70, OL 2007

Hist.: WCD 1-1982(Admin), f. 1-20-82, ef. 2-1-82; WCD 6-1983(Admin), f. 12-20-83, ef. 1-1-84; Renumbered from 436-064-0330, 5-1-85; WCD 3-1989, f. 12-22-89, cert. ef. 1-1-90; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08

436-040-0090

Assessment of Civil Penalties

The director, through the division and pursuant to ORS 656.745, may assess a civil penalty against an insurer. When the division imposes a penalty under this section, the order shall be issued in accordance with ORS 656.447, 656.704 and the contested case provisions of the Administrative Procedures Act (ORS chapter 183).

Stat. Auth.: ORS 656.726

Stats. Implemented: ORS 656.628

Hist.: WCD 3-1989, f. 12-22-89, cert. ef. 1-1-90; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08

436-040-0100

Suspension and Revocation of Authorization to Issue Guaranty Contracts

(1) Pursuant to ORS 656.447, the director may suspend or revoke the insurer's authority to issue guaranty contracts upon a determination that the insurer has failed to comply with its obligations under such contract or that it has failed to comply with the rules or orders of the director.

(2) For the purpose of this rule:

(a) "Suspension" and its variations means a stopping by the director of the insurer's authority to issue new guaranty contracts for a specified period of time.

(b) "Revocation" and its variations means a permanent revocation by the director of an insurer's authority to issue guaranty contracts.

(c) "Show-cause hearing" means an informal meeting with the director or designee in which the insurer shall be provided an opportunity to be heard and present evidence regarding any proposed orders by the director to suspend or revoke an insurer's authority to issue guaranty contracts.

(3) Suspension or revocation under this rule will not be made until the insurer has been given notice and the opportunity to be heard through a show-cause hearing before the director and "show cause" why it should be permitted to continue to issue guaranty contracts.

(4) A show-cause hearing may be held at any time the director finds that an insurer has failed to comply with its obligations under a guaranty contract or that it failed to comply with rules or orders of the director.

(5) Following a show-cause hearing, the director may rescind the proposed order if the insurer establishes to the director's satisfaction its ability and commitment to comply with ORS Chapter 656 and these rules.

(6) A suspension may be in effect for a period of up to 18 months. A suspended insurer may continue to serve existing accounts and renew any existing policy, unless the policy lapses or is canceled during the period of suspension.

(7) After 12 months of the suspension has elapsed, the division may audit the performance of the insurer. If the insurer is in compliance, the administrator may request the director to lift the suspension before the 18 months has elapsed. If the insurer is not in compliance, the administrator may request the director revoke the insurer's authority to issue guaranty contracts.

(8) When an insurer's authority to issue guaranty contracts has been revoked, the insurer may serve an existing account only until the policy lapses, is canceled or until the next renewal date, whichever first occurs.

(9) After a revocation of an insurer's authority to issue guaranty contracts has been in effect for five (5) years or longer, it may petition the director to restore its authority by submitting a plan in the form prescribed by the director, demonstrating its ability and commitment to comply with the workers' compensation law, these rules and orders of the director.

(10) Appeal of proposed and final orders of suspension and revocation issued under this rule may be made as provided in OAR 436-040-0008.

(11) Any order of suspension or revocation issued by a referee or other person pursuant to ORS 656.447 and this rule is a preliminary order subject to revision by the director.

Stat. Auth.: ORS 656.726

Stats. Implemented: ORS 656.628

Hist.: WCD 22-1990, f. 11-29-90, cert. ef. 12-26-90; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08

436-045-0008

Administrative Review

(1) Any party as defined by ORS 656.005 aggrieved by a proposed order or proposed assessment of civil penalty of the director or division issued pursuant to ORS 656.745 or 656.750 may request a hearing by the Hearings Division of the Workers' Compensation Board in accordance with ORS 656.740.

(a) The request for hearing must be sent in writing to the Administrator of the Workers' Compensation Division. No hearing shall be granted unless the request specifies the grounds upon which the person requesting the hearing contests the proposed order or assessment.

(b) The request for hearing must be filed with the Administrator of the Workers' Compensation Division by the aggrieved person within 60 days after the mailing of the proposed order or assessment. No hearing shall be granted unless the request is mailed or delivered to the administrator within 60 days after the mailing of the proposed order or assessment.

(2) Under ORS 656.704(2), any party that disagrees with an action or order of the director under these rules, other than as described in section (1), may request a hearing by filing a request for hearing as provided in OAR 436-001-0019 within 30 days of the mailing date of the order or notice of action. OAR 436-001 applies to the hearing.

Stat. Auth.: ORS 656.704, 656.726(4), 656.745

Stats. Implemented: ORS 656.236, 656.289, 656.625, 656.704, 656.726(8), 656.740, 656.745

Hist.: WCD 8-1987, f. 12-18-87, ef. 1-1-88; WCD 7-1990 (Temp), f. 6-18-90, cert. ef. 7-1-90; WCD 27-1990, f. 11-30-90, cert. ef. 12-26-90; WCD 13-1997, f. 12-4-97, cert. ef. 1-1-98; WCD 12-2003, f. 12-4-03, cert. ef. 1-1-04; WCD 7-2005, f. 10-20-05, cert. ef. 1-2-06; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08

436-045-0030

Reimbursement

(1) Reimbursement shall be made by Compliance quarterly after receipt and approval of documentation of compensation paid by the paying agent.

(2) The director, by bulletin, shall prescribe the form and format for requesting reimbursement from the Program. Documentation to support the reimbursement request shall include but not be limited to:

(a) Net temporary disability compensation paid, net permanent disability paid, and net medical compensation paid for dates of injury prior to January 1, 1966. For purposes of this section, "net" compensation paid means the total compensation paid less any recoveries, including but not limited to, third party recovery, Retroactive Program reimbursement, and Workers with Disabilities Program reimbursement.

(b) Payment certification statement.

(c) Any other information deemed necessary by the director.

(3) Periodically Compliance shall audit the physical file of the paying agent to validate the amount reimbursed and to verify that the closing report is correct. Reimbursement shall not be approved if, upon such audit, it is found:

(a) Payments were not authorized in the Board's Own Motion order or voluntary claim reopening; or

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(b) Payments of temporary disability compensation were made for periods of time during which the worker did not qualify as a "worker" pursuant to ORS 656.005(30); or

(c) Compensation has been paid as a result of untimely, inaccurate, or improper claims processing; or

(d) The separate payments of compensation have not been documented, as required under generally accepted accounting procedures; or

(e) Medical payments for claims with injury dates prior to January 1, 1966 are in excess of what should have been paid if paid in accordance with OAR 436-009-0030 and properly audited as required by OAR 436-009-0020; or

(f) Permanent disability payments were made in claims reopened for other than a new medical or omitted condition.

Stat. Auth.: ORS 656.625

Stats. Implemented: ORS 656.625

Hist.: WCD 8-1987, f. 12-18-87, ef. 1-1-88; WCD 27-1990, f. 11-30-90, cert. ef. 12-26-90;

WCD 13-1997, f. 12-4-97, cert. ef. 1-1-98; WCD 12-2001, f. 12-7-01, cert. ef. 1-1-02; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08

436-060-0008

Administrative Review and Contested Cases

(1) Any party as defined by ORS 656.005, including an assigned claims agent as a designated processing agent under ORS 656.054, aggrieved by an action taken under these rules in which a worker's right to compensation or the amount thereof is directly in issue, may request a hearing by the Hearings Division of the Workers' Compensation Board in accordance with ORS chapter 656 and the Board's Rules of Practice and Procedure for Contested Cases under the Workers' Compensation Law except where otherwise provided in ORS chapter 656.

(2) Contested case hearings of Sanctions and Civil Penalties: Any party as described in section (1) aggrieved by a proposed order or proposed assessment of civil penalty of the director issued under ORS 656.254, 656.735, 656.745 or 656.750 may request a hearing by the Hearings Division of the Workers' Compensation Board in accordance with ORS 656.740.

(a) The request for hearing must be sent in writing to the Administrator of the Workers' Compensation Division. No hearing will be granted unless the request specifies the grounds upon which the person requesting the hearing contests the proposed order or assessment.

(b) The aggrieved person must file a hearing request with the Administrator of the Workers' Compensation Division within 60 days after the mailing of the proposed order or assessment. No hearing will be granted unless the request for hearing is mailed or delivered to the administrator within 60 days of the mailing date of the proposed order or assessment.

(3) Hearings before an administrative law judge: Under ORS 656.704(2), any party that disagrees with an action or order of the director under these rules, other than as described in section (2), may request a hearing by filing a request for hearing as provided in OAR 436-001-0019 within 30 days of the mailing date of the order or notice of action. OAR 436-001 applies to the hearing.

(4) Administrative review by the director or designee: Any party aggrieved by an action taken under these rules by another person except as described in sections (1) through (3) above may request administrative review by the division on behalf of the director. The process for administrative review of such matters will be as follows:

(a) The request for administrative review must be made in writing to the Administrator of the Workers' Compensation Division within 90 days of the action. No administrative review will be granted unless the request specifies the grounds upon which the action is contested and is mailed or delivered to the administrator within 90 days of the contested action unless the director or the director's designee determines that there was good cause for delay or that substantial injustice may otherwise result.

(b) In the course of the review, the division may request or allow such input or information from the parties deemed to be helpful.

Stat. Auth.: ORS 656.704, 656.726(4) & 656.745

Stats. Implemented: ORS 656.245, 656.260, 656.704, 656.726(4) & 656.740(1)

Hist.: WCD 6-1978(Admin), f. & ef. 4-27-78, WCD 1-1980(Admin), f. & ef. 1-11-80; WCD 8-1983(Admin), f. 12-29-83, ef. 1-1-84; Renumbered from 436-054-0998, 5-1-85; WCD 8-1985(Admin), f. 12-12-85, ef. 1-1-86; WCD 6-1989, f. 12-22-89, cert. ef. 1-1-90; WCD 9-1990(Temp), f. 6-18-90, cert. ef. 7-1-90; WCD 29-1990, f. 11-30-90, cert. ef. 12-26-90; WCD 7-1994, f. 8-11-94, cert. ef. 8-28-94; WCD 5-1996, f. 2-6-96, cert. ef. 2-12-96; WCD 11-2001, f. 11-30-01, cert. ef. 1-1-02; WCD 10-2002, f. 10-2-02 cert. ef. 11-1-02; WCD 12-2003, f. 12-4-03, cert. ef. 1-1-04; WCD 2-2004, f. 2-19-04 cert. ef. 2-29-04; WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08

436-060-0010

Reporting Requirements

(1) A subject employer must accept notice of a claim for workers' compensation benefits from an injured worker or the worker's representative. The employer must provide a copy of the "Report of Job Injury or Illness," Form 440-801 (Form 801) to the worker immediately upon request; the form must be readily available for workers to report their injuries. Proper use of this form satisfies ORS 656.265.

(2) A "First Medical Report," Form 440-827 (Form 827), signed by the worker, is written notice of an accident which may involve a compensable injury under ORS 656.265. The signed Form 827 shall start the claim process, but shall not relieve the worker or employer of the responsibility of filing a Form 801. If a worker reports a claim electronically, the insurer may require the worker to sign a medical release form, so the insurer can obtain medical records, under OAR 436-010-0240, necessary to process the claim.

(3) Employers, except self-insured employers, must report the claim to their insurers no later than five days after notice or knowledge of any claim or accident which may result in a compensable injury. The employer's knowledge date is the earliest of the date the employer (any supervisor or manager) first knew of a claim, or of when the employer has enough facts to reasonably conclude that workers' compensation liability is a possibility. The report must provide the information requested on the Form 801, and include, but not be limited to, the worker's name, address, and social security number, the employer's legal name and address, and the data specified by ORS 656.262 and 656.265.

(4) For the purpose of this section, "first aid" means any treatment provided by a person who does not require a license in order to provide the service. If an injured worker requires only first aid, no notice need be given the insurer, unless the worker chooses to file a claim. If a worker signs a Form 801, the claim must be reported to the insurer. If the person must be licensed to legally provide the treatment or if a bill for the service will result, notice must be given to the insurer. When the worker requires only first aid and chooses not to file a claim, the employer must maintain records showing the name of the worker, the date, nature of the injury and first aid provided for five years. These records shall be open to inspection by the director, or any party or its representative. If an employer subsequently learns that such an injury has resulted in medical services, disability or death, the date of that knowledge will be considered as the date on which the employer received notice or knowledge of the claim for the purposes of processing under ORS 656.262.

(5) The director may assess a civil penalty against an employer delinquent in reporting claims to its insurer in excess of ten percent of the employer's total claims during any quarter.

(6) An employer intentionally or repeatedly paying compensation in lieu of reporting to its insurer claims or accidents which may result in a compensable injury claim may be assessed a civil penalty by the director.

(7) The insurer must process and file claims and reports required by the director in compliance with ORS chapter 656, WCD administrative rules, and WCD bulletins. Such filings shall not be made by computer-printed forms, facsimile transmission (FAX), electronic data interchange (EDI), or other electronic means, unless specifically authorized by the director.

(8) When a claim is received and the insurer does not provide insurance coverage for the worker's employer on the date of injury, the insurer may check for other coverage or forward it to the director. The insurer must do one or the other within three days of determining they did not provide coverage on the date of injury. If the insurer checks for coverage and coverage exists, the insurer must send the claim to the correct insurer within the same three day period. If the insurer checks for coverage and coverage cannot be found, the insurer must forward the claim to the director within the same three day period.

(9) The insurer or self-insured employer and third party administrator, if any, must be identified on all insurer generated workers' compensation forms, including insurer name, third party administrator name (if applicable), address, and phone number of the location responsible for processing the claim.

(10) The insurer must file all disabling claims with the director within 14 days of the insurer's initial decision either to accept or deny the claim. To meet this filing requirement, the Insurer's Report, Form 440-1502 (Form 1502) accompanied by the Form 801, or its electronic equivalent, is to be submitted to the director. However, when the Form 801 is not available within a time frame that would allow a timely filing, a Form 1502, accompanied by a signed Form 827 when available, will satisfy the initial reporting requirement. If the Form 801 is not submitted at the time of the

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initial filing of the claim, the Form 801 must be submitted within 30 days from the filing of the Form 1502. A Form 801 prepared by the insurer in place of obtaining the form from the employer/worker does not satisfy the filing requirement of the Form 801, unless the employer/worker cannot be located, or the form cannot be obtained from the employer/worker due to lack of cooperation, or the form is computer-printed based upon information obtained from the employer and worker. The insurer must submit copies of all acceptance or denial notices not previously submitted to the director with the Form 1502. Form 1502 is used to report claim status and activity to the director.

(11) When submitting an initial compensability decision Form 1502, the insurer must report:

- (a) The status of the claim;
- (b) Reason for filing;
- (c) Whether first payment of compensation was timely, if applicable;
- (d) Whether the claim was accepted or denied timely; and
- (e) Any Managed Care Organization (MCO) enrollment, and the date of enrollment, if applicable.

(12) The insurer must file an additional Form 1502 with the director within 14 days of:

- (a) The date of any reopening of the claim;
- (b) Changes in the acceptance or disability status;
- (c) Any litigation order or insurer's decision that causes reopening of the claim or changes the acceptance or disability status;
- (d) MCO enrollment that occurs after the initial Form 1502 has been filed;

(e) The insurer's knowledge that a previous Form 1502 contained erroneous information; or

(f) The date of any denial.

(13) A nondisabling claim must only be reported to the director if it is denied, in part or whole. It must be reported to the director within 14 days of the date of denial. A nondisabling claim which becomes disabling must be reported to the director within 14 days of the date of the status change.

(14) If the insurer voluntarily reopens a qualified claim under ORS 656.278, it must file a Form 3501 with the director within 14 days of the date the insurer reopens the claim.

(15) The insurer must report a new medical condition reopening on the Form 1502 if the claim cannot be closed within 14 days of the first to occur: acceptance of the new condition, or the insurer's knowledge that interim temporary disability compensation is due and payable.

(16) New condition claims that are ready to be closed within 14 days must be reported on the "Insurer Notice of Closure Summary," Form 440-1503 (Form 1503) at the time the insurer closes the claim. The Form 1503 must be accompanied by the "Modified Notice of Acceptance" and "Updated Notice of Acceptance at Closure" letter.

(17) If, after receiving a claim from a worker or from someone other than the worker on the worker's behalf, the insurer receives written communication from the worker stating the worker never intended to file a claim and wants the claim "withdrawn," the insurer must submit a Form 1502 with a copy of the worker's communication to the director, if the claim had previously been reported.

(18) The director may issue a civil penalty against any insurer delinquent in reporting or in submitting Forms 801, 1502, 1503 or 1644 with a late or error ratio in excess of twenty percent during any quarter. For the purposes of this section, a claim or form shall be deemed to have been reported or submitted timely according to the provisions of ORS 656.726(4).

(19) Insurers must make an annual report to the director reporting attorney fees, attorney salaries, and all other costs of legal services paid under ORS chapter 656. The report must be submitted on forms furnished by the director for that purpose. Reports for each calendar year must be filed not later than March 1 of the following year.

(20) If an insurer elects to process and pay supplemental disability benefits, under ORS 656.210(5)(a), the insurer does not need to inform the director of their election. The insurer must request reimbursement, under OAR 436-060-0500, by filing Form 3504 "Supplemental Disability Benefits Quarterly Reimbursement Request" with the director for any quarter during which they processed and paid supplemental disability benefits. If an insurer elects not to process and pay supplemental disability benefits, the insurer must submit Form 3530, "Supplemental Disability Election Notification," to the director. The election remains in effect for all supplemental disability claims the insurer receives until the insurer changes its election. The election is made by the insurer and applies to all third party administrators an insurer may use for processing claims.

(21) An insurer may change its election made under section (20):

- (a) Annually; and
- (b) Once after the division completes its first audit of supplemental disability payments made by the insurer.

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

Stat. Auth.: ORS 656.262, 656.264, 656.265(6), 656.704, 656.726(4), 656.745

Stats. Implemented: ORS 656.210, 656.262, 656.264, 656.265, 656.704, 656.726(4)

Hist.: WCD 1-1980(Admin), f. & ef. 1-11-80; WCD 6-1981(Admin), f. 12-23-81, ef. 1-1-82; WCD 8-1983(Admin), f. 12-29-83, ef. 1-1-84; Renumbered from 436-054-0100, 5-1-85; WCD 8-1985(Admin), f. 12-12-85, ef. 1-1-86; WCD 4-1987, f. 12-18-87, ef. 1-1-88; WCD 6-1989, f. 12-22-89, cert. ef. 1-1-90; WCD 9-1990(Temp), f. 6-18-90, cert. ef. 7-1-90; WCD 29-1990, f. 11-30-90, cert. ef. 12-26-90; WCD 1-1992, f. 1-3-92, cert. ef. 2-1-92; WCD 7-1994, f. 8-11-94, cert. ef. 8-28-94; WCD 5-1996, f. 2-6-96, cert. ef. 2-12-96; WCD 11-2001, f. 11-30-01, cert. ef. 1-1-02; WCD 10-2002, f. 10-2-02 cert. ef. 11-1-02; WCD 9-2003(Temp), f. 8-29-03, cert. ef. 9-2-03 thru 2-28-04; WCD 11-2003(Temp), f. & cert. ef. 9-22-03 thru 2-28-03; WCD 13-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 2-28-04; WCD 2-2004, f. 2-19-04 cert. ef. 2-29-04; WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08

436-060-0015

Required Notice and Information

(1) When an injured worker's attorney has given written notice of representation, prior or simultaneous written notice must be given to the worker's attorney under ORS 656.331:

(a) When the director or insurer requests the worker to submit to a medical examination;

(b) When the insurer contacts the worker regarding any matter which may result in denial, reduction or termination of the worker's benefits; or

(c) When the insurer contacts the worker regarding any matter relating to disposition of a claim under ORS 656.236.

(2) The director shall assess a civil penalty against an insurer who intentionally or repeatedly fails to give notice as required under section (1) of this rule.

(3) The insurer or the third party administrator must provide the pamphlet, "What Happens if I'm Hurt on the Job?," Form 440-1138 (Form 1138), to every injured worker who has a disabling claim with the first time-loss check or earliest written correspondence. For nondisabling claims, the information page, "A Guide for Workers Hurt on the Job," Form 440-3283 (Form 3283) may be provided in lieu of Form 1138, unless the worker specifically requests Form 1138.

(4) The insurer must provide Form 3283 to their insured employers for distribution to workers at the time a worker completes a Form 801, for all claims filed.

(5) The insurer must provide the "Notice to Worker," Form 440-3058 (Form 3058) or its equivalent to the worker with the initial notice of acceptance on the claim under OAR 436-060-0140(6). For the purpose of this rule, an equivalent to the Form 3058 must include all of the statutory and rule requirements.

(6) Additional notices the insurer must send to a worker are contained in OAR 436-060-0018, 436-060-0030, 436-060-0035, 436-060-0095, 436-060-0105, 436-060-0135, 436-060-0140, and 436-060-0180.

(7) When an insurer changes claims processing locations, third party administrators, or self-administration, the insurer must provide at least 10 days prior notice to workers with open or active claims, their attorneys, and attending physicians. The notice must provide the name of a contact person, telephone number, and mailing address of the new claim processor.

(8) The insurer must provide the worker an explanation of any change in the wage used that differs from what was initially reported in writing to the insurer. Prior to claim closure on a disabling claim, the insurer must send the worker a notice documenting the wage upon which benefits were based and work disability, if applicable, will be determined when the claim is closed. The notice must also explain how the worker can appeal the insurer's wage calculation if the worker disagrees with the wage. The insurer shall resolve disputes regarding wage calculations under OAR 436-060-0025(4).

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

Stat. Auth.: ORS 656.331, 656.704, 656.726(4) & 656.745

Stats. Implemented: ORS 656.331, 656.704 & 656.726(4)

Hist.: WCD 8-1985(Admin), f. 12-12-85, ef. 1-1-86; WCD 6-1989, f. 12-22-89, cert. ef. 1-1-90; WCD 9-1990(Temp), f. 6-18-90, cert. ef. 7-1-90; WCD 29-1990, f. 11-30-90, cert. ef. 12-26-90; WCD 7-1994, f. 8-11-94, cert. ef. 8-28-94; WCD 5-1996, f. 2-6-96, cert. ef. 2-12-96; WCD 11-2001, f. 11-30-01, cert. ef. 1-1-02; WCD 10-2002, f. 10-2-02 cert. ef. 11-1-02; WCD 2-2004, f. 2-19-04 cert. ef. 2-29-04; WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08

436-060-0018

Nondisabling/Disabling Reclassification

(1) When the insurer changes the classification of an accepted claim, the insurer must submit an "Insurer's Report," Form 440-1502 to the director, indicating a change in status within 14 days from the date of the new classification. A notice of change of classification must be communicated by issuing a Modified Notice of Acceptance. This notice must include an

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explanation of the change in status and must be sent to the director, the worker, and the worker's attorney if the worker is represented. If the claim qualifies for closure, the insurer must close the claim under ORS 656.268(5).

(2) The insurer must reclassify a nondisabling claim to disabling within 14 days of receiving information that any condition already accepted meets the disabling criteria in this rule. A claim is disabling if any of the following criteria apply:

(a) Temporary disability is due and payable; or

(b) The worker is medically stationary within one year of the date of injury and the worker will be entitled to an award of permanent disability; or

(c) The worker is not medically stationary, but there is a reasonable expectation that the worker will be entitled to an award of permanent disability when the worker does become medically stationary.

(3) Under ORS 656.262 (6)(b)(F) and (7)(a) the insurer must issue a Modified Notice of Acceptance and change the classification from nondisabling to disabling upon acceptance of a new or omitted condition that meets the disabling criteria in this rule.

(4) If a claim has been classified as nondisabling for less than one year after the date of acceptance and the worker believes the claim was or has become disabling, the worker may request reclassification by submitting a written request for review of the classification status to the insurer under ORS 656.277.

(5) Within 14 days of the worker's request, the insurer must review the claim and,

(a) If the classification is changed to disabling, provide notice under this rule; or

(b) If the insurer believes evidence supports denying the worker's request to reclassify the claim, the insurer must send a Notice of Refusal to Reclassify to the worker and the worker's attorney, if the worker is represented. The notice must include the following statement, in bold print:

"If you disagree with this Notice of Refusal to Reclassify, you must appeal by contacting the Workers' Compensation Division within sixty (60) days of the mailing of this notice or you will lose your right to appeal. The address and telephone number of the Workers' Compensation Division are."

(6) A worker dissatisfied with the decision in the Notice of Refusal to Reclassify may appeal to the director. Such appeal must be made no later than the 60th day after the Notice is mailed. The appeal must include a copy of the insurer's Notice of Refusal to Reclassify.

(7) For claims that are reclassified from nondisabling to disabling within one year from the date of acceptance, the aggravation rights begin with the first valid closure of the claim.

(8) For claims that are not reclassified from nondisabling to disabling within one year from the date of acceptance, the aggravation rights continue to run from the date of injury.

(9) When a claim has been classified as nondisabling for at least one year after the date of acceptance, a worker who believes the claim was or has become disabling may submit a claim for aggravation according to the provisions of ORS 656.273.

(10) Failure of the insurer or self-insured employer to respond timely to a request for reclassification may result in penalties under OAR 436-060-0200.

(11) Notwithstanding (12), once a claim has been accepted and classified as disabling for more than one year from date of acceptance, all aspects of the claim are classified as disabling and remain disabling. Any additional conditions or aggravations subsequently accepted must be processed according to provisions governing disabling claims, including closure under ORS 656.268.

(12) If a claim has been classified as disabling and the insurer determines the criteria for a disabling claim were never satisfied, the insurer may reclassify the claim to nondisabling. The insurer must notify the worker and the worker's representative, if applicable, by issuing a Modified Notice of Acceptance.

(a) The Modified Notice of Acceptance must advise the worker that he or she has 60 days from the date of the notice to appeal the decision.

(b) Appeals of such reclassification decisions are made to the Appellate Review Unit for issuance of a Director's Review order.

(13) The worker's appeal must be in writing. The worker may use the form specified by the director for requesting review of the insurer's claim classification decision.

(14) The worker's appeal under section (6) or (12) must be copied to the insurer.

(15) A worker need not be represented by an attorney to appeal the insurer's classification decision.

(16) The director will acknowledge receipt of the request in writing to the injured worker, the worker's attorney, if any, and the insurer, and initiate the review.

(17) Within 14 days of the director's acknowledgement, the insurer must provide the director and all other parties with the complete medical record and all official actions and notices on the claim. The insurer may be subject to penalties under OAR 436-060-0200 for failure to provide claim documents in a timely manner.

(18) Within the same 14 days, the worker may submit any additional evidence for the director to consider. Copies must be provided to all other parties at the same time.

(19) After receiving and reviewing the required documents, the director will issue a Director's Review order.

(20) The worker and the insurer have 30 days from the mailing date of the Director's Review order to appeal the director's decision to the Hearings Division of the Workers' Compensation Board.

(21) The director may reconsider, abate, or withdraw any Director's Review order before the order becomes final by operation of law.

Stat. Auth.: ORS 656.268, 656.726, 1995 OL Ch. 332 & 1999 OL Ch. 313

Stats. Implemented: ORS 656.210, 656.212, 656.214, 656.262, 656.268, 656.273, 656.277, 656.745, 656.726,

Hist.: WCD 2-2004, f. 2-19-04, cert. ef. 2-29-04, Renumbered from 436-030-0045; WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08

436-060-0055

Payment of Medical Services on Nondisabling Claims; Employer/Insurer Responsibility

Under ORS 656.262(5) the director will establish the maximum reimbursable amount for medical services. The maximum reimbursable amount will be published annually by Bulletin No. 345. The costs of medical services for nondisabling claims must first be paid by the insurer. Then the insurer may be reimbursed by the employer if the employer so chooses. Such choice does not relieve the employers of their claim reporting requirements or the insurers of their responsibility to determine entitlement to benefits and process the claims accurately and timely. Also, when paid by the employer, such costs cannot in any way be used to affect the employer's experience rating modification or otherwise be charged against the employer. To enable the director to ensure these conditions are met, insurers and employers must comply with the following process and procedures:

(1) Notwithstanding the choice made by the employer under section (2) of this rule, the employer and insurer must process the nondisabling claims in accordance with all statutes and rules governing claims processing. The employer, however, may reimburse the medical service costs paid by the insurer if the employer has chosen to make such payments. The method and manner of reimbursement by the employer shall be as prescribed in section (3) of this rule. In no case, however, shall the employer have less than 30 days to reimburse the insurer.

(2) Prior to the commencement of each policy year, the insurer must send a notice to the insured or prospective insured, advising of the employer's right to reimburse medical service costs up to the maximum amount established by the director on accepted, nondisabling claims. The notice must advise the employer:

(a) Of the procedure for making such payments as outlined in section (3) of this rule;

(b) Of the general impact on the employer if the employer chooses to make such payments;

(c) That the employer is choosing not to participate if the employer does not respond in writing within 30 days of receipt of the insurer's notice;

(d) That the employer's written election to participate in the reimbursement program remains in effect, without further notice from the insurer, until the employer advises otherwise in writing or is no longer insured by the insurer; and

(e) That the employer may participate later in the policy period upon written request to the insurer, however, the earliest reimbursement period shall be the first completed period, established under subsection (3)(a) of this rule, following receipt of the employer's request.

(3) If the employer wishes to make such reimbursement, and so advises the insurer in writing, the procedure for reimbursement shall be:

(a) Within 30 days following each three month period after policy inception or a period mutually agreed upon by the employer and insurer, the insurer must provide the employer with a list of all accepted nondisabling claims for which payments were made during that period and the respective cost of each claim.

(b) The employer, no later than 30 days after receipt of the list, must identify those claims and the dollar amount the employer wishes to pay for that period and reimburse the insurer accordingly.

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(c) Failure by the employer to reimburse the insurer within the 30 days allowed by subsection (3)(b) of this rule shall be deemed notice to the insurer that the employer does not wish to make a reimbursement for that period.

(d) Notwithstanding subsection (3)(b) of this rule, the employer and insurer may, by written agreement, establish a period in excess of thirty (30) days for the employer to reimburse the insurer.

(e) The insurer shall continue to bill the employer for any payments made on the claims within 27 months of the inception of the policy period. Any further billing and reimbursement will be made only by mutual agreement between the employer and the insurer.

(4) Insurers must maintain records of amounts reimbursed by employers for medical services on nondisabling claims. Insurers, however, shall not modify an employer's experience rating or otherwise make charges against the employer for any medical services reimbursed by the employer. For employers on retrospective rated plans, medical costs paid by the employer on nondisabling claims must be included in the retrospective premium calculation, but the amount paid by the employer shall be applied as credits against the resulting retrospective premium.

(5) If a claim changes from a nondisabling to a disabling claim and the insurer has recovered reimbursement from the employer for medical costs billed by the insurer prior to the change, the insurer shall exclude those amounts reimbursed from any experience rating, or other individual or group rating plans of the employer. If the employer is on a retrospective rated plan, premium calculation shall be as provided in section (4) of this rule.

(6) Insurers who do not comply with the requirements of this rule or in any way prohibit an employer from reimbursing the insurer under section (3) of this rule, shall be subject to a penalty as provided by OAR 436-060-0200(7).

(7) Self-insured employers must maintain records of all amounts paid for medical services on nondisabling claims in accordance with OAR 436-050-0220. When reporting loss data for experience rating, the self-insured may exclude costs for medical services paid on nondisabling claims in amounts not to exceed the maximum amount established by the director.

Stat. Auth.: ORS 656.262(5), 656.704, 656.726(4) & 656.745
Stats. Implemented: ORS 656.262(5), 656.704 & 656.726(4), Ch. 518 OL 2007
Hist.: WCD 10-1987(Temp), f. 12-18-87, ef. 1-1-88; WCD 4-1988, f. 6-27-88, cert. ef. 7-1-88; WCD 6-1989, f. 12-22-89, cert. ef. 1-1-90; WCD 7-1994, f. 8-11-94, cert. ef. 8-28-94; WCD 11-2001, f. 11-30-01, cert. ef. 1-1-02; WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08

436-060-0060

Lump Sum Payment of Permanent Partial Disability Awards

(1) Under ORS 656.230, in all cases where an award for permanent partial disability does not exceed \$6,000, the insurer must pay all of the award to the worker in a lump sum. When the award for permanent partial disability exceeds \$6,000, the insurer may approve an application from the worker or worker's representative for lump sum payment of all or part of the award. The insurer may deny the request for lump sum payment if any of the following apply:

(a) The worker has not waived the right to appeal the adequacy of the award;

(b) The award has not become final by operation of law;

(c) The payment of compensation has been stayed pending a request for hearing or review under ORS 656.313; or

(d) The worker is enrolled and actively engaged in training according to the rules adopted pursuant to ORS 656.340 and 656.726. For dates of injury prior to January 1, 2005, the insurer may not approve a request for lump sum payment of unscheduled permanent disability. For dates of injury on or after January 1, 2005, the insurer may not approve a request for lump sum payment of work disability when the worker:

(A) Has been found eligible for a vocational training program and will start the program within 30 days of the date of the decision on the lump sum request;

(B) Is actively enrolled and engaged in a vocational training program under OAR 436-120; or

(C) Has temporarily withdrawn from such a program.

(2) When an insurer receives a request for a lump sum application from the worker or the worker's representative, the insurer must send the lump sum application form to the requestor within ten business days.

(3) For the purpose of this rule, each opening of the claim is considered a separate claim and any subsequent permanent partial disability award from a claim reopening is a new and separate award. Additional award of permanent partial disability obtained through the appeal process is considered part of the total cumulative award for the open period of that claim.

(4) If the insurer agrees with the worker's request for lump sum payment of a permanent partial disability award in excess of \$6,000, they must make the lump sum payment within 14 days of receipt of the signed application.

(5) If the insurer disagrees with the worker's request for lump sum payment of a permanent partial disability award in excess of \$6,000, the insurer must respond to the requestor within 14 days of receiving the request explaining the reason for denying the lump sum request.

(6) A lump sum payment ordered in a litigation order or which is a part of a Claim Disposition Agreement under ORS 656.236 does not require further approval by the insurer.

(7) When a partial payment is approved by the insurer, it shall be in addition to the regularly scheduled monthly payment. The remaining balance shall be paid under ORS 656.216. Denial or partial approval of a request does not prevent another request by the worker for a lump sum payment of all or part of any remainder of the award, provided additional information is submitted.

Stat. Auth.: ORS 656.704 & 656.726(4)

Stats. Implemented: ORS 656.230, 656.704 & 656.726(4), (§1, Ch. 270, OL 2007

Hist.: WCB 6-1966, f. & ef. 6-24-66; WCB 5-1974, f. 2-13-74, ef. 3-11-74; WCD 1-1980(Admin), f. & ef. 1-11-80; WCD 6-1981(Admin), f. 12-23-81, ef. 1-1-82; WCD 8-1983(Admin), f. 12-29-83, ef. 1-1-84; Renumbered from 436-054-0250, 5-1-85; WCD 8-1985(Admin), f. 12-12-85, ef. 1-1-86; WCD 4-1987, f. 12-18-87, ef. 1-1-88; WCD 6-1989, f. 12-22-89, cert. ef. 1-1-90; WCD 29-1990, f. 11-30-90, cert. ef. 12-26-90; WCD 7-1994, f. 8-11-94, cert. ef. 8-28-94; WCD 5-1996, f. 2-6-96, cert. ef. 2-12-96; WCD 11-2001, f. 11-30-01, cert. ef. 1-1-02; WCD 10-2002, f. 10-2-02 cert. ef. 11-1-02; WCD 2-2004, f. 2-19-04 cert. ef. 2-29-04; WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08

436-060-0140

Acceptance or Denial of a Claim

(1) The insurer is required to conduct a "reasonable" investigation based on all available information in ascertaining whether to deny a claim. A reasonable investigation is whatever steps a reasonably prudent person with knowledge of the legal standards for determining compensability would take in a good faith effort to ascertain the facts underlying a claim, giving due consideration to the cost of the investigation and the likely value of the claim.

(2) In determining whether an investigation is reasonable, the director will only look at information contained in the insurer's claim record at the time of denial. The insurer may not rely on any fact not documented in the claim record at the time of denial to establish that an investigation was reasonable.

(3) The insurer must give the claimant written notice of acceptance or denial of a claim within:

(a) 90 days after the employer's notice or knowledge of an initial claim or the insurer's receipt of a form 827 signed by the worker or the worker's representative and the worker's attending physician indicating an aggravation claim or written notice of a new medical condition claim for claims with a date of injury prior to January 1, 2002; or

(b) 60 days after the employer's notice or knowledge of an initial claim or the insurer's receipt of a form 827 signed by the worker or the worker's representative and the worker's attending physician indicating an aggravation claim or written notice of a new medical or omitted condition claim for claims with a date of injury on or after January 1, 2002; or

(c) 90 days after the employer's notice or knowledge of the claim if the worker challenges the location of an independent medical examination under OAR 436-010-0265 and the challenge is upheld, regardless of the date of injury.

(4) The director may assess a penalty against any insurer delinquent in accepting or denying a claim beyond the days required in (3) in excess of 10 percent of their total volume of reported disabling claims during any quarter.

(5) A notice of acceptance must comply with ORS 656.262(6)(b) and the rules of Practice and Procedure for Contested Cases under the Workers' Compensation Law, OAR chapter 438. It must include a current mailing date, be addressed to the worker, be copied to the worker's representative, if any, and the worker's attending physician, and specify to the worker:

(a) What conditions are compensable;

(b) Whether the claim is disabling or nondisabling;

(c) Of the Expedited Claim Service, of hearing and aggravation rights concerning nondisabling injuries including the right to object to a decision that the injury is nondisabling by requesting the insurer review the status;

(d) Of the employment reinstatement rights and responsibilities under ORS chapter 659A;

(e) Of assistance available to employers from the Reemployment Assistance Program under ORS 656.622;

ADMINISTRATIVE RULES

(f) That expenses personally paid for claim related expenses up to a maximum established rate must be reimbursed by the insurer when requested in writing and accompanied by sales slips, receipts, or other reasonable written support, for meals, lodging, transportation, prescriptions and other related expenses;

(g) That if the worker believes a condition has been incorrectly omitted from the notice of acceptance, or the notice is otherwise deficient, the worker must first communicate the objection to the insurer in writing specifying either that the worker believes the condition has been incorrectly omitted or why the worker feels the notice is otherwise deficient; and

(h) That if the worker wants the insurer to accept a claim for a new medical condition, the worker must put the request in writing, clearly identify the condition as a new medical condition, and request formal written acceptance of the condition.

(6) On fatal claims, the notice must be addressed "to the estate of" the worker and the requirements in (5)(a) through (h) shall not be included.

(7) The first acceptance issued on the claim must contain the title "Initial Notice of Acceptance" near the top of the notice. Any notice of acceptance must contain all accepted conditions at the time of the notice. When an insurer closes a claim, it must issue an "Updated Notice of Acceptance at Closure" under OAR 436-030-0015. Additionally, when reopening a claim, the notice of acceptance must specify the condition(s) for which the claim is being reopened. Under ORS 656.262(6)(b)(F) the insurer must modify acceptance from time to time as medical or other information changes. An insurer must issue a "Modified Notice of Acceptance" (MNOA) when they:

(a) Accept a new or omitted condition: on a nondisabling claim, while a disabling claim is open or after claim closure;

(b) Accept an aggravation claim;

(c) Change the disabling status of the claim; or

(d) Amend a notice of acceptance, including correcting a clerical error.

(8) Notwithstanding OAR 436-060-0140(7)(d), to correct an omission or error in an "Updated Notice of Acceptance at Closure" (UNOA), under OAR 436-030-0015(1)(e), the insurer must add the word "Corrected" to the UNOA.

(9) When an insurer accepts a new or omitted condition on a closed claim, the insurer must reopen the claim and process it to closure under ORS 656.262 and 656.267.

(10) A notice of denial must comply with the rules of Practice and Procedure for Contested Cases under the Workers' Compensation Law, OAR chapter 438, and must:

(a) Specify the factual and legal reasons for the denial, including the worker's right to request a Worker Requested Medical Examination and a specific statement indicating if the denial was based in whole or part on an independent medical examination, under ORS 656.325, and one of the following statements, as appropriate:

(A) "Your attending physician agreed with the independent medical examination report"; or

(B) "Your attending physician did not agree with the independent medical examination report"; or

(C) "Your attending physician has not commented on the independent medical examination report"; and

(b) Inform the worker of the Expedited Claim Service and of the worker's right to a hearing under ORS 656.283.

(c) If the denial is under ORS 656.262(14), it must inform the worker that a hearing may occur sooner if the worker requests an expedited hearing under ORS 656.291.

(d) If paragraph (10)(a)(B) above applies, the denial notice must also include the division's Web site address and toll free Infoline number for the worker's use in obtaining a brochure about the Worker Requested Medical Examination.

(11) The insurer must send notice of the denial to each provider of medical services and health insurance when compensability of any portion of a claim for medical services is denied when any of the following applies:

(a) The denial is sent to the worker;

(b) Within 14 days of receipt of any billings from medical providers not previously notified of the denial. The notice must advise the medical provider of the status of the denial; or

(c) Within 60 days of the date when compensability of the claim has been finally determined or when disposition of the claim has been made. The notification must include the results of the proceedings under ORS 656.236 or 656.289(4) and the amount of any settlement.

(12) The insurer must pay compensation due under ORS 656.262 and 656.273 until the claim is denied, except where there is an issue concern-

ing the timely filing of a notice of accident as provided in ORS 656.265(4). The employer may elect to pay compensation under this section in lieu of the insurer doing so. The insurer must report to the division payments of compensation made by the employer as if the insurer had made the payment.

(13) Compensation payable to a worker or the worker's beneficiaries while a claim is pending acceptance or denial does not include the costs of medical benefits or burial.

Stat. Auth.: ORS 656.704 & 656.726(4)

Stats. Implemented: ORS 656.262, 656.325, 656.704, 656.726(4)

Hist.: WCD 1-1980(Admin), f. & ef. 1-11-80; WCD 6-1981(Admin), f. 12-23-81, ef. 1-1-82; WCD 8-1983(Admin), f. 12-29-83, ef. 1-1-84; Renumbered from 436-054-0305, 5-1-85; WCD 8-1985(Admin), f. 12-12-85, ef. 1-1-86; WCD 4-1987, f. 12-18-87, ef. 1-1-88; WCD 6-1989, f. 12-22-89, cert. ef. 1-1-90; WCD 9-1990(Temp), f. 6-18-90, cert. ef. 7-1-90; WCD 29-1990, f. 11-30-90, cert. ef. 12-26-90; WCD 12-1992, f. 6-12-92, cert. ef. 7-1-92; WCD 5-1996, f. 2-6-96, cert. ef. 2-12-96; WCD 17-1996(Temp), f. 8-5-96, cert. ef. 8-12-96; WCD 21-1996, f. 10-18-96, cert. ef. 11-27-96; WCD 11-2001, f. 11-30-01, cert. ef. 1-1-02; WCD 10-2002, f. 10-2-02 cert. ef. 11-1-02; WCD 13-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 2-28-04; WCD 2-2004, f. 2-19-04 cert. ef. 2-29-04; WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08

436-060-0147

Worker Requested Medical Examination

(1) The director shall determine the worker's eligibility for a Worker Requested Medical Examination (Exam) under ORS 656.325(1). The worker is eligible for an exam if the worker has made a timely request for a Workers' Compensation Board hearing on a denial of compensability as required by ORS 656.319(1)(a); and the denial was based on one or more Independent Medical Examination reports with which the attending physician or authorized nurse practitioner disagreed.

(2) The worker must submit a request for the exam to the director. A copy of the request must be sent simultaneously to the insurer or self-insured employer. The request must include:

(a) The name, address, and claim identifying information of the injured worker;

(b) A list of physicians, including name(s) and address(es), who have previously provided medical services to the worker on this claim or who have previously provided medical services to the worker related to the claimed condition(s);

(c) The date the worker requested a hearing and a copy of the hearing request;

(d) A copy of the insurer's denial letter; and

(e) Document(s) that demonstrate that the attending physician or authorized nurse practitioner did not concur with the independent medical examination report(s).

(3) The insurer must, upon written notice from the worker, mail to the director no later than the 14th day following the insurer's receipt of the worker's request, the names and addresses of all physicians or nurse practitioners who have:

(a) Acted as attending physician or authorized nurse practitioner;

(b) Provided medical consultations and/or treatment to the worker;

(c) Examined the worker at an independent medical examination; or

(d) Reviewed the worker's medical records on this claim. For the purpose of this rule, "Attending Physician" and "Independent Medical Examination" have the meanings defined in OAR 436-010-0005 and 436-010-0265(1), respectively.

(4) Failure to provide the required documentation described in section (3) in a timely manner will subject the insurer to civil penalties under OAR 436-060-0200.

(5) The director will notify all parties in writing of the physician selected, or will provide the worker or the worker's representative a list of appropriate physicians.

(6) If the director provides a list of physicians, the following applies:

(a) The worker's or the worker's representative's response must be in writing, signed, and received by the director within ten business days of providing the list.

(b) The worker or the worker's representative may eliminate the name of one physician from the list.

(c) If the worker or the worker's representative does not respond as provided in this section, the director will select a physician.

(d) The director will notify the parties in writing of the physician selected.

(7) The worker and/or the worker's legal representative shall schedule the exam with the selected physician and notify the insurer and the Workers' Compensation Board of the scheduled exam date within 14 days of the notification date in (6) of this rule. An unrepresented worker may consult with the Injured Worker Ombudsman for assistance.

ADMINISTRATIVE RULES

(8) The insurer must send the physician the worker's complete medical record on this claim and the original questions asked of the independent medical examination(s) physician(s) no later than 14 days prior to the date of the scheduled exam.

(9) The worker or the worker's representative shall communicate questions related to the compensability denial in writing to be answered by the physician at the exam to the physician at least 14 days prior to the scheduled date of the exam. An unrepresented worker may consult with the Injured Worker Ombudsman for assistance.

(10) Upon completion of the exam the physician must address the original independent medical examination(s) questions and the questions from the worker or the worker's representative under section (9) of this rule and send the report to the worker's legal representative, if any, or the worker, and the insurer within 5 working days.

(11) The insurer must pay the physician selected under this rule in accordance with OAR 436-009. Delivery of medical services to injured workers shall be in accordance with OAR 436-010.

(12) If the worker fails to attend the scheduled Worker Requested Medical Exam, the insurer must pay the physician for the missed examination. The insurer is not required to pay for another examination unless the worker did not attend the missed examination for reasons beyond the worker's reasonable control.

(13) The insurer must reimburse the worker for all necessary related services under ORS 656.325(1).

Stat. Auth.: ORS 656.704, 656.726(4)

Stats. Implemented: ORS 656.325(1), 656.704, 656.726(4)

Hist.: WCD 11-2001, f. 11-30-01, cert. ef. 1-1-02; WCD 10-2002, f. 10-2-02 cert. ef. 11-1-02; WCD 2-2004, f. 2-19-04 cert. ef. 2-29-04; WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08

436-060-0150

Timely Payment of Compensation

(1) Benefits are deemed paid when addressed to the last known address of the worker or beneficiary and deposited in the U.S. Mail or deposited in the worker's or beneficiary's account by approved electronic equivalent. Payments falling due on a weekend or legal holiday under ORS 187.010 and 187.020 may be paid on the last working day prior to or the first working day following the weekend or legal holiday. Subsequent payments may revert back to the payment schedule prior to the weekend or legal holiday.

(2) For the purpose of this rule, legal holidays in the State of Oregon are:

- (a) Each Sunday;
- (b) New Year's Day on January 1;
- (c) Martin Luther King, Jr.'s Birthday on the third Monday in January;
- (d) Presidents Day, for the purpose of commemorating Presidents Washington and Lincoln, on the third Monday in February;
- (e) Memorial Day on the last Monday in May;
- (f) Independence Day on July 4;
- (g) Labor Day on the first Monday in September;
- (h) Veterans Day on November 11;
- (i) Thanksgiving Day on the fourth Thursday in November; and
- (j) Christmas Day on December 25.

(k) Each time a holiday, other than Sunday, falls on Sunday, the succeeding Monday shall be a legal holiday. Each time a holiday falls on Saturday, the preceding Friday shall be a legal holiday.

(l) Additional legal holidays shall include every day appointed by the Governor as a legal holiday and every day appointed by the President of the United States as a day of mourning, rejoicing or other special observance only when the Governor also appoints that day as a holiday.

(3) First payment of time loss must be timely. An insurer's performance is in compliance when 90 percent of payments are timely. The director may assess a penalty against an insurer falling below these norms during any quarter.

(4) Compensation withheld under ORS 656.268(12) and (13), and 656.596(2), shall not be deemed untimely provided the insurer notifies the worker in writing why benefits are being withheld and the amount that must be offset before any further benefits are payable.

(5) Timely payment of temporary disability benefits means payment has been made no later than the 14th day after:

(a) The date of the employer's notice or knowledge of the claim, provided the attending physician or authorized nurse practitioner has authorized temporary disability. Temporary disability accrued prior to the date of the employer's notice or knowledge of the claim shall be due within 14 days of claim acceptance;

(b) The date the attending physician or authorized nurse practitioner authorizes temporary disability, if the authorization is more than 14 days after the date of the employer's notice or knowledge of the claim;

(c) The start of authorized vocational training under ORS 656.268(9), if the claim has previously been closed;

(d) The date the insurer receives medical evidence supported by objective findings that shows the worker is unable to work due to a worsening of the compensable condition under ORS 656.273;

(e) The date of any division order, including, but not limited to, a reconsideration order, which orders payment of temporary disability. If a reconsideration order has been appealed by the insurer, the appeal stays payment of temporary disability benefits except those which accrue from the date of the order, under ORS 656.313;

(f) The date of a notice of claim closure issued by the insurer which finds the worker entitled to temporary disability;

(g) The date a notice of closure is set aside by a reconsideration order;

(h) The date any litigation authorizing retroactive temporary disability becomes final. Temporary disability accruing from the date of the order must begin no later than the 14th day after the date the order is filed. For the purpose of this rule, the "date the order is filed" for litigation from the Workers' Compensation Board, is the signature date and from the courts, it is the date of the appellate judgment;

(i) The date the division refers a claim to the insurer for processing under ORS 656.029;

(j) The date the division refers a noncomplying employer claim to an assigned claims agent under ORS 656.054; or

(k) The date a claim disposition is disapproved by the Board or Administrative Law Judge, if temporary disability benefits are otherwise due;

(l) The date the division designates a paying agent under ORS 656.307;

(m) The date a claim is reclassified from nondisabling to disabling, if temporary disability is due and payable; and

(n) The date an insurer voluntarily rescinds a denial of a disabling claim.

(6) Temporary disability must be paid to within seven days of the date of payment at least once each 14 days. When making payments as provided in OAR 436-060-0020(1), the employer may make subsequent payments of temporary disability concurrently with the payroll schedule of the employer, rather than at 14-day intervals.

(7) Permanent disability and fatal benefits must be paid no later than the 30th day after:

(a) The date of a notice of claim closure issued by the insurer;

(b) The date of any litigation order which orders payment of permanent total disability or fatal benefits. Permanent total or fatal benefits accruing from the date of the order must begin no later than the 30th day after the date the order is filed. For the purpose of this rule, the "date the order is filed" for litigation from the Workers' Compensation Board, is the signature date and from the courts it is the date of the appellate judgment;

(c) The date of any division order, including, but not limited to, a reconsideration order, which orders payment of compensation for permanent disability;

(d) The date any litigation authorizing permanent partial disability becomes final; or

(e) The date a claim disposition is disapproved by the Board or Administrative Law Judge, if permanent disability benefits are otherwise due.

(f) The date authorized training ends if the worker is medically stationary and any previous award remains unpaid, under ORS 656.268(9) and OAR 436-060-0040(2).

(8) Subsequent payments of permanent disability and fatal benefits are made in monthly sequence. The insurer may adjust monthly payment dates, but must inform the beneficiary prior to making the adjustment. No payment period shall exceed one month without the division approval.

(9) The insurer must notify the worker or beneficiary in writing when compensation is paid of the specific purpose of the payment, the time period for which the payment is made, and the reimbursable expenses. The insurer must maintain records of compensation paid for each claim where benefits are due and payable. If the worker submits a request for reimbursement of multiple items and full reimbursement is not made, the insurer must provide specific reasons for non-payment or reduction of each item.

(10) Payment of a Claim Disposition Agreement must be made no later than the 14th day after the Board or Administrative Law Judge mails notice of its approval of the agreement to the parties, unless otherwise stated in the agreement.

ADMINISTRATIVE RULES

(11) Under ORS 656.126(6), when Oregon compensation is more than the compensation under another law for the same injury or occupational disease, or compensation paid the worker under another law is recovered from the worker for the same injury or occupational disease, the insurer must pay any unpaid compensation to the worker up to the amount required by the claim under Oregon law within 14 days of receipt of written documentation supporting the underpayment of Oregon compensation.

Stat. Auth.: ORS 656.704 & 656.726(4)
Stats. Implemented: ORS 656.262(4), 656.268(9), 656.273, 656.278, 656.289, 656.307, 656.313, 656.704 & 656.726(4)
Hist.: WCB 9-1966, f. & ef. 11-14-66; WCD 1-1980(Admin), f. & ef. 1-11-80; WCD 6-1981(Admin), f. 12-23-81, ef. 1-1-82; WCD 8-1983(Admin), f. 12-29-83, ef. 1-1-84; Renumbered from 436-054-0310, 5-1-85; WCD 8-1985(Admin), f. 12-12-85, ef. 1-1-86; WCD 4-1987, f. 12-18-87, ef. 1-1-88; WCD 6-1989, f. 12-22-89, cert. ef. 1-1-90; WCD 9-1990(Temp), f. 6-18-90, cert. ef. 7-1-90; WCD 29-1990, f. 11-30-90, cert. ef. 12-26-90; WCD 1-1992, f. 1-3-92, cert. ef. 2-1-92; WCD 7-1994, f. 8-11-94, cert. ef. 8-28-94; WCD 5-1996, f. 2-6-96, cert. ef. 2-12-96; WCD 11-2001, f. 11-30-01, cert. ef. 1-1-02; WCD 10-2002, f. 10-2-02 cert. ef. 11-1-02; WCD 13-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 2-28-04; WCD 2-2004, f. 2-19-04 cert. ef. 2-29-04; WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08

436-160-0004

Adoption of Standards

(1) For proof of coverage, the director adopts, by reference, IAIABC EDI Implementation Guide for Proof of Coverage, Release 2, dated May 1, 2002 including the definition of standards and procedures, unless otherwise provided in these rules.

(2) For medical bill data, the director adopts, by reference, IAIABC EDI Implementation Guide for Medical Bill Payment Records, Release 1, dated July 4, 2002, unless otherwise provided in these rules.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 656.264
Stats. Implemented: ORS 656.017, 656.407, 656.419, 656.423 & 656.427
Hist.: WCD 3-2003, f. 3-18-03, cert. ef. 4-1-03; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08

436-160-0005

General Definitions

For the purpose of these rules, unless it conflicts with statute or rule:

(1) "ANSI" means the American National Standards Institute.

(2) "Conditional data element" means an element that becomes mandatory under certain conditions. Once mandatory, a conditional data element will cause a rejection of the transaction if the data element is omitted or submitted in a format not capable of being processed by the division's information processing system.

(3) "Director" means the Director of the Department of Consumer and Business Services or the director's designee for the matter.

(4) "Division" means the Workers' Compensation Division of the Department of Consumer and Business Services.

(5) "Electronic Data Interchange" or "EDI" means a computer to computer exchange of information in a standardized electronic format.

(6) "Electronic Record" means information created, generated, sent, communicated, received, or stored by electronic means.

(7) "FEIN" means the federal employer identification number or other federal reporting number used by the insurer, insured, or employer for federal tax reporting purposes.

(8) "Header record" means the record that precedes each transmission for the purpose of identifying a sender, the date and time of the transmission, and the transaction set within the transmission.

(9) "IAIABC" means the International Association of Industrial Accident Boards and Commissions, a professional trade association comprised of state workers' compensation regulators and insurance representatives (www.iaiaabc.org).

(10) "Information" means data, text, images, sounds, codes, computer programs, software, databases, or the like.

(11) "Industry code" means the code which indicates the nature of the employer's business, which is contained in the Standard Industrial Classification (SIC) manual published by the Federal Office of Management and Budget, or in the North American Industrial Classification System (NAICS) published by the U.S. Census Bureau.

(12) "Insurer" means workers' compensation insurance carrier providing coverage to an employer, or a self-insured employer.

(13) "Mandatory data element" means an element that will cause a rejection of a transaction if the data element is omitted or submitted in a format not capable of being processed by the division's information processing system.

(14) "Optional data element" means an element that an insurer should report to the director if the information is available to the insurer. Optional data elements will not cause a rejection if missing or invalid.

(15) "Proof of coverage" means an electronic record or set of records identifying an insurer as providing workers' compensation coverage for a specific employer.

(16) "Record" means electronic record.

(17) "Sender" means the person or entity reporting electronic data interchange transactions to the division. Sender may include vendors or insurers.

(18) "Trading partner agreement" means the agreement entered into pursuant to OAR 436-160-0020 between the director and an insurer to conduct transactions via EDI.

(19) "Trailer record" means the record that designates the end of a transmission and provides a count of transactions contained within the transmission, not including the header and trailer records.

(20) "Transaction" means a set of EDI records, defined according to standards in OAR 436-160-0004.

(21) "Transmission" means a defined set of transactions, including both header and trailer records to be sent to the division or sender via EDI.

(22) "Vendor" means an agent identified in a trading partner agreement to submit transmissions to the division on behalf of an insurer. Vendors may include service companies, third party administrators, and managing general agents.

Stat. Auth.: ORS 656.264, 656.726(4)
Stats. Implemented: ORS 84.004 & 656.264
Hist.: WCD 3-2003, f. 3-18-03, cert. ef. 4-1-03; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08

436-160-0030

Retention of Electronic Records

Insurers and self-insured employers must retain workers' compensation records pursuant to OAR 436-050-0120, 436-050-0220, and 436-009-0030. Records may be retained in electronic format if the records can be reproduced.

Stat. Auth.: ORS 656.726(4)
Stats. Implemented: ORS 656.455 & 731.475
Hist.: WCD 3-2003, f. 3-18-03, cert. ef. 4-1-03; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08

436-160-0060

Testing Procedures and Requirements

(1) Proof of coverage testing:

(a) Each transmission for test purposes will conform to the standards specified in OAR 436-160-0004, or as otherwise identified in the trading partner agreement. Test files will be evaluated in terms of whether the data was sent in the correct, standardized format.

(b) To gain approval to send production transmissions, the sender must be able to:

- (A) Transmit records via electronic data interchange; and
- (B) Accomplish secure file transfer protocol uploads and downloads.

(c) To initiate a test for EDI, the sender must contact the director.

(d) The sender must demonstrate the ability to send transmissions to the director that are readable, in the correct format, and can be processed through the division's information processing system. A successful EDI test is determined by the resolution of any consistently recurring fatal technical errors identified by the division such that:

(A) Transmissions are sent to the director without errors in the header or trailer record;

(B) Transmissions are sent to the director without transaction level technical errors; and

(C) The sender can receive and process the automated EDI acknowledgement transaction.

(e) To move from test to production, the sender must achieve 90% accuracy for transactions sent for a minimum of three consecutive transmissions during the test (i.e. 90% of the transactions must have been accepted by the division and the sender has received a transaction accepted acknowledgement). The director will consider the sender's anticipated volume of production transactions to determine the number of transactions per test transmission required.

(f) Once approved, sender must maintain the accuracy as defined in subsections (d) and (e) of this section. Failure to meet technical requirements may result in the revocation of EDI transmission approval.

(g) The director will inform the sender and insurer (if different) if accuracy standards for technical requirements fall below standards prescribed in subsections (d) and (e) of this section during production.

(h) During the EDI test phase, insurer will continue to submit filings via paper. Once the sender becomes approved and moves into production, insurer will not submit same transaction filings via paper. If a problem occurs with EDI transmission during production, insurer may return to paper filing to meet statutory filing requirements until the problem is corrected.

ADMINISTRATIVE RULES

(2) Medical bill data testing and transition to production:

(a) To initiate a test for EDI, the sender must contact the director.

(b) Each transmission for test purposes must conform to the standards specified in OAR 436-160-0004, or as otherwise identified in the trading partner agreement. Test files will be evaluated in terms of whether the data was sent in the correct, standardized format.

(c) To gain approval to send production transmissions, the sender must be able to:

(A) Transmit records via electronic data interchange; and

(B) Accomplish secure file transfer protocol uploads and downloads.

(d) The sender must demonstrate the ability to send transmissions to the director that are readable, in the correct format, and can be processed through the division's information processing system. A successful EDI FTP test is determined by the resolution of any consistently recurring fatal technical errors identified by the division such that:

(A) Transmissions are sent to the director without structural errors;

(B) Transmissions are sent to the director without transaction level technical errors; and

(C) The sender can receive and process the automated EDI acknowledgement transactions.

(e) To move from test to production, 80 percent of the sender's transactions must have been accepted by the division by the end of the testing period, allowing for corrected and resubmitted transactions. The director will consider the sender's anticipated volume of production transactions to determine the number of transactions per test transmission required.

(f) Once approved, sender must maintain the accuracy as defined in subsections (d) and (e) of this section. Failure to meet technical requirements may result in additional testing requirements.

(g) The director will inform the sender and insurer (if different) if accuracy standards for technical requirements fall below standards prescribed in subsections (d) and (e) of this section during production.

(h) During the EDI test phase, insurer will not be required to file the same medical bill data via Bulletin 220. If the test phase is not completed satisfactorily, as detailed in (e) above, the insurer may be required to submit data for the period covered by the unacceptable test via Bulletin 220 standard, and then complete a new EDI test.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 84.013 & 656.264

Hist.: WCD 3-2003, f. 3-18-03, cert. ef. 4-1-03; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08

436-160-0080

Acknowledgements

(1) Proof of Coverage:

(a) The director will respond to the sender with an electronic transaction accepted or transaction rejected acknowledgement of the insurer's transactions.

(b) The insurer must correct and resubmit any transactions rejected for which law or rule require filing, reporting, or notice to the director.

(2) Medical Bill Data:

(a) The sender will receive both functional and detailed electronic acknowledgements for each batch sent. The detailed acknowledgement will contain transaction accepted or transaction rejected acknowledgement of all of the insurer's transactions in the batch.

(b) The insurer must correct and resubmit any transactions rejected for which law or rule require filing, reporting, or notice to the director.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.264

Hist.: WCD 3-2003, f. 3-18-03, cert. ef. 4-1-03; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08

436-160-0400

Medical Bill Definitions

Unless otherwise provided in these rules, the definitions and standards identified in OAR 436-160-0004 and 436-160-0005 apply.

Stat. Auth.: ORS 656.726(4)

Stat. Implemented: ORS 656.264

Hist.: WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08

436-160-0410

Medical Bill Electronic Filing Requirements

(1) The chart in Appendix "B" shows all medical bill data elements accepted via EDI in Oregon, and whether the data element is mandatory (M), conditional (C), or optional (O) for each transaction type.

(2) Unless otherwise provided in these rules, the data elements must have the meaning provided in the data dictionary pursuant to OAR 436-160-0004.

(3) Transactions will be rejected if mandatory or required conditional data elements are omitted or submitted in a format that is not capable of

being processed by the division's information processing system designated for medical bill transactions.

(4) Optional data element(s) in a transaction will be ignored if the optional data element is either omitted, or submitted in a format that is not capable of being processed by the division's information processing system designated for medical bill transactions.

(5) Unless otherwise provided in these rules, an insurer approved for production transmissions will transmit medical bill data via EDI, and will not submit the same medical bill data via Bulletin 220 proprietary format to the director.

Stat. Auth.: ORS 656.726(4)

Stat. Implemented: ORS 656.264

Hist.: WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08

436-160-0420

Medical Bill Acknowledgement

(1) The sender will receive both a functional acknowledgement and a detailed acknowledgement for each medical bill batch submitted. The detailed acknowledgement will indicate either a transaction accepted (TA) or a transaction rejected (TR) acknowledgement for each individual transaction.

(2) A transaction rejected acknowledgement will be sent for all transactions incapable of being processed by the division's information processing system, including, but not limited to:

(a) An omitted mandatory data element;

(b) An improperly populated data element field, e.g. numeric data element field is populated with alpha or alphanumeric data, or is not a valid value according to the standards adopted in 436-160-0004;

(c) Transactions or electronic records within the transaction which require matching and cannot be matched to the division's database, e.g. cancellation of an original bill that does not match on Unique Bill ID;

(d) Illogical data in mandatory or required conditional field, e.g. service date is before date of injury;

(e) Duplicate transmission or duplicate transaction within the transmission;

(f) Invalid bill submission reason code; or

(g) Illogical event sequence relationship between transactions, e.g. cancellation transaction submitted before an original bill is submitted.

(3) A transaction accepted acknowledgement will be sent for all transactions that are in a format capable of being processed by the division's information processing system and are not rejected pursuant to section (2) of this rule.

(4) An insurer's obligation to file medical bill data for the purposes of this rule is not satisfied unless the director acknowledges acceptance of the transaction.

Stat. Auth.: ORS 656.726(4)

Stat. Implemented: ORS 656.264

Hist.: WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08

436-160-0430

Medical Bill Data Changes or Corrections

(1) Changes or corrections to medical bill information must be submitted according to the standards referenced in OAR 436-160-0004.

(2) To report changes or corrections of an original bill, the insurer must first submit a cancellation of the original bill and then a replacement transaction with the corrected information.

(3) The Unique Bill ID will be used to match cancellations and replacements to the original bill. Failure to match on this data element will result in a rejected transaction.

Stat. Auth.: ORS 656.726(4)

Stat. Implemented: ORS 656.264

Hist.: WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08

Rule Caption: Affecting workers' compensation medical treatment, claim closure, and reconsideration.

Adm. Order No.: WCD 11-2007

Filed with Sec. of State: 11-1-2007

Certified to be Effective: 1-2-08

Notice Publication Date: 9-1-2007

Rules Amended: 436-010-0005, 436-010-0210, 436-010-0220, 436-010-0230, 436-010-0240, 436-010-0265, 436-010-0280, 436-030-0007, 436-030-0020, 436-030-0035, 436-030-0115, 436-030-0135, 436-030-0145, 436-030-0155, 436-030-0165, 436-030-0175, 436-030-0185

Rules Repealed: 436-030-0440, 436-030-0450, 436-030-0460, 436-030-0550, 436-030-0570

ADMINISTRATIVE RULES

Subject: Amendment to OAR 436-010, "Medical Services":

- Updating name of Board of Medical Examiners for the State of Oregon to "Oregon Medical Board" (SB 147)
- Describing restrictions affecting emergency room physicians' rights to be attending physicians and authorize temporary disability benefits (SB 504)
- Describing the authority and limitations for several types of providers - chiropractors, naturopathic physicians, podiatrists, and physician assistants - when acting as attending physicians (HB 2756)
- Deleting obsolete utilization guideline regarding frequency of treatment in OAR 436-010-0230

Amendments to OAR 436-030, "Claim Closure and Reconsideration":

- Deleting procedures related to temporary rule promulgation to address disability in individual claims, when medical conditions are not addressed by current standards - such conditions will be addressed in the director's order on reconsideration; providing that penalties will not be assessed if an increase in compensation results from such an order (HB 2218)
- Restricting reconsideration of claim closure to issues raised by the parties plus requirements under ORS 656.268(1);
- Requiring insurers to submit documents related to reconsideration of claim closure in chronological order;
- Removing the limitation on attorney fees from OAR 436-030-0175(4);
- Shortening some rules by removing unnecessary descriptions of DCBS procedures
- Deleting obsolete rules OAR 436-030-0440, 0450; 0460, 0550, and 0570; the relevant subject matter from these rules has been addressed in other rules in OAR 436-030 and 436-035 (since approximately 1988), but the rules have remained in the Oregon Administrative Rules published by the Oregon Secretary of State.

Direct questions to: Fred Bruyns, Rules Coordinator; phone 503-947-7717; fax 503-947-7581; or e-mail fred.h.bruyns@state.or.us. Rules are available on the Internet: <http://www.wcd.oregon.gov/policy/rules/rules.html>

For a copy of the rules, contact Publications at 503-947-7627, Fax 503-947-7630.

Rules Coordinator: Fred Bruyns—(503) 947-7717

436-010-0005

Definitions

For the purpose of these rules, OAR 436-009, and 436-015, unless the context otherwise requires:

- (1) "Administrative Review" means any decision making process of the director requested by a party aggrieved with an action taken under these rules except the hearing process described in OAR 436-001.
- (2) "Attending Physician" means a doctor or physician who is primarily responsible for the treatment of a worker's compensable injury or illness and who is:
 - (a) A medical doctor or doctor of osteopathy licensed under ORS 677.100 to 677.228 by the Oregon Medical Board or an oral surgeon licensed by the Oregon Board of Dentistry;
 - (b) A medical doctor, doctor of osteopathy, or oral surgeon practicing in and licensed under the laws of another state;
 - (c) For the purpose of these rules:
 - (A) "Type A attending physician" means an attending physician under ORS 656.005(12)(b)(A); and
 - (B) "Type B attending physician" means an attending physician under ORS 656.005(12)(b)(B); or,
 - (d) Any medical service provider authorized to be an attending physician in accordance with a managed care organization contract.
- (3) "Authorized nurse practitioner" means a nurse practitioner licensed under ORS 678.375 to 678.390 who has certified to the director that the nurse practitioner has reviewed informational materials about the workers' compensation system provided by the director and has been assigned an authorized nurse practitioner number by the director.
- (4) "Board" means the Workers' Compensation Board and includes its Hearings Division.
- (5) "Chart note" means a notation made in chronological order in a medical record in which the medical service provider records such things

as subjective and objective findings, diagnosis, treatment rendered, treatment objectives, and return to work goals and status.

(6) "Coordinated Health Care Program" means an employer program providing for the coordination of a separate policy of group health insurance coverage with the medical portion of workers' compensation coverage, for some or all of the employer's workers, which provides the worker with health care benefits even if a worker's compensation claim is denied.

(7) "Current Procedural Terminology" or "CPT"® means the Current Procedural Terminology codes and terminology most recently published by the American Medical Association unless otherwise specified in these rules.

(8) "Customary Fee" means a fee that falls within the range of fees normally charged for a given service.

(9) "Days" means calendar days.

(10) "Direct control and supervision" means the physician is on the same premises, at the same time, as the person providing a medical service ordered by the physician. The physician can modify, terminate, extend, or take over the medical service at any time.

(11) "Division" means the Workers' Compensation Division of the Department of Consumer and Business Services.

(12) "Eligible" means an injured worker who has filed a claim and is employed by an employer who is located in an MCO's authorized geographical service area, covered by an insurer who has a contract with that MCO. "Eligible" also includes a worker with an accepted claim having a date of injury prior to contract when that worker's employer later becomes covered by an MCO contract.

(13) "Enrolled" means an eligible injured worker has received notification from the insurer that the worker is being required to treat under the auspices of the MCO. However, a worker may not be enrolled who would otherwise be subject to an MCO contract if the worker's primary residence is more than 100 miles outside the managed care organization's certified geographical service area.

(14) "Health Care Practitioner or Health Care Provider" has the same meaning as a "medical service provider."

(15) "HCFA form 2552" (Hospital Care Complex Cost Report) means the annual report a hospital makes to Medicare.

(16) "Hearings Division" means the Hearings Division of the Workers' Compensation Board.

(17) "Home Health Care" means medically necessary medical and medically related services provided in the injured worker's home environment. These services might include, but are not limited to, nursing care, medication administration, personal hygiene, or assistance with mobility and transportation.

(18) "Hospital" means an institution licensed by the State of Oregon as a hospital.

(19) "Initial Claim" means the first open period on the claim immediately following the original filing of the occupational injury or disease claim until the worker is first declared to be medically stationary by an attending physician or authorized nurse practitioner. For nondisabling claims, the "initial claim" means the first period of medical treatment immediately following the original filing of the occupational injury or disease claim ending when the attending physician or authorized nurse practitioner does not anticipate further improvement or need for medical treatment, or there is an absence of treatment for an extended period.

(20) "Inpatient" means an injured worker who is admitted to a hospital prior to and extending past midnight for treatment and lodging.

(21) "Insurer" means the State Accident Insurance Fund Corporation; an insurer authorized under ORS chapter 731 to transact workers' compensation insurance in the state; or, an employer or employer group that has been certified under ORS 656.430 meeting the qualifications of a self-insured employer under ORS 656.407.

(22) "Interim Medical Benefits" means those services provided under ORS 656.247 on initial claims with dates of injury on or after January 1, 2002 that are not denied within 14 days of the employer's notice of the claim.

(23) "Mailed or Mailing Date," for the purposes of determining timeliness under these rules, means the date a document is postmarked. Requests submitted by facsimile or "fax" are considered mailed as of the date printed on the banner automatically produced by the transmitting fax machine. Hand-delivered requests will be considered mailed as of the date stamped or punched in by the Workers' Compensation Division. Phone or in-person requests, where allowed under these rules, will be considered mailed as of the date of the request.

(24) "Managed Care Organization" or "MCO" means an organization formed to provide medical services and certified in accordance with OAR chapter 436, division 015.

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(25) "Medical Evidence" includes, but is not limited to: expert written testimony; written statements; written opinions, sworn affidavits, and testimony of medical professionals; records, reports, documents, laboratory, x-ray and test results authored, produced, generated, or verified by medical professionals; and medical research and reference material utilized, produced, or verified by medical professionals who are physicians or medical record reviewers in the particular case under consideration.

(26) "Medical Service" means any medical treatment or any medical, surgical, diagnostic, chiropractic, dental, hospital, nursing, ambulances, and other related services, and drugs, medicine, crutches and prosthetic appliances, braces and supports and where necessary, physical restorative services.

(27) "Medical Service Provider" means a person duly licensed to practice one or more of the healing arts.

(28) "Medical Provider" means a medical service provider, a hospital, medical clinic, or vendor of medical services.

(29) "Medical Treatment" means the management and care of a patient for the purpose of combating disease, injury, or disorder. Restrictions on activities are not considered treatment unless the primary purpose of the restrictions is to improve the worker's condition through conservative care.

(30) "Outpatient" means a worker not admitted to a hospital prior to and extending past midnight for treatment and lodging. Medical services provided by a health care provider such as emergency room services, observation room, or short stay surgical treatments which do not result in admission are also considered outpatient services.

(31) "Parties" mean the worker, insurer, MCO, attending physician, and other medical provider, unless a specific limitation or exception is expressly provided for in the statute.

(32) "Physical Capacity Evaluation" means an objective, directly observed, measurement of a worker's ability to perform a variety of physical tasks combined with subjective analyses of abilities by worker and evaluator. Physical tolerance screening, Blankenship's Functional Evaluation, and Functional Capacity Assessment will be considered to have the same meaning as Physical Capacity Evaluation.

(33) "Physical Restorative Services" means those services prescribed by the attending physician or authorized nurse practitioner to address permanent loss of physical function due to hemiplegia, a spinal cord injury, or to address residuals of a severe head injury. Services are designed to restore and maintain the injured worker to the highest functional ability consistent with the worker's condition. Physical restorative services are not services to replace medical services usually prescribed during the course of recovery.

(34) "Report" means medical information transmitted in written form containing relevant subjective or objective findings. Reports may take the form of brief or complete narrative reports, a treatment plan, a closing examination report, or any forms as prescribed by the director.

(35) "Residual Functional Capacity" means an individual's remaining ability to perform work-related activities despite medically determinable impairment resulting from the accepted compensable condition. A residual functional capacity evaluation includes, but is not limited to, capability for lifting, carrying, pushing, pulling, standing, walking, sitting, climbing, balancing, bending/stooping, twisting, kneeling, crouching, crawling, and reaching, and the number of hours per day the worker can perform each activity.

(36) "Specialist Physician" means a licensed physician who qualifies as an attending physician and who examines a worker at the request of the attending physician or authorized nurse practitioner to aid in evaluation of disability, diagnosis, and/or provide temporary specialized treatment. A specialist physician may provide specialized treatment for the compensable injury or illness and give advice and/or an opinion regarding the treatment being rendered, or considered, for a workers' compensable injury.

(37) "Usual Fee" means the medical provider's fee charged the general public for a given service.

(38) "Work Capacity Evaluation" means a physical capacity evaluation with special emphasis on the ability to perform a variety of vocationally oriented tasks based on specific job demands. Work Tolerance Screening will be considered to have the same meaning as Work Capacity Evaluation.

(39) "Work Hardening" means an individualized, medically prescribed and monitored, work oriented treatment process. The process involves the worker participating in simulated or actual work tasks that are structured and graded to progressively increase physical tolerances, stamina, endurance, and productivity to return the worker to a specific job.

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

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.000 et seq. & 656.005

Hist.: WCB 4-1976, f. 10-20-76, ef. 11-1-76; WCD 7-1978(Admin), f. & ef. 6-5-78; WCD 2-1980(Admin), f. 1-28-80, ef. 2-1-80; WCD 5-1982(Admin), f. 2-23-82, ef. 3-1-82; WCD 1-1984(Admin), f. & ef. 1-16-84; WCD 2-1985(Admin), f. 4-29-85, ef. 6-3-85; Renumbered from 436-069-0005, 5-1-85; WCD 6-1985(Admin), f. 12-10-85, ef. 1-1-86; WCD 4-1986(Admin), f. 6-26-86, ef. 7-1-86; WCD 2-1987(Admin), f. 2-20-87, ef. 3-16-87; WCD 1-1988, f. 1-20-88, cert. ef. 2-1-88; WCD 1-1990, f. 1-5-90, cert. ef. 2-1-90; WCD 12-1990(Temp), f. 6-20-90, cert. ef. 7-1-90; WCD 14-1990(Temp), f. & cert. ef. 7-20-91; WCD 16-1990(Temp), f. & cert. ef. 8-17-90; WCD 30-1990, f. 12-10-90, cert. ef. 12-26-90; WCD 11-1992, f. 6-11-92, cert. ef. 7-1-92; WCD 13-1994, f. 12-20-94, cert. ef. 2-1-95; WCD 12-1996, f. 5-6-96, cert. ef. 6-1-96; WCD 11-1998, f. 12-16-98, cert. ef. 1-1-99; WCD 13-2001, f. 12-17-01, cert. ef. 1-1-02; WCD 9-2002, f. 9-27-02, cert. ef. 11-1-02; WCD 14-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 6-28-04; WCD 3-2004, f. 3-5-04 cert. ef. 4-1-04; WCD 2-2005, f. 3-24-05, cert. ef. 4-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 5-2006, f. 6-15-06, cert. ef. 7-1-06; WCD 11-2007, f. 11-1-07, cert. ef. 1-2-08

436-010-0210

Who May Provide Medical Services and Authorize Timeloss

(1) Type A and B attending physicians may authorize time loss and manage medical services subject to the limitations of ORS chapter 656. (See "Matrix for health care provider types" Appendix A)

(2) Emergency room physicians may authorize time loss for not more than 14 days when they refer the worker to a primary care physician. However an emergency room physician also in private practice, apart from the duties of an emergency room physician, may qualify as a type A attending physician. For the purpose of this rule, private practice means a physician who treats individuals on an established patient basis.

(3) Authorized primary care physicians and authorized nurse practitioners may provide medical services to injured workers subject to the terms and conditions of the governing MCO. An MCO may allow greater latitude for the provider types to treat a worker enrolled under ORS 656.260.

(4) Attending physicians and authorized nurse practitioners may prescribe treatment or services to be carried out by persons licensed to provide a medical service. Attending physicians may prescribe treatment or services to be carried out by persons not licensed to provide a medical service or treat independently only when such services or treatment is rendered under the physician's direct control and supervision. Reimbursement to a worker for home health care provided by a worker's family member is not required to be provided under the direct control and supervision of the attending physician if the family member demonstrates competency to the satisfaction of the attending physician.

(5) Authorized nurse practitioners, out-of-state nurse practitioners, and physician assistants working within the scope of their license and as directed by the attending physician, need not be working under a written treatment plan as prescribed in OAR 436-010-0230(4)(a), nor under the direct control and supervision of the attending physician.

(6) Effective October 1, 2004, in order to provide any compensable medical service under ORS chapter 656, a nurse practitioner licensed under ORS 678.375 to 678.390 must certify in a form provided by the director that the nurse practitioner has reviewed a packet of materials which the director will provide upon request and must have been assigned an authorized nurse practitioner number by the director. An authorized nurse practitioner may:

(a) Provide compensable medical services to an injured worker for a period of 90 days from the date of the first nurse practitioner visit on the initial claim. Thereafter, medical services provided by an authorized nurse practitioner are not compensable without authorization of an attending physician; and

(b) Authorize temporary disability benefits for a period of up to 60 days from the date of the first nurse practitioner visit on the initial claim.

(7) In accordance with ORS 656.245(2)(a), with the approval of the insurer, the worker may choose an attending physician outside the state of Oregon. Upon receipt of the worker's request, or the insurer's knowledge of the worker's request to treat with an out-of-state physician, the insurer must give the worker written notice of approval or denial of the worker's choice of attending physician within 14 days.

(a) If the insurer does not approve the worker's out-of-state physician, notice to the worker must clearly state the reason(s) for the denial, which may include, but are not limited to, the out-of-state physician's refusal to comply with OAR 436-009 and 436-010, and identify at least two other physicians of the same healing art and specialty whom it would approve. The notice must also inform the worker that if the worker disagrees with the denial, the worker may refer the matter to the director for review under the provisions of OAR 436-010-0220.

(b) If the insurer approves the worker's choice of out-of-state attending physician, the insurer must immediately notify the worker and the medical service provider in writing of the following:

(A) The Oregon fee schedule requirements;

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(B) The manner in which the out-of-state physician may provide compensable medical treatment or services to Oregon injured workers; and

(C) Billings for compensable services in excess of the maximum allowed under the fee schedule may not be paid by the insurer.

(8) After giving prior approval, if the out-of-state physician does not comply with these rules, the insurer may object to the worker's choice of physician and must notify the worker and the physician in writing of the reason for the objection, that payment for services rendered by that physician after notification will not be reimbursable, and that the worker may be liable for payment of services rendered after the date of notification.

(9) If the worker is aggrieved by an insurer decision to object to an out-of-state attending physician, the worker or the worker's representative may refer the matter to the director for review under the provisions of OAR 436-010-0220.

Stat. Auth.:ORS 656.726(4)

Stats. Implemented: ORS 656.005(12), 656.245 & 656.260

Hist.: WCD 5-1982(Admin), f. 2-23-82, ef. 3-1-82; WCD 1-1984(Admin), f. & ef. 1-16-84; WCD 5-1984(Admin), f. & ef. 8-20-84; Renumbered from 436-069-0301, 5-1-85; WCD 6-1985(Admin), f. 12-10-85, ef. 1-1-86; WCD 6-1988, f. 9-6-88, cert. ef. 9-15-88; WCD 12-1990(Temp), f. 6-20-90, cert. ef. 7-1-90; WCD 30-1990, f. 12-10-90, cert. ef. 12-26-90; WCD 11-1992, f. 6-11-92, cert. ef. 7-1-92; WCD 13-1994, f. 12-20-94, cert. ef. 2-1-95; WCD 12-1996, f. 5-6-96, cert. ef. 6-1-96, Renumbered from 436-010-0050; WCD 11-1998, f. 12-16-98, cert. ef. 1-1-99; WCD 13-1999(Temp), f. & cert. ef. 10-25-99 thru 4-21-00; WCD 3-2000, f. 4-3-00, cert. ef. 4-21-00; WCD 13-2001, f. 12-17-01, cert. ef. 1-1-02; WCD 14-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 6-28-04; WCD 3-2004, f. 3-5-04, cert. ef. 4-1-04; WCD 2-2005, f. 3-24-05, cert. ef. 4-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 5-2006, f. 6-15-06, cert. ef. 7-1-06; WCD 11-2007, f. 11-1-07, cert. ef. 1-2-08

436-010-0220

Choosing and Changing Medical Providers

(1) A newly selected attending physician, authorized nurse practitioner, or a specialist physician who becomes primarily responsible for the worker's care, must notify the insurer not later than five days after the date of change or first treatment, using Form 827. An attending physician or authorized nurse practitioner:

- (a) Is primarily responsible for the worker's care;
- (b) Authorizes time loss;
- (c) Monitors ancillary care and specialized care; and
- (d) Is determined by the facts of the case and the actions of the physician, not whether a Form 827 is filed.

(2) The worker may have only one attending physician or authorized nurse practitioner at a time. Simultaneous or concurrent treatment by other medical service providers must be based upon a written request of the attending physician or authorized nurse practitioner, with a copy of the request sent to the insurer. Except for emergency services, or otherwise provided for by statute or these rules, all treatments and medical services must be authorized by the injured worker's attending physician or authorized nurse practitioner to be reimbursable. When the attending physician or authorized nurse practitioner refers the worker to a specialist physician, the referral must be written. An attending physician must specify any limitations regarding the referral within such document. Unless the documented referral limits the referral to consultation only, the referral is deemed to include attending physician authorization for the specialist physician to provide or order all compensable medical services and treatment he or she determines appropriate. Nothing in this rule diminishes the attending physician's responsibility to fulfill all their duties under ORS chapter 656, including authorizing temporary disability. Fees for services by more than one physician at the same time are payable only when the service is sufficiently different that separate medical skills are needed for proper care.

(3) The worker is allowed to change his or her attending physician or authorized nurse practitioner by choice two times after the initial choice. Referral by the attending physician or authorized nurse practitioner to another attending physician or authorized nurse practitioner, initiated by the worker, will count in this calculation. The limitations of the worker's right to choose physicians or authorized nurse practitioners under this section begin with the date of injury and extend through the life of the claim. For purposes of this rule, the following are not considered changes by choice of the worker:

- (a) Emergency services by a physician;
- (b) Examinations at the request of the insurer;
- (c) Consultations or referrals for specialized treatment or services initiated by the attending physician or authorized nurse practitioner;
- (d) Referrals to radiologists and pathologists for diagnostic studies;
- (e) When workers are required to change medical service providers to receive compensable medical services, palliative care, or time loss authorization because their medical service provider is no longer qualified as an attending physician or authorized to continue providing compensable medical services.

(f) Changes of attending physician or authorized nurse practitioner required due to conditions beyond the worker's control. This could include, but not be limited to:

- (A) When the physician terminates practice or leaves the area;
- (B) When a physician is no longer willing to treat an injured worker;
- (C) When the worker moves out of the area requiring more than a 50 mile commute to the physician;
- (D) When the period for treatment or services by a type B attending physician or an authorized nurse practitioner has expired; (See "Matrix for health care provider types" Appendix A);
- (E) When the nurse practitioner is required to refer the worker to an attending physician for a closing examination or because of a possible worsening of the worker's condition following claim closure; and
- (F) When a worker is subject to managed care and compelled to be treated inside an MCO;
- (g) A Worker Requested Medical Examination;
- (h) Whether a worker has an attending physician or authorized nurse practitioner who works in a group setting/facility and the worker sees another group member due to team practice, coverage, or on-call routines; or

(i) When a worker's attending physician or authorized nurse practitioner is not available and the worker sees a medical provider who is covering for that provider in their absence.

(4) When a worker has made an initial choice of attending physician or authorized nurse practitioner and subsequently changed two times by choice or reaches the maximum number of changes established by the MCO, the insurer must inform the worker by certified mail that any subsequent changes by choice must have the approval of the insurer or the director. If the insurer fails to provide such notice and the worker subsequently chooses another attending physician or authorized nurse practitioner, the insurer must pay for compensable services rendered prior to notice to the worker. If an attending physician or authorized nurse practitioner begins treatment without being informed that the worker has been given the required notification, the insurer must pay for appropriate services rendered prior to the time the insurer notifies the medical service provider that further payment will not be made and informs the worker of the right to seek approval of the director.

(5)(a) If a worker not enrolled in an MCO wishes to change his or her attending physician or authorized nurse practitioner beyond the limit established in section (3) of this rule, the worker must request approval from the insurer. Within 14 days of receipt of a request for a change of medical service provider or a Form 827 indicating the worker is choosing to change his or her attending physician or authorized nurse practitioner, the insurer must notify the worker in writing whether the change is approved. If the insurer objects to the change, the insurer must advise the worker of the reasons, advise that the worker may request director approval, and provide the worker with Form 2332 (Worker's Request to Change Attending Physician or Authorized Nurse Practitioner) to complete and submit to the director if the worker wishes to make the requested change.

(b) If a worker enrolled in an MCO wishes to change his or her attending physician or authorized nurse practitioner beyond the changes allowed in the MCO contract or certified plan, the worker must request approval from the insurer. Within 14 days of receiving the request, the insurer must notify the worker in writing whether the change is approved. If the insurer denies the change, the insurer must provide the reasons and give notification that the worker may request dispute resolution through the MCO. If the MCO does not have a dispute resolution process for change of attending physician or authorized nurse practitioner issues, the insurer shall give notification that the worker may request director approval and provide the worker with a copy of Form 2332.

(6) Upon receipt of a worker's request for an additional change of attending physician or authorized nurse practitioner, the director may notify the parties and request additional information. Upon receipt of a written request from the director for additional information, the parties will have 14 days to respond in writing.

(7) After receipt and review, the director will issue an order advising whether the change is approved. The change of attending physician or authorized nurse practitioner will be approved if the change is due to circumstances beyond the worker's control as described in section (3) of this rule. On a case by case basis consideration may be given, but is not limited to, the following:

(a) Whether there is medical justification for a change, including whether the attending physician or authorized nurse practitioner can provide the type of treatment or service that is appropriate for the worker's condition.

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(b) Whether the worker has moved to a new area and wants to establish an attending physician or authorized nurse practitioner closer to the worker's residence.

(c) Whether such a change will cause unnecessary travel costs or lost time from work.

(8) Any party that disagrees with the director's order may request a hearing by filing a request for hearing as provided in OAR 436-001-0019 within 30 days of the mailing date of the order. OAR 436-001 applies to the hearing.

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

Stat. Auth.: ORS 656.276(4)

Stats. Implemented: ORS 656.245, 656.252 & 656.260

Hist.: WCD 5-1982(Admin), f. 2-23-82, ef. 3-1-82; WCD 1-1984(Admin), f. & ef. 1-16-84; WCD 2-1985(Admin), f. 4-29-85, ef. 6-3-85; Renumbered from 436-069-0401, 5-1-85; WCD 1-1988, f. 1-20-88, cert. ef. 2-1-88; WCD 1-1990, f. 1-5-90, cert. ef. 2-1-90; WCD 12-1990(Temp), f. 6-20-90, cert. ef. 7-1-90; WCD 30-1990, f. 12-10-90, cert. ef. 12-26-90; WCD 11-1992, f. 6-11-92, cert. ef. 7-1-92; WCD 13-1994, f. 12-20-94, cert. ef. 2-1-95; WCD 12-1996, f. 5-6-96, cert. ef. 6-1-96, Renumbered from 436-010-0060; WCD 11-1998, f. 12-16-98, cert. ef. 1-1-99; WCD 13-2001, f. 12-17-01, cert. ef. 1-1-02; WCD 9-2002, f. 9-27-02, cert. ef. 11-1-02; WCD 14-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 6-28-04; WCD 3-2004, f. 3-5-04 cert. ef. 4-1-04; WCD 2-2005, f. 3-24-05, cert. ef. 4-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 5-2006, f. 6-15-06, cert. ef. 7-1-06; WCD 11-2007, f. 11-1-07, cert. ef. 1-2-08

436-010-0230

Medical Services and Treatment Guidelines

(1) Medical services provided to the injured worker must not be more than the nature of the compensable injury or the process of recovery requires. Services which are unnecessary or inappropriate according to accepted professional standards are not reimbursable.

(2) An employer or insurer representative may not attend a worker's medical appointment without written consent of the worker. The worker has the right to refuse such attendance.

(a) The consent form must state that the worker's benefits cannot be suspended if the worker refuses to have a representative present.

(b) The consent form must be written in a way that allows the worker to understand it and to overcome language or cultural differences.

(c) The insurer must retain a copy of a signed consent form in the claim file.

(3) Insurers have the right to require evidence of the frequency, extent, and efficacy of treatment and services.

(4)(a) Except as otherwise provided by an MCO, ancillary services including but not limited to physical therapy or occupational therapy, by a medical service provider other than the attending physician, authorized nurse practitioner, or specialist physician will not be reimbursed unless prescribed by the attending physician, authorized nurse practitioner, or specialist physician and carried out under a treatment plan prepared prior to the commencement of treatment and sent by the ancillary medical service provider to the attending physician, authorized nurse practitioner, or specialist physician, and the insurer within seven days of beginning treatment. The treatment plan shall include objectives, modalities, frequency of treatment, and duration. The treatment plan may be recorded in any legible format including, but not limited to, signed chart notes. Treatment plans required under this subsection do not apply to services provided under ORS 656.245(2)(b)(A).

(b) The attending physician, authorized nurse practitioner, or specialist physician must sign a copy of the treatment plan within 30 days of the commencement of treatment and send it to the insurer. Failure of the physician or nurse practitioner to sign or mail the treatment plan may subject the attending physician or authorized nurse practitioner to sanctions under OAR 436-010-0340, but shall not affect payment to the ancillary medical service provider.

(c) Medical services prescribed by an attending physician, specialist physician, or authorized nurse practitioner and provided by a chiropractor, naturopath, acupuncturist, or podiatrist will be subject to the treatment plan requirements set forth in subsection (4)(a) and (b) of this rule.

(d) Unless otherwise provided for within utilization and treatment standards under an MCO contract, the usual range for therapy visits does not exceed 20 visits in the first 60 days, and 4 visits a month thereafter. This rule does not constitute authority for an arbitrary provision of or limitation of services, but is a guideline for reviewing treatment or services. The attending physician or authorized nurse practitioner must document the need for medical services in excess of these guidelines when submitting a written treatment plan. The process outlined in OAR 436-010-0008 should be followed when an insurer believes the treatment plan is inappropriate.

(5) The attending physician or authorized nurse practitioner, when requested by the insurer or the director through the insurer to complete a physical capacity or work capacity evaluation, must complete the evaluation within 20 days, or refer the worker for such evaluation within seven

days. The attending physician or authorized nurse practitioner must notify the insurer and the worker in writing if the worker is incapable of participating in such evaluation.

(6) Prescription medications are required medical services under the provisions of ORS 656.245(1)(a), (1)(b), and (1)(c) and do not require prior approval under the palliative care provisions of OAR 436-010-0290. A pharmacist, dispensing physician, or authorized nurse practitioner must dispense generic drugs to injured workers in accordance with and under ORS 689.515. For the purposes of this rule, the worker will be deemed the "purchaser" and may object to the substitution of a generic drug. However, payment for brand name drugs are subject to the limitations provided in OAR 436-009-0090. Workers may have prescriptions filled by a provider of their choice, unless otherwise provided for in accordance with an MCO contract. Except in an emergency, drugs and medicine for oral consumption supplied by a physician's or authorized nurse practitioner's office are compensable only for the initial supply to treat the worker with the medication up to a maximum of 10 days, subject to the requirements of the provider's licensing board, this rule and OAR 436-009-0090. Compensation for certain drugs is limited as provided in OAR 436-009-0090.

(7) Dietary supplements including, but not limited to, minerals, vitamins, and amino acids are not reimbursable unless a specific compensable dietary deficiency has been clinically established in the injured worker or they are provided in accordance with a utilization and treatment standard adopted by the director. Vitamin B-12 injections are not reimbursable unless necessary because of a specific dietary deficiency of malabsorption resulting from a compensable gastrointestinal condition.

(8) X-ray films must be of diagnostic quality and accompanied by a report. 14" x 36" lateral views are not reimbursable.

(9) Upon request of either the director or the insurer, original diagnostic studies, including but not limited to actual films, must be forwarded to the director, the insurer, or the insurer's designee, within 14 days of receipt of a written request.

(a) Diagnostic studies, including films must be returned to the medical provider within a reasonable time.

(b) The insurer must pay for a reasonable charge made by the provider for the costs of delivery of diagnostic studies, including films.

(c) If a medical provider does not forward the films to the director or the insurer within 14 days of receipt of a written request, civil penalties may be imposed.

(10) Articles including but not limited to beds, hot tubs, chairs, Jacuzzis, and gravity traction devices are not compensable unless a need is clearly justified by a report which establishes that the "nature of the injury or the process of recovery requires" the item be furnished. The report must specifically set forth why the worker requires an item not usually considered necessary in the great majority of workers with similar impairments. Trips to spas, to resorts or retreats, whether prescribed or in association with a holistic medicine regimen, are not reimbursable unless special medical circumstances are shown to exist.

(11) Physical restorative services may include but are not limited to a regular exercise program or swim therapy. Such services are not compensable unless the nature of the worker's limitations requires specialized services to allow the worker a reasonable level of social and/or functional activity. The attending physician or authorized nurse practitioner must justify by report why the worker requires services not usually considered necessary for the majority of injured workers.

(12) The cost of repair or replacement of prosthetic appliances damaged when in use at the time of and in the course of a compensable injury is a compensable medical expense, including when the worker received no physical injury. For purposes of this rule, a prosthetic appliance is an artificial substitute for a missing body part or any device by which performance of a natural function is aided, including but not limited to hearing aids and eyeglasses.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.245, 656.248 & 656.252

Hist.: WCD 5-1982(Admin), f. 2-23-82, ef. 3-1-82; WCD 1-1984(Admin), f. & ef. 1-16-84; WCD 5-1984(Admin), f. & ef. 8-20-84; WCD 2-1985(Admin), f. 4-29-85, ef. 6-3-85; Renumbered from 436-069-0201, 5-1-85; WCD 6-1985(Admin), f. 12-10-85, ef. 1-1-86; WCD 2-1987(Admin), f. 2-20-87, ef. 3-16-87; WCD 1-1988, f. 1-20-88, cert. ef. 2-1-88; WCD 6-1988, f. 9-6-88, cert. ef. 9-15-88; WCD 2-1989, f. 8-21-89, cert. ef. 9-1-89; WCD 1-1990, f. 1-5-90, cert. ef. 2-1-90; WCD 12-1990(Temp), f. 6-20-90, cert. ef. 7-1-90; WCD 30-1990, f. 12-10-90, cert. ef. 12-26-90; WCD 11-1992, f. 6-11-92, cert. ef. 7-1-92; WCD 13-1994, f. 12-20-94, cert. ef. 2-1-95; WCD 12-1996, f. 5-6-96, cert. ef. 6-1-96, Renumbered from 436-010-0040; WCD 11-1998, f. 12-16-98, cert. ef. 1-1-99; WCD 3-1999(Temp), f. & cert. ef. 2-11-99 thru 8-10-99; WCD 7-1999, f. & cert. ef. 4-28-99; WCD 13-2001, f. 12-17-01, cert. ef. 1-1-02; WCD 14-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 6-28-04; WCD 3-2004, f. 3-5-04 cert. ef. 4-1-04; WCD 2-2005, f. 3-24-05, cert. ef. 4-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 5-2006, f. 6-15-06, cert. ef. 7-1-06; WCD 11-2007, f. 11-1-07, cert. ef. 1-2-08

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436-010-0240

Reporting Requirements for Medical Providers

(1) The act of the worker in applying for workers' compensation benefits constitutes authorization for any medical provider and other custodians of claims records to release relevant medical records under ORS 656.252 and diagnostic records required under ORS 656.325. Medical information relevant to a claim includes a past history of complaints or treatment of a condition similar to that presented in the claim or other conditions related to the same body part. The authorization is valid for the duration of the work related injury or illness and is not subject to revocation by the worker or the worker's representative. However, this authorization does not authorize the release of information regarding:

(a) Federally funded drug and alcohol abuse treatment programs governed by Federal Regulation 42, CFR 2, which may only be obtained in compliance with this federal regulation; or

(b) The release of HIV related information otherwise protected by ORS 433.045(3). HIV related information should only be released when a claim is made for HIV or AIDS or when such information is directly relevant to the claimed condition(s).

(2) Any physician, hospital, clinic, or other medical service provider, must provide all relevant information to the director, the insurer or their representative upon presentation of a signed Form 801, 827, or 2476 (Release of Information). "Signature on file," printed on the worker's signature line of any authorized Release of Information prescribed by the director, is a valid medical release, provided the insurer maintains the signed original in accordance with OAR 436-010-0270. However, nothing in this rule will prevent a medical provider from requiring a signed authorized Release of Information.

(3) When the worker has initiated a claim or wishes to initiate a claim, the worker and the first medical service provider on the initial claim must complete the first medical report (Form 827) in every detail, to include the worker's name, address, and social security number (SSN), and information required by ORS 656.252 and 656.254. The medical service provider must mail it to the proper insurer no later than 72 hours after the worker's first visit (Saturdays, Sundays, and holidays will not be counted in the 72-hour period).

(a) Diagnoses stated on Form 827 and all subsequent reports must conform to terminology found in the International Classification of Disease-9-Clinical Manifestations (ICD-9-CM) or taught in accredited institutions of the licentiate's profession.

(b) The worker's SSN will be used by the director to carry out its duties under ORS chapter 656. The worker may voluntarily authorize additional use of the worker's SSN by various government agencies to carry out their statutory duties.

(4) All medical service providers must notify the worker at the time of the first visit of the manner in which they can provide compensable medical services and authorize time loss. The worker must also be notified that they may be personally liable for noncompensable medical services. Such notification should be made in writing or documented in the worker's chart notes.

(5) Attending physicians or authorized nurse practitioners must, upon request from the insurer, submit verification of the worker's medical limitations related to the worker's ability to work, resulting from an occupational injury or disease. If the insurer requires the attending physician or authorized nurse practitioner to complete a release to return to work form, the insurer must use Form 3245.

(6) Medical providers must maintain records necessary to document the extent of medical services provided to injured workers.

(7) Progress reports are essential. When time loss is authorized by the attending physician or authorized nurse practitioner, the insurer may require progress reports every 15 days through the use of the physician's report, Form 827. Chart notes may be sufficient to satisfy this requirement. If more information is required, the insurer may request a brief or complete narrative report. Fees for such narrative reports must be in accordance with OAR 436-009-0015(11), 436-009-0070(2) or (3), whichever applies

(8) Reports may be handwritten and include all relevant or requested information.

(9) All records must be legible and cannot be kept in a coded or semi-coded manner unless a legend is provided with each set of records.

(10) The medical provider must respond within 14 days to the request for relevant medical records as specified in section (1) of this rule, progress reports, narrative reports, original diagnostic studies, including, but not limited to, actual films, and any or all necessary records needed to review the efficacy of medical treatment or medical services, frequency, and necessity of care. The medical provider must be reimbursed for copying documents

in accordance with OAR 436-009-0070(1). If the medical provider fails to provide such information within fourteen (14) days of receiving a request sent by certified mail, penalties under OAR 436-010-0340 or 436-015-0120 may be imposed.

(11) The attending physician or authorized nurse practitioner must inform the insurer and the worker of the anticipated date of release to work, the anticipated date the worker will become medically stationary, the next appointment date, and the worker's medical limitations. To the extent any medical provider can determine these matters they must be included in each progress report. The insurer must not consider the anticipated date of becoming medically stationary as a release to return to work.

(12) The attending physician or authorized nurse practitioner must notify the worker, insurer, and all other health care providers involved in the worker's treatment when the worker is determined medically stationary. The medically stationary date must be the date of the exam, and not a projected date. The notice must provide:

(a) The medically stationary date; and

(b) Whether the worker is released to any kind of work.

(13) The attending physician or authorized nurse practitioner must advise the worker, and within five days provide the insurer with written notice, of the date the injured worker is released to return to regular or modified work. The physician or nurse must not notify the insurer or employer of the worker's release to return to regular or modified work without first advising the worker.

(14) When an injured worker files a claim for aggravation, the claim must be filed on Form 827 and must be signed by the worker or the worker's representative and the attending physician. The attending physician, on the worker's behalf, must submit the aggravation form to the insurer within five days of the examination where aggravation is identified. When an insurer or self-insured employer receives a completed aggravation form, it must process the claim. Within 14 days of the examination the attending physician must also send a written report to the insurer that includes objective findings that document:

(a) Whether the worker is unable to work as a result of the compensable worsening; and

(b) Whether the worker has suffered a worsened condition attributable to the compensable injury under the criteria contained in ORS 656.273.

(15) The attending physician, authorized nurse practitioner, or the MCO may request consultation regarding conditions related to an accepted claim. The attending physician, authorized nurse practitioner, or the MCO must promptly notify the insurer of the request for consultation. This requirement does not apply to diagnostic studies performed by radiologists and pathologists. The attending physician, authorized nurse practitioner, or MCO must provide the consultant with all relevant clinical information. The consultant must submit a copy of the consultation report to the attending physician, authorized nurse practitioner, the MCO, and the insurer within 10 days of the date of the examination or chart review. No additional fee beyond the consultation fee is allowed for this report. MCO requested consultations that are initiated by the insurer, which include examination of the worker, must be considered independent medical examinations subject to the provisions of OAR 436-010-0265.

(16) A medical service provider must not unreasonably interfere with the right of the insurer, under OAR 436-010-0265(1), to obtain a medical examination of the worker by a physician of the insurer's choice.

(17) Any time an injured worker changes his or her attending physician or authorized nurse practitioner:

(a) The new provider is responsible for:

(A) Submitting Form 827 to the insurer not later than five days after the change or the date of first treatment; and

(B) Requesting all available medical information, including information concerning previous temporary disability periods, from the previous attending physician, authorized nurse practitioner, or from the insurer.

(b) The requirements of paragraphs (A) and (B) also apply anytime a worker is referred to a new physician qualified to be an attending physician or to a new authorized nurse practitioner primarily responsible for the worker's care.

(c) Anyone failing to forward requested information within 14 days to the new physician or nurse will be subject to penalties under OAR 436-010-0340.

(18) Injured workers, or their representatives, are entitled to copies of all protected health information in the medical records. These records should ordinarily be available from the insurers, but may also be obtained from medical providers under the following conditions:

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(a) A medical provider may charge the worker for copies in accordance with OAR 436-009-0070(1), but a patient may not be denied summaries or copies of his/her medical records because of inability to pay.

(b) For the purpose of this rule, "protected health information in the medical record" means any oral or written information in any form or medium that is created or received and relates to:

(A) The past, present, or future physical or mental health of the patient;

(B) The provision of health care to the patient; and

(C) The past, present, or future payment for the provision of health care to the patient.

(c) A worker or the worker's representative may request all or part of the record. A summary may substitute for the actual record only if the patient agrees to the substitution. Upon request, the entire health information record in the possession of the medical provider will be provided to the worker or the worker's representative. This includes records from other healthcare providers, except that the following may be withheld:

(A) Information which was obtained from someone other than a healthcare provider under a promise of confidentiality and access to the information would likely reveal the source of the information;

(B) Psychotherapy notes;

(C) Information compiled for use in a civil, criminal, or administrative action or proceeding; and

(D) Other reasons specified by federal regulation.

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

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

Stat. Auth.: ORS 656.276(4)

Stats. Implemented: ORS 656.245, 656.252, 656.254 & 656.273

Hist.: WCD 5-1982(Admin), f. 2-23-82, ef. 3-1-82; WCD 1-1984(Admin), f. & ef. 1-16-84; Renumbered from 436-069-0101, 5-1-85; WCD 6-1985(Admin), f. 12-10-85, ef. 1-1-86; WCD 1-1988, f. 1-20-88, cert. ef. 2-1-88; WCD 1-1990, f. 1-5-90, cert. ef. 2-1-90; WCD 12-1990(Temp), f. 6-20-90, cert. ef. 7-1-90; WCD 14-1990(Temp), f. & cert. ef. 7-20-91; WCD 30-1990, f. 12-10-90, cert. ef. 12-26-90; WCD 11-1992, f. 6-11-92, cert. ef. 7-1-92; WCD 12-1996, f. 5-6-96, cert. ef. 6-1-96, Renumbered from 436-010-0030; WCD 11-1998, f. 12-16-98, cert. ef. 1-1-99; WCD 13-2001, f. 12-17-01, cert. ef. 1-1-02; WCD 14-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 6-28-04; WCD 3-2004, f. 3-5-04 cert. ef. 4-1-04; WCD 2-2005, f. 3-24-05, cert. ef. 4-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 5-2006, f. 6-15-06, cert. ef. 7-1-06; WCD 11-2007, f. 11-1-07, cert. ef. 1-2-08

436-010-0265

Insurer Medical Examinations (IME)

(1) The insurer may obtain three medical examinations of the worker by medical service providers of its choice for each opening of the claim. These examinations may be obtained prior to or after claim closure. Effective July 1, 2006, the insurer must choose a provider to perform the independent medical examination from the director's list described in section (13) of this rule. A claim for aggravation, Board's Own Motion, or reopening of a claim where the worker becomes enrolled or actively engaged in training according to rules adopted under ORS 656.340 and 656.726 permits a new series of three medical examinations. For purposes of this rule, "independent medical examination" (IME) means any medical examination including a physical capacity or work capacity evaluation or consultation that includes an examination, except as provided in section (5) of this rule, that is requested by the insurer and completed by any medical service provider, other than the worker's attending physician or authorized nurse practitioner. The examination may be conducted by one or more providers with different specialty qualifications, generally done at one location and completed within a 72-hour period. If the providers are not at one location, the examination is to be completed within a 72-hour period and at locations reasonably convenient to the worker.

(2) When the insurer has obtained the three medical examinations allowed under this rule and wishes to require the worker to attend an additional examination, the insurer must first notify and request authorization from the director. Insurers that fail to first notify and request authorization from the director, may be assessed a civil penalty. The process for requesting such authorization will be as follows:

(a) The insurer must submit a request for such authorization to the director in a form and format as prescribed by the director in Bulletin 252 including, but not limited to, the reasons for an additional IME, the conditions to be evaluated, dates, times, places, and purposes of previous examinations, copies of previous IME notification letters to the worker, and any other information requested by the director. A copy of the request must be provided to the worker and the worker's attorney; and

(b) The director will review the request and determine if additional information is necessary prior to issuing an order approving or disapproving the request. Upon receipt of a written request for additional information from the director, the parties have 14 days to respond. If the parties do not provide the requested information, the director will issue an order approving or disapproving the request based on available information.

(3) In determining whether to approve or deny the request for an additional IME, the director may give consideration, but is not limited, to the following:

(a) Whether an IME involving the same discipline(s) or review of the same condition has been completed within the past six months.

(b) Whether there has been a significant change in the worker's condition.

(c) Whether there is a new condition or compensable aspect introduced to the claim.

(d) Whether there is a conflict of medical opinion about a worker's medical treatment or medical services, impairment, stationary status, or other issue critical to claim processing/benefits.

(e) Whether the IME is requested to establish a preponderance for medically stationary status.

(f) Whether the IME is medically harmful to the worker.

(g) Whether the IME requested is for a condition for which the worker has sought treatment or services, or the condition has been included in the compensable claim.

(4) Any party aggrieved by the director's order approving or disapproving a request for an additional IME may request a hearing by the Hearings Division of the board under ORS 656.283 and OAR chapter 438.

(5) For purposes of determining the number of IMEs, any examinations scheduled but not completed are not counted as a statutory IME. The following examinations are not considered IMEs and do not require approval as outlined in section (2) of this rule:

(a) An examination conducted by or at the request or direction of the worker's attending physician or authorized nurse practitioner;

(b) An examination obtained at the request of the director;

(c) An elective surgery consultation obtained in accordance with OAR 436-010-0250(3);

(d) An examination of a permanently totally disabled worker required under ORS 656.206(5);

(e) A closing examination by a consulting physician that has been arranged by the insurer, the worker's attending physician or authorized nurse practitioner in accordance with OAR 436-010-0280;

(f) A consultation requested by the Managed Care Organization (MCO) for the purpose of clarifying or refining a plan for continuing medical services as provided under its contract.

(6) Examinations must be at times and intervals reasonably convenient to the worker and must not delay or interrupt proper treatment of the worker.

(7) When the insurer requires a worker to attend an IME, the insurer must comply with the notification and reimbursement requirements found in OAR 436-009-0025 and 436-060-0095.

(8) A medical provider who unreasonably fails to timely provide diagnostic records required for an IME in accordance with OAR 436-010-0230(9) and 436-010-0240(10) may be assessed a penalty under ORS 656.325.

(9) When a worker objects to the location of an IME, the worker may request review by the director within six business days of the mailing date of the appointment notice.

(a) The request may be made in-person, by telephone, facsimile, or mail.

(b) The director may facilitate an agreement between the parties regarding location.

(c) If necessary, the director will conduct an expedited review and issue an order regarding the reasonableness of the location.

(d) The director will determine if there is substantial evidence to support a finding that the travel is medically contraindicated, or unreasonable based on a showing of good cause.

(A) For the purposes of this rule, "medically contraindicated" means that the travel required to attend the IME exceeds the travel or other limitations imposed by the attending physician, authorized nurse practitioner or other persuasive medical evidence, and alternative methods of travel will not overcome the limitations.

(B) For the purposes of this rule, "good cause" means the travel would impose a hardship for the worker that outweighs the right of the insurer or self-insured employer to select an IME location of its choice.

(10) If a worker fails to attend an IME without notifying the insurer or self-insured employer before the date of the examination or without sufficient reason for not attending, the director may impose a monetary penalty against the worker for such failure under OAR 436-010-0340.

(11) When scheduling an IME, the insurer must ensure the medical service provider has:

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(a) An Invasive Medical Procedure Authorization (Form 440-3227), if applicable; and

(b) A Worker IME Survey (Form 440-0858), with instructions to give the form(s) to the worker at the time of the IME.

(12) If a medical service provider intends to perform an invasive procedure as part of an IME, the provider must explain the risks involved in the procedure to the worker and the worker's right to refuse the procedure. The worker then must check the applicable box on Form 440-3227 either agreeing to the procedure or declining the procedure, and sign the form. For the purposes of this rule, an invasive procedure is a procedure in which the body is entered by a needle, tube, scope, or scalpel.

(13) Any medical service provider wishing to perform an IME or a Worker Requested Medical Exam (WRME) under ORS 656.325(1)(c) and OAR 436-060-0147 for a workers' compensation claim must meet the director's criteria and be included on the list of authorized providers maintained by the Director of the Department of Consumer and Business Services under ORS 656.328.

(a) To be on the director's list to perform IMEs or WRMEs, a medical service provider must:

(A) Hold a current license and be in good standing with the professional regulatory board that issued the license, for example the Oregon Medical Board.

(B) Complete a director-approved three-hour initial training course regarding IMEs. The training curriculum must include, at a minimum, all topics listed in Appendix B.

(i) Any party may request the director to place a provider on the director's list with less than the three-hour training. At the director's discretion, providers may be placed on the director's list to perform IMEs with less than the three-hour required training when extraordinary circumstances exist in a given case or if the worker and the insurer agree that a certain provider may perform the examination. Providers placed on the director's list in this circumstance are limited to being on the director's list only for the time required for the examination at issue.

(ii) When determining if extraordinary circumstances exist in a given case, the director may consider, but is not limited to, such factors as: medical specialty needed; number of IMEs the provider has performed in a calendar year; where the worker lives; and factors that would make the three-hour training unreasonable in a given case.

(C) Submit the Application for Independent Medical Exam Medical Service Provider Authorization (Form 440-3930) to the director. On the application, the provider must supply his or her license number, the name of the training vendor, and the date the provider completed a director-approved initial training course regarding IMEs. By signing and submitting the application form, the provider agrees to abide by:

(i) The standards of professional conduct for performing IMEs adopted by the provider's regulatory board, or the independent medical examination standards published in Appendix C, which apply if the provider's regulatory board does not adopt standards of conduct for IMEs. Providers on the director's list of authorized IME providers as of June 7, 2007, remain authorized to perform IMEs and do not need to reapply; and

(ii) All relevant workers' compensation laws and rules.

(b) Any party may make a written request to the director to add a provider to the director's list according to subsection (a).

(c) A provider may be sanctioned or excluded from the director's list of providers authorized to perform IMEs after a finding by the director that the provider:

(A) Violated the standards of either the professional conduct for performing IMEs adopted by the provider's regulatory board or the independent medical examination standards published in Appendix C, whichever applies;

(B) Failed to comply with the requirements of this rule, as determined by the director;

(C) Has a current restriction on their license or is under a current disciplinary action from their professional regulatory board;

(D) Has entered into a voluntary agreement with his or her regulatory board which the director determines is detrimental to performing IMEs;

(E) Violated workers' compensation laws or rules; or

(F) Has failed to attend training required by the director.

(d) Within 60 days of the director's decision to exclude a provider from the director's list, the provider may appeal the decision under ORS 656.704(2) and OAR 436-001-0019.

(14) The medical service provider conducting the examination will determine the conditions under which the examination will be conducted. Subject to the provider's approval, the worker may use a video camera or tape recorder to record the examination.

(15) If there is a finding by the director, an administrative law judge, the Workers' Compensation Board, or the court, that the IME was performed by a provider who was not on the director's list of authorized IME providers at the time of the examination, the insurer shall not use the IME report nor shall the report be used in any subsequent proceeding.

(16) Except as provided in subsection (a) of this section, a worker may elect to have an observer present during the IME.

(a) An observer is not allowed in a psychological examination unless the examining provider approves the presence of the observer.

(b) The worker must submit a signed observer form (440-3923A) to the examining provider acknowledging that the worker understands the worker may be asked sensitive questions during the examination in the presence of the observer. If the worker does not sign form 440-3923A, the provider may exclude the observer.

(c) An observer cannot participate in or obstruct the examination.

(d) The worker's attorney or any representative of the worker's attorney shall not be an observer. Only a person who does not receive compensation in any way for attending the examination can be an injured worker's observer.

(e) The IME provider must verify that the injured worker and any observer have been notified of the requirement in sub-section (b).

(17) Upon completion of the examination, the examining medical service provider must:

(a) Give the worker a copy of the IME Survey (Form 440-0858) on the day of the examination; and

(b) Send the insurer a copy of the report and, if applicable, the observer form (440-3923A) or the invasive procedure form (440-3227), or both.

(c) Sign a statement at the end of the report verifying who performed the examination and dictated the report, the accuracy of the content of the report, and acknowledging that any false statements may result in sanction by the director.

(18) The insurer must forward a copy of the signed report to the attending physician or authorized nurse practitioner within 72 hours of its receipt of the report.

(19) A complaint about an IME may be sent to the director for investigation. The director will determine the appropriate action to take in a given case, which may include consultation with or referral to the appropriate regulatory board.

(20) Training must be approved by the director before it is given. Any party may submit medical service provider IME training curriculum to the director for approval. The curriculum must include training outline, goals, objectives, specify the method of training and the number of training hours, and must include all topics addressed in Appendix B.

(21) Within 21 days of the IME training, the training supplier must send the director the date of the training and a list of all medical providers who completed the training, including names, license numbers, and addresses.

(22) Insurer claims examiners must be trained and certified in accordance with OAR 436-055 regarding appropriate interactions with IME medical service providers.

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

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.252, 656.325, 656.245, 656.248, 656.260, 656.264

Hist.: WCD 11-1998, f. 12-16-98, cert. ef. 1-1-99; WCD 3-1999(Temp), f. & cert. ef. 2-11-99 thru 8-10-99; WCD 7-1999, f. & cert. ef. 4-28-99; WCD 13-2001, f. 12-17-01, cert. ef. 1-1-02; WCD 9-2002, f. 9-27-02, cert. ef. 11-1-02; WCD 14-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 6-28-04; WCD 3-2004, f. 3-5-04 cert. ef. 4-1-04; WCD 2-2005, f. 3-24-05, cert. ef. 4-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 5-2006, f. 6-15-06, cert. ef. 7-1-06; WCD 4-2007(Temp), f. & cert. ef. 6-7-07 thru 12-3-07; WCD 9-2007, f. 11-1-07, cert. ef. 12-4-07; WCD 11-2007, f. 11-1-07, cert. ef. 1-2-08

436-010-0280

Determination of Impairment

(1) On disabling claims, when the worker becomes medically stationary, the attending physician must complete a closing exam or refer the worker to a consulting physician for all or part of the closing exam. For workers under the care of a type B attending physician or an authorized nurse practitioner, the provider must refer the worker to a type A attending physician to do a closing exam if there is a likelihood the worker has permanent impairment. The closing exam must be completed under OAR 436-030 and 436-035.

(2) The attending physician or authorized nurse practitioner has 14 days from the medically stationary date to send the closing report to the insurer. Within eight days of the medically stationary date, the attending physician may arrange a closing exam with a consulting physician. This exam does not count as an IME or a change of attending physician.

(3) When an attending physician requests a consulting physician to do the closing exam, the consulting physician has seven days from the date of

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the exam to send the report for the concurrence or objections of the attending physician. The attending physician must also state, in writing, whether they agree or disagree with all or part of the findings of the exam. Within seven days of receiving the report, the attending physician must make any comments in writing and send the report to the insurer. (See "Matrix for Health Care Provider types" Appendix A)

(4) The attending physician must specify the worker's residual functional capacity or refer the worker for completion of a second level physical capacities exam or work capacities exam (as described in OAR 436-009-0070(4)) pursuant to the following:

(a) A physical capacities exam when the worker has not been released to return to regular work, has not returned to regular work, has returned to modified work, or has refused an offer of modified work.

(b) A work capacities exam when there is question of the worker's ability to return to suitable and gainful employment. It may also be required to specify the worker's ability to perform specific job tasks.

(5) If the insurer issues a major contributing cause denial on the accepted claim and the worker is not medically stationary, the health care provider must do a closing exam, or in the case of a type B attending physician or authorized nurse practitioner, refer the worker to a type A attending physician for a closing exam. (See "Matrix for Health Care Provider types" Appendix A)

(6) The closing report must address the accepted conditions and must include:

- (a) Objective findings of permanent impairment; and
- (b) A statement of the validity of the impairment findings.

(7) The director may prescribe by bulletin what comprises a complete closing report, including, but not limited to, those specific clinical findings related to the specific body part or system affected. The bulletin may also include the impairment reporting format or form to be used as a supplement to the narrative report.

Stat. Auth.: ORS 656.726(4) & 656.245(2)(b)(B)

Stats. Implemented: ORS 656.245 & 656.252

Hist.: WCD 5-1982(Admin), f. 2-23-82, ef. 3-1-82; WCD 1-1984(Admin), f. & ef. 1-16-84; Renumbered from 436-069-0601, 5-1-85; WCD 1-1990, f. 1-5-90, cert. ef. 2-1-90; WCD 12-1990(Temp), f. 6-20-90, cert. ef. 7-1-90; WCD 30-1990, f. 12-10-90, cert. ef. 12-26-90; WCD 11-1992, f. 6-11-92, cert. ef. 7-1-92; WCD 13-1994, f. 12-20-94, cert. ef. 2-1-95; WCD 12-1996, f. 5-6-96, cert. ef. 6-1-96, Renumbered from 436-010-0080; WCD 11-1998, f. 12-16-98, cert. ef. 1-1-99; WCD 13-2001, f. 12-17-01, cert. ef. 1-1-02; WCD 14-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 6-28-03; WCD 3-2004, f. 3-5-04 cert. ef. 4-1-04; WCD 2-2005, f. 3-24-05, cert. ef. 4-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 5-2006, f. 6-15-06, cert. ef. 7-1-06; WCD 11-2007, f. 11-1-07, cert. ef. 1-2-08

436-030-0007

Administrative Review

(1) The following matters are subject to dispute resolution before the director:

(a) Notices of Closure issued by insurers are appealed to the director and processed in accordance with the reconsideration procedures described in OAR 436-030-0115 through 436-030-0185, except Notices of Closure under section (2)(b) of this rule.

(b) The director may abate, withdraw, or amend the Order on Reconsideration during the 30-day appeal period for the Order on Reconsideration.

(c) Notices of Refusal to Reclassify issued by insurers are appealable by the worker to the director under ORS 656.273 and 656.277 and OAR 436-060-0018.

(2) The following matters are brought before the Hearings Division of the Workers' Compensation Board:

(a) Director's Review orders and Orders on Reconsideration issued under OAR 436-060-0018 and these rules within the timeframes in OAR 436-060-0018 and 436-030-0145, respectively.

(b) Notices of Closure that rescind permanent total disability under ORS 656.206.

(c) Any other action taken under these rules where a worker's right to compensation or the amount thereof is directly an issue under ORS Chapter 656.

(3) Contested Case Hearings of Sanctions and Civil Penalties: Under ORS 656.740, any party aggrieved by a proposed order or proposed assessment of a civil penalty issued by the director under ORS 656.254, 656.735, 656.745 or 656.750 may request a hearing by the Hearings Division as follows:

(a) The party must send the request for hearing in writing to the director within 60 days after the mailing date of the proposed order or assessment. The request must specify the grounds upon which the proposed order or assessment is contested.

(b) The Workers' Compensation Division will forward the request and other pertinent information to the Hearings Division.

(c) An Administrative Law Judge from the Hearings Division, acting on behalf of the director, will conduct the hearing in accordance with ORS 656.740 and Chapter 183.

(4) Director's Administrative Review of other actions: Except as covered under sections (1) through (3) of this rule, any party seeking an action or decision by the director or aggrieved by an action taken by any other party under these rules, may request administrative review by the director as follows:

(a) The party must send the request in writing to the director within 90 days of the disputed action and must specify the grounds upon which the action is disputed.

(b) The director may require and allow such evidence as is deemed appropriate to complete the review.

(c) The director may, unless otherwise obligated by statute, at the director's discretion, waive any procedural rules as justice so requires.

Stat. Auth.: ORS 656.268, 656.726, OL Ch. 332 1995 & Ch. 313 1999, (§9, Ch. 170, OL 2003)

Stats. Implemented: ORS 656.268, 656.726, OL Ch. 332 1995 & Ch. 313 1999, 350, OL 2001 Hist.: WCD 12-1994, f. 11-18-94, cert. ef. 1-1-95; WCD 17-1997, f. 12-22-97, cert. ef. 1-15-98; WCD 9-2000, f. 11-13-00, cert. ef. 1-1-01; WCD 10-2001, f. 11-16-01, cert. ef. 1-1-02; WCD 14-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 6-28-03; WCD 2-2004, f. 2-19-04 cert. ef. 2-29-04; WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 11-2007, f. 11-1-07, cert. ef. 1-2-08

436-030-0020

Requirements for Claim Closure

(1) Provided the worker is not enrolled and actively engaged in training, the insurer must issue a Notice of Closure on an accepted disabling claim within 14 days when:

(a) Medical information establishes there is sufficient information to determine the extent of permanent disability under ORS 656.245(2)(b)(B), and indicates the worker's compensable condition is medically stationary;

(b) The accepted injury/condition is no longer the major contributing cause of the worker's combined or consequential condition(s), a major contributing cause denial has been issued, and there is sufficient information to determine the extent of permanent disability;

(c) The worker fails to seek medical treatment for 30 days for reasons within the worker's control and the worker has been notified of pending actions in accordance with these rules; or

(d) The worker fails to attend a mandatory closing examination for reasons within the worker's control and the worker has been notified of pending action(s) in accordance with these rules.

(e) A worker receiving permanent total disability benefits has materially improved and is capable of regularly performing work at a gainful and suitable occupation.

(2) For purposes of determining the extent of disability, "sufficient information" requires the following:

(a) An authorized nurse practitioner's, podiatrist's, chiropractor's, naturopathic physician's, physician assistant's or attending physician's written statement that clearly indicates there is no permanent impairment, residuals, or limitations attributable to the accepted condition(s), and there is no reasonable expectation, based on evidence in the record, of loss of use or function, changes in the worker's physical abilities, or permanent impairment attributable to the accepted condition(s). If the physician, nurse practitioner, podiatrist, chiropractor, naturopathic physician, or physician assistant indicates there is no impairment, but the record reveals otherwise, a closing examination and reports specified under (b) of this section are required; or

(b) A closing medical examination and report when there is a reasonable expectation of loss of use or function, changes in the worker's physical abilities, or permanent impairment attributable to the accepted condition(s) based on evidence in the record or the physician's opinion. The closing medical examination report must describe in detail all measurements and findings regarding any permanent impairment, residuals, or limitations attributable to the accepted condition(s) under OAR 436-010-0280 and 436-035; and, if there is not clear and convincing evidence that the worker has been released to regular work (for dates of injury on or after January 1, 2006) or returned to regular work at the job held at the time of injury and ORS 656.726(4)(f) does not apply, all of the following:

(A) An accurate description of the physical requirements of the worker's job

held at the time of injury, which has been provided by certified mail to the worker and the worker's legal representative, if any, either before closing the claim or at the time the claim is closed;

(B) The worker's wage established consistent with OAR 436-060;

(C) The worker's date of birth;

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(D) Except as provided in OAR 436-030-0015(3)(d), the worker's work history for the period beginning five years before the date of injury to the mailing date of the Notice of Closure, including tasks performed or level of SVP, and physical demands; and

(E) The worker's level of formal education .

(3) When determining disability and issuing the Notice of Closure, the insurer must apply all statutes and rules consistent with their provisions, particularly as they relate to major contributing cause denials, worker's failure to seek treatment, worker's failure to attend a mandatory examination, medically stationary status, temporary disability, permanent partial and total disability, review of permanent partial and total disability.

(4) When issuing a Notice of Closure, the insurer must prepare a summary worksheet, "Notice of Closure Worksheet", Form 440-2807 (Form 2807), as described by bulletin of the director.

(5) The "Notice of Closure", Form 440-1644 (Form 1644), is effective the date it is mailed to the worker and to the worker's attorney if the worker is represented, regardless of the date on the Notice itself.

(6) The notice must be in the form and format prescribed by the director in these rules and include only the following:

(a) The worker's name, address, and claim identification information;

(b) The appropriate dollar value of any individual scheduled or unscheduled permanent disability based on the value per degree for injuries occurring before January 1, 2005 or, for injuries occurring on or after January 1, 2005, the appropriate dollar value of any "whole person" permanent disability, including impairment and work disability as determined appropriate under OAR 436-035;

(c) The body part(s) awarded disability, coded to the table of body part codes as prescribed by the director;

(d) The percentage of loss of the specific body part(s), including either the number of degrees that loss represents as appropriate for injuries occurring before January 1, 2005, or the percentage of the whole person the worker's loss represents as appropriate for injuries occurring on or after January 1, 2005;

(e) If there is no permanent disability award for this Notice of Closure, a statement to that effect;

(f) The duration of temporary total and temporary partial disability compensation;

(g) The date the Notice of Closure was mailed;

(h) The medically stationary date or the date the claim statutorily qualifies for closure under OAR 436-030-0035 or 436-030-0034;

(i) The date the worker's aggravation rights end;

(j) The worker's appeal rights;

(k) The right of the worker to consult with the Ombudsman for Injured Workers;

(l) For claims with dates of injury before January 1, 2005, the rate in dollars per degree at which permanent disability, if any, will be paid based on date of injury as identified in Bulletin 111;

(m) For claims with dates of injury on or after January 1, 2005, the state's average weekly wage applicable to the worker's date of injury is to be shown on the Notice of Closure;

(n) The worker's return to work status; and

(o) A general statement that the insurer has the authority to recover an overpayment.

(7) The Notice of Closure (Form 440-1644) must be accompanied by the following:

(a) The brochure "Understanding Claim Closure and Your Rights";

(b) A copy of summary worksheet Form 2807 containing information and findings which result in the data appearing on the Notice of Closure;

(c) An accurate description of the physical requirements of the worker's job held at the time of injury unless it is not required under section (2)(a) of this rule or it was previously provided under section (2)(b)(A) of this rule;

(d) The Updated Notice of Acceptance at Closure which clearly identifies all accepted conditions in the claim and specifies those which have been denied and are on appeal or which were the basis for this opening of the claim; and

(e) A cover letter that:

(A) Specifically explains why the claim has been closed (e.g., expiration of a period of suspension without the worker resolving the problems identified, an attending physician stating the worker is medically stationary, worker failure to treat without attending physician authorization or establishing good cause for not treating, etc.);

(B) Lists and describes enclosed documents; and

(C) Notifies the worker about the end of temporary disability benefits, if any, and the anticipated start of permanent disability benefits, if any.

(8) A copy of the Notice of Closure must be mailed to each of the following persons at the same time, with each copy clearly identifying the intended recipient:

(a) The worker;

(b) The employer;

(c) The director; and

(d) The worker's attorney, if the worker is represented.

(9) The worker's copy of the Notice of Closure must be mailed by both regular mail and certified mail return receipt requested.

(10) An insurer may use electronically produced Notice of Closure forms if consistent with the form and format prescribed by the director.

(11) Insurers may allow adjustments of benefits awarded to the worker under the documentation requirements of OAR 436-060-0170 for the following purposes:

(a) To recover payments for permanent disability which were made prematurely;

(b) To recover overpayments for temporary disability; and

(c) To recover overpayments for other than temporary disability such as prepaid travel expenses where travel was not completed, prescription reimbursements, or other benefits payable under ORS 656.001 to 656.794.

(12) The insurer may allow overpayments made on a claim with the same insurer to be deducted from compensation to which the worker is entitled but has not yet been paid.

(13) If after claim closure, the worker became enrolled and actively engaged in an approved training program under OAR 436-120, a new Notice of Closure must be issued consistent with the following:

(a) In claims with dates of injury on or after January 1, 2005, the insurer must redetermine work disability when:

(A) The worker has ended training; and either

(B) The worker's condition is medically stationary; or

(C) The claim otherwise qualifies for closure in accordance with these rules.

(b) For claims with dates of injury before January 1, 2005, permanent disability must be redetermined by the insurer when:

(A) The worker has ended training; and either

(B) The worker's condition is medically stationary; or

(C) The claim otherwise qualifies for closure in accordance with these rules., except

(D) When the worker became medically stationary after June 7, 1995 for a scheduled disability. Then the scheduled disability must remain unchanged from the last award of compensation in that claim unless the condition did not remain medically stationary through training.

(c) For claims with dates of injury before January 1, 2005, if the worker has remained medically stationary throughout training and the closing examination is six months old or older, a current medical examination will be required for redetermination unless the worker's attending physician provides a written statement that there has been no change in the worker's accepted condition since the previous closing examination.

(14) When, after a claim is closed, the insurer changes or is ordered to change the worker's weekly wage upon which calculation of the work disability portion of a permanent disability award may be based, the insurer must notify the parties and the division of the change and the effect of the change on any permanent disability award. For purposes of this rule, the insurer must complete Form 440-1502 consistent with the instructions of the director and disperse it within 14 days of the change.

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

Stat. Auth.: ORS 656.268, 656.726, OL Ch. 332 1995, Ch. 313 1999

Stats. Implemented: ORS 656.210, 656.212, 656.214, 656.268 & 656.270, 656.726, 656.745, OL Ch. 332 1995 & Ch. 313 1999, §1, ch. 252, OL 2007

Hist.: WCD 4-1980(Admin), f. 3-20-80, ef. 4-1-80; WCD 5-1981(Admin), f. 12-30-81, ef. 1-1-82; Renumbered from 436-065-0006, 5-1-85; WCD 13-1987, f. 12-18-87, ef. 1-1-88; WCD 5-1990(Temp), f. 6-18-90, cert. ef. 7-1-90; WCD 31-1991, f. 12-10-90, cert. ef. 12-26-90; WCD 5-1992, f. 1-17-92, cert. ef. 2-20-92; WCD 12-1994, f. 11-18-94, cert. ef. 1-1-95; WCD 8-1996, f. 2-14-96, cert. ef. 2-17-96; WCD 17-1997, f. 12-22-97, cert. ef. 1-15-98; WCD 9-2000, f. 11-13-00, cert. ef. 1-1-01; WCD 2-2004, f. 2-19-04 cert. ef. 2-29-04; WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 11-2007, f. 11-1-07, cert. ef. 1-2-08

436-030-0035

Determining Medically Stationary Status

(1) A worker's compensable condition is medically stationary when the attending physician, authorized nurse practitioner, or a preponderance of medical opinion declares the worker either "medically stationary," "medically stable," or uses other language meaning the same thing.

(2) When there is a conflict in the medical opinions as to whether or not a worker's compensable condition is medically stationary, more weight is given to medical opinions that are based on the most accurate history, on

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the most objective findings, on sound medical principles, and clear and concise reasoning.

(3) Where there is not a preponderance of medical opinion stating a worker's compensable condition is or is not medically stationary, deference will generally be given to the opinion of the attending physician. However, in cases where expert analysis is important, deference is given to the opinion of the physician with the greatest expertise in, and understanding of, the worker's condition.

(4) When there is a conflict as to the date upon which a worker's compensable condition became medically stationary, the following conditions govern the determination of the medically stationary date. The date a worker is medically stationary is the earliest date that a preponderance is established under sections (1) and (2) of this rule. The date of the examination, not the date of the report, controls the medically stationary date.

(5) The insurer must request the attending physician, as defined in ORS 656.005(12)(b)(A), to concur or comment when the attending physician arranges, or refers the worker for a closing examination with another physician to determine the extent of impairment or when the insurer refers a worker for an independent medical examination. A concurrence with another physician's report is an agreement in every particular, including the medically stationary impression and date, unless the physician expressly states to the contrary and explains the reasons for disagreement. Concurrence cannot be presumed in the absence of the attending physician's response.

(6) A worker is medically stationary on the date of the examination when so specified by a physician. When a specific date is not indicated, a worker is presumed medically stationary on the date of the last examination, prior to the date of the medically stationary opinion. Physician projected medically stationary dates cannot be used to establish a medically stationary date.

(7) If the worker is incarcerated or confined in some other manner and unable to freely seek medical treatment, the insurer must arrange for medical examinations to be completed at the facility where the worker is located or at some other location accessible to the worker.

(8) If a worker dies and the attending physician has not established a medically stationary date, for purposes of claim closure, the medically stationary date is the date of death.

Stat. Auth.: ORS 656.268, 656.726, OL Ch. 332 1995 & Ch. 313 1999
Stats. Implemented: ORS 656.268, 656.726, OL Ch. 332 1995 & Ch. 313 1999
Hist.: WCD 5-1990(Temp), f. 6-18-90, cert. ef. 7-1-90; WCD 31-1990, f. 12-10-90, cert. ef. 12-26-90; WCD 5-1992, f. 1-17-92, cert. ef. 2-20-92; WCD 12-1994, f. 11-18-94, cert. ef. 1-1-95; WCD 8-1996, f. 2-14-96, cert. ef. 2-17-96; WCD 17-1997, f. 12-22-97, cert. ef. 1-15-98; WCD 9-2000, f. 11-13-00, cert. ef. 1-1-01; WCD 14-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 6-28-03; WCD 2-2004, f. 2-19-04 cert. ef. 2-29-04; WCD 11-2007, f. 11-1-07, cert. ef. 1-2-08

436-030-0115

Reconsideration of Notices of Closure

(1) A worker or insurer may request reconsideration of a Notice of Closure by mailing or delivering the request to the director within the statutory appeal period as defined in OAR 436-030-0005 and 436-030-0145(1). The reconsideration proceeding begins as described in OAR 436-030-0145(2).

(2) For the purpose of these rules, "reconsideration proceeding" means the procedure established to reconsider a Notice of Closure and does not include personal appearances by any of the parties to the claim or their representatives, unless requested by the director. All information to correct or clarify the record and any medical evidence regarding the worker's condition as of the time of claim closure that should have been but was not submitted by the attending physician or authorized nurse practitioner at the time of claim closure and all supporting documentation must be presented during the reconsideration proceeding. When the reconsideration proceeding is postponed because the worker's condition is not medically stationary under OAR 436-030-0165(10), medical evidence submitted may address the worker's condition after claim closure as long as the evidence satisfies the conditions of OAR 436-030-0145(3).

(3) All parties have an opportunity to submit documents to the record regarding the worker's status at the time of claim closure. Other factual information and written argument may be submitted for incorporation into the record under ORS 656.268(6) within the time frames outlined in OAR 436-030-0145. Such information may include, but is not limited to, responses to the documentation and written arguments, written statements, and sworn affidavits from the parties.

(4) The worker may submit a deposition to the reconsideration record subject to ORS 656.268(6) and the following:

(a) The deposition must be limited to the testimony and cross-examination of a worker about the worker's condition at the time of claim closure.

(b) The deposition must be arranged by the worker and held during the reconsideration proceeding time frame unless a good cause reason is established. If a good cause reason is established, the time frame for holding the deposition may be extended but must not extend beyond 30 days from the date of the Order on Reconsideration. The deposition must be held at a time and place that permits the insurer or self-insured employer the opportunity to cross-examine the worker.

(c) The insurer or self-insured employer must, within 30 days of receiving a bill for the deposition, pay the fee of the court reporter and the costs for the original transcript and its copies. An original transcript of the deposition must be sent to the department and each party must be sent a copy of the transcript.

(d) If the transcript is not completed and presented to the department prior to the deadline for issuing an Order on Reconsideration, the Order on Reconsideration may not be postponed to receive a deposition under this rule and the order will be issued based on the evidence in the record. However, the transcript may be received as evidence at a hearing for an appeal of the Order on Reconsideration.

(5) Only one reconsideration proceeding may be completed on each Notice of Closure and the director will review those issues raised by the parties and the requirements under ORS 656.268(1). Once the reconsideration proceeding is initiated, issues must be raised and further evidence submitted within the time frames allowed for processing the reconsideration request. When the director requires additional information to complete the record, the reconsideration proceeding may be postponed under ORS 656.268(6).

Stat. Auth.: ORS 656.726 & 1999 OL Ch. 313, Sec. 12 (6)(a)(A), 865, OL 2001
Stats. Implemented: ORS 656.268 & 1999 OL Ch. 313 Sec. 12 (6)(a)(A), 865, OL 2001
Hist.: WCD 12-1994, f. 11-18-94, cert. ef. 1-1-95; WCD 11-1995(Temp), f. & cert. ef. 8-23-95; WCD 8-1996, f. 2-14-96, cert. ef. 2-17-96; WCD 17-1997, f. 12-22-97, cert. ef. 1-15-98; WCD 9-2000, f. 11-13-00, cert. ef. 1-1-01; WCD 10-2001, f. 11-16-01, cert. ef. 1-1-02; WCD 14-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 6-28-03; WCD 2-2004, f. 2-19-04 cert. ef. 2-29-04; WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 11-2007, f. 11-1-07, cert. ef. 1-2-08

436-030-0135

Reconsideration Procedure

(1) Within 14 days from the start date of the reconsideration proceeding, the insurer must provide the director and the worker or the worker's attorney, in chronological order by document date, all documents pertaining to the claim which include, but are not limited to the complete medical record and all official action and notices on the claim.

(2) The request for reconsideration and all other information submitted to the director by any party during the reconsideration process must be copied to all interested parties. Failure to comply with this requirement may result in the information not being included as part of the record on reconsideration.

(3) The director will issue an order rescinding a Notice of Closure when the director finds, upon reconsideration:

(a) The claim was closed prematurely because the worker's accepted condition(s) was not medically stationary and the claim did not qualify for closure under ORS 656.268(1)(a); or

(b) The claim was not closed according to the requirements of these rules and ORS 656.268(1)(b) or (c).

(4) When a worker has requested and cashed a lump sum payment, under ORS 656.230, of an award granted by a Notice of Closure, the director will not consider the adequacy of that award in a reconsideration proceeding.

(5) When a new condition is accepted after a prior claim closure, and the newly accepted condition is subsequently closed, the director and the parties may mutually agree to consolidate requests for review of the closures into one reconsideration proceeding, provided the director has jurisdiction and neither of the closures have become final by operation of law.

(6) The reconsideration order may affirm, reduce, or increase the compensation awarded by the Notice of Closure.

(7) After the reconsideration order has been issued and before the end of the 30-day appeal period for the order on reconsideration, if a party discovers that additional documents were not provided by the opposing party in accordance with this rule, the Order on Reconsideration may be abated and withdrawn to give the party an opportunity to respond to the new information.

Stat. Auth.: ORS 656.726 & 1999 OL Ch. 313
Stats. Implemented: ORS 656.268(6) & 1999 OL Ch. 313
Hist.: WCD 12-1994, f. 11-18-94, cert. ef. 1-1-95; WCD 8-1996, f. 2-14-96, cert. ef. 2-17-96; WCD 17-1997, f. 12-22-97, cert. ef. 1-15-98; WCD 9-2000, f. 11-13-00, cert. ef. 1-1-01; WCD 14-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 6-28-03; WCD 14-2003(Temp), f.

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12-15-03, cert. ef. 1-1-04 thru 6-28-03; WCD 2-2004, f. 2-19-04 cert. ef. 2-29-04; WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 11-2007, f. 11-1-07, cert. ef. 1-2-08

436-030-0145

Reconsideration Time Frames and Postponements

(1) Statutory time frames for appealing a Notice of Closure are:

(a) For claims with a medically stationary date prior to June 7, 1995, the appeal period is 180 days from the claim closure. The time required to complete the reconsideration proceeding pursuant to this rule must not be included in the 180 days from the mailing date of the Notice of Closure to request a hearing.

(A) The 180-day time limit will be tolled upon receipt of the request for reconsideration from the mailing date of the request for reconsideration until the reconsideration request is either dismissed or an Order on Reconsideration is issued.

(B) The 180-day time limit will not be tolled when a request for reconsideration is withdrawn under OAR 436-030-0185.

(b) For claims with a medically stationary date, or date the claim statutorily qualifies for closure, on or after June 7, 1995, a request for reconsideration must be mailed within 60 days of the mailing date of the Notice of Closure. A request for hearing must be made within 30 days of the mailing date of the Order on Reconsideration.

(c) For claims closed on or after January 1, 2004, the insurer's request for reconsideration is limited to the findings used to rate impairment and must be mailed within seven days of the mailing date of the Notice of Closure.

(2) The reconsideration proceeding begins upon:

(a) The director's receipt of the worker's request for reconsideration, if the insurer has not previously requested reconsideration consistent with subsection (1)(c) of this rule; or

(b) The 61st day after the closure of the claim, if the insurer has requested reconsideration consistent with subsection (1)(c) of this rule; unless the director receives, within the appeal time frames in section (1) of this rule, a request for reconsideration or a statement by the worker instructing the director to start the reconsideration proceeding.

(3) Fourteen days after the date the reconsideration proceeding begins, the reconsideration request and all other appropriate information submitted by the parties will become part of the record used in the reconsideration proceeding.

(a) Evidence received or issues raised subsequent to the 14 day deadline will be considered in the reconsideration proceeding to the extent practicable.

(b) Upon review of the record the director may request, in accordance with ORS 656.268(6), any additional information deemed necessary for the reconsideration and set appropriate time frames for response.

(c) Except as provided in section (5) and (6) of this rule, the director will either mail an Order on Reconsideration within 18 working days from the date the reconsideration proceeding begins or notify the parties that the reconsideration proceeding is postponed for not more than 60 additional days in accordance with the provisions of ORS 656.268(6).

(4) Medical arbiter panel requests must be received by the department within the 14 day time frame beginning on the date the reconsideration proceeding starts.

(5) When the director provides notice the worker failed to attend the medical arbiter examination without good cause or failed to cooperate with the arbiter examination and suspends benefits under ORS 656.268(7), the reconsideration proceeding will be postponed for up to 60 additional days from the date the director determines and provides notice, to allow completion of the arbiter process.

(6) The reconsideration proceeding may be stayed for one of the following reasons:

(a) The parties consent to deferring the reconsideration proceeding, under ORS 656.268(7)(i)(B), when the medical arbiter examination is not medically appropriate because the worker's medical condition is not stationary; or

(b) When a Claim Disposition Agreement (CDA) is filed, the reconsideration proceeding is stayed until the CDA is either approved or set aside.

(7) If the director fails to mail an Order on Reconsideration or a Notice of Postponement under the time frames specified in ORS 656.268, the reconsideration request is automatically deemed denied. The parties may immediately thereafter proceed as though the director had issued an Order on Reconsideration affirming the Notice of Closure. Under section (1) of this rule, the counting of the 180-day time limit for requesting a hearing under former ORS 656.268(6)(b) will resume on the date after the director should have issued an Order on Reconsideration.

(8) Notwithstanding any other provision regarding the reconsideration proceeding, the director may extend nonstatutory time frames to allow the parties sufficient time to present evidence and address their issues and concerns.

Stat. Auth.: ORS 656.726 & 1999 OL Ch. 313

Stats. Implemented: ORS 656.268, ch. 429, OL 2003, 656.726, §7, ch. 252, OL 2007 & 1999 OL Ch. 313

Hist.: WCD 12-1994, f. 11-18-94, cert. ef. 1-1-95; WCD 8-1996, f. 2-14-96, cert. ef. 2-17-96; WCD 17-1997, f. 12-22-97, cert. ef. 1-15-98; WCD 9-2000, f. 11-13-00, cert. ef. 1-1-01; WCD 14-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 6-28-03; WCD 2-2004, f. 2-19-04 cert. ef. 2-29-04; WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 11-2007, f. 11-1-07, cert. ef. 1-2-08

436-030-0155

Reconsideration Record

(1) The record for the reconsideration proceeding includes all documents and other material relied upon in issuing the Order on Reconsideration as well as any additional material submitted by the parties, but not considered in the reconsideration proceeding.

(a) The record is maintained in the Workers' Compensation Division's claim file and consists of all documents and material received and date stamped by the director prior to the issuance of the Order on Reconsideration, unless the document(s) is an exact duplicate of what is in the file then the director is not required to retain the duplicate document(s).

(b) The insurer or self-insured employer must not send billing information and duplicate documents to the department, unless specifically requested by the director.

(2) Except as noted in this section, the medical record submitted by the director for arbiter review will consist of all medical documents and medical material produced by the claim under reconsideration, provided the information is allowable under ORS 656.268.

(3) The director will send non-medical information, nursing notes, or physical therapy treatment notes to the arbiter if:

(a) A party requests the director to submit those specific materials;

(b) The party identifies and provides the director with specific dates of those materials requested to be submitted; and

(c) The materials otherwise meet the requirements of this rule.

(4) When any surveillance video obtained prior to closure has been submitted to physician(s) involved in the evaluation or treatment of the worker, it must be provided for arbiter review.

(a) Surveillance video provided for arbiter review must have been reviewed prior to claim closure by a physician involved in the evaluation or treatment of the worker.

(b) All written materials previously forwarded to physician(s) along with the surveillance video, such as investigator field notes, summary or narrative reports, and cover letters, must also be submitted.

(c) Surveillance video must be labeled according to the date(s) and total time of the recording(s).

(5) When reconsideration is requested, the insurer is required to provide the director and the other parties with a copy of all documents contained in the record at claim closure. For cases involving a medical service provider who must meet criteria other than those of an attending physician or who practices under contract with a managed care organization, the insurer must provide documentation of the medical service provider's authority to act as an attending physician. Responses of the parties to the medical arbiter report will be included in the record if received prior to completion of the reconsideration proceeding.

Stat. Auth.: ORS 656.726 & 1999 OL Ch. 313

Stats. Implemented: ORS 656.268(6) & 1999 OL Ch. 313

Hist.: WCD 12-1994, f. 11-18-94, cert. ef. 1-1-95; WCD 8-1996, f. 2-14-96, cert. ef. 2-17-96; WCD 17-1997, f. 12-22-97, cert. ef. 1-15-98; WCD 9-2000, f. 11-13-00, cert. ef. 1-1-01; WCD 2-2004, f. 2-19-04 cert. ef. 2-29-04; WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 11-2007, f. 11-1-07, cert. ef. 1-2-08

436-030-0165

Medical Arbiter Examination Process

(1) The director will select a medical arbiter physician or a panel of physicians in accordance with ORS 656.268(7)(d).

(a) Any party that objects to a physician on the basis that the physician is not qualified under ORS 656.005(12)(b) must notify the director prior to the examination of the specific objection. If the director determines that the physician is not qualified to be a medical arbiter on the specific case, an examination will be scheduled with a different physician. All costs related to the completion of the medical arbiter process in this rule must be paid by the insurer.

(b) When the worker resides outside the state of Oregon, a medical arbiter examination may be scheduled out-of-state with a physician who is licensed within that state to provide medical services in the same manner as required by ORS 656.268(7).

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(c) Arbiters or panel members will not include any medical service providers whose examination or treatment is the subject of the review.

(2) When the director has determined a claim qualifies for medical arbiter deselection, a list of appropriate physicians will be faxed or sent by overnight mail to the parties.

(a) Each party may eliminate one physician from the list by crossing out the physician's name.

(b) The parties may agree to one physician from the list by responding in writing. The parties must also deselect one physician from the list in case the agreed upon physician is unavailable.

(c) All responses must be signed and received by the director within three business days. No further opportunity will be given for the parties to provide input regarding the arbiter deselection process once the three business day period has expired. No further attempts at deselection will be made when continuing the arbiter deselection process is not practical.

(3) The worker's failure to attend the medical arbiter examination or to cooperate with the medical arbiter will result in suspension of all disability benefits effective on the date of the examination unless the worker establishes a "good cause" reason for missing the examination or for not cooperating with the arbiter. The worker must call the director within 24 hours after failing to attend the examination to provide any "good cause" reason for missing the exam.

(a) Notice of the examination will be considered adequate notice if the appointment letter is mailed to the last known address of the worker and to the worker's attorney if the worker is represented.

(b) For the purposes of this rule, non-cooperation includes, but is not limited to, refusal to complete any reasonable action necessary to evaluate the worker's impairment. However, it does not include circumstances such as a worker's inability to carry out any part of the examination due to excessive pain or when the physician reports the findings as medically invalid.

(c) Failure of the worker to respond within the time frames outlined in statute for completion of the reconsideration proceeding may be considered a failure to establish "good cause."

(4) If a worker misses the medical arbiter examination, the director will determine whether or not there was a "good cause" reason for missing the examination.

(5) Upon determination that there was not a "good cause" reason for missing the examination, or that the worker failed to cooperate with the arbiter, the worker's disability benefits will be suspended and the reconsideration proceeding postponed for up to an additional 60 days.

(6) The suspension will be lifted if any of the following occurred during the additional 60-day postponement period:

(a) The worker established a "good cause" reason for missing or failing to cooperate with the examination;

(b) The request for reconsideration was withdrawn by the worker; or

(c) The worker attended and cooperated with a rescheduled arbiter examination.

(7) If none of the events which end the suspension under section (6) of this rule occurred prior to the expiration of the 60-day additional postponement, the suspension of benefits will remain in effect.

(8) The medical arbiter or panel of medical arbiters must perform a record review or examine the worker as requested by the director and perform such tests as may be reasonable and necessary to establish the worker's impairment.

(a) The parties must submit to the director any issues they wish the medical arbiter or panel of medical arbiters to address within 14 days after the date the reconsideration proceeding begins. The parties must not submit issues directly to the medical arbiter or panel of medical arbiters. The medical arbiter or panel of medical arbiters will only consider issues appropriate to the reconsideration proceeding.

(b) The report of the medical arbiter or panel of medical arbiters must address all questions raised by the director.

(c) The medical arbiter will provide copies of the arbiter report to the director, the worker or the worker's attorney, and the insurer(s) within five working days after completion of the arbiter review. The cost of providing copies of such additional reports must be reimbursed according to OAR 436-009-0070 and must be paid by the insurer.

(9) When the worker's medical condition is not stationary on reconsideration which may result in difficulties in obtaining findings of impairment by the arbiter, the director will, where appropriate, send a letter to the parties requesting consent to defer the reconsideration proceeding.

(a) If the parties agree to the deferral, the reconsideration proceeding will be deferred until the medical record reflects the worker's condition has stabilized sufficiently to allow for examination to obtain the impairment findings. The parties must notify the director when it is appropriate to

schedule the medical arbiter examination and provide the necessary medical records when requested. Interim medical information that may be helpful to the director and the medical arbiter in assessing and describing the impairment due to the compensable condition(s) may be submitted at the time the parties notify the director that the medical arbiter exam can be scheduled. The director will determine whether the interim medical information is consistent with the provisions of ORS 656.268(6) and (7).

(b) If deferral is not appropriate, at the director's discretion either a medical arbiter examination or a medical arbiter record review may be obtained, or the director may issue an Order on Reconsideration based on the record available at claim closure and other evidence submitted in accordance with ORS 656.268(6).

(10) All costs related to record review, examinations, tests, and reports of the medical arbiter must be paid under OAR 436-009-0015, 436-009-0040, and 436-009-0070.

(11) When requested by the Hearings Division, the director may schedule a medical arbiter examination for a worker who has appealed a Notice of Closure rescinding permanent total disability benefits under ORS 656.206.

Stat. Auth.: ORS 656.726 & 1999 OL Ch. 313
Stats. Implemented: ORS 656.268 & 1999 OL Ch. 313, Ch. 349, OL 2001
Hist.: WCD 12-1994, f. 11-18-94, cert. ef. 1-1-95; WCD 11-1995(Temp), f. & cert. ef. 8-23-95; WCD 8-1996, f. 2-14-96, cert. ef. 2-17-96; WCD 17-1997, f. 12-22-97, cert. ef. 1-15-98; WCD 9-2000, f. 11-13-00, cert. ef. 1-1-01; WCD 10-2001, f. 11-16-01, cert. ef. 1-1-02; WCD 14-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 6-28-03; WCD 2-2004, f. 2-19-04 cert. ef. 2-29-04; WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 11-2007, f. 11-1-07, cert. ef. 1-2-08

436-030-0175

Fees and Penalties Within the Reconsideration Proceeding

(1) An insurer failing to provide information or documentation as set forth in OAR 436-030-0135, 436-030-0145, 436-030-0155 and 436-030-0165 may be assessed civil penalties under OAR 436-030-0580. Failure to comply with the requirements set forth in OAR 436-030-0135, 436-030-0145, 436-030-0155, and 436-030-0165 may also be grounds for extending the reconsideration proceeding under ORS 656.268(6).

(2) If upon reconsideration of a Notice of Closure there is an increase of 25 percent or more in the amount of permanent disability compensation from that awarded by the Notice of Closure, and the worker is found to be at least 20 percent permanently disabled, the insurer will be ordered to pay the worker a penalty equal to 25 percent of the increased amount of permanent disability compensation. Penalties will not be assessed if an increase in compensation results from one of the following:

(a) An order issued by the director that addresses the extent of the worker's permanent disability that is not based on the standards adopted under ORS 656.726(4)(f);

(b) New information is obtained through a medical arbiter examination, for claims with medically stationary dates or statutory closure dates on or after June 7, 1995; or

(c) Information that the insurer or self-insured employer demonstrates they could not reasonably have known at the time of claim closure.

(3) For the purpose of section (2) of this rule, a worker who receives a total sum of 64 degrees of scheduled or unscheduled disability or a combination thereof, will be found to be at least 20 percent disabled.

For example: A worker who receives 20 percent disability of a great toe (3.6 degrees) is not considered 20 percent permanently disabled because the great toe is only a portion of the whole person. A worker who is 100 percent permanently disabled is entitled to 320 degrees of disability. A worker who receives 64 degrees (20 percent of 320 degrees), whether scheduled, unscheduled or a combination thereof, will be considered the equivalent of at least 20 percent permanently disabled for the purposes of this rule.

(4) Attorney fees may only be authorized when a Request for Reconsideration is submitted by an attorney representing a worker or the attorney provides documentation of representation, and a valid signed retainer agreement has been filed with the director. The insurer must pay the attorney 10 percent out of any additional compensation awarded. "Additional compensation" includes an increase in a permanent or temporary disability award.

Stat. Auth.: ORS 656.726
Stats. Implemented: ORS 656.268, §7, ch. 252, OL 2007
Hist.: WCD 12-1994, f. 11-18-94, cert. ef. 1-1-95; WCD 11-1995(Temp), f. & cert. ef. 8-23-95; WCD 8-1996, f. 2-14-96, cert. ef. 2-17-96; WCD 17-1997, f. 12-22-97, cert. ef. 1-15-98; WCD 2-1999(Temp), f. 1-14-99, cert. ef. 2-1-99 thru 7-30-99; WCD 8-1999, f. & cert. ef. 4-28-99; WCD 9-2000, f. 11-13-00, cert. ef. 1-1-01; WCD 2-2004, f. 2-19-04 cert. ef. 2-29-04; WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 11-2007, f. 11-1-07, cert. ef. 1-2-08

436-030-0185

Reconsideration: Settlements and Withdrawals

(1) Contested matters arising out of a claim closure may be resolved by mutual agreement of the parties at any time after the claim has been

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Department of Environmental Quality Chapter 340

closed under ORS 656.268 but before that claim closure has become final by operation of law. If the parties have reached such an agreement prior to the completion of the reconsideration proceeding, the parties must submit the stipulation agreement to the director for approval as part of the reconsideration proceeding. The stipulation submitted for review at the reconsideration proceeding must:

(a) Address only issues that pertain to a claim closure and cannot include any issues of compensability;

(b) List the body part(s) for which any award is made and recite all disability awarded in both degrees and percent of loss as appropriate based on date of injury when permanent partial disability is part of the stipulated agreement. In the event there is any inconsistency between the stated degrees and percent of loss awarded in any stipulated agreement for claims with dates of injury prior to January 1, 2005, the stated percent of loss will control.

(2) The director will review the stipulation and issue an order approving or denying the stipulation within 18 working days from the director's receipt of the stipulation. Stipulations approved by the director can not be appealed.

(3) When the stipulated agreement does not expressly resolve all issues relating to the claim closure, the Order on Reconsideration will include the stipulation, as well as a substantial determination of all remaining issues. In these claims, the 18 working day time frame may be postponed in the same manner as any reconsideration proceeding.

(4) If the stipulation is not approved, the reconsideration proceeding will be postponed to allow the parties to:

(a) Address the disapproval; or

(b) Request that the director issue an Order on Reconsideration addressing the substantive issues.

(5) When the parties desire to enter into a stipulated agreement to resolve disputed issues relating to the claim closure but are unable to reach an agreement, the parties may request the assistance of the director to mediate an agreement.

(6) When the parties desire to enter into a stipulated agreement that addresses all matters being reconsidered as well as issues not before the reconsideration proceeding, and the parties do not want a reconsideration on the merits of the claim closure, they may advise the director of their resolution and request the director enter an Order on Reconsideration affirming the Notice of Closure. The request for an affirming order must be made prior to the date an Order on Reconsideration is issued and in accordance with the following procedure.

(a) A written request for an affirming reconsideration order must:

(A) Be made by certified mail;

(B) Be signed by both parties or their representatives;

(C) State that the parties waive their right to an arbiter review and that all matters subject to the mandatory reconsideration process have been resolved; and

(D) Be accompanied by a copy of the proposed stipulated agreement.

(b) After the affirming Order on Reconsideration has been issued, the parties will submit their stipulation to a referee of the Hearings Division, Workers' Compensation Board, for approval in accordance with the provisions of ORS 656.289 and the Board's rules of practice and procedure.

(c) An Order on Reconsideration issued under this rule is final and is subject to review under ORS 656.283.

(d) This provision does not apply to Claims Disposition Agreements filed under ORS 656.236.

(7) A worker requesting a reconsideration may withdraw the request for reconsideration without agreement of the other parties only if:

(a) No additional information has been submitted by the other parties;

(b) No medical arbiter exam has occurred; and

(c) The insurer has not requested reconsideration under OAR 436-030-0145.

(8) Notwithstanding (7) above, if additional information has been submitted by the other party(ies), a medical arbiter exam has occurred or the insurer has requested reconsideration, the reconsideration request will not be dismissed unless all parties agree to the withdrawal.

(9) If the insurer has requested reconsideration, either the worker or the insurer may initiate the withdrawal request but both must agree to the withdrawal.

Stat. Auth.: ORS 656.726 & 1999 OL Ch. 313

Stats. Implemented: ORS 656.268(6) & 1999 OL Ch. 313

Hist.: WCD 12-1994, f. 11-18-94, cert. ef. 1-1-95; WCD 17-1997, f. 12-22-97, cert. ef. 1-15-98; WCD 9-2000, f. 11-13-00, cert. ef. 1-1-01; WCD 14-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 6-28-03; WCD 2-2004, f. 2-19-04 cert. ef. 2-29-04; WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 11-2007, f. 11-1-07, cert. ef. 1-2-08

Rule Caption: Proposal to increase Oregon Air Contaminant Discharge Permit Fees by 20%.

Adm. Order No.: DEQ 7-2007

Filed with Sec. of State: 10-18-2007

Certified to be Effective: 10-18-07

Notice Publication Date: 9-1-2007

Rules Amended: 340-216-0020

Subject: The rule amendments increase Oregon's Air Contaminant Discharge Permit (ACDP) fees by 20% for all permit categories, including Initial Permitting Application fees, Annual Fees, and Specific Activity Fees in OAR 340-216-0020, Table 2. The amendments correct the Short Term Activity ACDP Initial Permitting Fee from \$2,500 to \$300. The rule amendments do not make changes to rule language; they make changes to the table.

Rules Coordinator: Larry McAllister—(503) 229-6412

340-216-0020

Applicability

This division applies to all sources referred to in **Table 1**. This division also applies to Oregon Title V Operating Permit program sources when an ACDP is required by OAR 340-218-0020 or 340-224-0010.

(1) No person may construct, install, establish, develop or operate any air contaminant source which is referred to in Table 1 without first obtaining an Air Contaminant Discharge Permit (ACDP) from the Department or Regional Authority.

(a) For portable sources, a single permit may be issued for operating at any area of the state if the permit includes the requirements from both the Department and Regional Authorities.

(b) The Department or Regional Authority where the portable source's Corporate offices are located will be responsible for issuing the permit. If the corporate office of a portable source is located outside of the state, the Department will be responsible for issuing the permit.

(2) No person may construct, install, establish, or develop any source that will be subject to the Oregon Title V Operating Permit program without first obtaining an ACDP from the Department or Regional Authority

(3) No person may modify any source that has been issued an ACDP without first complying with the requirements of OAR 340-210-0200 through 340-210-0250.

(4) No person may modify any source required to have an ACDP such that the source becomes subject to the Oregon Title V Operating Permit program without complying with the requirements of OAR 340-210-0200 through 340-210-0250.

(5) No person may increase emissions above the PSEL by more than the de minimis levels specified in OAR 340-200-0020 without first applying for and obtaining a modified ACDP.

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-211-0040.

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

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A

Hist.: DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; DEQ 107, f. & ef. 1-6-76; Renumbered from 340-020-0033; DEQ 125, f. & ef. 12-16-76; DEQ 20-1979, f. & ef. 6-29-79; DEQ 23-1980, f. & ef. 9-26-80; DEQ 13-1981, f. 5-6-81, ef. 7-1-81; DEQ 11-1983, f. & ef. 5-31-83; DEQ 3-1986, f. & ef. 2-12-86; DEQ 12-1987, f. & ef. 6-15-87; DEQ 27-1991, f. & cert. ef. 11-29-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0155; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 22-1994, f. & cert. ef. 10-4-94; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 19-1996, f. & cert. ef. 9-24-96; DEQ 22-1996, f. & cert. ef. 10-22-96; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1720; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 4-2002, f. & cert. ef. 3-14-02; DEQ 7-2007, f. & cert. ef. 10-18-07

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Rule Caption: Adoption of Air Quality Permit Program Streamlining and Updates.

Adm. Order No.: DEQ 8-2007

Filed with Sec. of State: 11-8-2007

Certified to be Effective: 11-8-07

Notice Publication Date: 4-1-2007

Rules Amended: 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-

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214-0340, 340-214-0350, 340-214-0360, 340-216-0020, 340-216-0056, 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, 340-234-0010, 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

Rules Repealed: 340-208-0560, 340-208-0630, 340-234-0110, 340-234-0120, 340-234-0130, 340-234-0230, 340-234-0260

Subject: The rule changes improve the Air Quality permitting process and help maintain a fully delegated and federally approved permitting program. They 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 volatile organic compound and a correction to Oregon's recently adopted Utility Mercury Rules. All of the changes maintain an equivalent level of environmental protection and stringency. These amendments 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.

Rules Coordinator: Larry McAllister—(503) 229-6412

340-200-0010

Purpose and Application

(1) This division provides general air pollution procedures and definitions that apply to all air quality rules in divisions 200 through 268.

(2) Divisions 200 through 268 apply in addition to all other rules adopted by the Environmental Quality Commission. In cases of apparent conflict between rules within these divisions, the most stringent rule applies unless otherwise expressly stated.

(3) The Department administers divisions 200 through 268 in all areas of the State of Oregon except in Lane County where Lane Regional Air Protection Agency administers the air pollution control regulations.

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468 & 468A

Hist.: DEQ 14-1999, f. & cert. ef. 10-14-99; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 8-2007, f. & cert. ef. 11-8-07

340-200-0020

General Air Quality Definitions

As used in divisions 200 through 268, unless specifically defined otherwise:

(1) "Act" or "FCAA" means the Federal Clean Air Act, 42 U.S.C.A. 7401 to 7671q.

(2) "Activity" means any process, operation, action, or reaction (e.g., chemical) at a source that emits a regulated pollutant.

(3) "Actual emissions" means the mass emissions of a pollutant from an emissions source during a specified time period.

(a) For determining actual emissions as of the baseline period:

(A) Except as provided in paragraph (B), actual emissions equal the average rate at which the source actually emitted the pollutant during a baseline period and that represents normal source operation;

(B) The Department presumes that the source-specific mass emissions limit included in a source's permit that was effective on September 8, 1981 is equivalent to the source's actual emissions during the baseline period if it is within 10% of the actual emissions calculated under paragraph (A).

(C) For any source that had not begun normal operation, actual emissions equal the potential to emit of the source.

(b) For determining actual emissions for Emission Statements under OAR 340-214-0200 through 340-214-0220 and Oregon Title V Operating Permit Fees under OAR 340 division 220, actual emissions include, but are not limited to, routine process emissions, fugitive emissions, excess emissions from maintenance, startups and shutdowns, equipment malfunction, and other activities, except categorically insignificant activities and secondary emissions.

(c) For Oregon Title V Operating Permit Fees under OAR 340 division 220, actual emissions must be directly measured with a continuous

monitoring system or calculated using a material balance or verified emission factor in combination with the source's actual operating hours, production rates, or types of materials processed, stored, or combusted during the specified time period.

(4) "Adjacent" means interdependent facilities that are nearby to each other.

(5) "Affected source" means a source that includes one or more affected units that are subject to emission reduction requirements or limitations under Title IV of the FCAA.

(6) "Affected states" means all states:

(a) Whose air quality may be affected by a proposed permit, permit modification, or permit renewal and that are contiguous to Oregon; or

(b) That are within 50 miles of the permitted source.

(7) "Aggregate insignificant emissions" means the annual actual emissions of any regulated air pollutant from one or more designated activities at a source that are less than or equal to the lowest applicable level specified in this section. The total emissions from each designated activity and the aggregate emissions from all designated activities must be less than or equal to the lowest applicable level specified.

(a) One ton for total reduced sulfur, hydrogen sulfide, sulfuric acid mist, any Class I or II substance subject to a standard promulgated under or established by Title VI of the Act, and each criteria pollutant, except lead;

(b) 120 pounds for lead;

(c) 600 pounds for fluoride;

(d) 500 pounds for PM10 in a PM10 nonattainment area;

(e) The lesser of the amount established in OAR 340-244-0040, **Table 1** or 340-244-0230, **Table 3**, or 1,000 pounds;

(f) An aggregate of 5,000 pounds for all Hazardous Air Pollutants.

(8) "Air Contaminant" means a dust, fume, gas, mist, odor, smoke, vapor, pollen, soot, carbon, acid or particulate matter, or any combination thereof.

(9) "Air Contaminant Discharge Permit" or "ACDP" means a written permit issued, renewed, amended, or revised by the Department, pursuant to OAR 340 division 216.

(10) "Alternative method" means any method of sampling and analyzing for an air pollutant that is not a reference or equivalent method but has been demonstrated to the Department's satisfaction to, in specific cases, produce results adequate for determination of compliance. An alternative method used to meet an applicable federal requirement for which a reference method is specified must be approved by EPA unless EPA has delegated authority for the approval to the Department.

(11) "Ambient Air" means that portion of the atmosphere, external to buildings, to which the general public has access.

(12) "Applicable requirement" means all of the following as they apply to emissions units in an Oregon Title V Operating Permit program source or ACDP program source, including requirements that have been promulgated or approved by the EPA through rule making at the time of issuance but have future-effective compliance dates:

(a) Any standard or other requirement provided for in the applicable implementation plan approved or promulgated by the EPA through rule-making under Title I of the Act that implements the relevant requirements of the Act, including any revisions to that plan promulgated in 40 CFR Part 52;

(b) Any standard or other requirement adopted under OAR 340-200-0040 of the State of Oregon Clean Air Act Implementation Plan, that is more stringent than the federal standard or requirement which has not yet been approved by the EPA, and other state-only enforceable air pollution control requirements;

(c) Any term or condition in an ACDP, OAR 340 division 216, including any term or condition of any preconstruction permits issued pursuant to OAR 340 division 224, New Source Review, until or unless the Department revokes or modifies the term or condition by a permit modification;

(d) Any term or condition in a Notice of Construction and Approval of Plans, OAR 340-210-0205 through 340-210-0240, until or unless the Department revokes or modifies the term or condition by a Notice of Construction and Approval of Plans or a permit modification;

(e) Any term or condition in a Notice of Approval, OAR 340-218-0190, issued before July 1, 2001, until or unless the Department revokes or modifies the term or condition by a Notice of Approval or a permit modification;

(f) Any term or condition of a PSD permit issued by the EPA until or unless the EPA revokes or modifies the term or condition by a permit modification;

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(g) Any standard or other requirement under section 111 of the Act, including section 111(d);

(h) Any standard or other requirement under section 112 of the Act, including any requirement concerning accident prevention under section 112(r)(7) of the Act;

(i) Any standard or other requirement of the acid rain program under Title IV of the Act or the regulations promulgated thereunder;

(j) Any requirements established pursuant to section 504(b) or section 114(a)(3) of the Act;

(k) Any standard or other requirement under section 126(a)(1) and(c) of the Act;

(l) Any standard or other requirement governing solid waste incineration, under section 129 of the Act;

(m) Any standard or other requirement for consumer and commercial products, under section 183(e) of the Act;

(n) Any standard or other requirement for tank vessels, under section 183(f) of the Act;

(o) Any standard or other requirement of the program to control air pollution from outer continental shelf sources, under section 328 of the Act;

(p) Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the Act, unless the Administrator has determined that such requirements need not be contained in an Oregon Title V Operating Permit; and

(q) Any national ambient air quality standard or increment or visibility requirement under part C of Title I of the Act, but only as it would apply to temporary sources permitted pursuant to section 504(e) of the Act.

(13) "Assessable Emission" means a unit of emissions for which the major source owner or operator will be assessed a fee. It includes an emission of a pollutant as specified in OAR 340-220-0060 from one or more emissions devices or activities within a major source.

(14) "Baseline Emission Rate" means the actual emission rate during the baseline period. Baseline emission rate does not include increases due to voluntary fuel switches or increased hours of operation that occurred after the baseline period.

(15) "Baseline Period" means any consecutive 12 calendar month period during calendar years 1977 or 1978. The Department may allow the use of a prior time period upon a determination that it is more representative of normal source operation.

(16) "Best Available Control Technology" or "BACT" means an emission limitation, including, but not limited to, a visible emission standard, based on the maximum degree of reduction of each air contaminant subject to regulation under the Act which would be emitted from any proposed major source or major modification which, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such air contaminant. In no event may the application of BACT result in emissions of any air contaminant that would exceed the emissions allowed by any applicable new source performance standard or any standard for hazardous air pollutant. If an emission limitation is not feasible, a design, equipment, work practice, or operational standard, or combination thereof, may be required. Such standard must, to the degree possible, set forth the emission reduction achievable and provide for compliance by prescribing appropriate permit conditions.

(17) "Capacity" means the maximum regulated pollutant emissions from a stationary source under its physical and operational design.

(18) "Capture system" means the equipment (including but not limited to hoods, ducts, fans, and booths) used to contain, capture and transport a pollutant to a control device.

(19) "Categorically insignificant activity" means any of the following listed pollutant emitting activities principally supporting the source or the major industrial group. Categorically insignificant activities must comply with all applicable requirements.

(a) Constituents of a chemical mixture present at less than 1% by weight of any chemical or compound regulated under divisions 200 through 268 excluding divisions 248 and 262 of this chapter, or less than 0.1% by weight of any carcinogen listed in the U.S. Department of Health and Human Service's Annual Report on Carcinogens when usage of the chemical mixture is less than 100,000 pounds/year;

(b) Evaporative and tail pipe emissions from on-site motor vehicle operation;

(c) Distillate oil, kerosene, and gasoline fuel burning equipment rated at less than or equal to 0.4 million Btu/hr;

(d) Natural gas and propane burning equipment rated at less than or equal to 2.0 million Btu/hr;

(e) Office activities;

(f) Food service activities;

(g) Janitorial activities;

(h) Personal care activities;

(i) Groundskeeping activities including, but not limited to building painting and road and parking lot maintenance;

(j) On-site laundry activities;

(k) On-site recreation facilities;

(l) Instrument calibration;

(m) Maintenance and repair shop;

(n) Automotive repair shops or storage garages;

(o) Air cooling or ventilating equipment not designed to remove air contaminants generated by or released from associated equipment;

(p) Refrigeration systems with less than 50 pounds of charge of ozone depleting substances regulated under Title VI, including pressure tanks used in refrigeration systems but excluding any combustion equipment associated with such systems;

(q) Bench scale laboratory equipment and laboratory equipment used exclusively for chemical and physical analysis, including associated vacuum producing devices but excluding research and development facilities;

(r) Temporary construction activities;

(s) Warehouse activities;

(t) Accidental fires;

(u) Air vents from air compressors;

(v) Air purification systems;

(w) Continuous emissions monitoring vent lines;

(x) Demineralized water tanks;

(y) Pre-treatment of municipal water, including use of deionized water purification systems;

(z) Electrical charging stations;

(aa) Fire brigade training;

(bb) Instrument air dryers and distribution;

(cc) Process raw water filtration systems;

(dd) Pharmaceutical packaging;

(ee) Fire suppression;

(ff) Blueprint making;

(gg) Routine maintenance, repair, and replacement such as anticipated activities most often associated with and performed during regularly scheduled equipment outages to maintain a plant and its equipment in good operating condition, including but not limited to steam cleaning, abrasive use, and woodworking;

(hh) Electric motors;

(ii) Storage tanks, reservoirs, transfer and lubricating equipment used for ASTM grade distillate or residual fuels, lubricants, and hydraulic fluids;

(jj) On-site storage tanks not subject to any New Source Performance Standards (NSPS), including underground storage tanks (UST), storing gasoline or diesel used exclusively for fueling of the facility's fleet of vehicles;

(kk) Natural gas, propane, and liquefied petroleum gas(LPG) storage tanks and transfer equipment;

(ll) Pressurized tanks containing gaseous compounds;

(mm) Vacuum sheet stacker vents;

(nn) Emissions from wastewater discharges to publicly owned treatment works (POTW) provided the source is authorized to discharge to the POTW, not including on-site wastewater treatment and/or holding facilities;

(oo) Log ponds;

(pp) Storm water settling basins;

(qq) Fire suppression and training;

(rr) Paved roads and paved parking lots within an urban growth boundary;

(ss) Hazardous air pollutant emissions of fugitive dust from paved and unpaved roads except for those sources that have processes or activities that contribute to the deposition and entrainment of hazardous air pollutants from surface soils;

(tt) Health, safety, and emergency response activities;

(uu) Emergency generators and pumps used only during loss of primary equipment or utility service due to circumstances beyond the reasonable control of the owner or operator, or to address a power emergency as determined by the Department;

(vv) Non-contact steam vents and leaks and safety and relief valves for boiler steam distribution systems;

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- (ww) Non-contact steam condensate flash tanks;
 - (xx) Non-contact steam vents on condensate receivers, deaerators and similar equipment;
 - (yy) Boiler blowdown tanks;
 - (zz) Industrial cooling towers that do not use chromium-based water treatment chemicals;
 - (aaa) Ash piles maintained in a wetted condition and associated handling systems and activities;
 - (bbb) Oil/water separators in effluent treatment systems;
 - (ccc) Combustion source flame safety purging on startup;
 - (ddd) Broke beaters, pulp and repulping tanks, stock chests and pulp handling equipment, excluding thickening equipment and repulpers;
 - (eee) Stock cleaning and pressurized pulp washing, excluding open stock washing systems; and
 - (fff) White water storage tanks.
- (20) "Certifying individual" means the responsible person or official authorized by the owner or operator of a source who certifies the accuracy of the emission statement.
- (21) "CFR" means Code of Federal Regulations.
- (22) "Class I area" means any Federal, State or Indian reservation land which is classified or reclassified as Class I area. Class I areas are identified in OAR 340-204-0050.
- (23) "Commence" or "commencement" means that the owner or operator has obtained all necessary preconstruction approvals required by the Act and either has:
- (a) Begun, or caused to begin, a continuous program of actual on-site construction of the source to be completed in a reasonable time; or
 - (b) Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the source to be completed in a reasonable time.
- (24) "Commission" or "EQC" means Environmental Quality Commission.
- (25) "Constant Process Rate" means the average variation in process rate for the calendar year is not greater than plus or minus ten percent of the average process rate.
- (26) "Construction":
- (a) Except as provided in subsection(b) of this section means any physical change including, but not limited to, fabrication, erection, installation, demolition, or modification of a source or part of a source;
 - (b) As used in OAR 340 division 224 means any physical change including, but not limited to, fabrication, erection, installation, demolition, or modification of an emissions unit, or change in the method of operation of a source which would result in a change in actual emissions.
- (27) "Continuous compliance determination method" means a method, specified by the applicable standard or an applicable permit condition, which:
- (a) Is used to determine compliance with an emission limitation or standard on a continuous basis, consistent with the averaging period established for the emission limitation or standard; and
 - (b) Provides data either in units of the standard or correlated directly with the compliance limit.
- (28) "Continuous Monitoring Systems" means sampling and analysis, in a timed sequence, using techniques which will adequately reflect actual emissions or concentrations on a continuing basis in accordance with the Department's Continuous Monitoring Manual, and includes continuous emission monitoring systems, continuous opacity monitoring system (COMS) and continuous parameter monitoring systems.
- (29) "Control device" means equipment, other than inherent process equipment, that is used to destroy or remove air pollutant(s) prior to discharge to the atmosphere. The types of equipment that may commonly be used as control devices include, but are not limited to, fabric filters, mechanical collectors, electrostatic precipitators, inertial separators, afterburners, thermal or catalytic incinerators, adsorption devices(such as carbon beds), condensers, scrubbers(such as wet collection and gas absorption devices), selective catalytic or non-catalytic reduction systems, flue gas recirculation systems, spray dryers, spray towers, mist eliminators, acid plants, sulfur recovery plants, injection systems(such as water, steam, ammonia, sorbent or limestone injection), and combustion devices independent of the particular process being conducted at an emissions unit(e.g., the destruction of emissions achieved by venting process emission streams to flares, boilers or process heaters). For purposes of OAR 340-212-0200 through 340-212-0280, a control device does not include passive control measures that act to prevent pollutants from forming, such as the use of

seals, lids, or roofs to prevent the release of pollutants, use of low-polluting fuel or feedstocks, or the use of combustion or other process design features or characteristics. If an applicable requirement establishes that particular equipment which otherwise meets this definition of a control device does not constitute a control device as applied to a particular pollutant-specific emissions unit, then that definition will be binding for purposes of OAR 340-212-0200 through 340-212-0280.

(30) "Criteria Pollutant" means nitrogen oxides, volatile organic compounds, particulate matter, PM10, sulfur dioxide, carbon monoxide, or lead.

(31) "Data" means the results of any type of monitoring or method, including the results of instrumental or non-instrumental monitoring, emission calculations, manual sampling procedures, recordkeeping procedures, or any other form of information collection procedure used in connection with any type of monitoring or method.

(32) "De minimis emission level" means: [Table not included. See ED. NOTE.]

NOTE: De minimis is compared to all increases that are not included in the PSEL.

(33) "Department":

(a) Means Department of Environmental Quality; except

(b) As used in OAR 340 divisions 218 and 220 means Department of Environmental Quality or in the case of Lane County, Lane Regional Air Protection Agency.

(34) "Device" means any machine, equipment, raw material, product, or byproduct at a source that produces or emits a regulated pollutant.

(35) "Director" means the Director of the Department or the Director's designee.

(36) "Draft permit" means the version of an Oregon Title V Operating Permit for which the Department or Lane Regional Air Protection Agency offers public participation under OAR 340-218-0210 or the EPA and affected State review under OAR 340-218-0230.

(37) "Effective date of the program" means the date that the EPA approves the Oregon Title V Operating Permit program submitted by the Department on a full or interim basis. In case of a partial approval, the "effective date of the program" for each portion of the program is the date of the EPA approval of that portion.

(38) "Emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the owner or operator, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency does not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error.

(39) "Emission" means a release into the atmosphere of any regulated pollutant or any air contaminant.

(40) "Emission Estimate Adjustment Factor" or "EEAF" means an adjustment applied to an emission factor to account for the relative inaccuracy of the emission factor.

(41) "Emission Factor" means an estimate of the rate at which a pollutant is released into the atmosphere, as the result of some activity, divided by the rate of that activity (e.g., production or process rate). Where an emission factor is required sources must use an emission factor approved by EPA or the Department.

(42)(a) Except as provided in subsection (b) of this section, "Emission Limitation" and "Emission Standard" mean a requirement established by a State, local government, or the EPA which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction.

(b) As used in OAR 340-212-0200 through 340-212-0280, "Emission limitation or standard" means any applicable requirement that constitutes an emission limitation, emission standard, standard of performance or means of emission limitation as defined under the Act. An emission limitation or standard may be expressed in terms of the pollutant, expressed either as a specific quantity, rate or concentration of emissions (e.g., pounds of SO₂ per hour, pounds of SO₂ per million British thermal units of fuel input, kilograms of VOC per liter of applied coating solids, or parts per million by volume of SO₂) or as the relationship of uncontrolled to controlled emissions (e.g., percentage capture and destruction efficiency of VOC or percentage reduction of SO₂). An emission limitation or standard may also be expressed either as a work practice, process or control device parameter, or

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other form of specific design, equipment, operational, or operation and maintenance requirement. For purposes of OAR 340-212-0200 through 340-212-0280, an emission limitation or standard does not include general operation requirements that an owner or operator may be required to meet, such as requirements to obtain a permit, to operate and maintain sources in accordance with good air pollution control practices, to develop and maintain a malfunction abatement plan, to keep records, submit reports, or conduct monitoring.

(43) "Emission Reduction Credit Banking" means to presently reserve, subject to requirements of OAR 340 division 268, Emission Reduction Credits, emission reductions for use by the reserver or assignee for future compliance with air pollution reduction requirements.

(44) "Emission Reporting Form" means a paper or electronic form developed by the Department that must be completed by the permittee to report calculated emissions, actual emissions, or permitted emissions for interim emission fee assessment purposes.

(45) "Emissions unit" means any part or activity of a source that emits or has the potential to emit any regulated air pollutant.

(a) A part of a source is any machine, equipment, raw material, product, or byproduct that produces or emits regulated air pollutants. An activity is any process, operation, action, or reaction (e.g., chemical) at a stationary source that emits regulated air pollutants. Except as described in subsection (d) of this section, parts and activities may be grouped for purposes of defining an emissions unit if the following conditions are met:

(A) The group used to define the emissions unit may not include discrete parts or activities to which a distinct emissions standard applies or for which different compliance demonstration requirements apply; and

(B) The emissions from the emissions unit are quantifiable.

(b) Emissions units may be defined on a pollutant by pollutant basis where applicable.

(c) The term emissions unit is not meant to alter or affect the definition of the term "unit" under Title IV of the FCAA.

(d) Parts and activities cannot be grouped for determining emissions increases from an emissions unit under OAR 340-224-0050 through 340-224-0070, or 340 division 210, or for determining the applicability of any New Source Performance Standard (NSPS).

(46) "EPA" or "Administrator" means the Administrator of the United States Environmental Protection Agency or the Administrator's designee.

(47) "Equivalent method" means any method of sampling and analyzing for an air pollutant that has been demonstrated to the Department's satisfaction to have a consistent and quantitatively known relationship to the reference method, under specified conditions. An equivalent method used to meet an applicable federal requirement for which a reference method is specified must be approved by EPA unless EPA has delegated authority for the approval to the Department.

(48) "Event" means excess emissions that arise from the same condition and occur during a single calendar day or continue into subsequent calendar days.

(49) "Exceedance" means a condition that is detected by monitoring that provides data in terms of an emission limitation or standard and that indicates that emissions (or opacity) are greater than the applicable emission limitation or standard (or less than the applicable standard in the case of a percent reduction requirement) consistent with any averaging period specified for averaging the results of the monitoring.

(50) "Excess emissions" means emissions in excess of a permit limit or any applicable air quality rule.

(51) "Excursion" means a departure from an indicator range established for monitoring under OAR 340-212-0200 through 340-212-0280 and 340-218-0050(3)(a), consistent with any averaging period specified for averaging the results of the monitoring.

(52) "Federal Land Manager" means with respect to any lands in the United States, the Secretary of the federal department with authority over such lands.

(53) Federal Major Source means a source with potential to emit any individual regulated pollutant, excluding hazardous air pollutants listed in OAR 340 division 244, greater than or equal to 100 tons per year if in a source category listed below, or 250 tons per year if not in a source category listed. Potential to emit calculations must include emission increases due to a new or modified source.

(a) Fossil fuel-fired steam electric plants of more than 250 million BTU/hour heat input;

(b) Coal cleaning plants with thermal dryers;

(c) Kraft pulp mills;

(d) Portland cement plants;

(e) Primary Zinc Smelters;

(f) Iron and Steel Mill Plants;

(g) Primary aluminum ore reduction plants;

(h) Primary copper smelters;

(i) Municipal Incinerators capable of charging more than 50 tons of refuse per day;

(j) Hydrofluoric acid plants;

(k) Sulfuric acid plants;

(l) Nitric acid plants;

(m) Petroleum Refineries;

(n) Lime plants;

(o) Phosphate rock processing plants;

(p) Coke oven batteries;

(q) Sulfur recovery plants;

(r) Carbon black plants, furnace process;

(s) Primary lead smelters;

(t) Fuel conversion plants;

(u) Sintering plants;

(v) Secondary metal production plants;

(w) Chemical process plants;

(x) Fossil fuel fired boilers, or combinations thereof, totaling more than 250 million BTU per hour heat input;

(y) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

(z) Taconite ore processing plants;

(aa) Glass fiber processing plants;

(bb) Charcoal production plants.

(54) "Final permit" means the version of an Oregon Title V Operating Permit issued by the Department or Lane Regional Air Protection Agency that has completed all review procedures required by OAR 340-218-0120 through 340-218-0240.

(55) "Fugitive Emissions":

(a) Except as used in subsection (b) of this section, means emissions of any air contaminant which escape to the atmosphere from any point or area that is not identifiable as a stack, vent, duct, or equivalent opening.

(b) As used to define a major Oregon Title V Operating Permit program source, means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

(56) "General permit":

(a) Except as provided in subsection (b) of this section, means an Oregon Air Contaminant Discharge Permit established under OAR 340-216-0060;

(b) As used in OAR 340 division 218 means an Oregon Title V Operating Permit established under OAR 340-218-0090.

(57) "Generic PSEL" means: [Table not included. See ED. NOTE.]

NOTE: Sources are eligible for a generic PSEL if expected emissions are less than or equal to the levels listed in the table above. Baseline emission rate and netting basis do not apply to pollutants at sources using generic PSELs.

(58) "Growth Allowance" means an allocation of some part of an airshed's capacity to accommodate future proposed major sources and major modifications of sources.

(59) "Immediately" means as soon as possible but in no case more than one hour after a source knew or should have known of an excess emission period.

(60) "Inherent process equipment" means equipment that is necessary for the proper or safe functioning of the process, or material recovery equipment that the owner or operator documents is installed and operated primarily for purposes other than compliance with air pollution regulations. Equipment that must be operated at an efficiency higher than that achieved during normal process operations in order to comply with the applicable emission limitation or standard is not inherent process equipment. For the purposes of OAR 340-212-0200 through 340-212-0280, inherent process equipment is not considered a control device.

(61) "Insignificant Activity" means an activity or emission that the Department has designated as categorically insignificant, or that meets the criteria of aggregate insignificant emissions.

(62) "Insignificant Change" means an off-permit change defined under OAR 340-218-0140(2)(a) to either a significant or an insignificant activity which:

(a) Does not result in a re-designation from an insignificant to a significant activity;

(b) Does not invoke an applicable requirement not included in the permit; and

(c) Does not result in emission of regulated air pollutants not regulated by the source's permit.

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(63) "Late Payment" means a fee payment which is postmarked after the due date.

(64) "Lowest Achievable Emission Rate" or "LAER" means that rate of emissions which reflects: the most stringent emission limitation which is contained in the implementation plan of any state for such class or category of source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable; or the most stringent emission limitation which is achieved in practice by such class or category of source, whichever is more stringent. The application of this term cannot permit a proposed new or modified source to emit any air contaminant in excess of the amount allowable under applicable New Source Performance Standards (NSPS) or standards for hazardous air pollutants.

(65) "Maintenance Area" means a geographical area of the State that was designated as a nonattainment area, redesignated as an attainment area by EPA, and redesignated as a maintenance area by the Environmental Quality Commission in OAR chapter 340, division 204.

(66) "Maintenance Pollutant" means a pollutant for which a maintenance area was formerly designated a nonattainment area.

(67) "Major Modification" means any physical change or change of operation of a source that results in the following for any regulated air pollutant:

(a) An increase in the PSEL by an amount equal to or more than the significant emission rate over the netting basis; and

(b) The accumulation of physical changes and changes of operation since baseline would result in a significant emission rate increase.

(A) Calculations of emission increases in (b) must account for all accumulated increases in actual emissions due to physical changes and changes of operation occurring at the source since the baseline period, or since the time of the last construction approval issued for the source pursuant to the New Source Review Regulations in OAR 340 division 224 for that pollutant, whichever time is more recent. These include emissions from insignificant activities.

(B) Emission increases due solely to increased use of equipment or facilities that existed during the baseline period are not included, if that increased use was possible during the baseline period under the baseline configuration of the source, and the increased use of baseline equipment capacity is not to support a physical change or change in operation.

(c) For new or modified major sources that were permitted to construct and operate after the baseline period and were not subject to New Source Review, a major modification means:

(A) Any change at a source, including production increases, that would result in a Plant Site Emission Limit increase of 1 ton or more for any regulated pollutant for which the source is a major source; or

(B) The addition or modification of any stationary source or sources after the initial construction that have cumulative potential emissions greater than or equal to the significant emission rate, excluding any emission decreases.

(C) Changes to the PSEL solely due to the availability of better emissions information are exempt from being considered an increase.

(d) The following are not considered major modifications:

(A) Except as provided in (c), proposed increases in hours of operation or production rates that would cause emission increases above the levels allowed in a permit and would not involve a physical change or change in method of operation in the source;

(B) Pollution control projects that are determined by the Department to be environmentally beneficial;

(C) Routine maintenance, repair, and replacement of components;

(D) Temporary equipment installed for maintenance of the permanent equipment if the temporary equipment is in place for less than six months and operated within the permanent equipment's existing PSEL;

(E) Use of alternate fuel or raw materials, that were available and the source was capable of accommodating in the baseline period.

(68) "Major Source":

(a) Except as provided in subsection (b), means a source that emits, or has the potential to emit, any regulated air pollutant at a Significant Emission Rate. This includes emissions from insignificant activities.

(b) As used in OAR 340 division 210, Stationary Source Notification Requirements, OAR 340 division 218, rules applicable to sources required to have Oregon Title V Operating Permits, OAR 340 division 220, Oregon Title V Operating Permit Fees, and OAR 340-216-0066 Standard ACDPs, means any stationary source (or any group of stationary sources that are located on one or more contiguous or adjacent properties and are under common control of the same person (or persons under common control)) belonging to a single major industrial grouping or supporting the major

industrial group and that is described in paragraphs (A), (B), or (C) of this subsection. For the purposes of this subsection, a stationary source or group of stationary sources is considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same Major Group (i.e., all have the same two-digit code) as described in the Standard Industrial Classification Manual (U.S. Office of Management and Budget, 1987) or support the major industrial group.

(A) A major source of hazardous air pollutants, which means:

(i) For pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tons per year (tpy) or more of any hazardous air pollutants that has been listed pursuant to OAR 340-244-0040; 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as the Administrator may establish by rule. Emissions from any oil or gas exploration or production well, along with its associated equipment, and emissions from any pipeline compressor or pump station will not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources; or

(ii) For radionuclides, "major source" will have the meaning specified by the Administrator by rule.

(B) A major stationary source of air pollutants, as defined in section 302 of the Act, that directly emits or has the potential to emit 100 tpy or more of any regulated air pollutant, including any major source of fugitive emissions of any such pollutant. The fugitive emissions of a stationary source are not considered in determining whether it is a major stationary source for the purposes of section 302(j) of the Act, unless the source belongs to one of the following categories of stationary source:

(i) Coal cleaning plants (with thermal dryers);

(ii) Kraft pulp mills;

(iii) Portland cement plants;

(iv) Primary zinc smelters;

(v) Iron and steel mills;

(vi) Primary aluminum ore reduction plants;

(vii) Primary copper smelters;

(viii) Municipal incinerators capable of charging more than 50 tons of refuse per day;

(ix) Hydrofluoric, sulfuric, or nitric acid plants;

(x) Petroleum refineries;

(xi) Lime plants;

(xii) Phosphate rock processing plants;

(xiii) Coke oven batteries;

(xiv) Sulfur recovery plants;

(xv) Carbon black plants (furnace process);

(xvi) Primary lead smelters;

(xvii) Fuel conversion plants;

(xviii) Sintering plants;

(xix) Secondary metal production plants;

(xx) Chemical process plants;

(xxi) Fossil-fuel boilers, or combination thereof, totaling more than 250 million British thermal units per hour heat input;

(xxii) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

(xxiii) Taconite ore processing plants;

(xxiv) Glass fiber processing plants;

(xxv) Charcoal production plants;

(xxvi) Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; or

(xxvii) Any other stationary source category, that as of August 7, 1980 is being regulated under section 111 or 112 of the Act.

(C) A major stationary source as defined in part D of Title I of the Act, including:

(i) For ozone nonattainment areas, sources with the potential to emit 100 tpy or more of VOCs or oxides of nitrogen in areas classified as "marginal" or "moderate," 50 tpy or more in areas classified as "serious," 25 tpy or more in areas classified as "severe," and 10 tpy or more in areas classified as "extreme"; except that the references in this paragraph to 100, 50, 25, and 10 tpy of nitrogen oxides do not apply with respect to any source for which the Administrator has made a finding, under section 182(f)(1) or (2) of the Act, that requirements under section 182(f) of the Act do not apply;

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(ii) For ozone transport regions established pursuant to section 184 of the Act, sources with the potential to emit 50 tpy or more of VOCs;

(iii) For carbon monoxide nonattainment areas:

(I) That are classified as "serious"; and

(II) In which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by the Administrator, sources with the potential to emit 50 tpy or more of carbon monoxide.

(iv) For particulate matter (PM₁₀) nonattainment areas classified as "serious," sources with the potential to emit 70 tpy or more of PM₁₀.

(69) "Material Balance" means a procedure for determining emissions based on the difference in the amount of material added to a process and the amount consumed and/or recovered from a process.

(70) "Modification," except as used in the term "major modification," means any physical change to, or change in the method of operation of, a stationary source that results in an increase in the stationary source's potential to emit any regulated air pollutant on an hourly basis. Modifications do not include the following:

(a) Increases in hours of operation or production rates that do not involve a physical change or change in the method of operation;

(b) Changes in the method of operation due to using an alternative fuel or raw material that the stationary source was physically capable of accommodating during the baseline period; and

(c) Routine maintenance, repair and like-for-like replacement of components unless they increase the expected life of the stationary source by using component upgrades that would not otherwise be necessary for the stationary source to function.

(71) "Monitoring" means any form of collecting data on a routine basis to determine or otherwise assess compliance with emission limitations or standards. Monitoring may include record keeping if the records are used to determine or assess compliance with an emission limitation or standard (such as records of raw material content and usage, or records documenting compliance with work practice requirements). Monitoring may include conducting compliance method tests, such as the procedures in appendix A to 40 CFR part 60, on a routine periodic basis. Requirements to conduct such tests on a one-time basis, or at such times as a regulatory authority may require on a non-regular basis, are not considered monitoring requirements for purposes of this definition. Monitoring may include one or more than one of the following data collection techniques as appropriate for a particular circumstance:

(a) Continuous emission or opacity monitoring systems.

(b) Continuous process, capture system, control device or other relevant parameter monitoring systems or procedures, including a predictive emission monitoring system.

(c) Emission estimation and calculation procedures (e.g., mass balance or stoichiometric calculations).

(d) Maintaining and analyzing records of fuel or raw materials usage.

(e) Recording results of a program or protocol to conduct specific operation and maintenance procedures.

(f) Verifying emissions, process parameters, capture system parameters, or control device parameters using portable or in situ measurement devices.

(g) Visible emission observations and recording.

(h) Any other form of measuring, recording, or verifying on a routine basis emissions, process parameters, capture system parameters, control device parameters or other factors relevant to assessing compliance with emission limitations or standards.

(72) "Netting Basis" means the baseline emission rate MINUS any emission reductions required by rule, orders, or permit conditions required by the SIP or used to avoid SIP requirements, MINUS any unassigned emissions that are reduced from allowable under OAR 340-222-0045, MINUS any emission reduction credits transferred off site, PLUS any emission increases approved through the New Source Review regulations.

(a) With the first permitting action for a source after July 1, 2002, the baseline emissions rate will be frozen and recalculated only if:

(A) A better emission factor is established for the baseline period and approved by the Department;

(B) A currently operating emissions unit that the Department formerly thought had negligible emissions, is determined to have non-de minimis emissions and needs to be added to the baseline emission rate; or

(C) A new pollutant is added to the regulated pollutant list (e.g., PM_{2.5}). For a pollutant that is newly regulated after 11/15/90, the initial netting basis is the actual emissions during any 12 consecutive month period within the 24 months immediately preceding its designation as a regulated pollutant. The Department may allow a prior 12 consecutive month

time period to be used if it is shown to be more representative of normal source operation.

(b) Netting basis is zero for:

(A) any source constructed after the baseline period and has not undergone New Source Review;

(B) Any pollutant that has a generic PSEL in a permit;

(C) Any source permitted as portable; and

(D) Any source with a netting basis calculation resulting in a negative number.

(c) If a source relocates to an adjacent site, and the time between operation at the old and new sites is less than six months, the source may retain the netting basis from the old site.

(d) Emission reductions required by rule, order, or permit condition affect the netting basis if the source currently has devices or emissions units that are subject to the rules, order, or permit condition. The baseline emission rate is not affected.

(e) Netting basis for a pollutant with a revised definition will be adjusted if the source is emitting the pollutant at the time of redefining and the pollutant is included in the permit's netting basis.

(f) Where EPA requires an attainment demonstration based on dispersion modeling, the netting basis will be established at no more than the level used in the dispersion modeling to demonstrate attainment with the ambient air quality standard (i.e., the attainment demonstration is an emission reduction required by rule).

(73) "Nitrogen Oxides" or "NO_x" means all oxides of nitrogen except nitrous oxide.

(74) "Nonattainment Area" means a geographical area of the State, as designated by the Environmental Quality Commission or the EPA, that exceeds any state or federal primary or secondary ambient air quality standard.

(75) "Nonattainment Pollutant" means a pollutant for which an area is designated a nonattainment area.

(76) "Normal Source Operation" means operations which do not include such conditions as forced fuel substitution, equipment malfunction, or highly abnormal market conditions.

(77) "Offset" means an equivalent or greater emission reduction that is required before allowing an emission increase from a proposed major source or major modification of an existing source.

(78) "Opacity" means the degree to which an emission reduces transmission of light and obscures the view of an object in the background as measured in accordance with OAR 340-212-0120 and 212-0140. Unless otherwise specified by rule, opacity shall be measured in accordance with EPA Method 9 or a continuous opacity monitoring system (COMS) installed and operated in accordance with the Department's Continuous Monitoring Manual. For all standards, the minimum observation period shall be six minutes, though longer periods may be required by a specific rule or permit condition. Aggregate times (e.g. 3 minutes in any one hour) consist of the total duration of all readings during the observation period that equal or exceed the opacity percentage in the standard, whether or not the readings are consecutive.

(79) "Oregon Title V Operating Permit" means any permit covering an Oregon Title V Operating Permit source that is issued, renewed, amended, or revised pursuant to division 218.

(80) "Oregon Title V Operating Permit program" means a program approved by the Administrator under 40 CFR Part 70.

(81) "Oregon Title V Operating Permit program source" means any source subject to the permitting requirements, OAR 340 division 218.

(82) "Ozone Season" means the contiguous 3 month period during which ozone exceedances typically occur (i.e., June, July, and August).

(83) "Particulate Matter" means all finely divided solid or liquid material, other than uncombined water, emitted to the ambient air. When used in emission standards, particulate matter is defined by the method specified within the standard or by an applicable reference method in accordance with OAR 340-212-0120 and 340-212-0140. Unless otherwise specified, sources with exhaust gases at or near ambient conditions may be tested with DEQ Method 5 or DEQ Method 8, as approved by the Department. Direct heat transfer sources shall be tested with DEQ Method 7; indirect heat transfer combustion sources and all other non-fugitive emissions sources not listed above shall be tested with DEQ Method 5.

(84) "Permit" means an Air Contaminant Discharge Permit or an Oregon Title V Operating Permit.

(85) "Permit modification" means a permit revision that meets the applicable requirements of OAR 340 division 216, 340 division 224, or 340-218-0160 through 340-218-0180.

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(86) "Permit revision" means any permit modification or administrative permit amendment.

(87) "Permitted Emissions" as used in OAR division 220 means each assessable emission portion of the PSEL, as identified in an ACDP, Oregon Title V Operating Permit, review report, or by the Department pursuant to OAR 340-220-0090.

(88) "Permittee" means the owner or operator of the facility, authorized by the ACDP or the Oregon Title V Operating Permit to operate the source.

(89) "Person" means individuals, corporations, associations, firms, partnerships, joint stock companies, public and municipal corporations, political subdivisions, the State of Oregon and any agencies thereof, and the federal government and any agencies thereof.

(90) "Plant Site Emission Limit" or "PSEL" means the total mass emissions per unit time of an individual air pollutant specified in a permit for a source. The PSEL for a major source may consist of more than one assessable emission.

(91) "PM10":

(a) When used in the context of emissions, means finely divided solid or liquid material, including condensable particulate, other than uncombined water, with an aerodynamic diameter less than or equal to a nominal 10 micrometers, emitted to the ambient air as measured by an applicable reference method in accordance with the Department's Source Sampling Manual (January, 1992);

(b) When used in the context of ambient concentration, means airborne finely divided solid or liquid material with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured in accordance with 40 CFR Part 50, Appendix J.

(92) "Pollutant-specific emissions unit" means an emissions unit considered separately with respect to each regulated air pollutant.

(93) "Potential to emit" or "PTE" means the lesser of:

(a) The capacity of a stationary source; or

(b) The maximum allowable emissions taking into consideration any physical or operational limitation, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, if the limitation is enforceable by the Administrator.

(c) This definition does not alter or affect the use of this term for any other purposes under the Act or the term "capacity factor" as used in Title IV of the Act and the regulations promulgated thereunder. Secondary emissions are not considered in determining the potential to emit.

(94) "Predictive emission monitoring system (PEMS)" means a system that uses process and other parameters as inputs to a computer program or other data reduction system to produce values in terms of the applicable emission limitation or standard.

(95) "Process Upset" means a failure or malfunction of a production process or system to operate in a normal and usual manner.

(96) "Proposed permit" means the version of an Oregon Title V Operating Permit that the Department or a Regional Agency proposes to issue and forwards to the Administrator for review in compliance with OAR 340-218-0230.

(97) "Reference method" means any method of sampling and analyzing for an air pollutant as specified in 40 CFR Part 60, 61 or 63.

(98) "Regional Agency" means Lane Regional Air Protection Agency.

(99) "Regulated air pollutant" or "Regulated Pollutant":

(a) Except as provided in subsections (b) and (c) of this rule, means:

(A) Nitrogen oxides or any VOCs;

(B) Any pollutant for which a national ambient air quality standard has been promulgated;

(C) Any pollutant that is subject to any standard promulgated under section 111 of the Act;

(D) Any Class I or II substance subject to a standard promulgated under or established by Title VI of the Act; or

(E) Any pollutant listed under OAR 340-244-0040 or 340-244-0230.

(b) As used in OAR 340 division 220, means any air pollutant as included in subsection (a) of this rule, except the following:

(A) Carbon monoxide;

(B) Any pollutant that is a regulated pollutant solely because it is a Class I or Class II substance subject to a standard promulgated under or established by Title VI of the Federal Clean Air Act; or

(C) Any pollutant that is a regulated air pollutant solely because it is subject to a standard or regulation under section 112(r) of the Federal Clean Air Act.

(c) As used in OAR 340 division 224 any pollutant listed under OAR 340-244-0040 or 340-244-0230 is not a regulated pollutant.

(100) "Renewal" means the process by which a permit is reissued at the end of its term.

(101) "Responsible official" means one of the following:

(a) For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:

(A) The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or

(B) The delegation of authority to such representative is approved in advance by the Department or Lane Regional Air Protection Agency.

(b) For a partnership or sole proprietorship: a general partner or the proprietor, respectively;

(c) For a municipality, State, Federal, or other public agency: either a principal executive officer or ranking elected official. For the purposes of this Division, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of the EPA); or

(d) For affected sources:

(A) The designated representative in so far as actions, standards, requirements, or prohibitions under Title IV of the Act or the regulations promulgated there under are concerned; and

(B) The designated representative for any other purposes under the Oregon Title V Operating Permit program.

(102) "Secondary Emissions" means emissions that are a result of the construction and/or operation of a source or modification, but that do not come from the source itself. Secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the source associated with the secondary emissions. Secondary emissions may include, but are not limited to:

(a) Emissions from ships and trains coming to or from a facility;

(b) Emissions from off-site support facilities that would be constructed or would otherwise increase emissions as a result of the construction or modification of a source.

(103) "Section 111" means section 111 of the FCAA which includes Standards of Performance for New Stationary Sources (NSPS).

(104) "Section 111(d)" means subsection 111(d) of the FCAA which requires states to submit to the EPA plans that establish standards of performance for existing sources and provides for implementing and enforcing such standards.

(105) "Section 112" means section 112 of the FCAA which contains regulations for Hazardous Air Pollutants (HAP).

(106) "Section 112(b)" means subsection 112(b) of the FCAA which includes the list of hazardous air pollutants to be regulated.

(107) "Section 112(d)" means subsection 112(d) of the FCAA which directs the EPA to establish emission standards for sources of hazardous air pollutants. This section also defines the criteria to be used by the EPA when establishing the emission standards.

(108) "Section 112(e)" means subsection 112(e) of the FCAA which directs the EPA to establish and promulgate emissions standards for categories and subcategories of sources that emit hazardous air pollutants.

(109) "Section 112(r)(7)" means subsection 112(r)(7) of the FCAA which requires the EPA to promulgate regulations for the prevention of accidental releases and requires owners or operators to prepare risk management plans.

(110) "Section 114(a)(3)" means subsection 114(a)(3) of the FCAA which requires enhanced monitoring and submission of compliance certifications for major sources.

(111) "Section 129" means section 129 of the FCAA which requires the EPA to establish emission standards and other requirements for solid waste incineration units.

(112) "Section 129(e)" means subsection 129(e) of the FCAA which requires solid waste incineration units to obtain Oregon Title V Operating Permits.

(113) "Section 182(f)" means subsection 182(f) of the FCAA which requires states to include plan provisions in the State Implementation Plan for NOx in ozone nonattainment areas.

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(114) "Section 182(f)(1)" means subsection 182(f)(1) of the FCAA which requires states to apply those plan provisions developed for major VOC sources and major NOx sources in ozone nonattainment areas.

(115) "Section 183(e)" means subsection 183(e) of the FCAA which requires the EPA to study and develop regulations for the control of certain VOC sources under federal ozone measures.

(116) "Section 183(f)" means subsection 182(f) of the FCAA which requires the EPA to develop regulations pertaining to tank vessels under federal ozone measures.

(117) "Section 184" means section 184 of the FCAA which contains regulations for the control of interstate ozone air pollution.

(118) "Section 302" means section 302 of the FCAA which contains definitions for general and administrative purposes in the Act.

(119) "Section 302(j)" means subsection 302(j) of the FCAA which contains definitions of "major stationary source" and "major emitting facility."

(120) "Section 328" means section 328 of the FCAA which contains regulations for air pollution from outer continental shelf activities.

(121) "Section 408(a)" means subsection 408(a) of the FCAA which contains regulations for the Title IV permit program.

(122) "Section 502(b)(10) change" means a change which contravenes an express permit term but is not a change that:

(a) Would violate applicable requirements;

(b) Would contravene federally enforceable permit terms and conditions that are monitoring, recordkeeping, reporting, or compliance certification requirements; or

(c) Is a Title I modification.

(123) "Section 504(b)" means subsection 504(b) of the FCAA which states that the EPA can prescribe by rule procedures and methods for determining compliance and for monitoring.

(124) "Section 504(e)" means subsection 504(e) of the FCAA which contains regulations for permit requirements for temporary sources.

(125) "Significant Air Quality Impact" means an additional ambient air quality concentration equal to or greater than in the concentrations listed in Table 1. The threshold concentrations listed in Table 1 are used for comparison against the ambient air quality standard and do not apply for protecting PSD Class I increments or air quality related values (including visibility). For sources of VOC or NOx, a major source or major modification has a significant impact if it is located within the Ozone Precursor Distance defined in OAR 340-225-0020.

(126) "Significant Emission Rate" or "SER," except as provided in subsections(a) through(c) of this section, means an emission rate equal to or greater than the rates specified in Table 2.

(a) For the Medford-Ashland Air Quality Maintenance Area, the Significant Emission Rate for PM10 is defined in Table 3.

(b) For regulated air pollutants not listed in Table 2 or 3, the significant emission rate is zero unless the Department determines the rate that constitutes a significant emission rate.

(c) Any new source or modification with an emissions increase less than the rates specified in Table 2 or 3 associated with a new source or modification which would construct within 10 kilometers of a Class I area, and would have an impact on such area equal to or greater than 1 ug/m3 (24 hour average) is emitting at a significant emission rate.

(127) "Significant Impairment" occurs when the Department determines that visibility impairment interferes with the management, protection, preservation, or enjoyment of the visual experience within a Class I area. The Department will make this determination on a case-by-case basis after considering the recommendations of the Federal Land Manager and the geographic extent, intensity, duration, frequency, and time of visibility impairment. These factors will be considered along with visitor use of the Class I areas, and the frequency and occurrence of natural conditions that reduce visibility.

(128) "Source" means any building, structure, facility, installation or combination thereof that emits or is capable of emitting air contaminants to the atmosphere, is located on one or more contiguous or adjacent properties and is owned or operated by the same person or by persons under common control. The term includes all pollutant emitting activities that belong to a single major industrial group (i.e., that have the same two-digit code) as described in the Standard Industrial Classification Manual,(U.S. Office of Management and Budget, 1987) or that support the major industrial group.

(129) "Source category":

(a) Except as provided in subsection(b) of this section, means all the pollutant emitting activities that belong to the same industrial grouping(i.e.,

that have the same two-digit code) as described in the Standard Industrial Classification Manual,(U.S. Office of Management and Budget, 1987).

(b) As used in OAR 340 division 220, Oregon Title V Operating Permit Fees, means a group of major sources that the Department determines are using similar raw materials and have equivalent process controls and pollution control equipment.

(130) "Source Test" means the average of at least three test runs conducted in accordance with the Department's Source Sampling Manual.

(131) "Startup" and "shutdown" means that time during which an air contaminant source or emission-control equipment is brought into normal operation or normal operation is terminated, respectively.

(132) "State Implementation Plan" or "SIP" means the State of Oregon Clean Air Act Implementation Plan as adopted by the Commission under OAR 340-200-0040 and approved by EPA.

(133) "Stationary source" means any building, structure, facility, or installation at a source that emits or may emit any regulated air pollutant.

(134) "Substantial Underpayment" means the lesser of ten percent (10%) of the total interim emission fee for the major source or five hundred dollars.

(135) "Synthetic minor source" means a source that would be classified as a major source under OAR 340-200-0020, but for limits on its potential to emit air pollutants contained in a permit issued by the Department under OAR 340 division 216 or 218.

(136) "Title I modification" means one of the following modifications pursuant to Title I of the FCAA:

(a) A major modification subject to OAR 340-224-0050, Requirements for Sources in Nonattainment Areas;

(b) A major modification subject to OAR 340-224-0060, Requirements for Sources in Maintenance Areas;

(c) A major modification subject to OAR 340-224-0070, Prevention of Significant Deterioration Requirements for Sources in Attainment or Unclassified Areas;

(d) A modification that is subject to a New Source Performance Standard under Section 111 of the FCAA; or

(e) A modification under Section 112 of the FCAA.

(137) "Total Reduced Sulfur" or "TRS" means the sum of the sulfur compounds hydrogen sulfide, methyl mercaptan, dimethyl sulfide, dimethyl disulfide, and any other organic sulfides present expressed as hydrogen sulfide(H2S).

(138) "Typically Achievable Control Technology" or "TACT" means the emission limit established on a case-by-case basis for a criteria pollutant from a particular emissions unit in accordance with OAR 340-226-0130. For existing sources, the emission limit established will be typical of the emission level achieved by emissions units similar in type and size. For new and modified sources, the emission limit established will be typical of the emission level achieved by well controlled new or modified emissions units similar in type and size that were recently installed. TACT determinations will be based on information known to the Department while considering pollution prevention, impacts on other environmental media, energy impacts, capital and operating costs, cost effectiveness, and the age and remaining economic life of existing emission control equipment. The Department may consider emission control technologies typically applied to other types of emissions units where such technologies could be readily applied to the emissions unit. If an emission limitation is not feasible, a design, equipment, work practice, operational standard, or combination thereof, may be required.

(139) "Unassigned Emissions" means the amount of emissions that are in excess of the PSEL but less than the Netting Basis.

(140) "Unavoidable" or "could not be avoided" means events that are not caused entirely or in part by poor or inadequate design, operation, maintenance, or any other preventable condition in either process or control equipment.

(141) "Upset" or "Breakdown" means any failure or malfunction of any pollution control equipment or operating equipment that may cause excess emissions.

(142) "Visibility Impairment" means any humanly perceptible change in visual range, contrast or coloration from that which existed under natural conditions. Natural conditions include fog, clouds, windblown dust, rain, sand, naturally ignited wildfires, and natural aerosols.

(143) "Volatile Organic Compounds" or "VOC" means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, that participates in atmospheric photochemical reactions.

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(a) This includes any such organic compound except the following, which have been determined to have negligible photochemical reactivity in the formation of tropospheric ozone: methane; ethane; methylene chloride(dichloromethane); 1,1,1-trichloroethane(methyl chloroform); 1,1,2-trichloro-1,2,2-trifluoroethane(CFC-113); trichlorofluoromethane(CFC-11); dichlorodifluoromethane(CFC-12); chlorodifluoromethane(HCFC-22); trifluoromethane(HFC-23); 1,2-dichloro-1,1,2,2-tetrafluoroethane(CFC-114); chloropentafluoroethane(CFC-115); 1,1,1-trifluoro 2,2-dichloroethane(HCFC-123); 1,1,1,2-tetrafluoroethane(HFC-134a); 1,1-dichloro 1-fluoroethane(HCFC-141b); 1-chloro 1,1-difluoroethane(HCFC-142b); 2-chloro-1,1,1,2-tetrafluoroethane(HCFC-124); pentafluoroethane(HFC-125); 1,1,2,2-tetrafluoroethane(HFC-134); 1,1,1-trifluoroethane(HFC-143a); 1,1-difluoroethane(HFC-152a); parachlorobenzotrifluoride(PCBTF); cyclic, branched, or linear completely methylated siloxanes; acetone; perchloroethylene(tetrachloroethylene); 3,3-dichloro-1,1,1,2,2-pentafluoropropane(HCFC-225ca); 1,3-dichloro-1,1,2,2,3-pentafluoropropane(HCFC-225cb); 1,1,1,2,3,4,4,5,5,5-decafluoropentane HFC 43-10mee); difluoromethane(HFC-32); ethylfluoride(HFC-161); 1,1,1,3,3,3-hexafluoropropane(HFC-236fa); 1,1,2,2,3-pentafluoropropane(HFC-245ca); 1,1,2,3,3-pentafluoropropane(HFC-245ea); 1,1,1,2,3-pentafluoropropane(HFC-245eb); 1,1,1,3,3-pentafluoropropane(HFC-245fa); 1,1,1,2,3,3-hexafluoropropane(HFC-236ea); 1,1,1,3,3-pentafluorobutane(HFC-365mfc); chlorofluoromethane(HCFC-31); 1 chloro-1-fluoroethane(HCFC-151a); 1,2-dichloro-1,1,2-trifluoroethane(HCFC-123a); 1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxybutane(C4F9OCH3 or HFE-7100); 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane((CF3)2CFCF2OCH3); 1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane(C4F9OC2H5 or HFE-7200); 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane((CF3)2CFCF2OCH3); methyl acetate; 1,1,1,2,2,3,3-heptafluoro-3-methoxy-propane(n-C3F7OCH3, HFE-7000); 3-ethoxy-1,1,1,2,3,4,4,5,5,6,6-dodecafluoro-2-(trifluoromethyl) hexane(HFE-7500); 1,1,1,2,3,3,3-heptafluoropropane(HFC 227ea); methyl formate(HCOOCH3);(1) 1,1,1,2,2,3,4,5,5,5-decafluoro-3-methoxy-4-trifluoromethyl-pentane(HFE-7300); and perfluorocarbon compounds that fall into these classes:

(A) Cyclic, branched, or linear, completely fluorinated alkanes;

(B) Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;

(C) Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and

(D) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

(b) For purposes of determining compliance with emissions limits, VOC will be measured by an applicable reference method in accordance with the Department's Source Sampling Manual, January, 1992. Where such a method also measures compounds with negligible photochemical reactivity, these negligibly-reactive compounds may be excluded as VOC if the amount of such compounds is accurately quantified, and the Department approves the exclusion.

(c) The Department may require an owner or operator to provide monitoring or testing methods and results demonstrating, to the Department's satisfaction, the amount of negligibly-reactive compounds in the source's emissions.

(d) The following compound(s) are VOC for purposes of all record-keeping, emissions reporting, photochemical dispersion modeling and inventory requirements which apply to VOC and must be uniquely identified in emission reports, but are not VOC for purposes of VOC emissions limitations or VOC content requirements: t-butyl acetate.

(144) "Year" means any consecutive 12 month period of time.

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-200-0040.

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

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

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: [DEQ 15-1978, f. & ef. 10-13-78; DEQ 4-1993, f. & cert. ef. 3-10-93]; [DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; DEQ 107, f. & ef. 1-6-76; Renumbered from 340-020-0033.04; DEQ 25-1981, f. & ef. 9-8-81; DEQ 5-1983, f. & ef. 4-18-83; DEQ 18-1984, f. & ef. 10-16-84; DEQ 8-1988, f. & cert. ef. 5-19-88 (and corrected 5-31-88); DEQ 14-1989, f. & cert. ef. 6-26-89; DEQ 42-1990, f. 12-13-90, cert. ef. 1-2-91; DEQ 2-1992, f. & cert. ef. 1-30-92; DEQ 7-1992, f. & cert. ef. 3-30-92; DEQ 27-1992, f. & cert. ef. 11-12-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0145, 340-020-0225, 340-020-0305, 340-020-0355, 340-020-0460 & 340-020-0520; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 21-1994, f. & cert. ef. 10-14-94; DEQ 24-1994,

f. & cert. ef. 10-28-94; DEQ 10-1995, f. & cert. ef. 5-1-95; DEQ 12-1995, f. & cert. ef. 5-23-95; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 19-1996, f. & cert. ef. 9-24-96; DEQ 22-1996, f. & cert. ef. 10-22-96; DEQ 9-1997, f. & cert. ef. 5-9-97; DEQ 14-1998, f. & cert. ef. 9-14-98; DEQ 16-1998, f. & cert. ef. 9-23-98; DEQ 21-1998, f. & cert. ef. 10-14-98; DEQ 1-1999, f. & cert. ef. 1-25-99; DEQ 6-1999, f. & cert. ef. 5-21-99; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-020-0205, 340-028-0110; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 2-2005, f. & cert. ef. 2-10-05; DEQ 2-2006, f. & cert. ef. 3-14-06; DEQ 6-2007(Temp), f. & cert. ef. 8-17-07 thru 2-12-08; DEQ 8-2007, f. & cert. ef. 11-8-07

340-200-0025

Abbreviations and Acronyms

- (1) "ACDP" means Air Contaminant Discharge Permit.
- (2) "ACT" means Federal Clean Air Act.
- (3) "AE" means Actual Emissions.
- (4) "AICPA" means Association of Independent Certified Public Accountants.
- (5) "AQCR" means Air Quality Control Region.
- (6) "AQMA" means Air Quality Maintenance Area.
- (7) "ASME" means American Society of Mechanical Engineers.
- (8) "ASTM" means American Society for Testing & Materials.
- (9) "ATETP" means Automotive Technician Emission Training Program.
- (10) "AWD" means all wheel drive.
- (11) "BACT" means Best Available Control Technology.
- (12) "BLS" means black liquor solids.
- (13) "CAA" means Clean Air Act
- (14) "CAR" means control area responsible party.
- (15) "CBD" means central business district.
- (16) "CCTMP" means Central City Transportation Management Plan.
- (17) "CEM" means continuous emissions monitoring.
- (18) "CEMS" means continuous emission monitoring system.
- (19) "CERCLA" means Comprehensive Environmental Response Compensation and Liability Act.
- (20) "CFRMS" means continuous flow rate monitoring system.
- (21) "CFR" means Code of Federal Regulations.
- (22) "CMS" means continuous monitoring system.
- (23) "CO" means carbon monoxide.
- (24) "COMS" means continuous opacity monitoring system.
- (25) "CPMS" means continuous parameter monitoring system.
- (26) "DEQ" means Department of Environmental Quality.
- (27) "DOD" means Department of Defense.
- (28) "EA" means environmental assessment.
- (29) "ECO" means employee commute options.
- (30) "EEAF" means emissions estimate adjustment factor.
- (31) "EF" means emission factor.
- (32) "EGR" means exhaust gas re-circulation.
- (33) "EIS" means Environmental Impact Statement
- (34) "EPA" means Environmental Protection Agency.
- (35) "EQC" means Environmental Quality Commission.
- (36) "ESP" means electrostatic precipitator.
- (37) "FCAA" means Federal Clean Air Act.
- (38) "FHWA" means Federal Highway Administration.
- (39) "FONSI" means finding of no significant impact.
- (40) "FTA" means Federal Transit Administration.
- (41) "GFA" means gross floor area.
- (42) "GLA" means gross leasable area.
- (43) "GPM" means grams per mile.
- (44) "gr/dscf" means grains per dry standard cubic foot.
- (45) "GTBA" means grade tertiary butyl alcohol.
- (46) "GVWR" means gross vehicle weight rating.
- (47) "HAP" means hazardous air pollutant.
- (48) "HEPA" means high efficiency particulate air.
- (49) "HMIWT" means hospital medical infectious waste incinerator.
- (50) "I/M" means inspection and maintenance program.
- (51) "IG" means inspection grade.
- (52) "IRS" means Internal Revenue Service.
- (53) "ISECP" means indirect source emission control program.
- (54) "ISTEA" means Intermodal Surface Transportation Efficiency Act.
- (55) "LAER" means Lowest Achievable Emission Rate.
- (56) "LDT2" means light duty truck 2.
- (57) "LIDAR" means laser radar; light detection and ranging.
- (58) "LPG" means liquefied petroleum gas.
- (59) "LRAPA" means Lane Regional Air Protection Agency.
- (60) "LUCS" means Land Use Compatibility Statement.

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- (61) "MACT" means Maximum Achievable Control Technology.
- (62) "MPO" means Metropolitan Planning Organization.
- (63) "MTBE" means methyl tertiary butyl ether.
- (64) "MWC" means municipal waste combustor.
- (65) "NAAQS" means National Ambient Air Quality Standards.
- (66) "NEPA" means National Environmental Policy Act.
- (67) "NESHAP" means National Emissions Standard for Hazardous Air Pollutants.
- (68) "NIOSH" means National Institute of Occupational Safety & Health.
- (69) "NOx" means nitrogen oxides.
- (70) "NSPS" means New Source Performance Standards.
- (71) "NSR" means New Source Review.
- (72) "NSSC" means neutral sulfite semi-chemical.
- (73) "O3" means ozone.
- (74) "OAR" means Oregon Administrative Rules.
- (75) "ODOT" means Oregon Department of Transportation.
- (76) "ORS" means Oregon Revised Statutes.
- (77) "OSAC" means orifice spark advance control.
- (78) "OSHA" means Occupational Safety & Health Administration.
- (79) "PCDE" means pollution control device collection efficiency.
- (80) "PEMS" means predictive emission monitoring system.
- (81) "PM" means particulate matter.
- (82) "PM10" means particulate matter less than 10 microns.
- (83) "POTW" means Publicly Owned Treatment Works.
- (84) "POV" means privately owned vehicle.
- (85) "PSD" means Prevention of Significant Deterioration.
- (86) "PSEL" means Plant Site Emission Limit.
- (87) "QIP" means quality improvement plan.
- (88) "RACT" means Reasonably Available Control Technology.
- (89) "RVCOG" means Rogue Valley Council of Governments.
- (90) "RWOC" means running weighted oxygen content.
- (91) "SKATS" means Salem-Kaiser Area Transportation Study.
- (92) "scf" means standard cubic feet.
- (93) "SCS" means speed control switch.
- (94) "SD" means standard deviation.
- (95) "SIP" means State Implementation Plan.
- (96) "SO2" means sulfur dioxide.
- (97) "SOCMI" means synthetic organic chemical manufacturing

industry.

- (98) "SOS" means Secretary of State.
- (99) "TAC" means thermostatic air cleaner.
- (100) "TACT" means Typically Achievable Control Technology.
- (101) "TCM" means transportation control measures.
- (102) "TCS" means throttle control solenoid.
- (103) "TIP" means Transportation Improvement Program.
- (104) "TRS" means total reduced sulfur.
- (105) "TSP" means total suspended particulate matter.
- (106) "UGA" means urban growth area.
- (107) "UGB" means urban growth boundary.
- (108) "US DOT" means United States Department of Transportation.
- (109) "UST" means underground storage tanks.
- (110) "UTM" means universal transverse mercator.
- (111) "VIN" means vehicle identification number.
- (112) "VMT" means vehicle miles traveled.
- (113) "VOC" means volatile organic compounds.

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A

Hist.: DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 3-2007, f. & cert. ef. 4-12-07; DEQ 8-2007, f. & cert. ef. 11-8-07

340-200-0040

State of Oregon Clean Air Act Implementation Plan

(1) This implementation plan, consisting of Volumes 2 and 3 of the State of Oregon Air Quality Control Program, contains control strategies, rules and standards prepared by the Department of Environmental Quality and is adopted as the state implementation plan (SIP) of the State of Oregon pursuant to the federal Clean Air Act, **42 U.S.C.A 7401 to 7671q**.

(2) Except as provided in section (3), revisions to the SIP will be made pursuant to the Commission's rulemaking procedures in division 11 of this chapter and any other requirements contained in the SIP and will be submitted to the United States Environmental Protection Agency for approval. The State Implementation Plan was last modified by the Commission on October 17, 2007.

(3) Notwithstanding any other requirement contained in the SIP, the Department may:

(a) Submit to the Environmental Protection Agency any permit condition implementing a rule that is part of the federally-approved SIP as a source-specific SIP revision after the Department has complied with the public hearings provisions of **40 CFR 51.102** (July 1, 2002); and

(b) Approve the standards submitted by a regional authority if the regional authority adopts verbatim any standard that the Commission has adopted, and submit the standards to EPA for approval as a SIP revision.

NOTE: Revisions to the State of Oregon Clean Air Act Implementation Plan become federally enforceable upon approval by the United States Environmental Protection Agency. If any provision of the federally approved Implementation Plan conflicts with any provision adopted by the Commission, the Department shall enforce the more stringent provision.

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.035

Hist.: DEQ 35, f. 2-3-72, ef. 2-15-72; DEQ 54, f. 6-21-73, ef. 7-1-73; DEQ 19-1979, f. & ef. 6-25-79; DEQ 21-1979, f. & ef. 7-2-79; DEQ 22-1980, f. & ef. 9-26-80; DEQ 11-1981, f. & ef. 3-26-81; DEQ 14-1982, f. & ef. 7-21-82; DEQ 21-1982, f. & ef. 10-27-82; DEQ 1-1983, f. & ef. 1-21-83; DEQ 6-1983, f. & ef. 4-18-83; DEQ 18-1984, f. & ef. 10-16-84; DEQ 25-1984, f. & ef. 11-27-84; DEQ 3-1985, f. & ef. 2-1-85; DEQ 12-1985, f. & ef. 9-30-85; DEQ 5-1986, f. & ef. 2-21-86; DEQ 10-1986, f. & ef. 5-9-86; DEQ 20-1986, f. & ef. 11-7-86; DEQ 21-1986, f. & ef. 11-7-86; DEQ 4-1987, f. & ef. 3-2-87; DEQ 5-1987, f. & ef. 3-2-87; DEQ 8-1987, f. & ef. 4-23-87; DEQ 21-1987, f. & ef. 12-16-87; DEQ 31-1988, f. 12-20-88, cert. ef. 12-23-88; DEQ 2-1991, f. & cert. ef. 2-14-91; DEQ 19-1991, f. & cert. ef. 11-13-91; DEQ 20-1991, f. & cert. ef. 11-13-91; DEQ 21-1991, f. & cert. ef. 11-13-91; DEQ 22-1991, f. & cert. ef. 11-13-91; DEQ 23-1991, f. & cert. ef. 11-13-91; DEQ 24-1991, f. & cert. ef. 11-13-91; DEQ 25-1991, f. & cert. ef. 11-13-91; DEQ 1-1992, f. & cert. ef. 2-4-92; DEQ 3-1992, f. & cert. ef. 2-4-92; DEQ 7-1992, f. & cert. ef. 3-30-92; DEQ 19-1992, f. & cert. ef. 8-11-92; DEQ 20-1992, f. & cert. ef. 8-11-92; DEQ 25-1992, f. 10-30-92, cert. ef. 11-1-92; DEQ 26-1992, f. & cert. ef. 11-2-92; DEQ 27-1992, f. & cert. ef. 11-12-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 8-1993, f. & cert. ef. 5-11-93; DEQ 12-1993, f. & cert. ef. 9-24-93; DEQ 15-1993, f. & cert. ef. 11-4-93; DEQ 16-1993, f. & cert. ef. 11-4-93; DEQ 17-1993, f. & cert. ef. 11-4-93; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 1-1994, f. & cert. ef. 1-3-94; DEQ 5-1994, f. & cert. ef. 3-21-94; DEQ 14-1994, f. & cert. ef. 5-31-94; DEQ 15-1994, f. 6-8-94, cert. ef. 7-1-94; DEQ 25-1994, f. & cert. ef. 11-2-94; DEQ 9-1995, f. & cert. ef. 5-1-95; DEQ 10-1995, f. & cert. ef. 5-1-95; DEQ 14-1995, f. & cert. ef. 5-25-95; DEQ 17-1995, f. & cert. ef. 7-12-95; DEQ 19-1995, f. & cert. ef. 9-1-95; DEQ 20-1995 (Temp), f. & cert. ef. 9-14-95; DEQ 8-1996 (Temp), f. & cert. ef. 6-3-96; DEQ 15-1996, f. & cert. ef. 8-14-96; DEQ 19-1996, f. & cert. ef. 9-24-96; DEQ 22-1996, f. & cert. ef. 10-22-96; DEQ 23-1996, f. & cert. ef. 11-4-96; DEQ 24-1996, f. & cert. ef. 11-26-96; DEQ 10-1998, f. & cert. ef. 6-22-98; DEQ 15-1998, f. & cert. ef. 9-23-98; DEQ 16-1998, f. & cert. ef. 9-23-98; DEQ 17-1998, f. & cert. ef. 9-23-98; DEQ 20-1998, f. & cert. ef. 10-12-98; DEQ 21-1998, f. & cert. ef. 10-12-98; DEQ 1-1999, f. & cert. ef. 1-25-99; DEQ 5-1999, f. & cert. ef. 3-25-99; DEQ 6-1999, f. & cert. ef. 5-21-99; DEQ 10-1999, f. & cert. ef. 7-1-99; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-020-0047; DEQ 15-1999, f. & cert. ef. 10-22-99; DEQ 2-2000, f. 2-17-00, cert. ef. 6-1-01; DEQ 6-2000, f. & cert. ef. 5-22-00; DEQ 8-2000, f. & cert. ef. 6-6-00; DEQ 13-2000, f. & cert. ef. 7-28-00; DEQ 16-2000, f. & cert. ef. 10-25-00; DEQ 17-2000, f. & cert. ef. 10-25-00; DEQ 20-2000, f. & cert. ef. 12-15-00; DEQ 21-2000, f. & cert. ef. 12-15-00; DEQ 2-2001, f. & cert. ef. 2-5-01; DEQ 4-2001, f. & cert. ef. 3-27-01; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 15-2001, f. & cert. ef. 12-26-01; DEQ 16-2001, f. & cert. ef. 12-26-01; DEQ 17-2001, f. & cert. ef. 12-28-01; DEQ 4-2002, f. & cert. ef. 3-14-02; DEQ 5-2002, f. & cert. ef. 5-3-02; DEQ 11-2002, f. & cert. ef. 10-8-02; DEQ 5-2003, f. & cert. ef. 2-6-03; DEQ 14-2003, f. & cert. ef. 10-24-03; DEQ 19-2003, f. & cert. ef. 12-12-03; DEQ 1-2004, f. & cert. ef. 4-14-04; DEQ 10-2004, f. & cert. ef. 12-15-04; DEQ 1-2005, f. & cert. ef. 1-4-05; DEQ 2-2005, f. & cert. ef. 2-10-05; DEQ 4-2005, f. 5-13-05, cert. ef. 6-1-05; DEQ 7-2005, f. & cert. ef. 7-12-05; DEQ 9-2005, f. & cert. ef. 9-9-05; DEQ 2-2006, f. & cert. ef. 3-14-06; DEQ 4-2006, f. 3-29-06, cert. ef. 3-31-06; DEQ 3-2007, f. & cert. ef. 4-12-07; DEQ 4-2007, f. & cert. ef. 6-28-07; DEQ 8-2007, f. & cert. ef. 11-8-07

340-208-0010

Definitions

The definitions in OAR 340-200-0020 and this rule apply to this division. If the same term is defined in this rule and OAR 340-200-0020, the definition in this rule applies to this division.

(1) "Abate" means to eliminate the nuisance or suspected nuisance by reducing or managing the emissions using reasonably available practices. The degree of abatement will depend on an evaluation of all of the circumstances of each case and does not necessarily mean completely eliminating the emissions.

(2) "Air Contaminant" means a dust, fume, gas, mist, odor, smoke, pollen, vapor, soot, carbon, acid or particulate matter, or any combination thereof.

(3) "Emission" means a release into the outdoor atmosphere of air contaminants.

(4) "Fuel Burning Equipment" means a boiler or process heater that burns a solid, liquid, or gaseous fuel, the principal purpose of which is to produce heat or power by indirect heat transfer.

(5) "Fugitive Emissions" means emissions of any air contaminant that escape to the atmosphere from any point or area not identifiable as a stack, vent, duct, or equivalent opening.

(6) "New source" means, for purposes of OAR 340-208-0110, any air contaminant source installed, constructed, or modified after June 1, 1970.

(7) "Nuisance" means a substantial and unreasonable interference with another's use and enjoyment of real property, or the substantial and unreasonable invasion of a right common to members of the general public.

ADMINISTRATIVE RULES

(8) "Odor" means that property of an air contaminant that affects the sense of smell.

(9) "Special Control Area" means an area designated in OAR 340-204-0070.

(12) "Standard conditions" means a temperature of 68° Fahrenheit and a pressure of 14.7 pounds per square inch absolute.

(13) "Standard cubic foot" means the amount of gas that would occupy a volume of one cubic foot, if the gas were free of uncombined water at standard conditions. When applied to combustion flue gases from fuel, "standard cubic foot" also implies adjustment of gas volume to that which would result at a concentration of 12% carbon dioxide or 50% excess air.

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.

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

Stat. Auth.: ORS 468 & 468A

Stats. Implemented: ORS 468.020 & 468A.025

Hist.: [DEQ 16, f. 6-12-70, ef. 7-11-70; DEQ 1-1984, f. & ef. 1-16-84; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 3-1996, f. & cert. ef. 1-29-96]; [DEQ 37, f. 2-15-72, ef. 3-1-72; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 3-1996, f. & cert. ef. 1-29-96]; [DEQ 4-1978, f. & ef. 4-7-78; DEQ 9-1979, f. & ef. 5-3-79; DEQ 3-1980, f. & ef. 1-28-80; DEQ 14-1981, f. & ef. 5-6-81; DEQ 22-1989, f. & cert. ef. 9-26-89; DEQ 23-1991, f. & cert. ef. 11-13-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 10-1995, f. & cert. ef. 5-1-95; DEQ 4-1995, f. & cert. ef. 2-17-95; DEQ 10-1995, f. & cert. ef. 5-1-95; DEQ 3-1996, f. & cert. ef. 1-29-96]; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-021-0005, 340-021-0050, 340-030-0010; DEQ 2-2001, f. & cert. ef. 2-5-01; DEQ 8-2007, f. & cert. ef. 11-8-07

340-208-0110

Visible Air Contaminant Limitations

(1) Existing sources outside special control areas. No person may emit or allow to be emitted any air contaminant into the atmosphere from any existing air contaminant source located outside a special control area for a period or periods aggregating more than three minutes in any one hour which is equal to or greater than 40% opacity.

(2) New sources in all areas and existing sources within special control areas: No person may emit or allow to be emitted any air contaminant into the atmosphere from any new air contaminant source, or from any existing source within a special control area, for a period or periods aggregating more than three minutes in any one hour which is equal to or greater than 20% opacity.

(3) Exceptions to sections (1) and (2) of this rule:

(a) Where the presence of uncombined water is the only reason for failure of any source to meet the requirement of sections (1) and (2) of this rule, such sections shall not apply;

(b) Existing fuel burning equipment installed on or before June 1, 1970 that has not been modified since June 1, 1970 utilizing wood wastes and located within special control areas shall comply with the emission limitations of section (1) of this rule in lieu of section (2) of this rule.

(4) Opacity is determined in accordance with the procedures specified in the definition of "opacity".

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.

Stat. Auth.: ORS 468 & 468A

Stats. Implemented: ORS 468.020 & 468A.025

Hist.: DEQ 16, f. 6-12-70, ef. 7-11-70; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 3-1996, f. & cert. ef. 1-29-96; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-021-0015; DEQ 2-2001, f. & cert. ef. 2-5-01; DEQ 8-2007, f. & cert. ef. 11-8-07

340-208-0500

Application

OAR 340-208-0510 through 340-208-0610 apply in Clackamas, Columbia, Multnomah, and Washington Counties.

Stat. Auth.: ORS 468 & 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 61, f. 12-5-73, ef. 12-25-73; DEQ 4-1993, f. & cert. ef. 3-10-93, Renumbered from 340-028-0001; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-030-0400; DEQ 2-2001, f. & cert. ef. 2-5-01; DEQ 8-2007, f. & cert. ef. 11-8-07

340-208-0510

Exclusions

(1) The requirements contained in OAR 340-208-0510 through 340-208-0610 apply to all activities conducted in Clackamas, Columbia, Multnomah, and Washington Counties, other than those for which specific industrial standards have been adopted (Divisions 230, 234, 236, and 238), and except for the reduction of animal matter, OAR 340-236-0310(1) and (2).

(2) The requirements outlined in OAR 340-208-0510 through 340-208-0610 do not apply to activities related to a domestic residence of four or fewer family-living units.

Stat. Auth.: ORS 468 & 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 61, f. 12-5-73, ef. 12-25-73; DEQ 4-1993, f. & cert. ef. 3-10-93, Renumbered from 340-028-0003; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-030-0410; DEQ 2-2001, f. & cert. ef. 2-5-01; DEQ 8-2007, f. & cert. ef. 11-8-07

340-209-0040

Public Notice Information

(1) The following information is required in public notices for all proposed ACDP and draft Oregon Title V Operating Permit actions, except for General Permit actions:

(a) Name of applicant and location of the facility;

(b) Type of facility, including a description of the facility's processes subject to the permit;

(c) Description of the air contaminant emissions including, the type of pollutants, quantity of emissions, and any decreases or increases since the last permit action for the facility;

(d) Location and description of documents relied upon in preparing the draft permit;

(e) Other permits required by the Department;

(f) Date of previous permit actions;

(g) Opportunity for public comment and a brief description of the comment procedures, whether in writing or in person, including the procedures for requesting a hearing (unless a hearing has already been scheduled or is not an option for the public notice category);

(h) Compliance, enforcement, and complaint history along with resolution of the same;

(i) A summary of the discretionary decisions made by the Department in drafting the permit;

(j) Type and duration of the proposed or draft permit action;

(k) Basis of need for the proposed or draft permit action;

(l) Any special conditions imposed in the proposed or draft permit action;

(m) Whether each proposed permitted emission is a criteria pollutant and whether the area in which the source is located is designated as attainment or non-attainment for that pollutant;

(n) If the proposed permit action is for a federal major source, whether the proposed permitted emission would have a significant impact on a Class I airshed;

(o) If the proposed permit action is for a major source for which dispersion modeling has been performed, an indication of what impact each proposed permitted emission would have on the ambient air quality standard and PSD increment consumption within an attainment area;

(p) Other available information relevant to the permitting action;

(q) The name and address of the Department office processing the permit;

(r) The name, address, and telephone number and e-mail address of a person from whom interested persons may obtain additional information, including copies of the permit draft, the application, all relevant supporting materials, including any compliance plan, permit, and monitoring and compliance certification report, except for information that is exempt from disclosure, and all other materials available to the Department that are relevant to the permit decision; and

(s) If applicable, a statement that an enhanced New Source Review process under OAR 340 division 224, including the external review procedures required under OAR 340-218-0210 and 340-218-0230, is being used to allow for subsequent incorporation of the operating approval into an Oregon Title V Operating Permit as an administrative amendment.

(2) General Permit Actions. The following information is required for General ACDP and General Oregon Title V Operating Permit actions:

(a) The name and address of potential or actual facilities assigned to the General Permit;

(b) Type of facility, including a description of the facility's process subject to the permit;

(c) Description of the air contaminant emissions including, the type of pollutants, quantity of emissions, and any decreases or increases since the last permit action for the potential or actual facilities assigned to the permit;

(d) Location and description of documents relied upon in preparing the draft permit;

(e) Other permits required by the Department;

(f) Date of previous permit actions;

ADMINISTRATIVE RULES

(g) Opportunity for public comment and a brief description of the comment procedures, whether in writing or in person, including the procedures for requesting a hearing (unless a hearing has already been scheduled or is not an option for the Public Notice category);

(h) Compliance, enforcement, and complaint history along with resolution of the same;

(i) A summary of the discretionary decisions made by the Department in drafting the permit;

(j) Type and duration of the proposed or draft permit action;

(k) Basis of need for the proposed or draft permit action;

(l) Any special conditions imposed in the proposed or draft permit action;

(m) Whether each proposed permitted emission is a criteria pollutant and whether the area in which the sources are located are designated as attainment or non-attainment for that pollutant;

(n) If the proposed permit action is for a federal major source, whether the proposed permitted emission would have a significant impact on a Class I airshed;

(o) Other available information relevant to the permitting action; and

(p) The name and address of the Department office processing the permit;

(q) The name, address, and telephone number and e-mail address of a person from whom interested persons may obtain additional information, including copies of the permit draft, the application, all relevant supporting materials, including any compliance plan, permit, and monitoring and compliance certification report, except for information that is exempt from disclosure, and all other materials available to the Department that are relevant to the permit decision.

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468 & 468A

Hist.: DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; DEQ 107, f. & ef. 1-6-76; Renumbered from 340-020-0033; DEQ 13-1988, f. & cert. ef. 6-17-88; DEQ 34-1990, f. 8-20-90, cert. ef. 9-1-90; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0150; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1710; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01, Renumbered from 340-216-0050; DEQ 8-2007, f. & cert. ef. 11-8-07

340-209-0070

Hearing and Meeting Procedures

(1) Informational Meeting. For category IV permit actions, the Department will provide an informational meeting at a reasonable place and time.

(a) The meeting will be held after a complete application is received and before the Department makes a preliminary decision on the application.

(b) Notice of the meeting will be provided at least 14 days before the meeting;

(c) During the meeting, the Department will:

(A) Describe the requested permit action; and

(B) Accept comments from the public.

(d) The Department will consider any information gathered during the meeting, but will not maintain an official record of the meeting and will not provide a written response to the comments.

(2) Public Hearing. When a public hearing is required or requested, the Department will provide the hearing at a reasonable place and time before taking the final permit action.

(a) Notice of the hearing may be given either in the notice accompanying the proposed or draft permit action or in such other manner as is reasonably calculated to inform interested persons. The Department will provide notice of the hearing at least 30 days before the hearing.

(b) Presiding Officer. A Presiding Officer will preside over the public hearing and ensure that proper procedures are followed to allow for the public to comment on the proposed permit action.

(A) Before accepting oral or written comments by members of the public, the Presiding Officer or Department representative will present a summary of the proposed permit action and the Department's preliminary decision. During this period, there will be an opportunity to ask questions about the proposed or draft permit action.

(B) The Presiding Officer will then provide an opportunity for interested persons to submit oral or written comments regarding the proposed permit action. Interested persons are encouraged to submit written comments because time constraints may be imposed, depending on the level of participation. While public comment is being accepted, discussion of the proposed or draft permit action will not be allowed.

(C) After the public hearing, the Presiding Officer will prepare a report of the hearing that includes the date and time of the hearing, the permit

action, names of persons attending the hearing, written comments, and a summary of the oral comments. The Presiding Officer's report will be entered into the permit action record.

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468 & 468A

Hist.: DEQ 78, f. 9-6-74, ef. 9-25-74; DEQ 122, f. & ef. 9-13-76; DEQ 7-1988, f. & cert. ef. 5-6-88 (and corrected 9-30-88); DEQ 34-1990, f. 8-20-90, cert. ef. 9-1-90; DEQ 9-1996, f. & cert. ef. 7-10-96; DEQ 15-2000, f. & cert. ef. 10-11-00, Renumbered from 340-011-0007; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01, Renumbered from 340-014-0022; DEQ 8-2007, f. & cert. ef. 11-8-07

340-209-0080

Issuance or Denial of a Permit

(1) Following the public comment period and public hearing, if one is held, the Department will take action upon the matter as expeditiously as possible. Before taking such action, the Department will prepare a written response to address each relevant, distinct issue raised during the comment period and during the hearing record.

(2) The Department will make a record of the public comments, including the names and affiliation of persons who commented, and the issues raised during the public participation process. The public comment records may be in summary form rather than a verbatim transcript. The public comment records are available to the public in the location(s) listed in OAR 340-209-0040.

(3) The applicant may submit a written response to any comments submitted by the public within 10 working days after the close of the public comment period. The Department will consider the applicant's response in making a final decision.

(4) After considering the comments, the Department may adopt or modify the provisions requested in the permit application.

(5) Issuance of permit: The Department will promptly notify the applicant in writing of the final action as provided in OAR 340-011-0525 and will include a copy of the permit. If the permit conditions are different from those contained in the proposed permit, the notification will identify the affected conditions and include the reasons for the changes.

(6) Denial of a permit: The Department will promptly notify the applicant in writing of the final action as provided in OAR 340-011-0525. If the Department denies a permit application, the notification will include the reasons for the denial.

(7) The Department's decision under (5) and (6) is effective 20 days from the date of service of the notice unless, within that time, the Department receives a request for a hearing from the applicant. The request for a hearing must be in writing and state the grounds for the request. The hearing will be conducted as a contested case hearing in accordance with ORS 183.413 through 183.470 and OAR 340 division 11.

Stat. Auth.: ORS 183.335 & 468.020

Stats. Implemented: ORS 183.341, 183.413, 183.415, 468 & 468A

Hist.: DEQ 42, f. 4-5-72, ef. 4-15-72; DEQ 13-1988, f. & cert. ef. 6-17-88; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01, Renumbered from 340-014-0025 & 340-014-0035; DEQ 8-2007, f. & cert. ef. 11-8-07

340-214-0010

Definitions

The definitions in OAR 340-200-0020, 340-204-0010 and this rule apply to this division. If the same term is defined in this rule and OAR 340-200-0020 or 340-204-0010, the definition in this rule applies to this division.

(1) "Large Source", as used in OAR 340-214-0300 through 340-214-0350, means any stationary source required to maintain a Title V Operating Permit or whose actual emissions or potential controlled emissions while operating full time at the design capacity are equal to or exceed 100 tons per year of any regulated air pollutant, or which is subject to a National Emissions Standard for Hazardous Air Pollutants (NESHAP). Where PSELs have been incorporated into the ACDP, the PSEL will be used to determine actual emissions.

(2) "Small Source" means any other stationary source with a general, simple or standard ACDP.

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 14-1999, f. & cert. ef. 10-14-99; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 8-2007, f. & cert. ef. 11-8-07

340-214-0300

Purpose and Applicability

Emissions of air contaminants in excess of applicable standards or permit conditions are unauthorized and subject to enforcement action. OAR

ADMINISTRATIVE RULES

340-214-0300 through 340-214-0360 apply to any source that emits air contaminants in excess of any applicable air quality rule or permit condition, including but not limited to excess emissions resulting from the breakdown of air pollution control equipment or operating equipment, process upset, startup, shutdown, or scheduled maintenance. Sources that do not emit air contaminants in excess of any applicable air quality rule or permit condition are not subject to the recordkeeping and reporting requirements in OAR 340-214-0300 through 340-214-0360. The purpose of these rules is to:

- (1) Require that, where applicable, the owner or operator immediately report all excess emissions to the Department;
- (2) Require the owner or operator to submit information and data regarding conditions that resulted or could result in excess emissions;
- (3) Identify criteria for the Department to use in determining whether it will take enforcement action against an owner or operator for an excess emission; and
- (4) Provide owners and operators an affirmative defense to a penalty action when noncompliance with technology-based emission limits is due to an emergency, as provided in OAR 340-214-0360.

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-200-0040.
Stat. Auth.: ORS 468.020 & 468A.310
Stats. Implemented: ORS 468 & 468A
Hist.: DEQ 37, f. 2-15-72, ef. 3-1-72; DEQ 42-1990, f. 12-13-90, cert. ef. 1-2-91, Renumbered from 340-021-0065; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0350; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1400; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 8-2007, f. & cert. ef. 11-8-07

340-214-0310

Planned Startup and Shutdown

(1) This rule applies to any source where startup or shutdown of a production process or system may result in excess emissions, and

- (a) That is a major source; or
- (b) That is in a non-attainment or maintenance area for the pollutant which may constitute excess emissions; or
- (c) From which the Department requires the application in section (2) of this rule.

(2) The owner or operator must obtain prior Department authorization of startup and shutdown procedures. The owner or operator must submit to the Department a written application for approval of new procedures or modifications to existing procedures. The application must be submitted in time for the Department to receive it at least 72 hours before the first occurrence of a startup or shutdown event to which the procedures apply. The application must:

- (a) Explain why the excess emissions during startup and shutdown cannot be avoided;
- (b) Identify the specific production process or system that will cause the excess emissions;
- (c) Identify the nature of the air contaminants likely to be emitted and estimate the amount and duration of the excess emissions; and
- (d) Identify specific procedures to be followed that will minimize excess emissions at all times during startup and shutdown.

(3) The Department will approve the procedures if it determines that they are consistent with good pollution control practices, will minimize emissions during such period to the extent practicable, and that no adverse health impact on the public will occur. The owner or operator must record all excess emissions in the excess emissions log, as required in OAR 340-214-0340(3). Approval of the procedures does not shield the owner or operator from an enforcement action, but the Department will consider whether the procedures were followed in determining whether an enforcement action is appropriate.

(4) Once the Department approves startup and shutdown procedures, the owner or operator does not have to notify the Department of a planned startup or shutdown event unless it results in excess emissions.

(5) When notice is required by section (4) of this rule, it must be made in accordance with OAR 340-214-0330(1)(a).

(6) The Department may revoke or require modifications to previously approved procedures at any time by written notification to the owner or operator.

(7) No startups or shutdowns that may result in excess emissions associated with the approved procedures in section (3) of this rule are allowed during any period in which an Air Pollution Alert, Air Pollution Warning, or Air Pollution Emergency has been declared, or during an announced yellow or red woodstove curtailment period in areas designated by the Department as PM10 Non-attainment Areas.

(8) The owner or operator is subject to the requirements under All Other Excess Emissions in OAR 340-214-0330 if the owner or operator fails to obtain Department approval of start-up and shutdown procedures in accordance with section (2) of this rule.

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan adopted by the EQC under OAR 340-200-0040.

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 42-1990, f. 12-13-90, cert. ef. 1-2-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0360; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 19-1996, f. & cert. ef. 9-24-96; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1410; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 8-2007, f. & cert. ef. 11-8-07

340-214-0320

Scheduled Maintenance

(1) If the owner or operator anticipates that shutdown, by-pass, or operation at reduced efficiency of air pollution control equipment for necessary scheduled maintenance may result in excess emissions, the owner or operator must obtain prior Department authorization of procedures that will be used. The owner or operator must submit a written application for approval of new procedures or modifications to existing procedures. The application must be submitted in time for the Department to receive it at least 72 hours before the first occurrence of a maintenance event to which the procedures apply. The application must:

(a) Explain the need for maintenance, including why it would be impractical to shut down the source operation during the period, and why the by-pass or reduced efficiency could not be avoided through better scheduling for maintenance or through better operation and maintenance practices;

(b) Identify the specific production or emission control equipment or system to be maintained;

(c) Identify the nature of the air contaminants likely to be emitted during the maintenance period and the estimated amount and duration of the excess emissions, including measures such as the use of overtime labor and contract services and equipment, that will be taken to minimize the length of the maintenance period;

(d) Identify specific procedures to be followed that will minimize excess emissions at all times during the scheduled maintenance.

(2) The Department will approve the procedures if it determines that they are consistent with good pollution control practices, will minimize emissions during such period to the extent practicable, and that no adverse health impact on the public will occur. The owner or operator must record all excess emissions in the excess emissions log, as required in OAR 340-214-0340(3). Approval of the above procedures does not shield the owner or operator from an enforcement action, but the Department will consider whether the procedures were followed in determining whether an enforcement action is appropriate.

(3) Once the Department approves the maintenance procedures the owner or operator does not have to notify the Department of a scheduled maintenance event unless it results in excess emissions.

(4) When required by section (3) of this rule, notification must be made in accordance with OAR 340-214-0330(1)(a).

(5) The Department may revoke or require modifications to previously approved procedures at any time by written notification to the owner or operator.

(6) No scheduled maintenance associated with the approved procedures in section (2) of this rule, that is likely to result in excess emissions, may occur during any period in which an Air Pollution Alert, Air Pollution Warning, or Air Pollution Emergency has been declared, or during an announced yellow or red woodstove curtailment period in areas designated by the Department as PM10 Nonattainment Areas.

(7) The owner or operator is subject to the requirements under All Other Excess Emissions in OAR 340-214-0330 if the owner or operator fails to obtain Department approval of maintenance procedures in accordance with section (1) of this rule.

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-200-0040.

Stat. Auth.: ORS 468 & 468A

Stats. Implemented: ORS 468 & 468A

Hist.: DEQ 42-1990, f. 12-13-90, cert. ef. 1-2-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0365; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1420; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 8-2007, f. & cert. ef. 11-8-07

340-214-0330

All Other Excess Emissions

(1) For all other excess emissions not addressed in OAR 340-214-310, 340-214-320, or 340-214-360, the following requirements apply:

ADMINISTRATIVE RULES

(a) The owner or operator of a large source, as defined by OAR 340-214-0010, must immediately notify the Department of the first onset per calendar day of any excess emissions event, unless otherwise specified by a permit condition.

(b) The owner or operator of a small source, as defined by OAR 340-214-0010, need not immediately notify the Department of excess emissions events unless otherwise required by a permit condition, written notice by the Department, or if the excess emission is of a nature that could endanger public health.

(c) Additional reporting and recordkeeping requirements are specified in OAR 340-214-0340(2) During any period of excess emissions, the Department may require that an owner or operator immediately reduce or cease operation of the equipment or facility until the condition causing the excess emissions has been corrected or brought under control. The Department will consider the following factors:

(a) The potential risk to the public or environment;

(b) Whether shutdown could result in physical damage to the equipment or facility, or cause injury to employees;

(c) Whether any Air Pollution Alert, Warning, Emergency, or yellow or red woodstove curtailment period exists; and

(d) Whether continued excess emissions were avoidable.

(3) If there is an on-going period of excess emissions, the owner or operator must cease operation of the equipment or facility no later than 48 hours after the beginning of the excess emission period, if the condition causing the emissions is not corrected within that time. The owner or operator does not have to cease operation if the Department approves procedures to minimize excess emissions until the condition causing the excess emissions is corrected or brought under control. The Department will consider the following before approving the procedures:

(a) Why the condition(s) causing the excess emissions cannot be corrected or brought under control, including equipment availability and difficulty of repair or installation; and

(b) Information as required in OAR 340-214-0310(2)(b),(c), and(d) or 340-214-0320(1)(b),(c), and (d), as appropriate

(4) The Department will approve the procedures if it determines that they are consistent with good pollution control practices, will minimize emissions during such period to the extent practicable, and that no adverse health impact on the public will occur. The owner or operator must record all excess emissions in the excess emissions log as required in OAR 340-214-0340(3) of this rule. At any time during the period of excess emissions the Department may require the owner or operator to cease operation of the equipment or facility, in accordance with section (2) of this rule. Approval of these procedures does not shield the owner or operator from an enforcement action, but the Department will consider whether the procedures were followed in determining whether an enforcement action is appropriate.

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan adopted by the EQC under OAR 340-200-0040.

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 42-1990, f. 12-13-90, cert. ef. 1-2-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0370; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 24-1994, f. & cert. ef. 10-28-94; DEQ 19-1996, f. & cert. ef. 9-24-96; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1430; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 8-2007, f. & cert. ef. 11-8-07

340-214-0340

Reporting Requirements

(1) For any excess emissions event at a source with a Title V permit and for any other source as required by permit, the owner or operator shall submit a written report of excess emissions for each calendar day of the event. The report must be submitted within 15 days of the date of the event and include the following:

(a) The date and time of the beginning of the excess emissions event and the duration or best estimate of the time until return to normal operation;

(b) The date and time the owner or operator notified the Department of the event;

(c) The equipment involved;

(d) Whether the event occurred during planned startup, planned shutdown, scheduled maintenance, or as a result of a breakdown, malfunction, or emergency;

(e) Steps taken to mitigate emissions and corrective actions taken, including whether the approved procedures for a planned startup, shutdown, or maintenance activity were followed;

(f) The magnitude and duration of each occurrence of excess emissions during the course of an event and the increase over normal rates or concen-

trations as determined by continuous monitoring or a best estimate (supported by operating data and calculations);

(g) The final resolution of the cause of the excess emissions; and

(h) Where applicable, evidence supporting any claim that emissions in excess of technology-based limits were due to an emergency pursuant to OAR 340-214-0360.

(2) Based on the severity of event, the Department may specify a short-time period for report submittal.

(3) All source owners or operators must keep an excess emissions log of all planned and unplanned excess emissions. The log must include all pertinent information as required in section (1) of this rule and be kept by the owner or operator for five calendar years.

(4) At each annual reporting period specified in a permit, or sooner if the Department requires, the owner or operator must submit:

(a) A copy of the excess emissions log entries for the reporting period; unless previously submitted in accordance with section (1) of this rule, and

(b) Where applicable, current procedures to minimize emissions during startup, shutdown, or maintenance as outlined in OAR 340-214-0310 and 340-214-0320. The owner or operator must specify in writing whether these procedures are new, modified, or have already been approved by the Department.

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-200-0040.

Stat. Auth.: ORS 468 & 468A

Stats. Implemented: ORS 468 & 468A

Hist.: DEQ 42-1990, f. 12-13-90, cert. ef. 1-2-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0375; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1440; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 8-2007, f. & cert. ef. 11-8-07

340-214-0350

Enforcement Action Criteria

In determining whether to take enforcement action for excess emissions, the Department considers, based upon information submitted by the owner or operator, the following:

(1) Whether the owner or operator met the notification, recordkeeping and reporting requirements of OAR 340-214-0330 and 340-214-0340;

(2) Whether during the period of the excess emissions event the owner or operator took all reasonable steps to minimize levels of emissions that exceeded the emission standards, or other permit requirements.

(3) Whether the owner or operator took the appropriate remedial action.

(4) Whether the event was due to the owner's or operator's negligent or intentional operation. For the Department to find that an incident of excess emissions was not due to the owner's or operator's negligent or intentional operation, the Department may ask the owner or operator to demonstrate that all of the following conditions were met:

(a) The process or handling equipment and the air pollution control equipment were at all times maintained and operated in a manner consistent with good practice for minimizing emissions;

(b) Repairs or corrections were made in an expeditious manner when the owner or operator knew or should have known that emission limits were being or were likely to be exceeded. "Expeditious manner" may include activities such as use of overtime labor or contract labor and equipment that would reduce the amount and duration of excess emissions;

(c) The event was not one in a recurring pattern of incidents that indicate inadequate design, operation, or maintenance.

(5) Whether the owner or operator was following procedures approved in OAR 340-214-0310 or 340-214-0320 at the time of the excess emissions.

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-200-0040.

Stat. Auth.: ORS 468 & 468A

Stats. Implemented: ORS 468 & 468A

Hist.: DEQ 42-1990, f. 12-13-90, cert. ef. 1-2-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0380; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1450; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 8-2007, f. & cert. ef. 11-8-07

340-214-0360

Emergency as an Affirmative Defense

(1) An emergency constitutes an affirmative defense to penalty actions due to noncompliance with technology-based emission limits if the owner or operator notifies the Department immediately of the emergency condition and demonstrates through properly signed, contemporaneous operating logs, excess emission logs, or other relevant evidence:

(a) That an emergency occurred and caused the excess emissions;

(b) The cause(s) of the emergency;

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(c) The facility was at the time being properly operated;
(d) During the occurrence of the emergency, the owner or operator took all reasonable steps to minimize levels of excess emissions; and
(e) The notification to the Department contained a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken.

(2) The person seeking to establish the occurrence of an emergency has the burden of proof by a preponderance of the evidence.

(3) This provision is in addition to any emergency or any other excess emissions provision contained in any applicable requirement.

Stat. Auth.: ORS 468 & 468A

Stats. Implemented: ORS 468 & 468A

Hist.: DEQ 12-1993, f. & cert. ef. 9-24-93; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1460; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 8-2007, f. & cert. ef. 11-8-07

340-216-0020

Applicability

This division applies to all sources referred to in **Table 1**. This division also applies to Oregon Title V Operating Permit program sources when an ACDP is required by OAR 340-218-0020 or 340-224-0010.

(1) No person may construct, install, establish, develop or operate any air contaminant source which is referred to in **Table 1** without first obtaining an Air Contaminant Discharge Permit (ACDP) from the Department or Regional Authority. No person may continue to operate an air contaminant source if the ACDP expires, or is terminated or revoked; except as provided in OAR 340-216-0082.

(a) For portable sources, a single permit may be issued for operating at any area of the state if the permit includes the requirements from both the Department and Regional Authorities.

(b) The Department or Regional Authority where the portable source's Corporate offices are located will be responsible for issuing the permit. If the corporate office of a portable source is located outside of the state, the Department will be responsible for issuing the permit.

(2) No person may construct, install, establish, or develop any source that will be subject to the Oregon Title V Operating Permit program without first obtaining an ACDP from the Department or Regional Authority.

(3) No person may modify any source that has been issued an ACDP without first complying with the requirements of OAR 340-210-0205 through 340-210-0250.

(4) No person may modify any source required to have an ACDP such that the source becomes subject to the Oregon Title V Operating Permit program without complying with the requirements of OAR 340-210-0205 through 340-210-0250.

(5) No person may increase emissions above the PSEL by more than the de minimis levels specified in OAR 340-200-0020 without first applying for and obtaining a modified ACDP.

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-211-0040.

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

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A

Hist.: DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; DEQ 107, f. & ef. 1-6-76; Renumbered from 340-020-0033; DEQ 125, f. & ef. 12-16-76; DEQ 20-1979, f. & ef. 6-29-79; DEQ 23-1980, f. & ef. 9-26-80; DEQ 13-1981, f. 5-6-81, ef. 7-1-81; DEQ 11-1983, f. & ef. 5-31-83; DEQ 3-1986, f. & ef. 2-12-86; DEQ 12-1987, f. & ef. 6-15-87; DEQ 27-1991, f. & cert. ef. 11-29-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0155; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 22-1994, f. & cert. ef. 10-4-94; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 19-1996, f. & cert. ef. 9-24-96; DEQ 22-1996, f. & cert. ef. 10-22-96; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1720; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 4-2002, f. & cert. ef. 3-14-02; DEQ 7-2007, f. & cert. ef. 10-18-07; DEQ 8-2007, f. & cert. ef. 11-8-07

340-216-0056

Basic ACDPs

(1) Application requirements. Any person requesting a Basic ACDP must submit an application in accordance with OAR 340-216-0040 and provide the information specified in OAR 340-216-0040(1).

(2) Fees. Applicants for a new Basic ACDP must pay the fees set forth in **Table 2** of 340-216-0020.

(3) Permit content:

(a) A Basic ACDP contains only the most significant and relevant rules applicable to the source;

(b) A Basic ACDP does not contain a PSEL;

(c) A Basic ACDP requires a simplified annual report be submitted to the Department; and

(d) A Basic ACDP may be issued for a period not to exceed ten years.

(4) Permit issuance procedures. A Basic ACDP requires public notice in accordance with OAR 340 division 209 for Category I permit actions.

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

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A

Hist.: DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 8-2007, f. & cert. ef. 11-8-07

340-216-0060

General Air Contaminant Discharge Permits

(1) Applicability.

(a) The Commission may issue a General ACDP under the following circumstances:

(A) There are several sources that involve the same or substantially similar types of operations;

(B) All requirements applicable to the sources can be contained in a General ACDP;

(C) The emission limitations, monitoring, recordkeeping, reporting and other enforceable conditions are the same for all sources covered by the General ACDP; and

(D) The pollutants emitted are of the same type for all covered sources.

(b) Permit content. Each General ACDP must include the following:

(A) All relevant requirements;

(B) Generic PSELs for all pollutants emitted at more than the de minimis level in accordance with OAR 340, division 222;

(C) Testing, monitoring, recordkeeping, and reporting requirements necessary to ensure compliance with the PSEL and other applicable emissions limits and standards; and

(D) A permit duration not to exceed 10 years.

(c) Permit issuance procedures: A General ACDP requires public notice and opportunity for comment in accordance with ORS 183.325 to 183.410. All General ACDPs are on file and available for review at the Department's headquarters.

(2) Source assignment:

(a) Application requirements. Any person requesting that a source be assigned to a General ACDP must submit a written application in accordance with OAR 340-216-0040 that includes the information in OAR 340-216-0040(1), specifies the General ACDP source category, and shows that the source qualifies for the General ACDP.

(b) Fees. Applicants must pay the fees set forth in Table 2 of OAR 340-216-0020.

(c) Source assignment procedures:

(A) Assignment of a source to a General ACDP is a Category I permit action and is subject to the Category I public notice requirements in accordance with OAR 340, division 209.

(B) A person is not a permittee under the General ACDP until the Department assigns the General ACDP to the person.

(C) Assignments to General ACDPs terminate when the General ACDP expires or is modified, terminated or revoked.

(3) Commission Initiated Modification. If the Commission determines that the conditions have changed such that a General ACDP for a category needs to be modified, the Commission may issue a new General ACDP for that category and the Department may assign all existing General ACDP permit holders to the new General ACDP.

(4) Rescission. In addition to OAR 340-216-0082 (Termination or Revocation of an ACDP), the Department may rescind an individual source's assignment to a General ACDP if the source no longer meets the requirements of this rule or the conditions of the permit, including, but not limited to the source having an ongoing, reoccurring or serious compliance problem. Upon rescinding a source's assignment to a General ACDP the Department will place the source on a Simple or Standard ACDP. The Commission may also revoke a General ACDP if conditions, standards or rules have changed so the permit no longer meets the requirements of this rule.

(5) General ACDPs adopted by reference. The following General ACDPs are adopted by this reference and incorporated herein:

(a) AQGP-001, Hard chrome platers (February 3, 2006)³;

(b) AQGP-002, Decorative chrome platers (February 3, 2006)²;

(c) AQGP-003, Halogenated solvent degreasers — batch cold (August 10, 2001)²;

(d) AQGP-004, Halogenated solvent degreasers — batch vapor and in-line (August 10, 2001)²;

(e) AQGP-005, Halogenated solvent degreasers — batch cold, batch vapor, and in-line (August 10, 2001)²;

(f) AQGP-006, Dry cleaners (August 10, 2001)¹;

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- (g) AQGP-007, Asphalt plants (October 17, 2007)³;
- (h) AQGP-008, Rock crushers (October 17, 2007)²;
- (i) AQGP-009, Ready-mix concrete (October 17, 2007)¹;
- (j) AQGP-010, Sawmills, planing mills, millwork, plywood manufacturing and veneer drying (October 17, 2007)³;
- (k) AQGP-011, Boilers (October 17, 2007)²;
- (l) AQGP-012, Crematories (October 17, 2007)²;
- (m) AQGP-013, Grain elevators (August 10, 2001)¹;
- (n) AQGP-014, Prepared feeds, flour, and cereal (August 10, 2001)¹;
- (o) AQGP-015, Seed cleaning (August 10, 2001)¹;
- (p) AQGP-016, Coffee roasters (August 10, 2001)¹;
- (q) AQGP-017, Bulk gasoline plants (August 10, 2001)¹;
- (r) AQGP-018, Electric power generators (August 10, 2001)².

NOTES: ¹ The referenced General ACDPs specify that they are Fee Class One under OAR 340-216-0020, Table 2. ² The referenced General ACDPs specify that they are Fee Class Two under OAR 340-216-0020, Table 2. ³ The referenced General ACDPs specify that they are Fee Class Three under OAR 340-216-0020, Table 2.

NOTE: Except for OAR 340-216-0060(5), this rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-200-0040.

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

Stat. Auth.: ORS 468 & 468A

Stats. Implemented: ORS 468.020 & 468A.025

Hist.: DEQ 14-1998, f. & cert. ef. 9-14-98; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1725; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 10-2001, f. & cert. ef. 8-30-01; DEQ 4-2002, f. & cert. ef. 3-14-02; DEQ 2-2006, f. & cert. ef. 3-14-06; DEQ 8-2007, f. & cert. ef. 11-8-07

340-216-0082

Termination or Revocation of an ACDP

(1) Expiration.

(a) A source may not be operated after the expiration date of a permit, unless any of the following occur prior to the expiration date of the permit:

(A) A timely and complete application for renewal or for an Oregon Title V Operating Permit has been submitted; or

(B) another type of permit (ACDP or Oregon Title V Operating Permit) has been issued authorizing operation of the source.

(b) For a source operating under an ACDP or Oregon Title V Operating Permit, a requirement established in an earlier ACDP remains in effect notwithstanding expiration of the ACDP, unless the provision expires by its terms or unless the provision is modified or terminated according to the procedures used to establish the requirement initially.

(2) Automatic Termination. A permit is automatically terminated upon:

(a) Issuance of a renewal or new ACDP for the same activity or operation;

(b) Written request of the permittee, if the Department determines that a permit is no longer required;

(c) Failure to submit a timely application for permit renewal. Termination is effective on the permit expiration date; or

(d) Failure to pay annual fees within 90 days of invoice by the Department, unless prior arrangements for payment have been approved in writing by the Department.

(3) Reinstatement of Terminated Permit: A permit automatically terminated under 340-216-0082(2)(b) through (2)(d) may only be reinstated by the permittee by applying for a new permit, including the applicable new source permit application fees as set forth in this Division.

(4) Revocation:

(a) If the Department determines that a permittee is in noncompliance with the terms of the permit, submitted false information in the application or other required documentation, or is in violation of any applicable rule or statute, the Department may revoke the permit. Notice of the intent to revoke the permit will be provided to the permittee in accordance with OAR 340-011-0525. The notice will include the reasons why the permit will be revoked, and include an opportunity for hearing prior to the revocation. A written request for hearing must be received within 60 days from service of the notice, and must state the grounds of the request. The hearing will be conducted as a contested case hearing in accordance with ORS 183.413 through 183.470 and OAR chapter 340 division 011. The permit will continue in effect until the 60 days expires, or until a final order is issued if an appeal is filed, whichever is later.

(b) If the Department finds there is a serious danger to the public health, safety or the environment caused by a permittee's activities, the Department may immediately revoke or refuse to renew the permit without prior notice or opportunity for a hearing. If no advance notice is provided, notification will be provided to the permittee as soon as possible as provided in OAR 340-011-0525. The notification will set forth the specific reasons for the revocation or refusal to renew. For the permittee to contest the

Department's revocation or refusal to renew the Department must receive a written request for a hearing within 90 days of service of the notice and the request must state the grounds for the request. The hearing will be conducted as a contested case hearing in accordance with ORS 183.413 through 183.470 and OAR chapter 340, division 011. The revocation or refusal to renew becomes final without further action by the Department if a request for a hearing is not received within the 90 days.

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A

Hist.: DEQ 42, f. 4-5-72, ef. 4-15-72; DEQ 125, f. & ef. 12-16-76; DEQ 21-1990, f. & cert. ef. 7-6-90; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01, Renumbered from 340-014-0015 & 340-014-0045; DEQ 8-2007, f. & cert. ef. 11-8-07

340-218-0010

Policy and Purpose

These rules establish a program to implement Title V of the FCAA for the State of Oregon as part of the overall industrial source control program:

(1) All sources subject to this division shall have an Oregon Title V Operating Permit that assures compliance by the source with all applicable requirements in effect as of the date of permit issuance.

(2) The requirements of the Oregon Title V Operating Permit program, including provisions regarding schedules for submission and approval or disapproval of permit applications, shall apply to the permitting of affected sources under the national acid rain program, except as provided herein.

(3) All sources subject to this division are exempt from the following:

(a) Registration as required by ORS 468A.050 and OAR 340-210-0100 through 340-210-0120; and

(b) Air Contaminant Discharge Permits, OAR 340 division 216, unless required by OAR 340-216-0020 sections (2) or (4), or OAR 340-224-0010(1).

(A) Oregon Title V Operating Permits do not replace requirements in Air Contaminant Discharge Permits issued to the source even if the ACDP(s) have expired. For a source operating under a Title V Permit, requirements established in an earlier ACDP remain in effect notwithstanding expiration of the ACDP or the Title V permit, unless a provision expires by its terms or unless a provision is modified or terminated following the procedures used to establish the requirement initially.

(B) Source specific requirements, including, but not limited to TACT, RACT, BACT, and LAER requirements, established in an ACDP must be incorporated into the Oregon Title V Operating Permit and any revisions to those requirements must follow the procedures used to establish the requirements initially.

(4) Subject to the requirements in this Division, the Lane Regional Air Protection Agency is designated by the Commission as the permitting agency to implement the Oregon Title V Operating Permit program within its area of jurisdiction. The Regional Agency's program is subject to Department oversight. The requirements and procedures contained in this Division pertaining to the Oregon Title V Operating Permit program shall be used by the Regional Agency to implement its permitting program until the Regional Agency adopts superseding rules which are at least as restrictive as state rules.

Stat. Auth.: ORS 468.020 & 468A.310

Stats. Implemented: ORS 468 & 468A

Hist.: DEQ 12-1993, f. & cert. ef. 9-24-93; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2100; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 8-2007, f. & cert. ef. 11-8-07

340-218-0020

Applicability

(1) Except as provided in Section (4) of this rule, this division applies to the following sources:

(a) Any major source;

(b) Any source, including an area source, subject to a standard, limitation, or other requirement under section 111 of the FCAA;

(c) Any source, including an area source, subject to a standard or other requirement under section 112 of the FCAA, except that a source is not required to obtain a permit solely because it is subject to regulations or requirements under section 112(r) of the FCAA;

(d) Any affected source under Title IV; and

(e) Any source in a source category designated by the Commission pursuant to this rule.

(2) The owner or operator of a source with an Oregon Title V Operating Permit whose potential to emit later falls below the emission level that causes it to be a major source, and which is not otherwise required to have an Oregon Title V Operating Permit, may submit a request for revocation of the Oregon Title V Operating Permit. Granting of the request for rev-

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ocation does not relieve the source from compliance with all applicable requirements or ACDP requirements.

(3) Synthetic minor sources.

(a) A source which would otherwise be a major source subject to this division may choose to become a synthetic minor source by limiting its emissions below the emission level that causes it to be a major source through limits contained in an ACDP issued by the Department under 340 division 216.

(b) The reporting and monitoring requirements of the emission limiting conditions contained in the ACDPs of synthetic minor sources issued by the Department under 340 division 216 must meet the requirements of OAR 340-212-0120 through 340-212-0150 and OAR 340 division 214.

(c) Synthetic minor sources who request to increase their potential to emit above the major source emission rate thresholds will become subject to this division and must submit a permit application under OAR 340-218-0040 and obtain an Oregon Title V Operating Permit before increasing emissions above the major source emission rate thresholds.

(d) Synthetic minor sources that exceed the limitations on potential to emit are in violation of OAR 340-218-0020(1)(a).

(4) Source category exemptions.

(a) All sources listed in 340-218-0020(1) that are not major sources, affected sources, or solid waste incineration units required to obtain a permit pursuant to section 129(e) of the FCAA are not required to obtain a Title V permit, except non-major sources subject to a standard under section 111 or section 112 of the FCAA promulgated after July 21, 1992 are required to obtain a Title V permit unless specifically exempted from the requirement to obtain a Title V permit in section 111 or 112 standards.

(b) The following source categories are exempted from the obligation to obtain an Oregon Title V Operating Permit:

(A) All sources and source categories that would be required to obtain a permit solely because they are subject to 40 CFR part 60, Subpart AAA — Standards of Performance for New Residential Wood Heaters; and

(B) All sources and source categories that would be required to obtain a permit solely because they are subject to 40 CFR part 61, Subpart M — National Emission Standard for Hazardous Air Pollutants for Asbestos, section 61.145, Standard for Demolition and Renovation.

(c) Any source listed in OAR 340-218-0020(1) exempt from the requirement to obtain a permit under this rule may opt to apply for an Oregon Title V Operating Permit.

(5) Emissions units and Oregon Title V Operating Permit program sources. The Department will include in the permit all applicable requirements for all relevant emissions units in the Oregon Title V Operating Permit source, including any equipment used to support the major industrial group at the site.

(6) Fugitive emissions. Fugitive emissions from an Oregon Title V Operating Permit program source must be included in the permit application and the permit in the same manner as stack emissions, regardless of whether the source category in question is included in the list of sources contained in the definition of major source.

(7) Insignificant activity emissions. All emissions from insignificant activities, including categorically insignificant activities and aggregate insignificant emissions, shall be included in the determination of the applicability of any requirement.

(8) Oregon Title V Operating Permit program sources that are required to obtain an ACDP, OAR 340 division 216, or a Notice of Approval, OAR 340-210-0205 through 340-210-0250, because of a Title I modification, must operate in compliance with the Oregon Title V Operating Permit until the Oregon Title V Operating Permit is revised to incorporate the ACDP or the Notice of Approval for the Title I modification.

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

Stat. Auth.: ORS 468.020, 468.065, 468A.040 & 468A.310

Stats. Implemented: ORS 468.020, 468.065, 468A.025 & 468A.310

Hist.: DEQ 12-1993, f. & cert. ef. 9-24-93; DEQ 24-1994, f. & ef. 10-28-94; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 24-1995, f. & cert. ef. 10-11-95; DEQ 1-1997, f. & cert. ef. 1-21-97; DEQ 14-1998, f. & cert. ef. 9-14-98; DEQ 10-1999, f. & cert. ef. 7-1-99; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2110; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 8-2007, f. & cert. ef. 11-8-07

340-218-0040

Permit Applications

(1) Duty to apply. For each Oregon Title V Operating Permit program source, the owner or operator must submit a timely and complete permit application in accordance with this rule:

(a) Timely application:

(A) A timely application for a source that is in operation as of the effective date of the Oregon Title V Operating Permit program is one that is submitted 12 months after the effective date of the Oregon Title V Operating Permit program in Oregon or on or before such earlier date as the Department may establish. If an earlier date is established, the Department will provide at least six (6) months for the owner or operator to prepare an application. A timely application for a source that is not in operation or that is not subject to the Oregon Title V Operating Permit program as of the effective date of the Oregon Title V Operating Permit program is one that is submitted within 12 months after the source becomes subject to the Oregon Title V Operating Permit program.

(B) Any Oregon Title V Operating Permit program source required to have obtained a permit prior to construction under the ACDP program, OAR 340 division 216; New Source Review program, OAR 340 division 224; or the Notice of Construction and Approval of Plans rules, OAR 340-210-0205 through 340-210-0250, must file a complete application to obtain the Oregon Title V Operating Permit or permit revision within 12 months after commencing operation. Commencing operation will be considered initial startup. Where an existing Oregon Title V Operating Permit would prohibit such construction or change in operation, the owner or operator must obtain a permit revision before commencing operation;

(C) Any Oregon Title V Operating Permit program source owner or operator must follow the appropriate procedures under this division prior to commencement of operation of a source permitted under the Notice of Construction and Approval of Plans rules, OAR 340-210-0205 through 340-0210-0250;

(D) For purposes of permit renewal, a timely application is one that is submitted at least 12 months prior to the date of permit expiration, or such other longer time as may be approved by the Department that ensures that the term of the permit will not expire before the permit is renewed. If more than 12 months is required to process a permit renewal application, the Department will provide no less than six (6) months for the owner or operator to prepare an application. In no event will this time be greater than 18 months;

(E) Applications for initial phase II acid rain permits shall be submitted to the Department by January 1, 1996 for sulfur dioxide, and by January 1, 1998 for nitrogen oxides;

(F) Applications for Compliance Extensions for Early Reductions of HAP must be submitted before proposal of an applicable emissions standard issued under section 112(d) of the FCAA and shall be in accordance with provisions prescribed in OAR 340-244-0100 through 340-244-0180.

(b) Complete application:

(A) To be deemed complete, an application must provide all information required pursuant to section (3) of this rule, except applications for permit renewal only need to include information that has changed since issuance of the last permit and applications for permit revision only need to include information related to proposed changes. The application must include three (3) copies of all required forms and exhibits in hard copy and one (1) copy in electronic format as specified by the Department. Information required under section (3) of this rule must be sufficient to evaluate the subject source and its application and to determine all applicable requirements. A responsible official must certify the submitted information is in accordance with section (5) of this rule;

(B) Applications which are obviously incomplete, unsigned, or which do not contain the required exhibits, clearly identified, will not be accepted by the Department for filing and will be returned to the applicant for completion;

(C) If the Department determines that additional information is necessary before making a completeness determination, it may request such information in writing and set a reasonable deadline for a response. The application will not be considered complete for processing until the adequate information has been received. When the information in the application is deemed adequate, the applicant will be notified that the application is complete for processing;

(D) Unless the Department determines that an application is not complete within 60 days of receipt of the application, such application will be deemed to be complete, except as otherwise provided in OAR 340-218-0120(1)(e). If, while processing an application that has been determined or deemed to be complete, the Department determines that additional information is necessary to evaluate or take final action on that application, it may request such information in writing and set a reasonable deadline for a response. If the additional information is not provided by the deadline specified, the application will be determined to be incomplete, and the application shield will cease to apply;

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(E) Applications determined or deemed to be complete will be submitted by the Department to the EPA as required by OAR 340-218-0230(1)(a);

(F) The source's ability to operate without a permit, as set forth in 340-218-0120(2), will be in effect from the date the application is determined or deemed to be complete until the final permit is issued, provided that the applicant submits any requested additional information by the deadline specified by the Department.

(2) Duty to supplement or correct application. Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application must, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information. In addition, an applicant must provide additional information as necessary to address any requirements that become applicable to the source after the date it filed a complete application but prior to release of a draft permit.

(3) Standard application form and required information. Applications must be submitted on forms and in electronic formats specified by the Department. Information as described below for each emissions unit at an Oregon Title V Operating Permit program source must be included in the application. An application may not omit information needed to determine the applicability of, or to impose, any applicable requirement, including those requirements that apply to categorically insignificant activities, or to evaluate the fee amount required. The application must include the elements specified below:

(a) Identifying information, including company name and address, plant name and address if different from the company's name, owner's name and agent, and telephone number and names of plant site manager/contact;

(b) A description of the source's processes and products by Standard Industrial Classification Code including any associated with each alternative operating scenario identified by the owner or operator and related flow chart(s);

(c) The following emissions-related information for all requested alternative operating scenarios identified by the owner or operator:

(A) All emissions of pollutants for which the source is major, all emissions of regulated air pollutants and all emissions of pollutants listed in OAR 340-224-0040. A permit application must describe all emissions of regulated air pollutants emitted from any emissions unit, except where such units are exempted under section(3) of this rule. The Department may require additional information related to the emissions of air pollutants sufficient to verify which requirements are applicable to the source, and other information necessary to collect any permit fees owed;

(B) Identification and description of all points of emissions described in paragraph (3)(c)(A) of this rule in sufficient detail to establish the basis for fees and applicability of requirements of the FCAA and state rules;

(C) Emissions rates in tons per year and in such terms as are necessary to establish compliance consistent with the applicable standard reference test method and to establish PSELS for all regulated air pollutants except as restricted by OAR 340-222-0060 and 340-222-0070:

(i) If a short term PSEL is required, an applicant may request that a period longer than daily be used for the short term PSEL provided that the requested period is consistent with the means for demonstrating compliance with any other applicable requirement and the PSEL requirement, and:

(I) The requested period is no longer than the shortest period of the Ambient Air Quality Standards for the pollutant or daily for VOC and NO_x; or

(II) The applicant demonstrates that the requested period, if longer than the shortest period of the Ambient Air Quality Standards for the pollutant, is the shortest period compatible with source operations but no longer than monthly.

(ii) The requirements of the applicable rules must be satisfied for any requested increase in PSELS, establishment of baseline emissions rates, requested emission reduction credit banking, or other PSEL changes.

(D) Additional information as determined to be necessary to establish any alternative emission limit in accordance with OAR 340-226-0400, if the permit applicant requests one;

(E) The application must include a list of all categorically insignificant activities and an estimate of all emissions of regulated air pollutants from those activities which are designated insignificant because of aggregate insignificant emissions. Owners or operators that use more than 100,000 pounds per year of a mixture that contains not greater than 1% by weight of any chemical or compound regulated under divisions 200 through 268 of this chapter, and not greater than 0.1% by weight of any carcinogen listed in the U.S. Department of Health and Human Service's Annual Report on Carcinogens must contact the supplier and manufacturer of the mixture to

try and obtain information other than Material Safety Data Sheets in order to quantify emissions;

(F) The following information to the extent it is needed to determine or regulate emissions: fuels, fuel sulfur content, fuel use, raw materials, production rates, and operating schedules;

(G) Any information on pollution prevention measures and cross-media impacts the owner or operator wants the Department to consider in determining applicable control requirements and evaluating compliance methods; and

(H) Where the operation or maintenance of air pollution control equipment and emission reduction processes can be adjusted or varied from the highest reasonable efficiency and effectiveness, information necessary for the Department to establish operational and maintenance requirements under OAR 340-226-0120(1) and (2);

(I) Identification and description of air pollution control equipment, including estimated efficiency of the control equipment, and compliance monitoring devices or activities;

(J) Limitations on source operation affecting emissions or any work practice standards, where applicable, for all regulated air pollutants at the Oregon Title V Operating Permit program source;

(K) Other information required by any applicable requirement, including information related to stack height limitations developed pursuant to OAR 340-212-0130;

(L) Calculations on which the information in items (A) through(K) of this section is based.

(d) A plot plan showing the location of all emissions units identified by Universal Transverse Mercator or "UTM" as provided on United States Geological Survey maps and the nearest residential or commercial property;

(e) The following air pollution control requirements:

(A) Citation and description of all applicable requirements; and

(B) Description of or reference to any applicable test method for determining compliance with each applicable requirement.

(f) The following monitoring, recordkeeping, and reporting requirements:

(A) All emissions monitoring and analysis procedures or test methods required under the applicable requirements, including OAR 340-212-0200 through 340-212-0280;

(B) Proposed periodic monitoring to determine compliance where an applicable requirement does not require periodic testing or monitoring;

(C) The proposed use, maintenance, and installation of monitoring equipment or methods, as necessary;

(D) Documentation of the applicability of the proposed monitoring protocol, such as test data and engineering calculations;

(E) Proposed consolidation of reporting requirements, where possible;

(F) A proposed schedule of submittal of all reports; and

(G) Other similar information as determined by the Department to be necessary to protect human health or the environment or to determine compliance with applicable requirements.

(g) Other specific information that may be necessary to implement and enforce other applicable requirements of the FCAA or state rules or of this division or to determine the applicability of such requirements;

(h) An explanation of any proposed exemptions from otherwise applicable requirements.

(i) A copy of any existing permit attached as part of the permit application. Owners or operators may request that the Department make a determination that an existing permit term or condition is no longer applicable by supplying adequate information to support such a request. The existing permit term or condition will remain in effect unless or until the Department determines that the term or condition is no longer applicable by permit modification.

(j) Additional information as determined to be necessary by the Department to define permit terms and conditions implementing off-permit changes for permit renewals;

(k) Additional information as determined to be necessary by the Department to define permit terms and conditions implementing section 502(b)(10) changes for permit renewals;

(l) Additional information as determined to be necessary by the Department to define permit terms and conditions implementing emissions trading under the PSEL including but not limited to proposed replicable procedures and permit terms that ensure the emissions trades are quantifiable and enforceable if the applicant requests such trading;

(m) Additional information as determined to be necessary by the Department to define permit terms and conditions implementing emissions trading, to the extent that the applicable requirements provide for trading

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without a case-by-case approval of each emissions trade if the applicant requests such trading;

(n) A compliance plan that contains all the following:

(A) A description of the compliance status of the source with respect to all applicable requirements.

(B) A description as follows:

(i) For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements.

(ii) For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis.

(iii) For requirements for which the source is not in compliance at the time of permit issuance, a narrative description of how the source will achieve compliance with such requirements.

(C) A compliance schedule as follows:

(i) For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements;

(ii) For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis. A statement that the source will meet in a timely manner applicable requirements that become effective during the permit term shall satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement;

(iii) A schedule of compliance for sources that are not in compliance with all applicable requirements at the time of permit issuance. Such a schedule will include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements for which the source will be in noncompliance at the time of permit issuance and interim measures to be taken by the source to minimize the amount of excess emissions during the scheduled period. This compliance schedule must resemble and be at least as stringent as that contained in any judicial consent decree or administrative order to which the source is subject. Any such schedule of compliance must be supplemental to, and must not sanction noncompliance with, the applicable requirements on which it is based.

(D) A schedule for submission of certified progress reports no less frequently than every 6 months for sources required to have a schedule of compliance to remedy a violation.

(E) The compliance plan content requirements specified in this section will apply and be included in the acid rain portion of a compliance plan for an affected source, except as specifically superseded by regulations promulgated under Title IV of the FCAA with regard to the schedule and method(s) the source will use to achieve compliance with the acid rain emissions limitations.

(o) Requirements for compliance certification, including the following:

(A) A certification of compliance with all applicable requirements by a responsible official consistent with section (5) of this rule and section 114(a)(3) of the FCAA;

(B) A statement of methods used for determining compliance, including a description of monitoring, recordkeeping, and reporting requirements and test methods;

(C) A schedule for submission of compliance certifications during the permit term, to be submitted no less frequently than annually, or more frequently if specified by the underlying applicable requirement or by the Department; and

(D) A statement indicating the source's compliance status with any applicable enhanced monitoring and compliance certification requirements of the FCAA or state rules.

(p) A Land Use Compatibility Statement (LUCS), if applicable, to assure that the type of land use and activities in conjunction with that use have been reviewed and approved by local government before a permit is processed and issued.

(q) The use of nationally standardized forms for acid rain portions of permit applications and compliance plans, as required by regulations promulgated under Title IV of the FCAA.

(r) For purposes of permit renewal, the owner or operator must submit all information as required in section (3) of this rule. The owner or operator may identify information in its previous permit or permit application for emissions units that should remain unchanged and for which no changes in applicable requirements have occurred and provide copies of the previous permit or permit application for those emissions units.

(4) Quantifying Emissions:

(a) When quantifying emissions for purposes of a permit application, modification, or renewal an owner or operator must use the most representative data available or required in a permit condition. The Department will consider the following data collection methods as acceptable for determining air emissions:

(A) Continuous emissions monitoring system data obtained in accordance with the Department's Continuous Monitoring Manual (January, 1992);

(B) Source testing data obtained in accordance with the Department's Source Sampling Manual (January, 1992) except where material balance calculations are more accurate and more indicative of an emission unit's continuous operation than limited source test results (e.g. a volatile organic compound coating operation);

(C) Material balance calculations;

(D) Emission factors subject to Department review and approval; and

(E) Other methods and calculations subject to Department review and approval.

(b) When continuous monitoring or source test data has previously been submitted to and approved by the Department for a particular emissions unit, that information must be used for quantifying emissions. Material balance calculations may be used as the basis for quantifying emissions when continuous monitoring or source test data exists if it can be demonstrated that the results of material balance calculations are more indicative of actual emissions under normal continuous operating conditions. Emission factors or other methods may be used for calculating emissions when continuous monitoring data, source test data, or material balance data exists if the owner or operator can demonstrate that the existing data is not representative of actual operating conditions. When an owner or operator uses emission factors or other methods as the basis of calculating emissions, a brief justification for the validity of the emission factor or method must be submitted with the calculations. The Department will review the validity of the emission factor or method during the permit application review period. When an owner or operator collects emissions data that is more representative of actual operating conditions, either as required under a specific permit condition or for any other requirement imposed by the Department, the owner or operator must use that data for calculating emissions when applying for a permit modification or renewal. Nothing in this provision requires owners or operators to conduct monitoring or testing solely for the purpose of quantifying emissions for permit applications, modifications, or renewals.

(5) Any application form, report, or compliance certification submitted pursuant to this division must contain certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under this division shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

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

Stat. Auth.: ORS 468 & 468A

Stats. Implemented: ORS 468 & 468A

Hist.: DEQ 13-1993, f. & ef. 9-24-93; DEQ 19-1993, f. & ef. 11-4-93; DEQ 24-1994, f. & ef. 10-28-94; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2120; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 8-2007, f. & cert. ef. 11-8-07

340-218-0050

Standard Permit Requirements

Each permit issued under this division must include the following elements:

(1) Emission limitations and standards, including those operational requirements and limitations that assure compliance with all applicable requirements at the time of permit issuance:

(a) The permit must specify and reference the origin of and authority for each term or condition, and identify any difference in form as compared to the applicable requirement upon which the term or condition is based;

(b) For sources regulated under the national acid rain program, the permit must state that, where an applicable requirement of the FCAA or state rules is more stringent than an applicable requirement of regulations promulgated under Title IV of the FCAA, both provisions must be incorporated into the permit and will be enforceable by the EPA;

(c) For any alternative emission limit established in accordance with OAR 340-226-0400, the permit must contain an equivalency determination and provisions to ensure that any resulting emissions limit has been demonstrated to be quantifiable, accountable, enforceable, and based on replicable procedures.

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(2) Permit duration. The Department will issue permits for a fixed term of 5 years in the case of affected sources, and for a term not to exceed 5 years in the case of all other sources.

(3) Monitoring and related recordkeeping and reporting requirements:

(a) Each permit must contain the following requirements with respect to monitoring:

(A) A monitoring protocol to provide accurate and reliable data that:

- (i) Is representative of actual source operation;
- (ii) Is consistent with the averaging time in the permit emission limits;
- (iii) Is consistent with monitoring requirements of other applicable requirements; and

(iv) Can be used for compliance certification and enforcement.

(B) All emissions monitoring and analysis procedures or test methods required under applicable monitoring and testing requirements, including OAR 340-212-0200 through 340-212-0280 and any other procedures and methods that may be promulgated pursuant to sections 504(b) or 114(a)(3) of the FCAA. If more than one monitoring or testing requirement applies, the permit may specify a streamlined set of monitoring or testing provisions provided the specified monitoring or testing is adequate to assure compliance at least to the same extent as the monitoring or testing applicable requirements that are not included in the permit as a result of such streamlining;

(C) Where the applicable requirement does not require periodic testing or instrumental or noninstrumental monitoring (which may consist of recordkeeping designed to serve as monitoring), periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit, as reported pursuant to OAR 340-218-0050(3)(c). Such monitoring requirements must assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement. Continuous monitoring and source testing must be conducted in accordance with the **Department's Continuous Monitoring Manual** (January, 1992) and the **Source Sampling Manual** (January, 1992), respectively. Other monitoring must be conducted in accordance with Department approved procedures. The monitoring requirements may include but are not limited to any combination of the following:

- (i) Continuous emissions monitoring systems (CEMS);
- (ii) Continuous opacity monitoring systems (COMS);
- (iii) Continuous parameter monitoring systems (CPMS);
- (iv) Continuous flow rate monitoring systems (CFRMS);
- (v) Source testing;
- (vi) Material balance;
- (vii) Engineering calculations;
- (viii) Recordkeeping; or
- (ix) Fuel analysis; and

(D) As necessary, requirements concerning the use, maintenance, and, where appropriate, installation of monitoring equipment or methods;

(E) A condition that prohibits any person from knowingly rendering inaccurate any required monitoring device or method;

(F) Methods used to determine actual emissions for fee purposes must also be used for compliance determination and can be no less rigorous than the requirements of OAR 340-218-0080. For any assessable emission for which fees are paid on actual emissions, the compliance monitoring protocol must include the method used to determine the amount of actual emissions;

(G) Monitoring requirements must commence on the date of permit issuance unless otherwise specified in the permit.

(b) With respect to recordkeeping, the permit must incorporate all applicable recordkeeping requirements and require, where applicable, the following:

(A) Records of required monitoring information that include the following:

(i) The date, place as defined in the permit, and time of sampling or measurements;

- (ii) The date(s) analyses were performed;
- (iii) The company or entity that performed the analyses;
- (iv) The analytical techniques or methods used;
- (v) The results of such analyses;
- (vi) The operating conditions as existing at the time of sampling or measurement; and

(vii) The records of quality assurance for continuous monitoring systems (including but not limited to quality control activities, audits, calibrations drifts).

(B) Retention of records of all required monitoring data and support information for a period of at least 5 years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit;

(C) Recordkeeping requirements must commence on the date of permit issuance unless otherwise specified in the permit.

(c) With respect to reporting, the permit must incorporate all applicable reporting requirements and require the following:

(A) Submittal of three (3) copies of reports of any required monitoring at least every 6 months, completed on forms approved by the Department. Unless otherwise approved in writing by the Department, six month periods are January 1 to June 30, and July 1 to December 31. The reports required by this rule must be submitted within 30 days after the end of each reporting period, unless otherwise approved in writing by the Department. One copy of the report must be submitted to the EPA, and two copies to the Department's regional office identified in the permit. All instances of deviations from permit requirements must be clearly identified in such reports:

(i) The semi-annual report will be due on July 30, unless otherwise approved in writing by the Department, and must include the semi-annual compliance certification, OAR 340-218-0080;

(ii) The annual report will be due on February 15, unless otherwise approved in writing by the Department, but may not be due later than March 15, and must consist of the annual reporting requirements as specified in the permit; the emission fee report; the emission statement, if applicable, OAR 340-214-0220; the annual certification that the risk management plan is being properly implemented, OAR 340-218-0050; and the semi-annual compliance certification, OAR 340-218-0080.

(B) Prompt reporting of deviations from permit requirements that do not cause excess emissions, including those attributable to upset conditions, as defined in the permit, the probable cause of such deviations, and any corrective actions or preventive measures taken. "Prompt" means within fifteen (15) days of the deviation. Deviations that cause excess emissions, as specified in OAR 340-214-0300 through 340-214-0360 must be reported in accordance with OAR 340-214-0340;

(C) Submittal of any required source test report within 30 days after the source test unless otherwise approved in writing by the Department or specified in a permit;

(D) All required reports must be certified by a responsible official consistent with OAR 340-218-0040(5);

(E) Reporting requirements must commence on the date of permit issuance unless otherwise specified in the permit.

(d) The Department may incorporate more rigorous monitoring, recordkeeping, or reporting methods than required by applicable requirements in an Oregon Title V Operating Permit if they are contained in the permit application, are determined by the Department to be necessary to determine compliance with applicable requirements, or are needed to protect human health or the environment.

(4) A permit condition prohibiting emissions exceeding any allowances that the source lawfully holds under Title IV of the FCAA or the regulations promulgated there under:

(a) No permit revision will be required for increases in emissions that are authorized by allowances acquired pursuant to the acid rain program, provided that such increases do not require a permit revision under any other applicable requirement;

(b) No limit may be placed on the number of allowances held by the source. The source may not, however, use allowances as a defense to non-compliance with any other applicable requirement;

(c) Any such allowance must be accounted for according to the procedures established in regulations promulgated under Title IV of the FCAA.

(5) A severability clause to ensure the continued validity of the various permit requirements in the event of a challenge to any portions of the permit.

(6) Provisions stating the following:

(a) The permittee must comply with all conditions of the Oregon Title V Operating Permit. Any permit condition noncompliance constitutes a violation of the FCAA and state rules and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application;

(b) The need to halt or reduce activity will not be a defense. It will not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit;

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(c) The permit may be modified, revoked, reopened and reissued, or terminated for cause as determined by the Department. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition;

(d) The permit does not convey any property rights of any sort, or any exclusive privilege;

(e) The permittee must furnish to the Department, within a reasonable time, any information that the Department may request in writing to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit or to determine compliance with the permit. Upon request, the permittee must also furnish to the Department copies of records required to be kept by the permit or, for information claimed to be confidential, the permittee may furnish such records directly to the EPA along with a claim of confidentiality.

(7) A provision to ensure that an Oregon Title V Operating Permit program source pays fees to the Department consistent with the fee schedule.

(8) Terms and conditions for reasonably anticipated alternative operating scenarios identified by the owner or operator in its application as approved by the Department. Such terms and conditions:

(a) Must require the owner or operator, contemporaneously with making a change from one operating scenario to another, to record in a log at the permitted facility a record of the scenario under which it is operating;

(b) Must extend the permit shield described in OAR 340-218-0110 to all terms and conditions under each such alternative operating scenario; and

(c) Must ensure that the terms and conditions of each such alternative operating scenario meet all applicable requirements and the requirements of this division.

(9) Terms and conditions, if the permit applicant requests them, for the trading of emissions increases and decreases in the permitted facility solely for the purpose of complying with the PSELs. Such terms and conditions:

(a) Must include all terms required under OAR 340-218-0050 and 340-218-0080 to determine compliance;

(b) Must extend the permit shield described in OAR 340-218-0110 to all terms and conditions that allow such increases and decreases in emissions;

(c) Must ensure that the trades are quantifiable and enforceable;

(d) Must ensure that the trades are not Title I modifications;

(e) Must require a minimum 7-day advance, written notification to the Department and the EPA of the trade that must be attached to the Department's and the source's copy of the permit. The written notification must state when the change will occur and must describe the changes in emissions that will result and how these increases and decreases in emissions will comply with the terms and conditions of the permit; and

(f) Must meet all applicable requirements and requirements of this division.

(10) Terms and conditions, if the permit applicant requests them, for the trading of emissions increases and decreases in the permitted facility, to the extent that the applicable requirements provide for trading such increases and decreases without a case-by-case approval of each emission trade. Such terms and conditions:

(a) Must include all terms required under OAR 340-218-0050 and 340-218-0080 to determine compliance;

(b) Must extend the permit shield described in OAR 340-218-0110 to all terms and conditions that allow such increases and decreases in emissions; and

(c) Must meet all applicable requirements and requirements of this division.

(11) Terms and conditions allowing for off-permit changes, OAR 340-218-0140(2).

(12) Terms and conditions allowing for section 502(b)(10) changes, OAR 340-218-0140(3).

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

Stat. Auth.: ORS 468.020 & 468A.310

Stats. Implemented: ORS 468.020 & 468A.310

Hist.: DEQ 13-1993, f. & ef. 9-24-93; DEQ 24-1994, f. & ef. 10-28-94; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 21-1998, f. & cert. ef. 10-14-98; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2130; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 6-2007(Temp), f. & cert. ef. 8-17-07 thru 2-12-08; DEQ 8-2007, f. & cert. ef. 11-8-07

340-218-0120

Permit Issuance

(1) Action on application:

(a) A permit, permit modification, or permit renewal may be issued only if all of the following conditions have been met:

(A) The Department has received a complete application for a permit, permit modification, or permit renewal, except that a complete application need not be received before issuance of a general permit under OAR 340-218-0090;

(B) Except for modifications qualifying for minor permit modification procedures under OAR 340-218-0170, the Department has complied with the requirements for public participation under OAR 340-218-0210;

(C) The Department has complied with the requirements for notifying and responding to affected States under OAR 340-218-0230(2);

(D) The conditions of the permit provide for compliance with all applicable requirements and the requirements of this division; and

(E) The EPA has received a copy of the proposed permit and any notices required under OAR 340-218-0230(1) and(2), and has not objected to issuance of the permit under OAR 340-218-0230(3) within the time period specified therein or such earlier time as agreed to with the Department if no changes were made to the draft permit.

(b) When a multiple-source permit includes air contaminant sources subject to the jurisdiction of the Department and the Regional Agency, the Department may require that it will be the permit issuing agency. In such cases, the Department and the Regional Authority will otherwise maintain and exercise all other aspects of their respective jurisdictions over the permittee;

(c) Denial of a Permit. If the Department proposes to deny issuance of a permit, permit renewal, permit modification, or permit amendment, it must notify the applicant by registered or certified mail of the intent to deny and the reasons for denial. The denial will become effective 60 days from the date of mailing of such notice unless within that time the applicant requests a hearing. Such a request for hearing must be made in writing to the Director and must state the grounds for the request. Any hearing held will be conducted pursuant to the applicable provisions of ORS Chapter 183;

(d) The Department or Lane Regional Air Pollution Agency is the permitting authority for purposes of the 18 month requirement contained in 42 USC § 7661b(c) and this subsection. Except as provided under the initial transition plan or under regulations promulgated under Title IV of the FCAA or under this division for the permitting of affected sources under the national acid rain program, the Department will take final action on each permit application (including a request for permit modification or renewal) within 18 months after receiving a complete application. In the case of any complete permit application containing an early reductions demonstration pursuant to OAR 340-244-0100, the Department will take final action within 9 months of receipt;

(e) The Department will promptly provide notice to the applicant of whether the application is complete. Unless the Department requests additional information or otherwise notifies the applicant of incompleteness within 60 days of receipt of an application, the application will be deemed complete. For modifications processed through minor permit modification procedures, OAR 340-218-0170(2), the Department will not require a completeness determination;

(f) The Department will provide a review report that sets forth the legal and factual basis for the draft permit conditions (including references to the applicable statutory or regulatory provisions). The Department will send this report to the EPA and to any other person who requests it;

(g) The submittal of a complete application will not affect the requirement that any source have a Notice of Approval in accordance with OAR 340-210-0205 through 340-0210-0250 or a preconstruction permit in accordance with OAR 340 division 216 or 340 division 224;

(h) Failure of the Department to take final action on a complete application or failure of the Department to take final action on an EPA objection to a proposed permit within the appropriate time will be considered to be a final order for purposes of ORS Chapter 183;

(i) If the final permit action being challenged is the Department's failure to take final action, a petition for judicial review may be filed any time before the Department denies the permit or issues the final permit.

(2) Requirement for a permit:

(a) Except as provided in OAR 340-218-0120(2)(b), 340-218-0140(3), and 340-218-0170(2)(d), no Oregon Title V Operating Permit program source may operate after the time that it is required to submit a timely and complete application after the effective date of the program, except in compliance with a permit issued under an Oregon Title V Operating Permit program;

(b) If an Oregon Title V Operating Permit program source submits a timely and complete application for permit issuance (including for renewal), the source's failure to have an Oregon Title V Operating Permit is not a violation of this division until the Department takes final action on the permit

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application, except as noted in this rule. This protection will cease to apply if, subsequent to the completeness determination made pursuant to OAR 340-218-0120(1)(e), and as required by OAR 340-218-0040(1)(b), the applicant fails to submit by the deadline specified in writing by the Department any additional information identified as being needed to process the application. If the final permit action being challenged is the Department's failure to take final action, a petition for judicial review may be filed any time before the Department denies the permit or issues the final permit.

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

Stat. Auth.: ORS 468.020 & 468A.310

Stats. Implemented: ORS 468 & 468A

Hist.: DEQ 12-1993, f. & cert. ef. 9-24-93; DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 24-1994, f. & ef. 10-28-94; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2200; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 8-2007, f. & cert. ef. 11-8-07

340-218-0150

Administrative Permit Amendments

- (1) An "administrative permit amendment" is a permit revision that:
 - (a) Corrects typographical errors;
 - (b) Identifies a change in the name, address, or phone number of the responsible official(s) identified in the permit, or provides a similar minor administrative change at the source;
 - (c) Allows for a change in the name of the permittee;
 - (d) Allows for a change in ownership or operational control of a source where the Department determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the Department;
 - (e) Requires more frequent monitoring or reporting by the permittee;
 - (f) Allows for a change in the date for reporting or source testing requirements for a source or emissions unit that is temporarily shutdown or would otherwise have to be operated solely for the purposes of conducting the source test, except when required by a compliance schedule;
 - (g) Relaxes monitoring, reporting or recordkeeping due to a permanent source shutdown for only the emissions unit(s) being shutdown; or
 - (h) Incorporates into the Oregon Title V Operating Permit the requirements from preconstruction review permits authorized under OAR 340 division 224 or OAR 340-210-0205 through 340-210-0250, provided that the procedural requirements followed in the preconstruction review are substantially equivalent to the requirements of OAR 340-218-0120 through 340-218-0210 and OAR 340-218-0230 that would be applicable to the change if it were subject to review as a permit modification, compliance requirements are substantially equivalent to those contained in OAR 340-218-0050 through 340-218-0110, and no changes in the construction or operation of the facility that would require a permit modification under OAR 340-218-0160 through 340-218-0180 have taken place.

(2) Administrative permit amendments for purposes of the national acid rain portion of the permit will be governed by regulations promulgated under Title IV of the FCAA.

(3) Administrative permit amendment procedures. An administrative permit amendment will be made by the Department consistent with the following:

- (a) The owner or operator must promptly submit an application for an administrative permit amendment upon becoming aware of the need for one on forms provided by the Department along with a copy of the draft amendment;
- (b) The Department will take no more than 60 days from receipt of a request for an administrative permit amendment to take final action on such request, and may incorporate such changes without providing notice to the public or affected States provided that it designates any such permit revisions as having been made pursuant to this rule;
- (c) The Department will issue the administrative permit amendment in the form of a permit addendum for only those conditions that will change;
- (d) The Department will submit a copy of the permit addendum to the EPA;
- (e) The source may implement the changes addressed in the request for an administrative amendment immediately upon submittal of the request;
- (f) If the source fails to comply with its draft permit terms and conditions upon submittal of the application and until the Department takes final action, the existing permit terms and conditions it seeks to modify may be enforced against it.
- (4) The Department must, upon taking final action granting a request for an administrative permit amendment, allow coverage by the permit

shield in OAR 340-218-0110 only for administrative permit amendments made pursuant to OAR 340-218-0150(1)(h) which meet the relevant requirements of OAR 340-218-0050 through 340-218-0240 for significant permit modifications.

(5) If it becomes necessary for the Department to initiate an administrative amendment to the permit, the Department will notify the permittee of the intended action by certified or registered mail. The action will become effective 20 days after the date of mailing unless within that time the permittee makes a written request for a hearing. The request must state the grounds for the hearing. Any hearing held will be conducted pursuant to the applicable provisions of ORS Chapter 183.

Stat. Auth.: ORS 468.020 & 468A.310

Stats. Implemented: ORS 468 & 468A

Hist.: DEQ 12-1993, f. & cert. ef. 9-24-93; DEQ 24-1994, f. & ef. 10-28-94; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2230; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 8-2007, f. & cert. ef. 11-8-07

340-218-0180

Significant Permit Modifications

Significant Permit Modifications

(1) Criteria. Significant modification procedures must be used for applications requesting permit modifications that do not qualify as minor permit modifications or as administrative amendments. Significant modifications must include:

- (a) Increases in PSEs except those increases subject to OAR 340-210-0205 through 340-210-0250; 340-218-0150(1)(i); or 340 division 224;
- (b) Every significant change in existing monitoring permit terms or conditions;
- (c) Every relaxation of reporting or recordkeeping permit terms or conditions;
- (d) Incorporation into the Oregon Title V Operating Permit the requirements from pre-construction review permits authorized under OAR 340 division 224 unless the incorporation qualifies as an administrative amendment;
- (e) Incorporation into the Oregon Title V Operating Permit the requirements from preconstruction review permits authorized under OAR 340-210-205 through 340-210-0250 unless otherwise specified in OAR 340-218-0190(2); and
- (f) Nothing herein may be construed to preclude the permittee from making changes consistent with this division that would render existing permit compliance terms and conditions irrelevant.

(2) Significant permit modifications will be subject to all requirements of this division, including those for applications, public participation, review by affected States, and review by the EPA, as they apply to permit issuance and permit renewal.

(3) Major modifications, as defined in OAR 340-200-0020, require an ACDP under OAR 340 division 224.

(4) Constructed and reconstructed major hazardous air pollutant sources are subject to OAR 340 210-0205 through 340-210-0250 and 340-244-0200.

Stat. Auth.: ORS 468.020 & 468A.310

Stats. Implemented: ORS 468 & 468A

Hist.: DEQ 12-1993, f. & cert. ef. 9-24-93; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2260; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 8-2007, f. & cert. ef. 11-8-07

340-218-0190

Construction/Operation Modifications

(1) Notice of Approval. The owner or operator of a major stationary source must obtain approval from the Department prior to construction or modification of any stationary source or air pollution control equipment in accordance with OAR 340-210-0205 through 340-210-0250.

(2) Incorporation into an Oregon Title V Operating Permit:

(a) Where an Oregon Title V Operating Permit would allow incorporation of such construction or modification as an off-permit change (OAR 340-218-0140(2)) or a FCAA section 502(b)(10) change (OAR 340-218-0140(3)):

(A) The owner or operator of the stationary source or air pollution control equipment listed in section(1) of this rule must submit to the Department the applicable notice; and

(B) The Department will incorporate the construction or modification at permit renewal, if applicable.

(b) Where an Oregon Title V Operating Permit would allow incorporation of such construction or modification as an administrative amendment(OAR 340-218-0150), the owner or operator of the stationary source or air pollution control equipment listed in section (1) of this rule may:

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(A) Submit the permit application information required under OAR 340-218-0150(3) with the information required under OAR 340-210-0225(2) upon becoming aware of the need for an administrative amendment; and

(B) Request that the external review procedures required under OAR 340-218-0210 and 340-218-0230 be used in addition to the public notice procedures of OAR 340 division 209 for Category III permit actions to allow for subsequent incorporation of the construction permit as an administrative amendment.

(c) Where an Oregon Title V Operating Permit would require incorporation of such construction or modification as a minor permit modification (OAR 340-218-0170) or a significant permit modification (OAR 340-218-0180), the owner or operator of the stationary source or air pollution control equipment listed in section(1) of this rule must submit the permit application information required under OAR 340-218-0040(3) within one year of initial startup of the construction or modification, except as prohibited in paragraph(2)(d) of this rule.

(d) Where an existing Oregon Title V Operating Permit would prohibit such construction or change in operation, the owner or operator must obtain a permit revision before commencing operation.

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-200-0040.

Stat. Auth.: ORS 468 & 468A

Stats. Implemented: ORS 468 & 468A

Hist.: DEQ 12-1993, f. & cert. ef. 9-24-93; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 24-1994, f. & cert. ef. 10-28-94; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2270; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 8-2007, f. & cert. ef. 11-8-07

340-218-0250

Permit Program For Regional Air Pollution Authority

Subject to the provisions of this rule, the Commission authorizes the Regional Agency to issue, modify, renew, suspend, and revoke Oregon Title V Operating Permits for air contamination sources within its jurisdiction:

(1) Each permit proposed to be issued or modified by the Regional Agency must be submitted to the Department at least thirty (30) days prior to the proposed issuance date.

(2) A copy of each permit issued, modified, or revoked by the Regional Agency must be promptly submitted to the Department.

Stat. Auth.: ORS 468 & 468A

Stats. Implemented: ORS 468 & 468A

Hist.: DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; DEQ 107, f. & cert. ef. 1-6-76; Renumbered from 340-020-0033, DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0185; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1790; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 8-2007, f. & cert. ef. 11-8-07

340-228-0020

Definitions

The definitions in OAR 340-200-0020 and this rule apply to this division. If the same term is defined in this rule and OAR 340-200-0020, the definition in this rule applies to this division.

(1) "ASTM" means the American Society for Testing and Materials.

(2) "Coastal Areas" means Clatsop, Tillamook, Lincoln, Coos, and Curry Counties and those portions of Douglas and Lane County west of Range 8 West, Willamette Meridian.

(3) "Distillate Fuel Oil" means any oil meeting the specifications of ASTM Grade 1 or 2 fuel oils;

(4) "Fuel burning equipment" means equipment, other than internal combustion engines, the principal purpose of which is to produce heat or power by indirect heat transfer.

(5) "New source" means any air contaminant source installed, constructed, or modified:

(a) For purposes of OAR 340-228-0200, after January 1, 1972; and

(b) For purposes of OAR 340-228-0210, after June 1, 1970.

(6) "Residual Fuel Oil" means any oil meeting the specifications of ASTM Grade 4, 5, or 6 fuel oils.

(7) "Standard conditions" means a temperature of 68° Fahrenheit and a pressure of 14.7 pounds per square inch absolute.

(8) "Standard cubic foot" means the amount of gas that would occupy a volume of one cubic foot, if the gas were free of uncombined water at standard conditions. When applied to combustion flue gases from fuel or refuse burning, "standard cubic foot" also implies adjustment of gas volume to that which would result at a concentration of 12% carbon dioxide or 50% excess air.

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.

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

Stat. Auth.: ORS 468 & 468A

Stats. Implemented: ORS 468.020 & 468A.025

Hist.: [DEQ 16, f. 6-12-70, ef. 7-11-70; DEQ 1-1984, f. & cert. ef. 1-16-84; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 3-1996, f. & cert. ef. 1-29-96]; [DEQ 37, f. 2-15-72, ef. 3-1-72; DEQ 4-1993, f. & cert. ef. 3-10-93]; [DEQ 37, f. 2-15-72, ef. 3-1-72; DEQ 4-1993, f. & cert. ef. 3-10-93]; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-021-0005, 340-022-0005, 340-022-0050; DEQ 8-2007, f. & cert. ef. 11-8-07

340-228-0200

Sulfur Dioxide Standards

The following emission standards are applicable to new sources only:

(1) For fuel burning equipment having a heat input capacity between 150 million BTU per hour and 250 million BTU, no person may cause, suffer, allow, or permit the emission into the atmosphere of sulfur dioxide in excess of:

(a) 1.4 lb. per million BTU heat input, maximum three-hour average, when liquid fuel is burned;

(b) 1.6 lb. per million BTU heat input, maximum three-hour average, when solid fuel is burned.

(2) For fuel burning equipment having a heat input capacity of more than 250 million BTU per hour, no person may cause, suffer, allow, or permit the emission into the atmosphere of sulfur dioxide in excess of:

(a) 0.8 lb. per million BTU heat input, maximum three-hour average, when liquid fuel is burned;

(b) 1.2 lb. per million BTU heat input, maximum three-hour average, when solid fuel is burned.

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.

Stat. Auth.: ORS 468 & 468A

Stats. Implemented: ORS 468.020 & 468A.025

Hist.: DEQ 37, f. 2-15-72, ef. 3-1-72; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 22-1996, f. & cert. ef. 10-22-96; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-022-0055; DEQ 8-2007, f. & cert. ef. 11-8-07

340-228-0210

Grain Loading Standards

(1) No person shall cause, suffer, allow, or permit the emission of particulate matter, from any fuel burning equipment in excess of:

(a) 0.2 grains per standard cubic foot for existing sources;

(b) 0.1 grains per standard cubic foot for new sources.

(2) For sources burning salt laden wood waste on July 1, 1981, where salt in the fuel is the only reason for failure to comply with the above limits and when the salt in the fuel results from storage or transportation of logs in salt water, the resulting salt portion of the emissions shall be exempted from subsection (1)(a) or (b) of this rule and OAR 340-208-0110. In no case shall sources burning salt laden woodwaste exceed 0.6 grains per standard cubic foot.

(a) This exemption and the alternative emissions standard are only applicable upon prior notice to the Department.

(b) Sources which utilize this exemption, to demonstrate compliance otherwise with subsection(1)(a) or (b) of this rule, shall submit the results of a particulate emissions source test of the boiler stacks bi-annually.

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.

Stat. Auth.: ORS 468 & 468A

Stats. Implemented: ORS 468.020 & 468A.025

Hist.: DEQ 16, f. 6-12-70, ef. 7-11-70; DEQ 12-1979, f. & cert. ef. 6-8-79; DEQ 6-1981, f. & cert. ef. 2-17-81; DEQ 18-1982, f. & cert. ef. 9-1-82; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 3-1996, f. & cert. ef. 1-29-96; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-021-0020; DEQ 8-2007, f. & cert. ef. 11-8-07

340-228-0672

Emission Caps

Beginning in calendar year 2018, the state's annual allowable mercury emissions from electric generating units shall apply as the following Hg Budget unit specific emission caps.

(1) Existing Boardman Hg Budget unit cap. The existing Hg Budget unit in Boardman shall emit no more than:

(a) 60 pounds of mercury in any calendar year in which there are no new Hg Budget units operated in Oregon.

(b) 35 pounds of mercury in any calendar year in which there are new Hg Budget units operated in Oregon.

(2) New Hg Budget unit cap:

(a) New Hg Budget units, in aggregate, shall emit no more than:

(A) 25 pounds of mercury in any calendar year in which the existing Hg Budget unit in Boardman is operated.

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(B) 60 pounds of mercury in any calendar year in which the existing Hg Budget unit in Boardman is not operated.

(b) The Hg designated representative of each new Hg Budget unit shall submit to the Department a request, in a format specified by the Department, to receive a portion of the new Hg Budget unit cap. The request may not be submitted until the new Hg Budget unit has received its Site Certification from the Facility Siting Council, or if the new Hg Budget unit is not required to obtain a Site Certificate, all governmental approvals necessary to commence construction.

(c) The Department will allocate the new Hg Budget unit cap in order of receipt of requests and, once allocated, the new Hg Budget unit shall be entitled to receive an equal allocation in future years unless the new Hg Budget unit permanently ceases operations.

(d) Each individual new Hg Budget unit shall emit no more than the lesser of:

(A) An amount of mercury determined by multiplying the design heat input in TBtu of such Hg Budget unit by 0.60 pounds per TBtu rounded to the nearest pound as appropriate, or

(B) The amount of the emission cap under (2)(a) or (b) less the amount of the emission cap under (2)(a) or (b) that has been allocated to other new Hg Budget units.

(3) Compliance demonstration. Each Hg Budget unit must demonstrate compliance with the applicable calendar year emission cap in sections (1) or (2) of this rule using a mercury CEMS or sorbent trap monitoring system.

Stat. Auth.: ORS 468.020 & 468A.310

Stats. Implemented: ORS 468A.025

Hist.: DEQ 13-2006, f. & cert. ef. 12-22-06; DEQ 8-2007, f. & cert. ef. 11-8-07

340-228-0673

Monitoring Requirements for the Hg Emission Standards

(1) Requirements for installation, certification, and data accounting. The owners and operators of a Hg Budget unit must:

(a) Install all applicable monitoring systems required under OAR 340-228-0674 through 0678 for monitoring individual unit heat input and inlet Hg.

(b) Successfully complete certification tests under OAR 340-228-0660 and meet all other requirements of this rule, OAR 340-228-0660 through 0670, and 40 CFR part 75 subpart I for the monitoring systems under subsection (1)(a) of this rule.

(c) Record, report, and quality-assure the data from the monitoring systems under subsection (1)(a) of this rule.

(d) Reports and petitions required in subsections (1)(b) and (1)(c) of this rule must be submitted to the Department, not to the Administrator.

(2) Compliance deadlines. The owner or operator must meet the monitoring system certification and other requirements of subsections (1)(a) and (b) of this rule on or before the following dates. The owner or operator must record, report, and quality-assure the data from the monitoring systems under subsection (1)(a) of this rule on and after the following dates.

(a) Heat input. For monitoring systems used to monitor heat input in accordance with OAR 340-228-0671(4)(a), if applicable, by the later of the following dates:

(A) July 1, 2012 or the date established under OAR 340-228-0671(3); or

(B) The date on which the unit commences commercial operation.

(b) Inlet Hg. If required to perform coal sampling and analysis in accordance with OAR 340-228-0671(4)(b)(A)(i) and 340-228-0676 or measure Hg emission prior to any control device(s) in accordance with OAR 340-228-0671(4)(b)(A)(ii) and 340-228-0678, if applicable, by the later of the following dates:

(A) July 1, 2012 or the date established under OAR 340-228-0671(3); or

(B) The date on which the unit commences commercial operation.

(3) Reporting data.

(a) The owner or operator of a Hg Budget unit that does not meet the applicable compliance date set forth in section (2) of this rule for any monitoring system under subsection (1)(a) of this rule must, for each monitoring system, determine, record, and report maximum potential (or, as appropriate, minimum potential) values for heat input, inlet Hg, and any other parameters required to determine heat input and Hg inlet in accordance with OAR 340-228-0674 through 0678.

(b) On and after January 1, 2018, the owner or operator of a Hg Budget unit must submit to the Department quarterly reports of monthly and 12-month rolling average mercury emissions per trillion Btu of energy

input and/or mercury capture efficiency, for each month in the calendar quarter.

(4) Prohibitions. No owner or operator of a Hg Budget unit shall disrupt any emission monitoring method, and thereby avoid monitoring and recording heat input, and/or inlet Hg, except for periods of recertification or periods when calibration, quality assurance testing, or maintenance is performed in accordance with the applicable provisions of this rule, OAR 340-228-0660 through 0670, and 40 CFR part 75 subpart I.

Stat. Auth.: ORS 468.020 & 468A.310

Stats. Implemented: ORS 468A.025

Hist.: DEQ 13-2006, f. & cert. ef. 12-22-06; DEQ 8-2007, f. & cert. ef. 11-8-07

340-228-0674

Heat Input Determination

To demonstrate compliance with OAR 340-228-0671(2) for each Hg Budget unit, the owner or operator of such Hg Budget unit must determine the heat input according to **40 CFR part 75, appendix F** (procedures 5 and 9).

Stat. Auth.: ORS 468.020 & 468A.310

Stats. Implemented: ORS 468A.025

Hist.: DEQ 13-2006, f. & cert. ef. 12-22-06; DEQ 8-2007, f. & cert. ef. 11-8-07

340-228-0676

Coal Sampling and Analysis

To demonstrate compliance with OAR 340-228-0671(2) with coal sampling and analysis for each Hg Budget unit, the owner or operator of such Hg Budget unit must test its coal for mercury consistent with a coal sampling and analysis plan. The coal sampling and analysis plan must be consistent with the requirements of **40 CFR 63.7521**.

Stat. Auth.: ORS 468.020 & 468A.310

Stats. Implemented: ORS 468A.025

Hist.: DEQ 13-2006, f. & cert. ef. 12-22-06; DEQ 8-2007, f. & cert. ef. 11-8-07

340-228-0678

Hg Mass Emissions Measurement Prior to Any Control Device(s)

To demonstrate compliance with OAR 340-228-0671(2) by measuring Hg mass emissions for each Hg Budget unit, the owner or operator of such Hg Budget unit must measure mercury emissions prior to any control device(s) according to **40 CFR part 75 subpart I** or **40 CFR 75.15**.

Stat. Auth.: ORS 468.020 & 468A.310

Stats. Implemented: ORS 468A.025

Hist.: DEQ 13-2006, f. & cert. ef. 12-22-06; DEQ 8-2007, f. & cert. ef. 11-8-07

340-230-0020

Applicability

(1) OAR 340-230-0100 through 340-230-0150 apply to all solid and infectious waste incinerators other than:

(a) Municipal waste combustors, including those municipal waste combustors that burn some medical waste, that are subject to either OAR 340-238-0060, or 340-230-0300 through 340-230-0395; and

(b) Hospital/medical/infectious waste incinerators that are subject to OAR 340-230-0400 through 340-230-0410.

(2) OAR 340-230-0200 through 340-230-0230 apply to all new and existing crematory incinerators;

(3) OAR 340-230-0300 through 340-230-0395 apply to municipal waste combustors as specified in OAR 340-230-0300.

(4) OAR 340-230-0400 through 340-230-0410 apply to hospital/medical/infectious waste incinerators as specified in OAR 340-230-0400.

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 27-1996, f. & cert. ef. 12-11-96; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-025-0852; DEQ 4-2003, f. & cert. ef. 2-06-03; DEQ 8-2007, f. & cert. ef. 11-8-07

340-230-0030

Definitions

The definitions in OAR 340-200-0020, 340-238-0040 and this rule apply to this division. If the same term is defined in this rule and OAR 340-200-0020 or 340-238-0040, the definition in this rule applies to this division. Applicable definitions have the same meaning as those provided in 40 CFR 60.51c including, but not limited to:

(1) "Acid Gases" means any exhaust gas that includes hydrogen chloride and sulfur dioxide.

(2) "Air curtain incinerator" means an incinerator that operates by forcefully projecting a curtain of air across an open chamber or pit in which combustion occurs. Incinerators of that type can be constructed above or below ground and with or without refractory walls and floor.

(3) "Best Available Control Technology (BACT)" means an emission limitation as defined in OAR 340-200-0020.

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(4) “CFR” means Code of Federal Regulations and, unless otherwise expressly identified, refers to the July 1, 2004 edition.

(5) “Chemotherapeutic waste” means waste material resulting from the production or use of antineoplastic agents used for the purpose of stopping or reversing the growth of malignant cells.

(6) “Co-fired combustor” means a unit combusting hospital waste and/or medical/infectious waste with other fuels or wastes (e.g., coal, municipal solid waste) and subject to an enforceable requirement limiting the unit to combusting a fuel feed stream, 10 percent or less of the weight of which is comprised, in aggregate, of hospital waste and medical/infectious waste as measured on a calendar quarter basis. For purposes of this definition, pathological waste, chemotherapeutic waste, and low-level radioactive waste are considered “other” wastes when calculating the percentage of hospital waste and medical/infectious waste combusted.

(7) “Commercial and industrial solid waste incineration unit (CISWI)” means any combustion device that combusts commercial and industrial waste, as defined in this subpart. The boundaries of a CISWI unit are defined as, but not limited to the commercial or industrial solid waste fuel feed system, grate system, flue gas system, and bottom ash. The CISWI unit does not include air pollution control equipment or the stack. The CISWI unit boundary starts at the commercial and industrial solid waste hopper (if applicable) and extends through two areas:

(a) The combustion unit flue gas system, which ends immediately after the last combustion chamber.

(b) The combustion unit bottom ash system, which ends at the truck loading station or similar equipment that transfers the ash to final disposal. It includes all ash handling systems connected to the bottom ash handling system.

(8) “Commercial and industrial waste” means solid waste combusted in an enclosed device using controlled flame combustion without energy recovery that is a distinct operating unit of any commercial or industrial facility (including field-erected, modular, and custom built incineration units operating with starved or excess air), or solid waste combusted in an air curtain incinerator without energy recovery that is a distinct operating unit of any commercial or industrial facility.

(9) “Continuous Emission Monitoring (CEM)” means a monitoring system for continuously measuring the emissions of a pollutant from an affected incinerator. Continuous monitoring equipment and operation must be certified in accordance with EPA performance specifications and quality assurance procedures outlined in 40 CFR 60, Appendices B and F, and the Department’s CEM Manual.

(10) “Crematory Incinerator” means an incinerator used solely for the cremation of human and animal bodies.

(11) “Department” means the Department of Environmental Quality.

(12) “Dry Standard Cubic Foot” means the amount of gas that would occupy a volume of one cubic foot, if the gas were free of uncombined water at standard conditions. When applied to combustion flue gases from waste or refuse burning, “Standard Cubic Foot (SCF)” implies adjustment of gas volume to that which would result at a concentration of seven percent oxygen or 50 percent excess air.

(13) “Emission” means a release into the atmosphere of any regulated pollutant or any air contaminant.

(14) “Fluidized bed combustion unit” means a unit where municipal waste is combusted in a fluidized bed of material. The fluidized bed material may remain in the primary combustion zone or may be carried out of the primary combustion zone and returned through a recirculation loop.

(15) “Hospital” means any facility that has an organized medical staff, maintains at least six inpatient beds, and where the primary function of the institution is to provide diagnostic and therapeutic patient services and continuous nursing care primarily to human inpatients who are not related and who stay on average in excess of 24 hours per admission. This definition does not include facilities maintained for the sole purpose of providing nursing or convalescent care to human patients who generally are not acutely ill but who require continuous medical supervision.

(16) “Hospital/medical/infectious waste incinerator” or HMIWI means any device that combusts any amount of hospital waste and/or medical/infectious waste.

(17) “Hospital waste” means discards generated at a hospital, except unused items returned to the manufacturer. This definition does not include human corpses, remains and anatomical parts intended for interment or cremation.

(18) “Incinerator” means any structure or furnace in which combustion takes place, the primary purpose of which is the reduction in volume and weight of unwanted material.

(19) “Infectious agent” means any organism such as a virus or bacteria that is capable of being communicated by invasion and multiplication in body tissues and capable of causing disease or adverse health impacts in humans.

(20) “Infectious Waste” means waste as defined in ORS Chapter 763, Oregon Laws 1989, that contains or may contain any disease producing microorganism or material, and includes, but is not limited to the following:

(a) “Biological waste”, which includes blood and blood products, and body fluids that cannot be directly discarded into a municipal sewer system, and waste materials saturated with blood or body fluids, but does not include soiled diapers;

(b) “Cultures and stocks”, which includes etiologic agents and associated biologicals; including specimen cultures and dishes, devices used to transfer, inoculate and mix cultures, wastes from production of biologicals, and serums and discarded live and attenuated vaccines. “Cultures” does not include throat and urine cultures;

(c) “Pathological waste”, which includes biopsy materials and all human tissues, anatomical parts that emanate from surgery, obstetrical procedures, autopsy and laboratory procedures and animal carcasses exposed to pathogens in research and the bedding and other waste from such animals. “Pathological wastes” does not include teeth or formaldehyde or other preservative agents;

(d) “Sharps”, which includes needles, IV tubing with needles attached, scalpel blades, lancets, glass tubes that could be broken during handling and syringes that have been removed from their original sterile containers.

(21) “Infectious Waste Facility” or “Infectious Waste Incinerator” means an incinerator that is operated or utilized for the disposal or treatment of infectious waste, including combustion for the recovery of heat, and which utilizes high temperature thermal destruction technologies.

(22) “Large HMIWI”, except as provided in Subsection (d)(A) and (B) means:

(a) A HMIWI whose maximum design waste burning capacity is more than 500 pounds per hour; or

(b) A continuous or intermittent HMIWI whose maximum charge rate is more than 500 pounds per hour; or

(c) A batch HMIWI whose maximum charge rate is more than 4,000 pounds per day;

(d) The following are not large HMIWI:

(A) A continuous or intermittent HMIWI whose maximum charge rate is less than or equal to 500 pounds per hour; or

(B) A batch HMIWI whose maximum charge rate is less than or equal to 4,000 pounds per day.

(23) “Low-level radioactive waste” means waste material which contains radioactive nuclides emitting primarily beta or gamma radiation, or both, in concentrations or quantities that exceed applicable federal or state standards for unrestricted release. Low-level radioactive waste is not high-level radioactive waste, spent nuclear fuel, or by-product material as defined by the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)(2)).

(24) “Mass burn refractory municipal waste combustion unit” means a field-erected municipal waste combustion unit that combusts municipal solid waste in a refractory wall furnace. Unless otherwise specified, that includes municipal waste combustion units with a cylindrical rotary refractory wall furnace.

(25) “Mass burn rotary waterwall municipal waste combustion unit” means a field-erected municipal waste combustion unit that combusts municipal solid waste in a cylindrical rotary waterwall furnace.

(26) “Mass burn waterwall municipal waste combustion unit” means a field-erected municipal waste combustion unit that combusts municipal solid waste in a waterwall furnace.

(27) “Medical/infectious waste” means any waste generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production of testing of biologicals that is listed in paragraphs (a) through (g) of this definition. The definition of medical/infectious waste does not include hazardous waste identified or listed under the regulations in part 261 of Chapter I; household waste as defined in Subsection 261.4(b)(1) of Chapter I; ash from incineration of medical/infectious waste once the incineration process is completed; human corpses, remains, and anatomical parts intended for interment or cremation and domestic sewage materials identified in Subsection 261.4(a)(1) of Chapter I:

(a) Cultures and stocks of infectious agents and associated biologicals, including: cultures from medical and pathological laboratories; cultures and stocks of infectious agents from research and industrial laboratories; wastes

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from the production of biologicals; discarded live and attenuated vaccines; and culture dishes and devices used to transfer, inoculate and mix cultures;

(b) Human pathological waste, including tissues, organs, and body parts and body fluids that are removed during surgery or autopsy, or other medical procedures, and specimens of body fluids and their containers;

(c) Human blood and blood products including:

(A) Liquid waste human blood;

(B) Products of blood;

(C) Items saturated and/or dripping with human blood; or

(D) Items that were saturated and/or dripping with human blood that are now caked with dried human blood; including serum, plasma, and other blood components, and their containers that were used or intended for use in either patient care, testing and laboratory analysis or the development of pharmaceuticals. Intravenous bags are also included in this category.

(d) Sharps that have been used in animal or human patient care or treatment or in medical, research, or industrial laboratories, including hypodermic needles, syringes (with or without the attached needle), pasteur pipettes, scalpel blades, blood vials, needles with attached tubing, and culture dishes (regardless of presence of infectious agents). Also included are other types of broken or unbroken glassware that were in contact with infectious agents, such as used slides and cover slips;

(e) Animal waste including contaminated animal carcasses, body parts and bedding of animals that were known to have been exposed to infectious agents during research (including research in veterinary hospitals), production of biologicals or testing of pharmaceuticals;

(f) Isolation wastes including biological waste and discarded materials contaminated with blood, excretions, exudates or secretions from humans who are isolated to protect others from certain highly communicable diseases, or isolated animals known to be infected with highly communicable diseases;

(g) Unused sharps including the following unused, discarded sharps: hypodermic needles, suture needles, syringes and scalpel blades.

(28) "Medium HMIWI", except as provided in Subsection (d)(A) and (B) means:

(a) A HMIWI whose maximum design waste burning capacity is more than 200 pounds per hour but less than or equal to 500 pounds per hour; or

(b) A continuous or intermittent HMIWI whose maximum charge rate is more than 200 pounds per hour but less than or equal to 500 pounds per hour; or

(c) A batch HMIWI whose maximum charge rate is more than 1,600 pounds per day but less than or equal to 4,000 pounds per day.

(d) The following are not medium HMIWI:

(A) A continuous or intermittent HMIWI whose maximum charge rate is less than or equal to 200 pounds per hour or more than 500 pounds per hour; or

(B) A batch HMIWI whose maximum charge rate is more than 4,000 pounds per day or less than or equal to 1,600 pounds per day.

(29) "Modification or modified hospital/medical/infectious waste incinerator" means any change to a HMIWI unit such that:

(a) The cumulative costs of the modifications, over the life of the unit, exceed 50 per cent of the original cost of the construction and installation of the unit (not including the cost of any land purchased in connection with such construction or installation) updated to current costs; or

(b) The change involves a physical change or change in the method of operation of the unit that increases the amount of any air pollutant emitted by the unit for which standards have been established under Section 129 or Section 111.

(30) "Modular excess-air municipal waste combustion unit" means a municipal waste combustion unit that combusts municipal solid waste, is not field-erected, and has multiple combustion chambers, all of which are designed to operate at conditions with combustion air amounts in excess of theoretical air requirements.

(31) "Modular starved-air municipal waste combustion unit" means a municipal waste combustion unit that combusts municipal solid waste, is not field-erected, and has multiple combustion chambers in which the primary combustion chamber is designed to operate at substoichiometric conditions.

(32) "Municipal waste combustor plant" means one or more municipal waste combustor units at the same location.

(33) "Municipal waste combustor plant capacity" means the aggregate municipal waste combustor unit capacity of all municipal waste combustor units at a municipal waste combustor plant for which construction was commenced on or before September 20, 1994.

(34) "Parts Per Million (ppm)" means parts of a contaminant per million parts of gas by volume on a dry-gas basis (1 ppm equals 0.0001 percent by volume).

(35) "Pathological waste" means waste material consisting of only human or animal remains, anatomical parts, and/or tissue, the bags/containers used to collect and transport the waste material and animal bedding (if applicable).

(36) "Person" means individuals, corporations, associations, firms, partnerships, joint stock companies, public and municipal corporations, political subdivisions, the state and any agencies thereof, and the federal government and any agencies thereof.

(37) "Primary Combustion Chamber" means the discrete equipment, chamber or space in which drying of the waste, pyrolysis, and essentially the burning of the fixed carbon in the waste occurs.

(38) "Pyrolysis" means the endothermic gasification of waste material using external energy.

(39) "Refuse-derived fuel" means a type of municipal solid waste produced by processing municipal solid waste through shredding and size classification. That includes all classes of refuse-derived fuel including two fuels:

(a) Low-density fluff refuse-derived fuel through densified refuse-derived fuel.

(b) Pelletized refuse-derived fuel.

(40) "Secondary" or "Final Combustion Chamber" means the discrete equipment, chamber, or space in which the products of pyrolysis are combusted in the presence of excess air such that essentially all carbon is burned to carbon dioxide.

(41) "Small hospital/medical/infectious waste incinerator", except as provided in Subsection (d)(A) and (B), means:

(a) A HMIWI whose maximum design waste burning capacity is less than or equal to 200 pounds per hour; or

(b) A continuous or intermittent HMIWI whose maximum charge rate is less than or equal to 200 pounds per hour; or

(c) A batch HMIWI whose maximum charge rate is less than or equal to 1,600 pounds per day.

(d) The following are not small HMIWI:

(A) A continuous or intermittent HMIWI whose maximum charge rate is more than 200 pounds per hour;

(B) A batch HMIWI whose maximum charge rate is more than 1,600 pounds per day.

(42) "Solid Waste" means refuse, more than 50 percent of which is waste consisting of a mixture of paper, wood, yard wastes, food wastes, plastics, leather, rubber, and other combustible materials, and noncombustible materials such as metal, glass, and rock.

(43) "Solid Waste Facility" or "Solid Waste Incinerator" means an incinerator that is operated or utilized for the disposal or treatment of solid waste including combustion for the recovery of heat, and that utilizes high temperature thermal destruction technologies.

(44) "Spreader stoker, mixed fuel-fired (coal/refuse-derived fuel) combustion unit" means a municipal waste combustion unit that combusts coal and refuse-derived fuel simultaneously, in which coal is introduced to the combustion zone by a mechanism that throws the fuel onto a grate from above. Combustion takes place both in suspension and on the grate.

(45) "Standard Conditions" means temperature of 68 degrees Fahrenheit (15.6 degrees Celsius) and a pressure of 14.7 pounds per square inch absolute (1.03 kilograms per square centimeter).

(46) "Startup/Shutdown" means the time during which an air contaminant source or emission control equipment is brought into normal operation and normal operation is terminated, respectively.

(47) "Transmissometer" means a device that measures opacity and conforms to EPA Specification Number 1 in **40 CFR 60, Appendix B**.

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

Stat. Auth.: ORS 183, 468 & 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 22-1998, f. & cert. ef. 10-21-98; DEQ 9-1990, f. & cert. ef. 3-13-90; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 27-1996, f. & cert. ef. 12-11-96; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-025-0750, 340-025-0855, 340-025-0950; DEQ 4-2003, f. & cert. ef. 2-06-03; DEQ 2-2005, f. & cert. ef. 2-10-05; DEQ 8-2007, f. & cert. ef. 11-8-07

340-230-0100

Best Available Control Technology

(1) Notwithstanding the specific emission limits set forth in OAR 340-230-0110, in order to maintain overall air quality at the highest possible levels, all solid waste facilities and infectious waste facilities are required to use

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Best Available Control Technology (BACT). In no event shall the application of BACT result in emissions of any air contaminant which would exceed the emission limits set forth in OAR 340-230-0100 through 340-230-0150.

(2) All installed equipment shall be operated and maintained in such a manner that emissions of air contaminants are kept at lowest possible levels.

Stat. Auth.: ORS 183, 468 & 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 9-1990, f. & cert. ef. 3-13-90; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-025-0860; DEQ 8-2007, f. & cert. ef. 11-8-07

340-230-0110

Emissions Limitations

No person shall cause, suffer, allow, or permit the operation of any solid waste facility or infectious waste facility in a manner which violates the following emission limits and requirements:

(1) Particulate Emissions:

(a) For incinerator facilities constructed or modified on or after March 13, 1990, emissions from each stack shall not exceed 0.015 grains per dry standard cubic foot of exhaust gases corrected to seven percent O₂ at standard conditions;

(b) For incinerator facilities constructed or modified before March 13, 1990, emissions from each stack shall not exceed 0.030 grains per dry standard cubic foot of exhaust gases corrected to seven percent O₂ at standard conditions.

(2) Hydrogen Chloride (HCl). For all incinerator facilities, emissions of hydrogen chloride from each stack shall not exceed 50 ppm during any 60-minute period corrected to seven percent O₂; or shall be reduced by at least 90 percent by weight on an hourly basis.

(3) Sulfur Dioxide (SO₂). For all incinerator facilities, emissions of sulfur dioxide from each stack shall not exceed 50 ppm as a running three-hour average corrected to seven percent O₂; or shall be reduced by at least 70 percent by weight on a three-hour basis.

(4) Carbon Monoxide (CO). For all incinerator facilities, emissions of carbon monoxide from each stack shall not exceed 100 ppm as a running eight-hour average corrected to seven percent O₂.

(5) Nitrogen Oxide (NO_x). Emissions of nitrogen oxide from each stack shall not exceed 200 ppm as a running 24-hour average corrected to seven percent O₂ for incinerator facilities constructed or modified on or after March 13, 1990 capable of processing more than 250 tons/day of wastes.

(6) Opacity. The opacity as measured visually or by a transmissometer shall not exceed ten percent for a period aggregating more than six minutes in any 60-minute period.

(7) Fugitive Emissions. Solid waste incinerator facilities shall be operated in a manner which prevents or minimizes fugitive emissions, including the paving of all normally traveled roadways within the plant boundary and enclosing all material transfer points.

(8) Other Wastes. No solid waste incinerator or infectious waste incinerator shall burn radioactive or hazardous waste, or any other waste not specifically authorized in the Department's Air Contaminant Discharge Permit.

(9) Other Contaminants. In the absence of an air-contaminant-specific emission limit or ambient air quality standard, the Department may establish by permit emission limits for any hazardous air contaminants that are more protective of human health and the environment for any solid waste incinerator or infectious waste incinerator.

Stat. Auth.: ORS 183, 468 & 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 9-1990, f. & cert. ef. 3-13-90; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-025-0865; DEQ 8-2007, f. & cert. ef. 11-8-07

340-230-0150

Compliance

(1) All waste incinerators constructed or modified before March 13, 1990 must demonstrate compliance with the applicable provisions of OAR 340-230-0100 through 340-230-0150 by March 13, 1995, or by the date required by applicable federal guidelines adopted by the Environmental Protection Agency, whichever is sooner. Existing data such as that collected in accordance with the requirements of an Air Contaminant Discharge Permit may be used to demonstrate compliance.

(2) Solid waste incinerators and infectious waste incinerators constructed or modified on or after March 13, 1990 must demonstrate compliance with the emission limits and operating requirements of OAR 340-230-0100 through 340-230-0150 in accordance with a schedule established by the Department before commencing regular operation.

(3) Compliance with OAR 340-230-0100 through 340-230-0150 does not relieve the owner or operator of the source from the responsibility to comply with requirements of the Department's Solid and Hazardous Waste rules, OAR chapter 340, division 61, regarding the disposal of ash generated from waste incinerators.

Stat. Auth.: ORS 183, 468 & 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 9-1990, f. & cert. ef. 3-13-90; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-025-0885; DEQ 8-2007, f. & cert. ef. 11-8-07

340-230-0200

Emission Limitations

(1) No person may cause to be emitted particulate matter from any crematory incinerator in excess of 0.080 grains per dry standard cubic foot of exhaust gases corrected to 7 percent O₂ at standard conditions.

(2) Opacity. No visible emissions may be present except for one 6 minute period per hour of not more than 20% opacity as measured by EPA Method 9.

(3) Odors. In cases where incinerator operation may cause odors which unreasonably interfere with the use and enjoyment of property, the Department may require by permit the use of good practices and procedures to prevent or eliminate those odors.

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 9-1990, f. & cert. ef. 3-13-90; DEQ 15-1992, f. & cert. ef. 8-3-92 (and corrected 8-11-92), Section (3) Renumbered from 340-025-0895(3); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 19-1996, f. & cert. ef. 9-24-96; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-025-0890; DEQ 8-2007, f. & cert. ef. 11-8-07

340-230-0210

Design and Operation

(1) Temperature and Residence Time:

(a) For a crematory incinerator installed on or after March 13, 1993, the temperature at the final combustion chamber must be equal to or greater than 1800° F with a residence time of at least 0.5 seconds. The temperature in the final chamber must be equal to or greater than 1400° F prior to igniting the primary burner.

(b) For a crematory incinerator installed prior to March 13, 1993, the temperature at the final combustion chamber must be equal to or greater than 1600° F with a residence time of at least 0.5 seconds. The temperature in the final chamber must be equal to or greater than 1200° F prior to igniting the primary burner.

(2) Operator Training and Certification. Each crematory incinerator shall be operated at all times under the direction of individuals who have received training necessary for proper operation. The following shall be available on-site at all times for Department inspection:

(a) A description of a Department-approved training program; and

(b) A written statement signed by each operator stating that the operator has undergone and understood the training program.

(3) As defined in OAR 340-230-0030(10), crematory incinerators may only be used for incineration of human and animal bodies, and appropriate containers. No waste, including infectious waste as defined in OAR 340-230-0030, may be incinerated unless specifically authorized in the Department's Air Contaminant Discharge Permit.

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 9-1990, f. & cert. ef. 3-13-90; DEQ 15-1992, f. & cert. ef. 8-3-92 (and corrected 8-11-92), Section (3) Renumbered from 340-025-0890(3); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 19-1996, f. & cert. ef. 9-24-96; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-025-0895; DEQ 8-2007, f. & cert. ef. 11-8-07

340-230-0220

Monitoring and Reporting

(1) All crematory incinerators shall operate and maintain continuous monitoring for final combustion chamber exit temperature. The monitoring device shall be installed and operated in accordance with the manufacturer's instructions, and shall be located in an area of the secondary combustion chamber that will allow evaluation of compliance with OAR 340-230-0210

(2) All records associated with continuous monitoring data including, but not limited to, original data sheets, charts, calculations, calibration data, production records and final reports shall be maintained for a continuous period of at least two years and shall be furnished to the Department upon request.

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 9-1990, f. & cert. ef. 3-13-90; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 19-1996, f. & cert. ef. 9-24-96; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-025-0900; DEQ 8-2007, f. & cert. ef. 11-8-07

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340-230-0230

Compliance

A crematory incinerator installed on or after March 13, 1993, must demonstrate within 180 days of startup compliance with OAR 340-230-0200(1) by:

- (1) Conducting a source test for particulate matter emissions in accordance with OAR 340-212-0120 through 340-212-0140; or
- (2) Submitting the results of testing performed on a crematory incinerator that the Department agrees is comparable to the incinerator in question.

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 9-1990, f. & cert. ef. 3-13-90; DEQ 15-1992, f. & cert. ef. 8-3-92 (and corrected 8-11-92); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 19-1996, f. & cert. ef. 9-24-96; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-025-0905; DEQ 8-2007, f. & cert. ef. 11-8-07

340-232-0010

Introduction

(1) This division regulates sources of VOC which contribute to the formation of photochemical oxidant, mainly ozone.

(2) Since ozone standards are not violated in Oregon from October through April (because of insufficient solar energy), natural gas-fired afterburners may be permitted, on a case-by-case basis, to lay idle during the winter months.

(3) Sources regulated by this division are new and existing sources in the Portland and Medford AQMA's and in the Salem SATS listed in subsections (a) through (m) of this section, including:

- (a) Gasoline dispensing facilities, storage tank filling;
- (b) Bulk gasoline plants and delivery vessels;
- (c) Bulk gasoline terminal loading;
- (d) Cutback asphalt;
- (e) Petroleum refineries, petroleum refinery leaks;
- (f) VOC liquid storage, secondary seals;
- (g) Coating including paper coating and miscellaneous painting;
- (h) Aerospace component coating;
- (i) Degreasers;
- (j) Asphaltic and coal tar pitch in roofing;
- (k) Flat wood coating;
- (l) Rotogravure and Flexographic printing;
- (m) Automotive Gasoline.

(4) Emissions units not covered by the source categories listed in section (3) of this rule which emit or have the potential to emit over 100 tons of VOC per year are subject to OAR 340-232-0040.

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.

Stat. Auth.: ORS 468.020 & 468A.025

Stats. Implemented: ORS 468A.025

Hist.: DEQ 21-1978, f. & ef. 12-28-78; DEQ 17-1979, f. & ef. 6-22-79; DEQ 23-1980, f. & ef. 9-26-80; DEQ 3-1986, f. & ef. 2-12-86; DEQ 8-1991, f. & cert. ef. 5-16-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 20-1998, f. & cert. ef. 10-12-98; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-022-0100; DEQ 15-2001, f. & cert. ef. 12-26-01; DEQ 3-2007, f. & cert. ef. 4-12-07; DEQ 8-2007, f. & cert. ef. 11-8-07

340-234-0010

Definitions

The definitions in OAR 340-200-0020, 340-204-0010 and this rule apply to this division. If the same term is defined in this rule and OAR 340-200-0020 or 340-204-0010, the definition in this rule applies to this division.

(1) "Acid Absorption Tower" means the device where the sodium carbonate and sulfur dioxide react to form a sodium sulfite solution prior to use as the cooking liquor.

(2) "Acid Plant" means the facility in which the cooking liquor is either manufactured or fortified when not associated with a recovery furnace.

(3) "Average Daily Emission" means the total weight of sulfur oxides emitted in each month divided by the number of days of production that month.

(4) "Average Daily Production" means air dry tons of unbleached pulp produced in a month, divided by the number of days of production in that month.

(5) "Average Operating Opacity" means the opacity of emissions determined using EPA Method 9 on any three days within a 12-month period which are separated from each other by at least 30 days; a violation of the average operating opacity limitation is judged to have occurred if the opacity of emissions on each of the three days is greater than the specified average operating opacity limitation.

(6) "Baseline emissions rate" means a source's actual emissions rate during the baseline period, as defined in OAR 340-200-0020, expressed as pounds of emissions per thousand square feet of finished product, on a 1/8" basis.

(7) "Blow System" means the storage chest, tank, or pit to which the digester pulp is discharged following the cook.

(8) "BLS" means Black Liquor Solids, dry weight.

(9) "Continual Monitoring:"

(a) As used in OAR 340-234-0200 through 340-234-0350 means sampling and analysis, in a timed sequence, using techniques which will adequately reflect actual emission levels or concentrations on an ongoing basis;

(b) As used in OAR 340-234-0400 through 340-234-0430 means sampling and analysis in a continuous or timed sequence, using techniques which will adequately reflect actual emission levels, ambient air levels, or concentrations on a continuous basis.

(10) "Continuous monitoring" means instrumental sampling of a gas stream on a continuous basis, excluding periods of calibration.

(11) "Continuous-Flow Conveying Methods" means methods which transport materials at uniform rates of flow, or at rates generated by the production process.

(12) "Daily Arithmetic Average" means the average concentration over the twenty-four hour period in a calendar day, or Department approved equivalent period, as determined by continuous monitoring equipment or reference method testing. Determinations based on EPA reference methods in accordance with the Department Source Sampling Manual consist of three separate consecutive runs having a minimum sampling time of sixty minutes each and a maximum sampling time of eight hours each. The three values for concentration (ppm or grains/dscf) are averaged and expressed as the daily arithmetic average which is used to determine compliance with process weight limitations, grain loading or volumetric concentration limitations and to determine daily emission rate.

(13) "Department" means the Department of Environmental Quality.

(14) "Emission" means a release into the atmosphere of air contaminants.

(15) "EPA Method 9" means the method for Visual Determination of the Opacity of Emissions From Stationary Sources described as Method 9 (average of 24 consecutive observations) in the Department Source Sampling Manual (January, 1992).

(16) "Fuel Moisture Content by Weight Greater Than 20 Percent" means bark, hogged wood waste, or other wood with an average moisture content of more than 20 percent by weight on a wet basis as used for fuel in the normal operation of a wood-fire veneer dryer as measured by ASTM D4442-84 during compliance source testing.

(17) "Fugitive Emissions" means dust, fumes, gases, mist, odorous matter, vapors or any combination thereof not easily given to measurement, collection, and treatment by conventional pollution control methods.

(18) "Hardboard" means a flat panel made from wood that has been reduced to basic wood fibers and bonded by adhesive properties under pressure.

(19) "Kraft Mill" or "Mill" means any industrial operation which uses for a cooking liquor an alkaline sulfide solution containing sodium hydroxide and sodium sulfide in its pulping process.

(20) "Lime Kiln" means any production device in which calcium carbonate is thermally converted to calcium oxide.

(21) "Maximum Opacity" means the opacity as determined by EPA Method 9 (average of 24 consecutive observations).

(22) "Modified Wigwam Waste Burner" means a device having the general features of a wigwam waste burner, but with improved combustion air controls and other improvements installed in accordance with design criteria approved by the Department.

(23) "Neutral Sulfite Semi-Chemical (NSSC) Pulp Mill" means any industrial operation which uses for cooking, a liquor prepared from a sodium carbonate solution and sulfur dioxide at a neutral pH, range 6-8.

(24) "Non-Condensibles" mean gases and vapors, contaminated with TRS compounds, from the digestion and multiple-effect evaporation processes of a mill.

(25) "Operations" includes plant, mill, or facility.

(26) "Other Sources:"

(a) As used in OAR 340-234-0200 through 340-234-0270 means sources of TRS emissions in a kraft mill other than recovery furnaces, lime kilns, smelt dissolving tanks, sewers, drains, categorically insignificant activities and wastewater treatment facilities including but not limited to:

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(A) Vents from knotters, brown stock washing systems, evaporators, blow tanks, blow heat accumulators, black liquor storage tanks, black liquor oxidation system, pre-steaming vessels, tall oil recovery operations; and

(B) Any vent which is shown to contribute to an identified nuisance condition.

(b) As used in OAR 340-234-0400 through 340-234-0430 means sources of sulfur oxide emissions including, but not limited to washers, washer filtrate tanks, digester dilution tanks, knotters, multiple effect evaporators, storage tanks, any operation connected with the handling of condensate liquids or storage of condensate liquids, and any vent or stack which may be a significant contributor of sulfur oxide gases other than those mentioned in emission standard limitations (OAR 340-234-0410).

(27) "Particleboard" means matformed flat panels consisting of wood particles bonded together with synthetic resin or other suitable binder.

(28) "Particulate Matter:"

(a) As used in OAR 340-234-0200 through 340-234-0350 means all solid or liquid material, other than uncombined water, emitted to the ambient air as measured by EPA Method 5 or an equivalent test method in accordance with the Department Source Sampling Manual. Particulate matter emission determinations by EPA Method 5 shall use water as the cleanup solvent instead of acetone, and consist of the average of three separate consecutive runs having a minimum sampling time of 60 minutes each, a maximum sampling time of eight hours each, and a minimum sampling volume of 31.8 dscf each;

(b) As used in OAR 340-234-0400 through 340-234-0430 means a small, discrete mass of solid matter, including the solids dissolved or suspended in liquid droplets but not including uncombined water;

(c) As used in OAR 340-234-0500 through 340-234-0530 means all solid or liquid material, other than uncombined water, emitted to the ambient air as measured in accordance with the Department Source Sampling Manual (January, 1992). Particulate matter emission determinations shall consist of the average of three separate consecutive runs. For sources tested using DEQ Method 7, each run shall have a minimum sampling time of one-hour, a maximum sampling time of eight hours, and a minimum sampling volume of 31.8 dscf. For sources tested using DEQ Method 8, each run shall have a minimum sampling time of 15 minutes and shall collect a minimum particulate sample of 100 mg. Veneer dryers, wood particle dryers, fiber dryers and press/cooling vents shall be tested with DEQ Method 7; and air conveying systems shall be tested with DEQ Method 8.

(29) "Parts Per Million (ppm)" means parts of a contaminant per million parts of gas by volume on a dry-gas basis (1 ppm equals 0.0001% by volume).

(30) "Person" includes individuals, corporations, associations, firms, partnerships, joint stock companies, public and municipal corporations, political subdivisions, the state and any agencies thereof, and the Federal Government and any agencies thereof.

(31) "Plywood" means a flat panel built generally of an odd number of thin sheets of veneers of wood in which the grain direction of each ply or layer is at right angles to the one adjacent to it.

(32) "Press/Cooling Vent" means any opening through which particulate and gaseous emissions from plywood, particleboard, or hardboard manufacturing are exhausted, either by natural draft or powered fan, from the building housing the process. Such openings are generally located immediately above the board press, board unloader, or board cooling area.

(33) "Production:"

(a) As used in OAR 340-234-0200 through 340-234-0270 means the daily amount of air-dried unbleached pulp, or equivalent, produced during the 24-hour period each calendar day, or Department approved equivalent period, and expressed in air-dried metric tons (admt) per day. The corresponding English unit is air-dried tons (adt) per day;

(b) As used in OAR 340-234-0300 through 340-234-0350 means the daily amount of virgin air-dried unbleached NSSC pulp, or equivalent, produced during the 24-hour period each calendar day, or Department approved equivalent period, expressed in air-dried metric tons (ADMT) per day. The corresponding English unit is air-dried tons (ADT) per day.

(34) "Recovery Furnace" means the combustion device in which dissolved wood solids are incinerated and pulping chemicals recovered from the molten smelt. For OAR 340-234-0200 through 340-234-0270, and where present, this term shall include the direct contact evaporator.

(35) "Recovery System" means the process by which all or part of the cooking chemicals may be recovered, and cooking liquor regenerated from spent cooking liquor, including evaporation, combustion, dissolving, fortification, and storage facilities associated with the recovery cycle.

(36) "Significant Upgrading of Pollution Control Equipment" means a modification or a rebuild of an existing pollution control device for which a capital expenditure of 50 percent or more of the replacement cost of the existing device is required, other than ongoing routine maintenance.

(37) "Smelt dissolving tank vent" means the vent serving the vessel used to dissolve the molten smelt produced by the recovery furnace.

(38) "Special Problem Area" means the formally designated Portland, Eugene-Springfield, and Medford AQMAs and other specifically defined areas that the Environmental Quality Commission may formally designate in the future. The purpose of such designation will be to assign more stringent emission limits as may be necessary to attain and maintain ambient air standards or to protect the public health or welfare.

(39) "Spent Liquor Incinerator" means the combustion device in which pulping chemicals are subjected to high temperature to evaporate the water, incinerate organics and reclaim the sodium sulfate (saltcake) and sodium carbonate.

(40) "Standard Dry Cubic Meter" means the amount of gas that would occupy a volume of one cubic meter, if the gas were free of uncombined water, at a temperature of 20° C. (68° F.) and a pressure of 760 mm of mercury (29.92 inches of mercury). The corresponding English unit is standard dry cubic foot. When applied to recovery furnace gases "standard dry cubic meter" requires adjustment of the gas volume to that which would result in a concentration of 8% oxygen if the oxygen concentration exceeds 8%. When applied to lime kiln gases "standard dry cubic meter" requires adjustment of the gas volume to that which would result in a concentration of 10% oxygen if the oxygen concentration exceeds 10%. The mill shall demonstrate that oxygen concentrations are below noted values or furnish oxygen levels and corrected pollutant data.

(41) "Tempering Oven" means any facility used to bake hardboard following an oil treatment process.

(42) "Sulfite Mill" or "Mill" means a pulp mill producing cellulose pulp using a cooking liquor consisting of sulfurous acid and/or a bisulfite salt.

(43) "Sulfur Oxides" means sulfur dioxide, sulfur trioxide, and other sulfur oxides.

(44) "Total Reduced Sulfur (TRS)" means the sum of the sulfur compounds hydrogen sulfide, methyl mercaptan, dimethyl sulfide, and dimethyl disulfide, and any other organic sulfides present expressed as hydrogen sulfide (H₂S).

(45) "Veneer" means a single flat panel of wood not exceeding 1/4 inch in thickness formed by slicing or peeling from a log.

(46) "Wigwam Waste Burner" means a burner which consists of a single combustion chamber, has the general features of a truncated cone, and is used for incineration of wastes.

(47) "Wood Fired Veneer Dryer" means a veneer dryer, which is directly heated by the products of combustion of wood fuel in addition to or exclusive of steam or natural gas or propane combustion.

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.

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

Stat. Auth.: ORS 468 & 468A

Stats. Implemented: ORS 468A.025

Hist.: [DEQ 37, f. 2-15-72, ef. 3-1-72; DEQ 4-1993, f. & cert. ef. 3-10-93]; [DEQ 50, f. 2-9-73, ef. 3-1-73; DEQ 137, f. & ef. 6-10-77; DEQ 2-1990, f. & cert. ef. 1-24-90; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 22-1995, f. & cert. ef. 10-6-95]; [DEQ 2-1990, f. & cert. ef. 1-24-90; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 22-1995, f. & cert. ef. 10-6-95]; [DEQ 26, f. 3-31-71, ef. 4-25-71; DEQ 132, f. & ef. 4-11-77; DEQ 7-1979, f. & ef. 4-20-79; DEQ 22-1991, f. & cert. ef. 11-13-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 4-1995, f. & cert. ef. 2-17-95]; [DEQ 32, f. 11-23-71, ef. 12-15-71; DEQ 15-1980, f. & ef. 5-23-80; DEQ 4-1993, f. & cert. ef. 3-10-93]; [DEQ 37, f. 2-15-72, ef. 3-1-72; DEQ 4-1993, f. & cert. ef. 3-10-93]; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-025-0005, 340-025-0150, 340-025-0220, 340-025-0305, 340-025-0350, 340-025-0410; DEQ 8-2007, f. & cert. ef. 11-8-07

340-234-0100

Wigwam Waste Burners

(1) Operation of wigwam waste burners is prohibited.

(2) Emissions from wigwam waste burners included in a source's netting basis as of October 18, 2007 shall not be subtracted from the netting basis, except as provided in OAR 340-222-0045.

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.

Stat. Auth.: ORS 468 & 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 37, f. 2-15-72, ef. 3-1-72; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-025-0010; DEQ 8-2007, f. & cert. ef. 11-8-07

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340-234-0140

Existing Administrative Agency Orders

The provisions of OAR 340-234-0100 supersede any specific existing agency orders directed against specific parties or persons to abate air pollution.

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.

Stat. Auth.: ORS 468 & 468A

Stats. Implemented: ORS 468A.025

Hist.: SA 30 f. 6-7-68, ef. 8-1-68; DEQ 4-1993, f. & cert. ef. 3-10-93, Renumbered from 340-025-0080; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-025-0027; DEQ 8-2007, f. & cert. ef. 11-8-07

340-234-0210

Emission Limitations

(1) Emission of Total Reduced Sulfur (TRS):

(a) Recovery Furnaces:

(A) The emissions of TRS from each recovery furnace placed in operation before January 1, 1969, shall not exceed 10 ppm and 0.15 Kg/metric ton (0.30 lb./ton) of production as daily arithmetic averages;

(B) TRS emissions from each recovery furnace placed in operation after January 1, 1969, and before September 25, 1976, or any recovery furnace modified significantly after January 1, 1969, and before September 25, 1976, to expand production shall be controlled such that the emissions of TRS shall not exceed 5 ppm and 0.075 Kg/metric ton (0.150 lb./ton) of production as daily arithmetic averages.

(b) Lime Kilns. Lime kilns shall be operated and controlled such that emissions of TRS shall not exceed 20 ppm as a daily arithmetic average and 0.05 Kg/metric ton (0.10 lb./ton) of production as a daily arithmetic average. This subsection applies to those sources where construction was initiated prior to September 25, 1976.

(c) Smelt Dissolving Tanks. TRS emissions from each smelt dissolving tank shall not exceed 0.0165 gram/Kg BLS (0.033 lb./ton BLS) as a daily arithmetic average.

(d) Non-Condensables. Non-condensables from digesters, multiple-effect evaporators and contaminated condensate stripping shall be continuously treated to destroy TRS gases by thermal incineration in a lime kiln or incineration device capable of subjecting the non-condensables to a temperature of not less than 650° C. (1,200° F.) for not less than 0.3 second. An alternate device meeting the above requirements shall be available in the event adequate incineration in the primary device cannot be accomplished. Venting of TRS gases during changeover shall be minimized but in no case shall the time exceed one-hour;

(e) Other Sources:

(A) The total emission of TRS from other sources shall not exceed 0.078 Kg/metric ton (0.156 lb./ton) of production as a daily arithmetic average;

(B) Miscellaneous Sources and Practices. If it is determined that sewers, drains, and anaerobic lagoons significantly contribute to an odor problem, a program for control shall be required.

(2) Particulate Matter:

(a) Recovery Furnaces. The emissions of particulate matter from each recovery furnace stack shall not exceed:

(A) 2.0 kilograms per metric ton (4.0 pounds per ton) of production as a daily arithmetic average;

(B) 0.30 gram per dry standard cubic meter (0.13 grain per dry standard cubic foot) as a daily arithmetic average; and

(C) Thirty-five percent opacity for a period or periods aggregating more than 30 minutes in any 180 consecutive minutes or more than 60 minutes in any 24 consecutive hours (excluding periods when the facility is not operating).

(b) Lime Kilns. The emissions of particulate matter from each lime kiln stack shall not exceed:

(A) 0.50 kilogram per metric ton (1.00 pound per ton) of production as a daily arithmetic average;

(B) 0.46 gram per dry standard cubic meter (0.20 grain per dry standard cubic foot) as a daily arithmetic average; and

(C) The visible emission limitations in section (4) of this rule.

(c) Smelt Dissolving Tanks. The emission of particulate matter from each smelt dissolving tank vent shall not exceed:

(A) A daily arithmetic average of 0.25 kilogram per metric ton (0.50 pound per ton) of production; and

(B) The visible emission limitations in section (4) of this rule.

(d) Replacement or Significant Upgrading of existing particulate pollution control equipment after July 1, 1988 shall result in more restrictive standards as follows:

(A) Recovery Furnaces:

(i) The emission of particulate matter from each affected recovery furnace stack shall not exceed 1.00 kilogram per metric ton (2.00 pounds per ton) of production as a daily arithmetic average; and

(ii) 0.10 gram per dry standard cubic meter (0.044 grain per dry standard cubic foot) as a daily arithmetic average.

(B) Lime Kilns:

(i) The emission of particulate matter from each affected lime kiln stack shall not exceed 0.25 kilogram per metric ton (0.50 pound per ton) of production as a daily arithmetic average; and

(ii) 0.15 gram per dry standard cubic meter (0.067 grain per dry standard cubic foot) as a daily arithmetic average when burning gaseous fossil fuel; or

(iii) 0.50 kilogram per metric ton (1.00 pound per ton) of production as a daily arithmetic average; and

(iv) 0.30 gram per dry standard cubic meter 0.13 grain per dry standard cubic foot as a daily arithmetic average when burning liquid fossil fuel.

(C) Smelt Dissolving Tanks. The emissions of particulate matter from each smelt dissolving tank vent shall not exceed 0.15 kilogram per metric ton (0.30 pound per ton) of production as a daily arithmetic average.

(3) Sulfur Dioxide (SO₂). Emissions of sulfur dioxide from each recovery furnace stack shall not exceed a three-hour arithmetic average of 300 ppm on a dry-gas basis except when burning fuel oil. The sulfur content of fuel oil used shall not exceed the sulfur content of residual and distillate oil established in OAR 340-228-0100 and 340-228-0110, respectively.

(4) All kraft mill sources with the exception of recovery furnaces shall not exceed an opacity equal to or greater than 20 percent for a period exceeding three minutes in any one hour.

(5) New Source Performance Standards. New or modified sources that commenced construction after September 24, 1976, are subject to each provision of this rule and the New Source Performance Standards, 40 CFR 60 subpart BB as adopted under OAR 340-238-0060, whichever is more stringent.

NOTE: Except for OAR 340-234-0210(1), this rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.

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

Stat. Auth.: ORS 468 & 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 50, f. 2-9-73, ef. 3-1-73; DEQ 137, f. & ef. 6-10-77; DEQ 2-1990, f. & cert. ef. 1-24-90; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-025-0165; DEQ 8-2007, f. & cert. ef. 11-8-07

340-234-0220

More Restrictive Emission Limits

The Department may establish more restrictive emission limits than the numerical emission standards contained in OAR 340-234-0210 and maximum allowable daily mill site emission limits in kilograms or pounds per day for an individual mill upon a finding by the Department that:

(1) The individual mill is located or is proposed to be located in a special problem area or an area where ambient air standards are exceeded or are projected to be exceeded or where the emissions will have a significant air quality impact in an area where the standards are exceeded; or

(2) An odor or nuisance problem has been documented at any mill, in which case the TRS emission limits may be reduced below the regulatory limits; or the Department may require the mill to undertake an odor emission reduction study program; or

(3) Other rules which are more stringent apply.

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040 with the exception of references to Total Reduced Sulfur.

Stat. Auth.: ORS 468 & 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 50, f. 2-9-73, ef. 3-1-73; DEQ 137, f. & ef. 6-10-77; DEQ 2-1990, f. & cert. ef. 1-24-90; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-025-0170; DEQ 8-2007, f. & cert. ef. 11-8-07

340-234-0240

Monitoring

(1) Total Reduced Sulfur (TRS). Each mill shall continuously monitor TRS in accordance with the following:

(a) The monitoring equipment shall determine compliance with the emission limits and reporting requirements established by OAR 340-234-

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0200 through 340-234-0270, and shall continuously sample and record concentrations of TRS;

(b) The sources monitored shall include, but are not limited to individual recovery furnaces, and lime kilns. All sources shall be monitored down-stream of their respective control equipment, in either the ductwork or the stack, in accordance with the Department Continuous Monitoring Manual;

(c) Unless otherwise authorized or required by permit, at least once per year, vents from other sources as required in OAR 340-234-0210(1)(e), Other Sources, shall be sampled to demonstrate the representativeness of the emission of TRS using EPA Method 16, 16A, 16B or continuous emission monitors. EPA methods shall consist of three separate consecutive runs of one-hour each in accordance with the Department Source Sampling Manual. Continuous emissions monitors shall be operated for three consecutive hours in accordance with the **Department Continuous Monitoring Manual**. All results shall be reported to the Department;

(d) Smelt dissolving tank vents shall be sampled for TRS quarterly except that testing may be semi-annual when the preceding six source tests were less than 0.0124 gram/Kg BLS (0.025 lb./ton BLS) using EPA Method 16, 16A, 16B or continuous emission monitors. EPA methods shall consist of three separate consecutive runs of one-hour each in accordance with the **Department Source Sampling Manual**.

(2) Particulate Matter:

(a) Each mill shall sample the recovery furnace(s), lime kiln(s) and smelt dissolving tank vent(s) for particulate emissions in accordance with the Department Source Sampling Manual;

(b) Each mill shall provide continuous monitoring of opacity of emissions discharged to the atmosphere from each recovery furnace stack in accordance with the **Department Continuous Monitoring Manual**.

(c) Recovery furnace particulate source tests shall be performed quarterly except that testing may be semi-annual when the preceding six source tests were less than 0.225 gram/dscm (0.097 grain/dscf) for furnaces subject to OAR 340-234-0210(2)(a) or 0.075 gram/dscm (0.033 grain/dscf) for furnaces subject to OAR 340-234-0210(2)(d)(A);

(d) Lime kiln source tests shall be performed semi-annually;

(e) Smelt dissolving tank vent source tests shall be performed quarterly except that testing may be semi-annual when the preceding six source tests were less than 0.187 kilogram per metric ton (0.375 pound per ton) of production.

(3) Sulfur Dioxide (SO₂). Representative sulfur dioxide emissions from each recovery furnace shall be determined at least once each month by the average of three one-hour source tests in accordance with the Department Source Sampling Manual or from continuous emission monitors. If continuous emission monitors are used, the monitors shall be operated for three consecutive hours in accordance with the **Department Continuous Monitoring Manual**.

(4) Combined Monitoring. The Department may allow the monitoring for opacity of a combination of more than one emission stream if each individual emission stream has been demonstrated with the exception of opacity to be in compliance with all the emission limits of OAR 340-234-0210. The Department may establish more stringent emission limits for the combined emission stream.

(5) New Source Performance Standards Monitoring. New or modified sources that are subject to the New Source Performance Standards, 40 CFR Part 60, Subpart BB, shall conduct monitoring or source testing as required by Subpart BB. In addition, when it is more stringent than Subpart BB, the Department may require some or all of the relevant monitoring in this section.

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040 with the exception of references to Total Reduced Sulfur.

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

Stat. Auth.: ORS 468 & 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 50, f. 2-9-73, ef. 3-1-73; DEQ 137, f. & ef. 6-10-77; DEQ 2-1990, f. & cert. ef. 1-24-90; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-025-0180; DEQ 8-2007, f. & cert. ef. 11-8-07

340-234-0250

Reporting

If required by the Department or by permit, data shall be reported by each mill for each calendar month by the last day of the subsequent calendar month as follows:

(1) Applicable daily average emissions of TRS gases expressed in parts per million of H₂S on a dry gas basis with oxygen concentrations, if

oxygen corrections are required, for each source included in the approved monitoring program.

(2) Daily average emissions of TRS gases in pounds of total reduced sulfur per equivalent ton of pulp processed, expressed as H₂S, for each source included in the approved monitoring program.

(3) Maximum daily three-hour average emission of SO₂ based on all samples collected from the recovery furnace(s), expressed as ppm, dry basis.

(4) All daily average opacities for each recovery furnace stack where transmissometers are utilized.

(5) All six-minute average opacities from each recovery furnace stack that exceeds 35 percent.

(6) Daily average kilograms of particulate per equivalent metric ton (pounds of particulate per equivalent ton) of pulp produced for each recovery furnace stack. Where transmissometers are not feasible, the mass emission rate shall be determined by alternative sampling approved by the Department.

(7) Unless otherwise approved in writing, all periods of non-condensable gas bypass shall be reported.

(8) Each kraft mill shall furnish, upon request of the Department, such other pertinent data as the Department may require to evaluate the mill's emission control program.

(9) Monitoring data reported shall reflect actual observed levels corrected for oxygen, if required, and analyzer calibration.

(10) Oxygen concentrations used to correct pollutant data shall reflect oxygen concentrations at the point of measurement of pollutants.

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040 with the exception of references to Total Reduced Sulfur.

Stat. Auth.: ORS 468 & 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 50, f. 2-9-73, ef. 3-1-73; DEQ 132, f. & ef. 6-10-77; DEQ 2-1990, f. & cert. ef. 1-24-90; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-025-0185; DEQ 8-2007, f. & cert. ef. 11-8-07

340-234-0500

Applicability and General Provisions

(1) OAR 340-234-0500 through 340-234-0530 establish minimum performance and emission standards for veneer, plywood, particleboard, and hardboard manufacturing operations.

(2) Emission limitations established herein are in addition to, and not in lieu of, general emission standards for visible emissions, fuel burning equipment, and refuse burning equipment, except as provided for in OAR 340-234-0510.

(3) Each affected veneer, plywood, particleboard, and hardboard plant shall proceed with a progressive and timely program of air pollution control. Each plant shall at the request of the Department submit periodic reports in such form and frequency as directed to demonstrate the progress being made toward full compliance with OAR 340-234-0500 through 340-234-0530.

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.

Stat. Auth.: ORS 468 & 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 26, f. 3-31-71, ef. 4-25-71; DEQ 132, f. & ef. 4-11-77; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 17-1993, f. & cert. ef. 11-4-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-025-0500; DEQ 8-2007, f. & cert. ef. 11-8-07

340-234-0510

Veneer and Plywood Manufacturing Operations

(1) Veneer Dryers:

(a) Consistent with OAR 340-234-0500(1) through(4), it is the object of this section to control air contaminant emissions, including, but not limited to, condensable hydrocarbons such that visible emissions from each veneer dryer are limited to a level which does not cause a characteristic "blue haze" to be observable;

(b) No person shall operate any veneer dryer such that visible air contaminants emitted from any dryer stack or emission point exceed:

(A) An average operating opacity of ten percent; and

(B) A maximum opacity of 20 percent.

(c) Particulate emissions from wood fired veneer dryers shall not exceed:

(A) 0.75 pounds per 1,000 square feet of veneer dried (3/8 inch basis) for units using fuel which has a moisture content by weight of 20 percent or less;

(B) 1.50 pounds per 1,000 square feet of veneer dried (3/8 inch basis) for units using fuel which has a moisture content by weight of greater than 20 percent;

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(C) In addition to paragraphs(1)(c)(A) and(B) of this rule, 0.40 pounds per 1,000 pounds of steam generated in boilers which exhaust gases to the veneer dryer.

(d) Exhaust gases from fuel-burning equipment vented to the veneer dryer are exempt from OAR 340-228-0210;

(e) Each veneer dryer shall be maintained and operated at all times such that air contaminant generating processes and all contaminant control equipment shall be at full efficiency and effectiveness so that the emission of air contaminants are kept at the lowest practicable levels;

(f) No person shall willfully cause or permit the installation or use of any means, such as dilution, which, without resulting in a reduction in the total amount of air contaminants emitted, conceals an emission which would otherwise violate this rule;

(g) Where effective measures are not taken to minimize fugitive emissions, the Department may require that the equipment or structures in which processing, handling, and storage are done, be tightly closed, modified, or operated in such a way that air contaminants are minimized, controlled, or removed before discharge to the open air;

(h) The Department may require more restrictive emission limits than provided in subsections (1)(b) and(c) of this rule for an individual plant upon a finding by the Commission that the individual plant is located or is proposed to be located in a special problem area. The more restrictive emission limits for special problem areas may be established on the basis of allowable emissions expressed in opacity, pounds per hour, or total maximum daily emissions to the atmosphere, or a combination thereof.

(2) Other Emission Sources:

(a) The combined particulate emissions from veneer and plywood mill sources, including, but not limited to, sanding machines, saws, presses, barkers, hogs, chippers, and other material size reduction equipment, process or space ventilation systems, and truck loading and unloading facilities must not exceed a plant specific average hourly emission rate (lbs/hr) determined by multiplying the plant production capacity by one pound per 1,000 square feet. The plant production capacity is the maximum production in terms of 1,000 square feet on a 3/8 inch basis of finished product for a typical operating shift divided by the number of hours in the operating shift.

(b) Excepted from subsection (2)(a) of this rule are veneer dryers, fuel burning equipment, and refuse burning equipment.

(c) Compliance with the average hourly emission rate is determined by summing the emissions from the affected sources as determined by emission factor calculations or actual emissions data for a 24 hour period divided by 24.

(3) Monitoring and Reporting: The Department may require any veneer dryer facility to establish an effective program for monitoring the visible air contaminant emissions from each veneer dryer emission point. The program shall be subject to review and approval by the Department and shall consist of the following:

(a) A specified minimum frequency for performing visual opacity determinations on each veneer dryer emission point;

(b) All data obtained shall be recorded on copies of a "Veneer Dryer Visual Emissions Monitoring Form" which shall be provided by the Department of Environmental Quality or on an alternative form which is approved by the Department; and

(c) A specified period during which all records shall be maintained at the mill site for inspection by authorized representatives of the Department.

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.

Stat. Auth.: ORS 468 & 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 26, f. 3-31-71, ef. 4-25-71; DEQ 37, f. 2-15-72, ef. 3-1-72; DEQ 43(Temp), f. & ef. 5-5-72 thru 9-1-72; DEQ 48, f. 9-20-72, ef. 10-1-72; DEQ 52, f. 4-9-73, ef. 5-1-73; DEQ 83, f. 1-30-75, ef. 2-25-75; DEQ 132, f. & ef. 4-11-77; DEQ 7-1979, f. & ef. 4-20-79; DEQ 10-1985, f. & ef. 8-8-85; DEQ 22-1991, f. & cert. ef. 11-13-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-025-0510; DEQ 8-2007, f. & cert. ef. 11-8-07

340-234-0520

Particleboard Manufacturing Operations

(1) Truck Dump and Storage Areas:

(a) Every person operating or intending to operate a particleboard manufacturing plant shall cause all truck dump and storage areas holding or intended to hold raw materials to be enclosed to prevent windblown particle emissions from these areas from being deposited upon property not under the ownership of said person;

(b) The temporary storage of raw materials outside the regularly used areas of the plant site is prohibited unless the person who desires to tem-

porarily store such raw materials first notifies the Department of Environmental Quality and receives written approval for said storage:

(A) When authorized by the Department of Environment Quality, temporary storage areas shall be operated to prevent windblown particulate emissions from being deposited upon property not under the ownership of the person storing the raw materials;

(B) Any temporary storage areas authorized by the Department shall not be operated in excess of six (6) months from the date they are first authorized.

(c) Any person who proposes to control windblown particulate emissions from truck dump storage areas other than by enclosure shall apply to the Department for written authorization to utilize alternative controls. The application shall describe in detail the plan proposed to control windblown particulate emissions and indicate on a plot plan the nearest location of property not under ownership of the applicant.

(2) Other Emission Sources:

(a) The combined particulate emissions from particleboard plant sources including, but not limited to, hogs, chippers, and other material size reduction equipment, process or space ventilation systems, particle dryers, classifiers, presses, sanding machines, and materials handling systems must not exceed a plant specific average hourly emission rate (lbs/hr) determined by multiplying the plant production capacity by three pounds per 1000 square feet. The plant production capacity is the maximum production in terms of 1,000 square feet on a 3/4 inch basis of finished product for a typical operating shift divided by the number of hours in the operating shift.

(b) Excepted from subsection (2)(a) of this rule are truck dump and storage areas, fuel burning equipment, and refuse burning equipment.

(c) Compliance with the average hourly emission rate is determined by summing the emissions from the affected sources as determined by emission factor calculations or actual emissions data for a 24 hour period divided by 24.

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.

Stat. Auth.: ORS 468 & 468A

Stats. Implemented: ORS 468.020 & 468A.025

Hist.: DEQ 26, f. 3-31-71, ef. 4-25-71; DEQ 130, f. & ef. 3-22-77; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 4-1995, f. & cert. ef. 2-17-95; DEQ 3-1996, f. & cert. ef. 1-29-96; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-025-0320; DEQ 8-2007, f. & cert. ef. 11-8-07

340-234-0530

Hardboard Manufacturing Operations

(1) Truck Dump and Storage Areas:

(a) Every person operating or intending to operate a hardboard manufacturing plant shall cause all truck dump and storage areas holding or intended to hold raw materials to be enclosed to prevent windblown particle emissions from these areas from being deposited upon property not under the ownership of said person;

(b) The temporary storage of raw materials outside the regularly used areas of the plant site is prohibited unless the person who desires to temporarily store such raw materials first notifies the Department of Environmental Quality and receives written approval:

(A) When authorized by the Department of Environment Quality, temporary storage areas shall be operated to prevent windblown particulate emissions from being deposited upon property not under the ownership of the person storing the raw materials;

(B) Any temporary storage areas authorized by the Department shall not be operated in excess of six (6) months from the date they are first authorized.

(c) Alternative Means of Control. Any person who desires to control windblown particulate emissions from truck dump and storage areas other than by enclosure shall first apply to the Department for written authorization to utilize alternative controls. The application shall describe in detail the plan proposed to control windblown particulate emissions and indicate on a plot plan the nearest location of property not under ownership of the applicant.

(2) Other Emission Sources:

(a) For hardboard plants that did not exist during the baseline period, the combined particulate emissions from all emissions sources at the plant must not exceed a plant specific hourly average emission rate (lbs/hr) determined by multiplying the plant production capacity by one pound per 1,000 square feet of production. The plant production capacity is the maximum production in terms of 1000 square feet on a 1/8 inch finished basis for a typical operating shift divided by the number of hours in the operating shift.

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(b) For hardboard plants that existed during the baseline period, the combined particulate emissions from the plant must not exceed the lesser of:

(A) A plant specific hourly average emission rate (lbs/hr) determined by multiplying the plant production capacity by two pounds per 1,000 square feet of production. The plant production capacity is the maximum production in terms of 1,000 square feet on a 1/8 inch finished basis for a typical operating shift divided by the number of hours in the operating shift, or

(B) The sum of the baseline emissions rate (lbs/hr) of the press/cooling vent and the lesser of:

(i) The baseline emissions rate (lbs/hr) from all sources at the plant, excluding the press/cooling vents; or

(ii) A plant specific hourly average emission rate (lbs/hr) determined by multiplying the plant production capacity by one pound per 1,000 square feet of production. The plant production capacity is the maximum production in terms of 1,000 square feet on a 1/8 inch finished basis for a typical operating shift divided by the number of hours in the operating shift.

(c) Excepted from subsections (a) and (b) of this section are truck dump and storage areas, fuel burning equipment, and refuse burning equipment.

(d) Compliance with the average hourly emission rate is determined by summing the emissions from the affected sources as determined by emission factor calculations or actual emissions data for a 24 hour period divided by 24.

(3) Emissions from Hardboard Tempering Ovens:

(a) No person shall operate any hardboard tempering oven unless all gases and vapors emitted from said oven are treated in a fume incinerator capable of raising the temperature of said gases and vapors to at least 1500° F. for 0.3 seconds or longer;

(b) Specific operating temperatures lower than 1500° F. may be approved by the Department upon application, provided that information is supplied to show that operation of said temperatures provides sufficient treatment to prevent odors from being perceived on property not under the ownership of the person operating the hardboard plant;

(c) In no case shall fume incinerators installed pursuant to this section be operated at temperatures less than 1000° F.;

(d) Any person who proposes to control emissions from hardboard tempering ovens by means other than fume incineration shall apply to the Department for written authorization to utilize alternative controls. The application shall describe in detail the plan proposed to control odorous emissions and indicate on a plot plan the location of the nearest property not under ownership of the applicant.

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.

Stat. Auth.: ORS 468 & 468A

Stats. Implemented: ORS 468.020 & 468A.025

Hist.: DEQ 26, f. 3-31-71, ef. 4-25-71; DEQ 130, f. & ef. 3-22-77; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 4-1995, f. & cert. ef. 2-17-95; DEQ 3-1996, f. & cert. ef. 1-29-96; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-025-0325; DEQ 8-2007, f. & cert. ef. 11-8-07

340-236-0010

Definitions

The definitions in OAR 340-200-0020, 340-204-0010 and this rule apply to this division. If the same term is defined in this rule and OAR 340-200-0020 or 340-204-0010, the definition in this rule applies to this division.

(1) "All Sources" means:

(a) as used in OAR 340-236-0100 through 340-236-0150 sources including, but not limited to, the reduction process, alumina plant, anode plant, anode baking plant, cast house, and collection, treatment, and recovery systems. Except for the purposes of 340-236-0120(1)(c) and (3)(d), "all sources" does not include sources of fugitive emissions;

(b) as used in OAR 340-236-0200 through 340-236-0230 all equipment, structures, processes, and procedures directly related to or involved in the production of ferronickel from laterite ore excluding open storage areas and mining activities.

(2) "Annual Average" means the arithmetic average of the monthly averages reported to the Department during the twelve most recent consecutive months.

(3) "Anode Baking Plant" means the heating and sintering of pressed anode blocks in oven-like devices, including the loading and unloading of the oven-like devices.

(4) "Anode Plant" means all operations directly associated with the preparation of anode carbon except the anode baking operation.

(5) "Average Dry Laterite Ore Production Rate" means the average amount of dry laterite ore produced per hour based upon annual production records.

(6) "Collection Efficiency" means the overall performance of the air cleaning device in terms of ratio of material collected to total weight of input to the collector.

(7) "Commission" means Environmental Quality Commission.

(8) "Cured Forage" means hay, straw, ensilage that is consumed or is intended to be consumed by livestock.

(9) "Department" means Department of Environmental Quality.

(10) "Dusts" means minute solid particles released into the air by natural forces or by mechanical processes such as crushing, grinding, milling, drilling, demolishing, shoveling, conveying, covering, bagging, or sweeping.

(11) "Dry Laterite Ore" means laterite ore free of uncombined water or as it is discharged from an ore drying equipment or process.

(12) "Emission" means a release into the outdoor atmosphere of air contaminants.

(13) "Emission Standards" means the limitation on the release of contaminant or multiple contaminants to the ambient air.

(14) "Ferronickel" means a metallic alloy containing about 50 percent nickel and 50 percent iron.

(15) "Fluorides" means matter containing fluoride ion emitted to the ambient air as measured by EPA Method 13A or 13B and Method 14 in accordance with the Department's Source Sampling Manual.

(16) "Forage" means grasses, pasture, and other vegetation that is consumed or is intended to be consumed by livestock.

(17) "Fugitive emissions" means emissions of any air contaminant that escapes to the atmosphere from any point or area that is not identifiable as a stack, vent, duct, or equivalent opening.

(18) "Hot Mix Asphalt Plants" means those facilities and equipment which convey or batch load proportioned quantities of cold aggregate to a drier, and heat, dry, screen, classify, measure, and mix the aggregate with asphalt for purposes of paving, construction, industrial, residential, or commercial use.

(19) "Laterite Ore" means a red residual soil containing commercially valuable amounts of nickel, about one percent to two percent by weight.

(20) "Monthly Average" means the summation of the arithmetic average of all representative test results obtained during any calendar month and the emission rates established for sources not subject to routine testing.

(21) "Particulate Matter" means:

(a) as used in OAR 340-236-0100 through 340-236-0150 a small discrete mass of solid or liquid matter, but not including uncombined water emitted to the ambient air as measured by EPA Method 5 in accordance with the Department's Source Sampling Manual.

(b) As used in OAR 340-236-0200 through 340-236-0230 and 340-236-0400 through 340-236-0440 a small, discrete mass of solid or liquid matter, but not including uncombined water.

(22) "Primary Aluminum Plant" means those plants, which will or do operate for the purpose of, or related to, producing aluminum metal from aluminum oxide (alumina).

(23) "Portable Hot Mix Asphalt Plants" means those hot mix asphalt plants which are designed to be dismantled and are transported from one job site to another job site.

(24) "Pot Line Primary Emission Control Systems" means the system which collects and removes contaminants prior to the emission point. If there is more than one such system, the primary system is that system which is most directly related to the aluminum reduction cell.

(25) "Process Weight by Hour" means the total weight of all materials introduced into any specific process which process may cause any discharge into the atmosphere. Solid fuels charged will be considered as part of the process weight, but liquid and gaseous fuels and combustion air will not. The "process weight per hour" will be derived by dividing the total process weight by the number of hours in one complete operation from the beginning of any given process to the completion thereof, excluding any time during which the equipment is idle.

(26) "Regularly Scheduled Monitoring" means sampling and analyses in compliance with a program and schedule approved pursuant to OAR 340-236-0140.

(27) "Source test" means the average of at least three test runs conducted in accordance with the Department's Source Sampling Manual.

(28) "Standard Dry Cubic Foot of Gas" means that amount of the gas which would occupy a cube having dimensions of one foot on each side, if

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the gas were free of water vapor at a pressure of 14.7 P.S.I.A. and a temperature of 68° F.

(29) "Special Control Areas" means an area designated in OAR 340-204-0070 and:

(a) Any incorporated city or within six miles of the city limits of said incorporated city;

(b) Any area of the state within one mile of any structure or building used for a residence;

(c) Any area of the state within two miles straight line distance or air miles of any paved public road, highway, or freeway having a total of two or more traffic lanes.

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040 with the exception of fluoride requirements.

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

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: [DEQ 49, f. 2-9-73, ef. 3-1-73; DEQ 4-1993, f. & cert. ef. 3-10-93]; [DEQ 60, f. 12-5-73, ef. 12-25-73; DEQ 10-1982, f. & ef. 6-18-82; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 26-1995, f. & cert. ef. 12-6-95; DEQ 18-1998, f. & cert. ef. 10-5-98]; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-025-0105, 340-025-0260; DEQ 8-2007, f. & cert. ef. 11-8-07

340-236-0410

Control Facilities Required

(1) No person shall operate any hot mix asphalt plant, either portable or stationary, located within any area of the state outside special control areas unless all dusts and gaseous effluents generated by the plant are subjected to air cleaning device or devices having a particulate collection efficiency of at least 80 percent by weight.

(2) No person shall operate any hot mix asphalt plant, either portable or stationary located within any special control area of the state without installing and operating systems or processes for the control of particulate emissions so as to comply with the emission limits established by the process weight table, Table 1, attached herewith and by reference made a part of this rule. Hot mix asphalt plants are subject to the emission limitations in OAR 340-208-0110(2) and (3), and 340-226-0210, and 340-238-0060, as applicable.

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.

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

Stat. Auth.: ORS 468 & 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 49, f. 2-9-73, ef. 3-1-73; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-025-0110; DEQ 8-2007, f. & cert. ef. 11-8-07

Department of Fish and Wildlife Chapter 635

Rule Caption: Extension of Commercial Salmon Gill Net Season in Mainstem Columbia River.

Adm. Order No.: DFW 109-2007(Temp)

Filed with Sec. of State: 10-16-2007

Certified to be Effective: 10-17-07 thru 12-31-07

Notice Publication Date:

Rules Amended: 635-042-0060

Subject: Rule modifications extend the commercial gill net season in the Columbia River for retention and sale of Chinook and coho salmon in Zones 1 through 5. These modifications provide additional opportunities for the commercial gill net fleet to harvest part of their remaining allocation. Revisions are consistent with action taken October 16, 2007 by the Columbia River Compact.

Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-042-0060

Late Fall Salmon Season

(1) Chinook and Coho salmon may be taken by gill nets for commercial purposes from the Columbia River during the open fishing periods and areas identified in sections (2) and (3) below.

(2) In Zones 1-5: from the mouth of the Columbia River upstream to a line projected from a deadline marker on the Oregon bank (approximately four miles downstream from Bonneville Dam Powerhouse 1) in a straight line through the western tip of Pierce Island, to a deadline marker on the Washington bank at Beacon Rock the open fishing periods are:

(a) 7:00 p.m. Wednesday, October 10 to 7:00 a.m. Thursday, October 11, 2007 (12 hours);

(b) 7:00 p.m. Thursday, October 11 to 7:00 a.m. Friday, October 12, 2007 (12 hours);

(c) 7:00 p.m. Sunday, October 14 to 7:00 a.m. Monday, October 15, 2007 (12 hours);

(d) 7:00 p.m. Monday, October 15 to 7:00 a.m. Tuesday, October 16, 2007 (12 hours);

(e) 7:00 p.m. Tuesday, October 16 to 7:00 a.m. Wednesday, October 17, 2007 (12 hours);

(f) 7:00 p.m. Thursday, October 18 to 7:00 a.m. Friday, October 19, 2007 (12 hours);

(g) 7:00 p.m. Sunday, October 21 to 7:00 a.m. Monday, October 22, 2007 (12 hours); and

(h) 7:00 p.m. Tuesday, October 23 to 7:00 a.m. Wednesday, October 24, 2007 (12 hours).

(i) During the open fishing period identified in sections (2)(a) through (2)(h) above, gear is restricted to gill nets with a 8-inch minimum and 9.75-inch maximum mesh size.

(j) During the open fishing periods identified in sections (2)(a) through (2)(h) above, the Elokomina-A, Abernathy, Cowlitz, Kalama-A, Lewis-A, Sandy and Washougal rivers sanctuaries are in effect.

(3) In Zones 1-3: from the mouth of the Columbia River upstream to a line projected true west from the east or upstream bank of the Lewis River mouth in Washington the open fishing periods are:

(a) 7:00 a.m. to 7:00 p.m. Thursday, October 11, 2007 (12 hours) and (b) 1:00 p.m. to 7:00 p.m. Wednesday, October 17, 2007 (6 hours).

(3)(b) above, the Elokomina-A, Abernathy, Cowlitz, Kalama-A, and Lewis-A sanctuaries are in effect.

(c) During the open fishing period identified in sections (3)(a) and (3)(b) above, gear is restricted to gill nets with a 9.75-inch maximum mesh size.

(4) During the open fishing periods identified in sections (2) and (3) above:

(a) It is legal to have onboard a commercial vessel more than one net as long as all nets are of legal size for this fishery, or have a minimum mesh size of 9 inches, and the length of any one net does not exceed 1,500 feet; and

(b) Nets not specifically authorized for use in this fishery may be onboard the vessel if properly stored.

(5) Retention or sale of green or white sturgeon is prohibited.

Stat. Auth.: ORS 496.118, 506.109

Stats. Implemented: ORS 506.109, 506.129 & 507.030

Hist.: FWC 40-1979, f. & ef. 9-10-79; FWC 45-1979(Temp), f. & ef. 9-21-79; FWC 52-1979(Temp), f. & ef. 11-2-79; FWC 48-1980(Temp), f. & ef. 9-19-80; FWC 51-1980(Temp), f. & ef. 9-22-80; FWC 55-1980(Temp), f. & ef. 9-26-80; FWC 56-1980(Temp), f. & ef. 9-29-80; FWC 58-1980(Temp), f. & ef. 10-17-80; FWC 37-1981(Temp), f. & ef. 9-24-81; FWC 38-1981(Temp), f. & ef. 9-29-81; FWC 69-1982(Temp), f. & ef. 9-30-82; FWC 72-1982(Temp), f. & ef. 10-20-82; FWC 56-1983(Temp), f. & ef. 10-5-83; FWC 54-1984(Temp), f. & ef. 9-10-84; FWC 59-1984(Temp), f. & ef. 9-18-84; FWC 66-1984(Temp), f. & ef. 9-26-84; FWC 68-1984(Temp), f. & ef. 10-2-84; FWC 58-1985(Temp), f. & ef. 9-13-85; FWC 62-1985(Temp), f. & ef. 9-24-85; FWC 66-1985(Temp), f. & ef. 10-11-85; FWC 54-1986(Temp), f. & ef. 9-5-86; FWC 64-1986(Temp), f. & ef. 10-3-86; FWC 67-1986(Temp), f. & ef. 10-17-86; FWC 74-1987(Temp), f. & ef. 9-4-87; FWC 75-1987(Temp), f. & ef. 9-11-87; FWC 80-1987(Temp), f. & ef. 9-18-87; FWC 87-1987(Temp), f. & ef. 10-9-87; FWC 91-1987(Temp), f. & ef. 10-16-87; FWC 85-1988(Temp), f. & cert. ef. 9-9-88; FWC 93-1988(Temp), f. & cert. ef. 9-16-88; FWC 99-1988(Temp), f. & cert. ef. 10-7-88; FWC 100-1988(Temp), f. & cert. ef. 10-24-88; FWC 94-1989(Temp), f. & ef. 9-15-89, cert. ef. 9-17-89; FWC 97-1989(Temp), f. & cert. ef. 9-21-89; FWC 109-1989(Temp), f. & cert. ef. 10-6-89; FWC 113-1989(Temp), f. & cert. ef. 11-9-89; FWC 100-1990(Temp), f. & cert. ef. 9-18-90; FWC 101-1990(Temp), f. & cert. ef. 9-19-90; FWC 102-1990(Temp), f. & cert. ef. 9-20-90; FWC 114-1990, f. & cert. ef. 10-8-90; FWC 105-1991, f. & cert. ef. 9-20-91; FWC 118-1991, f. & cert. ef. 10-4-91; FWC 122-1991(Temp), f. & cert. ef. 10-18-91; FWC 129-1991(Temp), f. & cert. ef. 11-1-91, cert. ef. 11-3-91; FWC 97-1992(Temp), f. & cert. ef. 9-22-92; FWC 100-1992(Temp), f. & cert. ef. 9-25-92, cert. ef. 9-27-92; FWC 107-1992(Temp), f. & cert. ef. 10-9-92; FWC 109-1992(Temp), f. & cert. ef. 10-20-92; FWC 110-1992(Temp), f. & cert. ef. 10-22-92; FWC 80-1995(Temp), f. & cert. ef. 10-9-95; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 58-1996(Temp), f. & cert. ef. 9-30-96; FWC 60-1996(Temp), f. & cert. ef. 10-7-96; FWC 62(Temp), f. & cert. ef. 10-18-96, cert. ef. 10-21-96; FWC 61-1997(Temp), f. & cert. ef. 9-23-97, cert. ef. 9-24-97; FWC 62-1997(Temp), f. & cert. ef. 10-6-97; FWC 64-1997(Temp), f. & cert. ef. 10-14-97; FWC 65-1997(Temp), f. & cert. ef. 10-20-97; FWC 68-1997(Temp), f. & cert. ef. 11-3-97; DFW 79-1999(Temp), f. & cert. ef. 10-8-99, cert. ef. 10-11-99 thru 12-31-99; DFW 83-1999(Temp), f. & cert. ef. 10-26-99, cert. ef. 10-27-99 thru 12-31-99; DFW 87-1999(Temp), f. & cert. ef. 11-4-99 thru 11-5-99; Administrative correction 11-17-99; DFW 62-2000(Temp), f. & cert. ef. 9-15-00, cert. ef. 9-19-00 thru 12-31-00; DFW 68-2000(Temp), f. & cert. ef. 10-6-00, cert. ef. 10-9-00 thru 12-31-00; DFW 71-2000(Temp), f. & cert. ef. 10-20-00, cert. ef. 10-23-00 thru 12-31-00; DFW 74-2000(Temp), f. & cert. ef. 10-27-00, cert. ef. 10-30-00 thru 12-31-00; Administrative correction 6-20-01; DFW 89-2001(Temp), 9-14-01 thru 12-31-01; DFW 92-2001(Temp), f. & cert. ef. 9-19-01 thru 12-31-01; DFW 93-2001(Temp), f. & cert. ef. 9-21-01, cert. ef. 9-24-01 thru 12-31-01; DFW 98-2001(Temp), f. & cert. ef. 10-8-01, cert. ef. 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 104-2002(Temp), f. & cert. ef. 9-19-02 thru 12-31-02; DFW 106-2002(Temp), f. & cert. ef. 9-24-02 thru 12-31-02; DFW 109-2002(Temp), f. & cert. ef. 9-27-02 thru 12-31-02; DFW 112-2002(Temp), f. & cert. ef. 10-10-02, cert. ef. 10-14-02 thru 12-31-02; DFW 122-2002(Temp), f. & cert. ef. 10-24-02, cert. ef. 10-28-02 thru 12-31-02; DFW 92-2003(Temp), f. & cert. ef. 9-12-03, cert. ef. 9-15-03 thru 12-31-03; DFW 95-2003(Temp), f. & cert. ef. 9-17-03 thru 12-31-03; DFW 98-2003(Temp), f. & cert. ef. 9-22-03, cert. ef. 9-23-03 thru 12-31-03; DFW 105-2003(Temp), f. & cert. ef. 10-10-03, cert. ef. 10-12-03 thru 12-31-03;

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Notice Publication Date:

Rules Amended: 635-042-0060

Subject: Rule modifications extend the commercial gill net season in the Columbia River for retention and sale of Chinook and coho salmon in Zones 1 through 5. These modifications provide additional opportunities for the commercial gill net fleet to harvest part of their remaining allocation. Revisions are consistent with action taken October 22, 2007 by the Columbia River Compact.

Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-042-0060

Late Fall Salmon Season

(1) Chinook and Coho salmon may be taken by gill nets for commercial purposes from the Columbia River during the open fishing periods and areas identified in sections (2) and (3) below.

(2) In Zones 1-5: from the mouth of the Columbia River upstream to a line projected from a deadline marker on the Oregon bank (approximately four miles downstream from Bonneville Dam Powerhouse 1) in a straight line through the western tip of Pierce Island, to a deadline marker on the Washington bank at Beacon Rock the open fishing periods are:

(a) 7:00 p.m. Wednesday, October 10 to 7:00 a.m. Thursday, October 11, 2007 (12 hours);

(b) 7:00 p.m. Thursday, October 11 to 7:00 a.m. Friday, October 12, 2007 (12 hours);

(c) 7:00 p.m. Sunday, October 14 to 7:00 a.m. Monday, October 15, 2007 (12 hours);

(d) 7:00 p.m. Monday, October 15 to 7:00 a.m. Tuesday, October 16, 2007 (12 hours);

(e) 7:00 p.m. Tuesday, October 16 to 7:00 a.m. Wednesday, October 17, 2007 (12 hours);

(f) 7:00 p.m. Thursday, October 18 to 7:00 a.m. Friday, October 19, 2007 (12 hours);

(g) 7:00 p.m. Sunday, October 21 to 7:00 a.m. Monday, October 22, 2007 (12 hours);

(h) 7:00 p.m. Tuesday, October 23 to 7:00 a.m. Wednesday, October 24, 2007 (12 hours);

(i) 7:00 p.m. Wednesday, October 24 to 7:00 a.m. Thursday, October 25, 2007 (12 hours); and

(j) 7:00 p.m. Thursday, October 25 to 7:00 a.m. Friday, October 26, 2007 (12 hours).

(k) During the open fishing period identified in sections (2)(a) through (2)(j) above, gear is restricted to gill nets with a 8-inch minimum and 9.75-inch maximum mesh size.

(l) During the open fishing periods identified in sections (2)(a) through (2)(j) above, the Elokomina-A, Abernathy, Cowlitz, Kalama-A, Lewis-A, Sandy and Washougal rivers sanctuaries are in effect.

(3) In Zones 1-3: from the mouth of the Columbia River upstream to a line projected true west from the east or upstream bank of the Lewis River mouth in Washington the open fishing periods are:

(a) 7:00 a.m. to 7:00 p.m. Thursday, October 11, 2007 (12 hours);

(b) 1:00 p.m. to 7:00 p.m. Wednesday, October 17, 2007 (6 hours); and

(c) 7:00 a.m. to 7:00 p.m. Tuesday, October 23, 2007 (12 hours).

(d) During the open fishing period identified in sections (3)(a) through (3)(c) above, the Elokomina-A, Abernathy, Cowlitz, Kalama-A, and Lewis-A sanctuaries are in effect.

(e) During the open fishing period identified in sections (3)(a) through (3)(c) above, gear is restricted to gill nets with a 9.75-inch maximum mesh size.

(4) During the open fishing periods identified in sections (2) and (3) above:

(a) It is legal to have onboard a commercial vessel more than one net as long as all nets are of legal size for this fishery, or have a minimum mesh size of 9 inches, and the length of any one net does not exceed 1,500 feet; and

(b) Nets not specifically authorized for use in this fishery may be onboard the vessel if properly stored.

(5) Retention or sale of green or white sturgeon is prohibited.

Stat. Auth.: ORS 496.118, 506.109

Stats. Implemented: ORS 506.109, 506.129 & 507.030

Hist.: FWC 40-1979, f. & ef. 9-10-79; FWC 45-1979(Temp), f. & ef. 9-21-79; FWC 52-1979(Temp), f. & ef. 11-2-79; FWC 48-1980(Temp), f. & ef. 9-19-80; FWC 51-1980(Temp), f. & ef. 9-22-80; FWC 55-1980(Temp), f. & ef. 9-26-80; FWC 56-1980(Temp), f. & ef. 9-29-80; FWC 58-1980(Temp), f. & ef. 10-17-80; FWC 37-1981(Temp), f. & ef. 9-24-81; FWC 38-1981(Temp), f. & ef. 9-29-81; FWC 69-1982(Temp), f. & ef. 9-30-82; FWC 72-1982(Temp), f. & ef. 10-20-82; FWC 56-1983(Temp), f. & ef. 10-5-83; FWC 54-1984(Temp), f. & ef. 9-10-84; FWC 59-1984(Temp), f. & ef. 9-18-84; FWC 66-1984(Temp),

f. & ef. 9-26-84; FWC 68-1984(Temp), f. & ef. 10-2-84; FWC 58-1985(Temp), f. & ef. 9-13-85; FWC 62-1985(Temp), f. & ef. 9-24-85; FWC 66-1985(Temp), f. & ef. 10-11-85; FWC 54-1986(Temp), f. & ef. 9-5-86; FWC 64-1986(Temp), f. & ef. 10-3-86; FWC 67-1986(Temp), f. & ef. 10-17-86; FWC 74-1987(Temp), f. & ef. 9-4-87; FWC 75-1987(Temp), f. & ef. 9-11-87; FWC 80-1987(Temp), f. & ef. 9-18-87; FWC 87-1987(Temp), f. & ef. 10-9-87; FWC 91-1987(Temp), f. & ef. 10-16-87; FWC 85-1988(Temp), f. & ef. 9-9-88; FWC 93-1988(Temp), f. & cert. ef. 9-16-88; FWC 99-1988(Temp), f. & cert. ef. 10-7-88; FWC 100-1988(Temp), f. & cert. ef. 10-21-88, cert. ef. 10-24-88; FWC 94-1989(Temp), f. & cert. ef. 9-17-89; FWC 97-1989(Temp), f. & cert. ef. 9-21-89; FWC 109-1989(Temp), f. & cert. ef. 10-6-89; FWC 113-1989(Temp), f. & cert. ef. 11-9-89; FWC 100-1990(Temp), f. & cert. ef. 9-18-90; FWC 101-1990(Temp), f. & cert. ef. 9-19-90; FWC 102-1990(Temp), f. & cert. ef. 9-20-90; FWC 114-1990, f. & cert. ef. 10-8-90; FWC 105-1991, f. & cert. ef. 9-20-91; FWC 118-1991, f. & cert. ef. 10-4-91; FWC 122-1991(Temp), f. & cert. ef. 10-18-91; FWC 129-1991(Temp), f. & cert. ef. 11-1-91, cert. ef. 11-3-91; FWC 97-1992(Temp), f. & cert. ef. 9-22-92; FWC 100-1992(Temp), f. & cert. ef. 9-25-92, cert. ef. 9-27-92; FWC 107-1992(Temp), f. & cert. ef. 10-9-92; FWC 109-1992(Temp), f. & cert. ef. 10-19-92, cert. ef. 10-20-92; FWC 110-1992(Temp), f. & cert. ef. 10-22-92; FWC 80-1995(Temp), f. & cert. ef. 9-27-95, cert. ef. 10-9-95; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 58-1996(Temp), f. & cert. ef. 9-27-96, cert. ef. 9-30-96; FWC 60-1996(Temp), f. & cert. ef. 10-7-96; FWC 62(Temp), f. & cert. ef. 10-18-96, cert. ef. 10-21-96; FWC 61-1997(Temp), f. & cert. ef. 9-23-97, cert. ef. 9-24-97; FWC 62-1997(Temp), f. & cert. ef. 10-6-97; FWC 64-1997(Temp), f. & cert. ef. 10-14-97; FWC 65-1997(Temp), f. & cert. ef. 10-20-97; FWC 68-1997(Temp), f. & cert. ef. 11-3-97; DFW 79-1999(Temp), f. & cert. ef. 10-8-99, cert. ef. 10-11-99 thru 12-31-99; DFW 83-1999(Temp), f. & cert. ef. 10-27-99 thru 12-31-99; DFW 87-1999(Temp), f. & cert. ef. 11-4-99 thru 11-5-99; Administrative correction 11-17-99; DFW 62-2000(Temp), f. & cert. ef. 9-15-00, cert. ef. 9-19-00 thru 12-31-00; DFW 68-2000(Temp), f. & cert. ef. 10-6-00, cert. ef. 10-9-00 thru 12-31-00; DFW 71-2000(Temp), f. & cert. ef. 10-23-00 thru 12-31-00; DFW 74-2000(Temp), f. & cert. ef. 10-27-00, cert. ef. 10-30-00 thru 12-31-00; Administrative correction 6-20-01; DFW 89-2001(Temp), 9-14-01 thru 12-31-01; DFW 92-2001(Temp), f. & cert. ef. 9-19-01 thru 12-31-01; DFW 93-2001(Temp), f. & cert. ef. 9-21-01, cert. ef. 9-24-01 thru 12-31-01; DFW 98-2001(Temp), f. & cert. ef. 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 104-2002(Temp), f. & cert. ef. 9-19-02 thru 12-31-02; DFW 106-2002(Temp), f. & cert. ef. 9-24-02 thru 12-31-02; DFW 109-2002(Temp), f. & cert. ef. 9-27-02 thru 12-31-02; DFW 112-2002(Temp), f. & cert. ef. 10-10-02, cert. ef. 10-14-02 thru 12-31-02; DFW 122-2002(Temp), f. & cert. ef. 10-24-02, cert. ef. 10-28-02 thru 12-31-02; DFW 92-2003(Temp), f. & cert. ef. 9-12-03, cert. ef. 9-15-03 thru 12-31-03; DFW 95-2003(Temp), f. & cert. ef. 9-17-03 thru 12-31-03; DFW 98-2003(Temp), f. & cert. ef. 9-22-03, cert. ef. 9-23-03 thru 12-31-03; DFW 105-2003(Temp), f. & cert. ef. 10-10-03, cert. ef. 10-12-03 thru 12-31-03; DFW 107-2003(Temp), f. & cert. ef. 10-21-03, cert. ef. 10-26-03 thru 12-31-03; DFW 95-2004(Temp), f. & cert. ef. 9-19-04 thru 12-31-04; DFW 98-2004(Temp), f. & cert. ef. 9-22-04 thru 12-31-04; DFW 99-2004(Temp), f. & cert. ef. 9-24-04 thru 12-31-04; DFW 101-2004(Temp), f. & cert. ef. 9-29-04 thru 12-31-04; DFW 102-2004(Temp), f. & cert. ef. 10-1-04, cert. ef. 10-4-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; Administrative correction, 2-18-05; 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 113-2005(Temp), f. & cert. ef. 9-28-05 thru 12-31-05; DFW 116-2005(Temp), f. & cert. ef. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; DFW 126-2005(Temp), f. & cert. ef. 10-21-05, cert. ef. 10-23-05 thru 12-31-05; Administrative correction 1-19-06; DFW 102-2006(Temp), f. & cert. ef. 9-15-06, cert. ef. 9-19-06 thru 12-31-06; DFW 106-2006(Temp), f. & cert. ef. 9-22-06, cert. ef. 9-25-06 thru 12-31-06; DFW 111-2006(Temp), f. & cert. ef. 9-29-06, cert. ef. 10-2-06 thru 12-31-06; DFW 112-2006(Temp), f. & cert. ef. 10-4-06, cert. ef. 10-8-06 thru 12-31-06; DFW 114-2006(Temp), f. & cert. ef. 10-12-06 thru 12-31-06; DFW 120-2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; DFW 91-2007(Temp), f. & cert. ef. 9-18-07, cert. ef. 9-19-07 thru 12-31-07; DFW 94-2007(Temp), f. & cert. ef. 9-21-07, cert. ef. 9-24-07 thru 12-31-07; DFW 97-2007(Temp), f. & cert. ef. 9-25-07, cert. ef. 9-26-07 thru 12-31-07; DFW 98-2007(Temp), f. & cert. ef. 9-26-07, cert. ef. 9-27-07 thru 12-31-07; DFW 99-2007(Temp), f. & cert. ef. 10-1-07 thru 12-31-07; DFW 104-2007(Temp), f. & cert. ef. 10-3-07 thru 12-31-07; DFW 107-2007(Temp), f. & cert. ef. 10-10-07 thru 12-31-07; DFW 109-2007(Temp), f. & cert. ef. 10-16-07, cert. ef. 10-17-07 thru 12-31-07; DFW 111-2007(Temp), f. & cert. ef. 10-22-07, cert. ef. 10-23-07 thru 12-31-07

Rule Caption: Mainstem Columbia River Commercial Salmon Gill Net Season Extended.

Adm. Order No.: DFW 112-2007(Temp)

Filed with Sec. of State: 10-24-2007

Certified to be Effective: 10-25-07 thru 12-31-07

Notice Publication Date:

Rules Amended: 635-042-0060

Subject: Rule modifications extend the commercial gill net season in the Columbia River for retention and sale of Chinook and coho salmon in Zones 1 through 5. These modifications provide additional opportunities for the commercial gill net fleet to harvest part of their remaining allocation. Revisions are consistent with action taken October 24, 2007 by the Columbia River Compact.

Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-042-0060

Late Fall Salmon Season

(1) Chinook and Coho salmon may be taken by gill nets for commercial purposes from the Columbia River during the open fishing periods and areas identified in sections (2) and (3) below.

(2) In Zones 1-5: from the mouth of the Columbia River upstream to a line projected from a deadline marker on the Oregon bank (approximately four miles downstream from Bonneville Dam Powerhouse 1) in a straight line through the western tip of Pierce Island, to a deadline marker on the Washington bank at Beacon Rock the open fishing periods are:

(a) 7:00 p.m. Wednesday, October 10 to 7:00 a.m. Thursday, October 11, 2007 (12 hours);

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(b) 7:00 p.m. Thursday, October 11 to 7:00 a.m. Friday, October 12, 2007 (12 hours);

(c) 7:00 p.m. Sunday, October 14 to 7:00 a.m. Monday, October 15, 2007 (12 hours);

(d) 7:00 p.m. Monday, October 15 to 7:00 a.m. Tuesday, October 16, 2007 (12 hours);

(e) 7:00 p.m. Tuesday, October 16 to 7:00 a.m. Wednesday, October 17, 2007 (12 hours);

(f) 7:00 p.m. Thursday, October 18 to 7:00 a.m. Friday, October 19, 2007 (12 hours);

(g) 7:00 p.m. Sunday, October 21 to 7:00 a.m. Monday, October 22, 2007 (12 hours);

(h) 7:00 p.m. Tuesday, October 23 to 7:00 a.m. Wednesday, October 24, 2007 (12 hours);

(i) 7:00 p.m. Wednesday, October 24 to 7:00 a.m. Thursday, October 25, 2007 (12 hours); and

(j) 7:00 p.m. Thursday, October 25 to 7:00 a.m. Friday, October 26, 2007 (12 hours).

(k) During the open fishing period identified in sections (2)(a) through (2)(j) above, gear is restricted to gill nets with a 8-inch minimum and 9.75-inch maximum mesh size.

(l) During the open fishing periods identified in sections (2)(a) through (2)(j) above, the Elokomina-A, Abernathy, Cowlitz, Kalama-A, Lewis-A, Sandy and Washougal rivers sanctuaries are in effect.

(3) In Zones 1-3: from the mouth of the Columbia River upstream to a line projected true west from the east or upstream bank of the Lewis River mouth in Washington the open fishing periods are:

(a) 7:00 a.m. to 7:00 p.m. Thursday, October 11, 2007 (12 hours);

(b) 1:00 p.m. to 7:00 p.m. Wednesday, October 17, 2007 (6 hours);

(c) 7:00 a.m. to 7:00 p.m. Tuesday, October 23, 2007 (12 hours); and

(d) 7:00 a.m. to 3:00 p.m. Thursday, October 25, 2007 (8 hours).

(e) During the open fishing period identified in sections (3)(a) through (3)(d) above, the Elokomina-A, Abernathy, Cowlitz, Kalama-A, and Lewis-A sanctuaries are in effect.

(f) During the open fishing period identified in sections (3)(a) through (3)(d) above, gear is restricted to gill nets with a 9.75-inch maximum mesh size.

(4) In Zones 4-5: from a line projected true west from the east or upstream bank of the Lewis River in Washington, upstream to a line projected from a deadline marker on the Oregon bank (approximately four miles downstream from Bonneville Dam Powerhouse 1) in a straight line through the western tip of Pierce Island, to a deadline marker on the Washington bank at Beacon Rock the open fishing periods are:

(a) 7:00 p.m. Sunday, October 28 to 7:00 a.m. Monday, October 29, 2007 (12 hours); and

(b) 7:00 p.m. Tuesday, October 30 to 7:00 a.m. Wednesday, October 31, 2007 (12 hours).

(c) During the open fishing periods identified in sections (4)(a) and (4)(b) above, gear is restricted to gill nets with an 8-inch minimum and 9.75-inch maximum mesh size.

(d) Lewis-A, Sandy and Washougal River sanctuaries are in effect.

(5) During the open fishing periods identified in sections (2), (3) and (4) above:

(a) It is illegal to have onboard a commercial vessel more than one net as long as all nets are of legal size for this fishery, or have a minimum mesh size of 9 inches, and the length of any one net does not exceed 1,500 feet; and

(b) Nets not specifically authorized for use in this fishery may be onboard the vessel if properly stored.

(6) Retention or sale of green or white sturgeon is prohibited.

Stat. Auth.: ORS 496.118, 506.109

Stats. Implemented: ORS 506.109, 506.129 & 507.030

Hist.: FWC 40-1979, f. & ef. 9-10-79; FWC 45-1979(Temp), f. & ef. 9-21-79; FWC 52-1979(Temp), f. & ef. 11-2-79; FWC 48-1980(Temp), f. & ef. 9-19-80; FWC 51-1980(Temp), f. & ef. 9-22-80; FWC 55-1980(Temp), f. & ef. 9-26-80; FWC 56-1980(Temp), f. & ef. 9-29-80; FWC 58-1980(Temp), f. & ef. 10-17-80; FWC 37-1981(Temp), f. & ef. 9-24-81; FWC 38-1981(Temp), f. & ef. 9-29-81; FWC 69-1982(Temp), f. & ef. 9-30-82; FWC 72-1982(Temp), f. & ef. 10-20-82; FWC 56-1983(Temp), f. & ef. 10-5-83; FWC 54-1984(Temp), f. & ef. 9-10-84; FWC 59-1984(Temp), f. & ef. 9-18-84; FWC 66-1984(Temp), f. & ef. 9-26-84; FWC 68-1984(Temp), f. & ef. 10-2-84; FWC 58-1985(Temp), f. & ef. 9-13-85; FWC 62-1985(Temp), f. & ef. 9-24-85; FWC 66-1985(Temp), f. & ef. 10-11-85; FWC 54-1986(Temp), f. & ef. 9-5-86; FWC 64-1986(Temp), f. & ef. 10-3-86; FWC 67-1986(Temp), f. & ef. 10-17-86; FWC 74-1987(Temp), f. & ef. 9-4-87; FWC 75-1987(Temp), f. & ef. 9-11-87; FWC 80-1987(Temp), f. & ef. 9-18-87; FWC 87-1987(Temp), f. & ef. 10-9-87; FWC 91-1987(Temp), f. & ef. 10-16-87; FWC 85-1988(Temp), f. & ef. 9-9-88; FWC 93-1988(Temp), f. & ef. 9-16-88; FWC 66-1988(Temp), f. & ef. 10-7-88; FWC 100-1988(Temp), f. & ef. 10-21-88, cert. ef. 10-24-88; FWC 94-1989(Temp), f. & ef. 9-15-89, cert. ef. 9-17-89; FWC 97-1989(Temp), f. & ef. 9-21-89; FWC 109-1989(Temp), f. & ef. 10-6-89; FWC 113-1989(Temp), f. & ef. 11-9-89; FWC 100-1990(Temp), f. & ef. 9-18-90; FWC 101-1990(Temp), f. & ef. 9-19-90; FWC 102-1990(Temp), f. &

cert. ef. 9-20-90; FWC 114-1990, f. & ef. 10-8-90; FWC 105-1991, f. & ef. 9-20-91; FWC 118-1991, f. & ef. 10-4-91; FWC 122-1991(Temp), f. & ef. 10-18-91; FWC 129-1991(Temp), f. & ef. 11-1-91, cert. ef. 11-3-91; FWC 97-1992(Temp), f. & ef. 9-22-92; FWC 100-1992(Temp), f. & ef. 9-25-92, cert. ef. 9-27-92; FWC 107-1992(Temp), f. & ef. 10-9-92; FWC 109-1992(Temp), f. & ef. 10-19-92, cert. ef. 10-20-92; FWC 110-1992(Temp), f. & ef. 10-22-92; FWC 80-1995(Temp), f. & ef. 9-27-95, cert. ef. 10-9-95; FWC 46-1996, f. & ef. 8-23-96; FWC 58-1996(Temp), f. & ef. 9-27-96, cert. ef. 9-30-96; FWC 60-1996(Temp), f. & ef. 10-7-96; FWC 62(Temp), f. & ef. 10-18-96, cert. ef. 10-21-96; FWC 61-1997(Temp), f. & ef. 9-23-97, cert. ef. 9-24-97; FWC 62-1997(Temp), f. & ef. 10-6-97; FWC 64-1997(Temp), f. & ef. 10-14-97; FWC 65-1997(Temp), f. & ef. 10-20-97; FWC 68-1997(Temp), f. & ef. 11-3-97; FWC 79-1999(Temp), f. & ef. 10-8-99, cert. ef. 10-11-99 thru 12-31-99; DFW 83-1999(Temp), f. & ef. 10-26-99, cert. ef. 10-27-99 thru 12-31-99; DFW 87-1999(Temp), f. & ef. 11-4-99 thru 11-5-99; Administrative correction 11-17-99; DFW 62-2000(Temp), f. & ef. 9-15-00, cert. ef. 9-19-00 thru 12-31-00; DFW 68-2000(Temp), f. & ef. 10-6-00, cert. ef. 10-9-00 thru 12-31-00; DFW 71-2000(Temp), f. & ef. 10-20-00, cert. ef. 10-23-00 thru 12-31-00; DFW 74-2000(Temp), f. & ef. 10-27-00, cert. ef. 10-30-00 thru 12-31-00; Administrative correction 6-20-01; DFW 89-2001(Temp), 9-14-01 thru 12-31-01; DFW 92-2001(Temp), f. & ef. 9-19-01 thru 12-31-01; DFW 93-2001(Temp), f. & ef. 9-21-01, cert. ef. 9-24-01 thru 12-31-01; DFW 98-2001(Temp), f. & ef. 10-8-01, cert. ef. 12-31-01; DFW 106-2001(Temp), f. & ef. 10-26-01 thru 12-31-01; DFW 104-2002(Temp), f. & ef. 9-19-02 thru 12-31-02; DFW 106-2002(Temp), f. & ef. 9-24-02 thru 12-31-02; DFW 109-2002(Temp), f. & ef. 9-27-02 thru 12-31-02; DFW 112-2002(Temp), f. & ef. 10-10-02, cert. ef. 10-14-02 thru 12-31-02; DFW 122-2002(Temp), f. & ef. 10-24-02, cert. ef. 10-28-02 thru 12-31-02; DFW 92-2003(Temp), f. & ef. 9-12-03, cert. ef. 9-15-03 thru 12-31-03; DFW 95-2003(Temp), f. & ef. 9-17-03 thru 12-31-03; DFW 98-2003(Temp), f. & ef. 9-22-03, cert. ef. 9-23-03 thru 12-31-03; DFW 105-2003(Temp), f. & ef. 10-12-03, cert. ef. 10-12-03 thru 12-31-03; DFW 107-2003(Temp), f. & ef. 10-21-03, cert. ef. 10-26-03 thru 12-31-03; DFW 95-2004(Temp), f. & ef. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 98-2004(Temp), f. & ef. 9-22-04 thru 12-31-04; DFW 99-2004(Temp), f. & ef. 9-24-04 thru 12-31-04; DFW 101-2004(Temp), f. & ef. 9-29-04 thru 12-31-04; DFW 102-2004(Temp), f. & ef. 10-1-04, cert. ef. 10-4-04 thru 12-31-04; DFW 109-2004(Temp), f. & ef. 10-19-04 thru 12-31-04; Administrative correction, 2-18-05; DFW 109-2005(Temp), f. & ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & ef. 9-26-05 thru 12-31-05; DFW 113-2005(Temp), f. & ef. 9-28-05 thru 12-31-05; DFW 116-2005(Temp), f. & ef. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & ef. 10-18-05 thru 12-31-05; DFW 126-2005(Temp), f. & ef. 10-21-05, cert. ef. 10-23-05 thru 12-31-05; Administrative correction 1-19-06; DFW 102-2006(Temp), f. & ef. 9-15-06, cert. ef. 9-19-06 thru 12-31-06; DFW 106-2006(Temp), f. & ef. 9-22-06, cert. ef. 9-25-06 thru 12-31-06; DFW 111-2006(Temp), f. & ef. 9-29-06, cert. ef. 10-2-06 thru 12-31-06; DFW 112-2006(Temp), f. & ef. 10-4-06, cert. ef. 10-8-06 thru 12-31-06; DFW 114-2006(Temp), f. & ef. 10-12-06 thru 12-31-06; DFW 120-2006(Temp), f. & ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; DFW 91-2007(Temp), f. & ef. 9-18-07, cert. ef. 9-19-07 thru 12-31-07; DFW 94-2007(Temp), f. & ef. 9-21-07, cert. ef. 9-24-07 thru 12-31-07; DFW 97-2007(Temp), f. & ef. 9-25-07, cert. ef. 9-26-07 thru 12-31-07; DFW 98-2007(Temp), f. & ef. 9-26-07, cert. ef. 9-27-07 thru 12-31-07; DFW 99-2007(Temp), f. & ef. 9-28-07, cert. ef. 10-1-07 thru 12-31-07; DFW 104-2007(Temp), f. & ef. 10-3-07 thru 12-31-07; DFW 107-2007(Temp), f. & ef. 10-10-07 thru 12-31-07; DFW 109-2007(Temp), f. & ef. 10-16-07, cert. ef. 10-17-07 thru 12-31-07; DFW 111-2007(Temp), f. & ef. 10-22-07, cert. ef. 10-23-07 thru 12-31-07; DFW 112-2007(Temp), f. & ef. 10-24-07, cert. ef. 10-25-07 thru 12-31-07

Rule Caption: Commercial ocean Dungeness crab fishery requirements for fishing gear, reporting and permit transactions.

Adm. Order No.: DFW 113-2007

Filed with Sec. of State: 10-25-2007

Certified to be Effective: 10-25-07

Notice Publication Date: 10-1-2007

Rules Amended: 635-005-0055

Rules Repealed: 635-005-0055(T)

Subject: Amended rule relates to commercial Dungeness crab fisheries. The modifications will provide Dungeness crab permit holders additional opportunities to adjust to crab pot limits through changes in permit transfer requirements and permit stacking. Modifications allow collection of important fishery information by the Department needed to: Maintain a sustainable fishery, evaluate the effects of pot limits on the fishery, and assess the impacts of marine development projects and designation of special areas on the crab fishery and resource.

Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-005-0055

Fishing Gear

It is *unlawful* for commercial purposes to:

(1) Take crab by any means other than crab rings or crab pots (ORS 509.415); a crab ring is any fishing device that allows crab unrestricted entry or exit while fishing.

(2) Possess on a vessel, use, control, or operate any crab pot which is greater than thirteen cubic feet in volume, calculated using external dimensions.

(3) Possess on a vessel, use, control, or operate any crab pot which does not include a minimum of two circular escape ports of at least 4-1/4 inches inside diameter located on the top or side of the pot. If escape ports are placed on the side of the pot, they shall be located in the upper half of the pot.

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(4) Possess on a vessel, use, control, or operate any crab pot which does not have a release mechanism. Acceptable release mechanisms are:

(a) Iron lid strap hooks constructed of iron or "mild" steel rod (not stainless steel) not to exceed 1/4-inch (6mm) in diameter;

(b) A single loop of untreated cotton or other natural fiber twine, or other twine approved by the Department not heavier than 120 thread size between pot lid tiedown hooks and the tiedown straps; or

(c) Any modification of the wire mesh on the top or side of the pot, secured with a single strand of 120 thread size untreated cotton, natural fiber, or other twine approved by the Department which, when removed, will create an opening of at least five inches in diameter.

(5) Place, operate, or leave crab rings or pots in the Pacific Ocean and Columbia River or in any bay or estuary during the closed season, except that in only the Pacific Ocean and Columbia River, rings or pots may be placed no more than 64 hours immediately prior to the date the Dungeness crab season opens. In addition, unbaited crab rings or pots with open release mechanisms may be left in the Pacific Ocean (not including the Columbia River) for a period not to exceed 14 days following the closure of the Dungeness crab season.

(6) Have Dungeness crab gear deployed in the Pacific Ocean or Columbia River more than 14 days without making a landing of Dungeness crab.

(7) Use commercial crab pots in the Columbia River or Pacific Ocean unless the pots are individually marked with a surface buoy bearing, in a visible, legible and permanent manner, the brand of the owner and an ODFW buoy tag, provided that:

(a) The brand is a number registered with and approved by the Department;

(b) Only one unique buoy brand shall be registered to any one permitted vessel;

(c) All crab pots fished by a permitted vessel must use only the Oregon buoy brand number registered to that vessel in the area off of Oregon;

(d) The Department shall issue crab buoy tags to the owner of each commercial crab permit in the amount determined by OAR 635-006-1015(1)(g)(E);

(e) All buoy tags eligible to a permit holder must be purchased from the Department at cost and attached to the gear prior to setting gear; and

(f) Buoys attached to a crab pot must have the buoy tag securely attached to the first buoy on the crab pot line (the buoy closest to the crab pot) at the end away from the crab pot line;

(g) Additional buoy tags to replace lost tags will be issued by the Department as follows:

(A) As of the first business day after 30 days following the season opening in the area fished, up to ten percent of the tags initially issued for that season; or

(B) For a catastrophic loss, defined as direct loss of non-deployed gear in the event of a vessel being destroyed due to fire, capsizing, or sinking. Documentation of a catastrophic loss may include any information the Department considers appropriate, such as fire department or US Coast Guard reports; or

(C) If the Director finds that the loss of the crab pot buoy tags was:

(i) Due to an extraordinary event; and

(ii) the loss was minimized with the exercise of reasonable diligence; and

(iii) reasonable efforts were taken to recover lost buoy tags and associated fishing gear.

(D) Upon receipt of the declaration of loss required by subsection (E) of this rule, and a request for replacement tags under subsection (C) of this rule, the Director or his designee may provide an opportunity for the permit holder requesting the replacement tags to describe why the buoy tag loss meets the criteria for replacement under subsection (C). The Director or his designee shall provide the Director's order to the permit holder and to ODFW License Services. The permit holder may appeal the Director's findings to the Fishery Permit Review Board under OAR 635-006-1065(1)(g).

(E) Permit holders (or their alternative designated on the buoy tag order form) must obtain, complete, and sign a declaration of loss under penalty of perjury in the presence of an authorized Department employee. The declaration shall state the number of buoy tags lost, the location and date where lost gear or tags were last observed, and the presumed cause of the loss.

(8) Remove, damage, or otherwise tamper with crab buoy or pot tags except when lawfully applying or removing tags on the vessel's buoys and pots.

(9) Possess on a vessel, use, control, or operate any crab pot which does not have a pot tag identifying the pot as that vessel's, a surface buoy bearing the ODFW buoy brand registered to that vessel and an ODFW buoy tag issued by the Department to that vessel, except:

(a) To set gear as allowed under OAR 635-006-1015; or

(b) Under a waiver granted by the Department to allow one time retrieval of permitted crab gear to shore by another crab permitted vessel provided that:

(A) Vessel is incapacitated due to major mechanical failure or destroyed due to fire, capsizing, or sinking;

(B) Circumstances beyond the control of the permit holder created undue hardship as defined by OAR 635-006-1095(7)(d);

(C) A Request must be in writing and a waiver approved and issued prior to retrieval.

(D) A copy of the waiver must be on board the vessel making the retrieval. (Contact Oregon Department of Fish and Wildlife License Services, Salem for guidelines.)

(c) A vessel may transit through the Columbia River and the Pacific Ocean adjacent to Oregon while possessing crab pots not bearing Oregon buoy tags or Oregon buoy branded surface buoys, provided that the vessel is authorized to participate in the Dungeness crab fishery of an adjacent state.

(10) Attach one crab pot to another crab pot or ring net by a common groundline or any other means that connects crab pots together,

(11) Take crabs for commercial purposes by crab pots from any bay or estuary except the Columbia River.

(12) Operate more than 15 crab rings from any one fishing vessel in bays or estuaries, except the Columbia River.

(13) Take or fish for Dungeness crab for commercial purposes in the Columbia River or Pacific Ocean adjacent to the state of Oregon unless a crab pot allocation has been issued to the permit required under OAR 635-006-1015(1)(g).

(14) Deploy or fish more crab pots than the number of pots assigned by the crab pot allocation certificate or to use any vessel other than the vessel designated on the crab pot allocation, except to set gear as allowed under OAR 635-006-1015.

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.109 & 506.129

Hist.: FC 246, f. 5-5-72, ef. 5-15-72; FC 285(74-20), f. 11-27-74, ef. 12-25-74, Renumbered from 625-010-0160; FWC 49-1978, f. & ef. 9-27-78, Renumbered from 635-036-0130; FWC 56-1982, f. & ef. 8-27-82; FWC 81-1982, f. & ef. 11-4-82; FWC 82-1982(Temp), f. & ef. 11-9-82; FWC 13-1983, f. & ef. 3-24-83; FWC 11-1984, f. 3-30-84, ef. 9-16-84, except section (5) per FWC 45-1984, f. & ef. 8-30-84; FWC 72-1984, f. & ef. 10-22-84; FWC 30-1985, f. 6-27-85, ef. 7-1-85; FWC 78-1986 (Temp), f. & ef. 12-1-86; FWC 97-1987(Temp), f. & ef. 11-17-87; FWC 102-1988, f. 11-29-88, cert. ef. 12-29-88; FWC 107-1990, f. & cert. ef. 10-1-90; FWC 70-1993, f. 11-9-93, cert. ef. 11-11-93; FWC 84-1994, f. 10-31-94, cert. ef. 12-1-94; FWC 68-1996(Temp), f. & cert. ef. 12-5-96; FWC 2-1997, f. 1-27-97, cert. ef. 2-1-97; DFW 45-2006, f. 6-20-06, cert. ef. 12-1-06; DWF 96-2006(Temp), f. & cert. ef. 9-8-06 thru 3-6-07; DFW 97-2006(Temp), f. 9-8-06, cert. ef. 9-9-06 thru 3-7-07; DFW 123-2006(Temp), f. 11-28-06, cert. ef. 12-1-06 thru 3-7-06; DFW 135-2006(Temp), f. & cert. ef. 12-26-06 thru 6-15-07; DFW 11-2007, f. & cert. ef. 2-14-07; DFW 41-2007, f. & cert. ef. 6-8-07; DFW 82-2007(Temp), f. 8-31-07, cert. ef. 9-1-07 thru 10-31-07; DFW 113-2007, f. & cert. ef. 10-25-07

Rule Caption: Commercial ocean Dungeness crab fishery requirements for fishing gear, reporting and permit transactions.

Adm. Order No.: DFW 114-2007

Filed with Sec. of State: 10-25-2007

Certified to be Effective: 10-25-07

Notice Publication Date: 10-1-2007

Rules Amended: 635-006-1015, 635-006-1095, 635-006-1110

Subject: Amended rules relate to commercial Dungeness crab fisheries. The modifications correct the frequency at which a permit holder may transfer a permit and other housekeeping and technical corrections to ensure rule consistency.

Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-006-1015

Requirement for Permit

(1) The following provide general requirements for permits:

(a) Gillnet salmon — see ORS 508.775;

(b) Troll salmon — see ORS 508.801 and 508.828;

(c) Shrimp — see ORS 508.880 and 508.883;

(d) Scallop — see ORS 508.840 and 508.843;

(e) Roe-herring:

(A) It is unlawful for an individual to operate a vessel in the Yaquina Bay roe-herring fishery without first obtaining a vessel permit issued pursuant to OAR 635-006-1035 through 635-006-1095;

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(B) It is unlawful for a wholesaler, canner or buyer to buy or receive roe-herring taken in the Yaquina Bay roe-herring fishery from a vessel for which the permit required by section (1)(e) of this rule has not been issued.

(f) Sea Urchin:

(A) It is unlawful for an individual to take or attempt to take sea urchins for commercial purposes without first obtaining a permit issued pursuant to OAR 635-006-1035 through 635-006-1095;

(B) It is unlawful for a wholesaler, canner, or buyer to buy or receive sea urchins taken in the sea urchin fishery from a person for which the permit required by section (1)(f) of this rule has not been issued.

(g) Ocean Dungeness crab:

(A) Except as provided under the reciprocity provisions of ORS 508.941(3), it is unlawful for an individual to operate a vessel in the ocean Dungeness crab fishery without first obtaining a vessel permit issued pursuant to ORS 508.931 or 508.941. A Dungeness crab vessel permit is not required for vessels that are engaged solely in setting gear for a permitted vessel and which do not retrieve, retain or possess Dungeness crab.

(B) If the Commission establishes a vessel crab pot limitation or allocation system beyond the 2002-03 ocean crab season, August 14, 2001 is the control date for eligibility criteria related to past participation in the ocean fishery.

(C) In addition to certifying that the vessel is free of crab on November 30 each year, as required by OAR 635-005-0045(1), each vessel operator must declare and certify on the Oregon hold inspection certification form the maximum number of pots that will be used in that season's fishery before fishing.

(D) A single delivery license may not be substituted for an ocean Dungeness crab permit. Once a vessel has obtained an ocean Dungeness crab permit, Dungeness crab may be landed by the vessel using a combination of an ocean Dungeness crab permit and a single delivery permit in lieu of a commercial fishing and boat license. However, crab may not be landed more than twice in any one crab season using single delivery permits.

(E) Effective December 1, 2006, the number of crab pots allocated to a permit required under section (A) above will be determined as follows:

(i) The allocation will be based on documented landings of Ocean Dungeness crab into Oregon, Washington (excluding landings from the Puget Sound Fishery), or California, using valid Oregon fish receiving tickets, or equivalent valid documents from the states of Washington or California, from December 1, 1995 through August 14, 2001;

(ii) The crab pot allocation will be the highest number of pots the vessel qualifies for during the six qualifying seasons, December 1 of one year through September 15 of the next year (except through August 14, in 2001);

(iii) A crab pot allocation of 200 shall be assigned to a permit with landings less than 15,020 pounds in the 1995 to 1996 season, and 4,010 pounds in the 1996 to 1997 season, and 5,170 pounds in the 1997 to 1998 season, and 7,083 pounds in the 1998 to 1999 season, and 13,160 pounds in the 1999 to 2000 season, and 8,940 pounds in the 2000 to 2001 season;

(iv) A crab pot allocation of 300 shall be assigned to a permit with minimum landings of 15,020 pounds in the 1995 to 1996 season, or 4,010 pounds in the 1996 to 1997 season, or 5,170 pounds in the 1997 to 1998 season, or 7,083 pounds in the 1998 to 1999 season, or 13,160 pounds in the 1999 to 2000 season, or 8,940 pounds in the 2000 to 2001 season; and

(v) A crab pot allocation of 500 shall be assigned to a permit with minimum landings of 89,020 pounds in the 1995 to 1996 season, or 35,180 pounds in the 1996 to 1997 season, or 39,350 pounds in the 1997 to 1998 season, or 49,450 pounds in the 1998 to 1999 season, or 78,400 pounds in the 1999 to 2000 season, or 37,030 pounds in the 2000 to 2001 season.

(h) Developmental Fisheries: See ORS 506.450 through 506.465 and OAR 635-006-0800 through 635-006-0950.

(i) July 1, 2001 is the control date to establish eligibility criteria for the purpose of future limited entry programs for the commercial groundfish fishery.

(j) Black rockfish / blue rockfish / nearshore fishery — see ORS 508.945.

(k) Brine Shrimp:

(A) It is unlawful to take or attempt to take brine shrimp for commercial purposes without first obtaining a brine shrimp fishery permit issued pursuant to OAR 635-006-1035 through 635-006-1095;

(B) It is unlawful for a wholesaler, canner, or buyer to buy or receive brine shrimp taken in the brine shrimp fishery from a person for which the permit required by this rule has not been issued.

(C) The Department may issue no more than three permits required by section (1)(k) of this rule.

(l) Bay clam dive fishery:

(A) It is unlawful:

(i) To take or attempt to take bay clams, using dive gear, for commercial purposes from subtidal areas in any Oregon estuary without first obtaining a coast-wide bay clam dive fishery permit issued pursuant to OAR 635-006-1025 through 635-006-1095;

(ii) To take or attempt to take bay clams, using dive gear, for commercial purposes from subtidal areas in Oregon estuaries south of Heceta Head without first obtaining a south-coast bay clam dive fishery permit issued pursuant to OAR 635-006-1025 through 635-006-1095;

(iii) For a wholesaler, canner, or buyer to buy or receive bay clams taken in the bay clam dive fishery from a vessel or person not issued the permit required by this rule.

(iv) To take or attempt to take bay clams where more than two divers operating from any one boat were in the water at the same time or where more than two persons without permits, excluding persons authorized by the Department for the performance of official duties, were on board any boat while harvesting, possessing, or transporting bay clams.

(B) The Department may not issue more than ten coast-wide permits required by section (1)(l)(A)(i) of this rule and five south-coast permits required by (1)(l)(A)(ii) of this rule.

(C) Permits may be issued to individuals or to vessels, designated at the beginning of the year. Designation may not change during the year.

(m) Sardine fishery:

(A) It is unlawful for an individual to operate a vessel in the Sardine fishery without first obtaining a vessel permit issued pursuant to OAR 635-006-1035 through 635-006-1095. The sardine fishery permit is not required for vessels to retain sardines as incidental catch in other fisheries.

(B) It is unlawful for a wholesaler, canner or buyer to buy or receive sardines taken in the Sardine fishery from a vessel for which the permit required by section (1)(m)(A) of this rule has not been issued.

(C) The Department may issue not more than 26 permits required by section (1)(m)(A) of this rule.

(D) The Sardine Advisory Group as defined under OAR 635-006-1065 may advise the Commission on increasing the number of permits, developing criteria for issuing the new permits, and other regulations concerning the sardine fishery.

(E) By January 1, 2008, vessels permitted under section (1)(m)(A) of this rule shall be operated or owned by the permit holder.

(2) The permits required by section (1) of this rule are in addition to and not in lieu of the commercial fishing and boat license required by ORS 508.235 and 508.260.

(3) No vessel may hold more than one vessel permit for a given fishery at any one time.

(4) If permits are issued on an individual basis, no individual may hold more than one permit for a given fishery at any one time.

(5) Unless otherwise provided, permits must be purchased by December 31 of the license year.

(6) No vessel permit may be transferred away from a vessel without the lien holder's written permission.

(7) Applications for permits shall be in such form and contain such information as the Department may prescribe. Proof of length of a vessel may be required at the time of application.

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.109, 506.129 & 508.921–508.941

Hist.: FWC 3-1996, f. 1-31-96, cert. ef. 2-1-96; FWC 64-1996, f. 11-13-96, cert. ef. 11-15-96; DFW 92-1998, f. & cert. ef. 11-25-98; DFW 103-2001, f. & cert. ef. 10-23-01; DFW 95-2002, f. & cert. ef. 8-27-02; DFW 112-2003, f. & cert. ef. 11-14-03; DFW 137-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 139-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 45-2006, f. 6-20-06, cert. ef. 12-1-06; DFW 74-2006, f. & cert. ef. 8-7-06; DFW 96-2006(Temp), f. & cert. ef. 9-8-06 thru 3-6-07; DFW 97-2006(Temp), f. 9-8-06, cert. ef. 9-9-06 thru 3-7-07; DFW 2-2007, f. & cert. ef. 1-12-07; DFW 135-2006(Temp), f. & cert. ef. 12-26-06 thru 6-15-07; DFW 11-2007, f. & cert. ef. 2-14-07; DFW 114-2007, f. & cert. ef. 10-25-07

635-006-1095

Transferability of Permits

Any transfer of a permit away from a vessel without the written consent of each person holding a security interest in such vessel is void. The following rules apply to transfer of limited entry fishery permits:

(1) Gillnet salmon — see ORS 508.793.

(2) Troll salmon — see ORS 508.822.

(3) Shrimp — see ORS 508.907.

(4) Scallop — see ORS 508.864.

(5) Roe-herring:

(a) A permit is transferable to:

(A) A replacement vessel of the permit holder; or, upon request of a permit holder, the Department may authorize transfer of a permit to a replacement vessel owned by an individual other than the permit holder.

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However, any transfer of a permit away from a vessel without the written consent of each person holding a security interest in such vessel is void;

(B) The purchaser of the vessel when the vessel is sold.

(6) Sea Urchin:

(a) Medical Transfers: If the number of permits is at 31 or more, the Department may authorize a permit to be transferred to a specified individual for up to 90 days upon petition by a permittee on the form provided by the Department. The Department's decision to allow a transfer shall be based on a finding that the current permit holder is unable to participate in the fishery due to injury or illness which prevents diving, based on medical evidence submitted by the permit holder and such other evidence the Department considers reliable. At the end of the transfer period, the transfer may be renewed by the Department to the original transferee or to a new transferee, provided that the permittee again submits medical evidence documenting that the injury or illness continues to prevent the permittee's return to diving. There is a two-year limit on the eligibility of each individual permit for medical transfer status, beginning with the start date of the first medical transfer of that permit on or after January 1, 1996, and ending two years from that date. When the total number of permits reaches 30 or less the Department shall not allow any permit transfers for any medical reason;

(b) If the Department, or the Board, after review of a denial by the Department, allows a transfer, the original permit holder shall give written notice to the Department of the name, address and telephone number of the transferee. The original permit holder may, at any time during the transfer period specified in subsection (6)(a), request the Department to transfer the permit back to the original permit holder. Such transfer requires 30 days' written notice to the Department. In any event, upon expiration of the transfer period specified in (6)(a), or upon cancellation of a transfer due to lack of medical evidence of continuing inability to dive, the permit shall revert automatically to the original permit holder, unless the transfer is renewed, as provided in subsection (6)(a) of this rule;

(c) The total landings of sea urchins by all transferees of a permit shall not exceed the greater of either of the following amounts:

(A) Up to 5,000 pounds per 90-day period, not to exceed 5,000 pounds annually; or

(B) Twenty-five percent of the amount landed by the original permit holder in the previous season's catch, for each 90-day period.

(d) Combination Permit Transfers: If the number of permits is at 31 or more, the Department may transfer permits from one person to another as follows:

(A) The individual receiving the transferred permit (the purchaser) obtains no more than three total permits, each of which is valid for the current year in which the permit is purchased, from existing permit holders;

(B) The Department combines the three permits into a single new permit issued to the purchaser; and

(C) No transferred permit is valid for harvesting sea urchins until conditions (6)(d)(A) and (6)(d)(B) are met. Individual permits which are transferred may not be used individually and are not renewable. Once a permit has been transferred in accordance with (6)(d)(A) the individual to whom the permit has been transferred has up to 24 months from the date of transfer to combine it with two others to create a valid new permit.

(e) When the total number of permits reaches 30 or less, the Department shall approve the transfer of any permit to any purchaser of the permit, provided that not more than one sale or transfer of the permit occurs within that calendar year;

(f) Lottery-issued permit transfers: No permit issued to an individual through the lottery after 1998 may be transferred to another individual until a cumulative total of 20,000 pounds of sea urchins have been landed on commercial fish receiving tickets by the individual issued the permit through the lottery.

(7) Ocean Dungeness crab — see ORS 508.936; and

(a) The vessel permit is transferable once in any 18-month period provided the vessel holding the permit has landed at least 500 pounds of ocean Dungeness crab into Oregon in each of two crab fishing seasons in the last five crab seasons which includes landings made during any season open at the time of application. Crab fishing season means ocean Dungeness crab season. However, the Board may waive the landing requirement as well as the 18-month waiting period for transfers, if the Board finds that strict adherence to these requirements would create undue hardship to the individual seeking to transfer a permit. The board also may delegate to the Department its authority to waive these requirements in such specific instances as the Board sets forth in a letter of delegation to the Department;

(b) The vessel permit is transferable:

(A) To another vessel; or

(B) To the purchaser of the vessel when the vessel is sold.

(c) The vessel to which a permit is transferred, with the exception of vessels covered by (7)(e):

(A) Shall not be more than 10 feet longer than the vessel which held the permit on January 1, 2006, and

(B) Shall not be more than 99 feet in length.

(d) For the purpose of (7)(c)(A), the Commercial Fishery Permit Review Board may waive the boat length restriction if it finds that strict adherence would create undue hardship. For this purpose, undue hardship means significant adverse consequences caused by death, permanent disability injury or serious illness requiring extended care by a physician.

(e) Permits obtained as a result of qualifying under section (1)(e) of ORS 508.931 may only be transferred to vessels of a length of 26 feet or less;

(f) In the event a vessel is destroyed due to fire, capsizing, sinking or other event, the vessel owner has up to two years to transfer the ocean Dungeness crab fishery permit to a replacement vessel.

(8) Black rockfish/blue rockfish/nearshore fishery — see ORS 508.957.

(9) Brine shrimp fishery: Permits are transferable.

(10) Bay clam dive fishery:

(a) The permittee may request the Department to transfer, to a replacement vessel that is owned by the same person that owns the vessel to which the permit was originally issued, a bay clam dive permit up to two times per calendar year.

(b) In the event of the death of a permit holder, the permit of the deceased may be issued to an immediate family member upon request, validated by the Department's receipt of a copy of the death certificate and the original permit.

(c) The Department may authorize a permit issued to an individual to be transferred to a specified individual for up to 90 days upon petition by the permittee on the form provided by the Department due to a medical condition.

(A) The Department's decision to allow a transfer shall be based on a finding that the current permit holder is unable to participate in the fishery due to injury or illness which prevents diving, based on medical evidence submitted by the permit holder, and such other evidence the Department considers reliable.

(B) At the end of the transfer period, the Department may reinstate the permit to the original permit holder or to a new transferee, provided that the original permit holder again submits medical evidence documenting that the injury or illness continues to prevent their return to diving.

(C) There is a two-year limit on the eligibility of each individual permit for medical transfer status, beginning with the start date of the first medical transfer of that permit on or after January 1, 2006, and ending two years from that date.

(D) If the Department, after review of a denial by the Commission, allows a transfer, the original permit holder shall give written notice to the Department of the name, address and telephone number of the transferee. The original permit holder may, at any time during the transfer period specified in subsection (10)(c), request the Department reinstate the permit back to their possession. Such transfer requires 30 days' written notice to the Department. In any event, upon expiration of the transfer period specified in (10)(c), or upon cancellation of a transfer due to lack of medical evidence of continuing inability to dive, the permit shall revert automatically to the original permit holder, unless the transfer is renewed, as provided in subsection (10)(c) of this rule.

(11) Sardine Fishery:

(a) Permits are transferable up to two times in one calendar year.

(b) Applications to transfer a sardine fishery permit shall only be accepted to vessels, which in the judgment of the Department, are capable of operating the gear necessary to legally participate in the fishery. Vessels of a size or design incapable of harvesting sardines are not eligible for transfer.

Stat. Auth.: ORS 506.109

Stats. Implemented: ORS 506.109, 506.129, 508.760, 508.762

Hist.: FWC 3-1996, f. 1-31-96, cert. ef. 2-1-96; FWC 64-1996, f. 11-13-96, cert. ef. 11-15-96; DFW 94-1998, f. & cert. ef. 11-25-98; DFW 112-2003, f. & cert. ef. 11-14-03; DFW 137-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 139-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 95-2006(Temp), f. & cert. ef. 9-8-06 thru 11-24-06; Administrative correction 12-16-06; DFW 23-2007(Temp), f. 4-9-07, cert. ef. 4-17-07 thru 10-13-07; Administrative correction 10-16-07; DFW 114-2007, f. & cert. ef. 10-25-07

635-006-1110

Logbook Required

(1) Sea urchin fishery: The Department shall provide a logbook to each individual permitted to harvest sea urchins. Each individual is respon-

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sible for maintaining the logbook in accordance with the instructions contained therein and shall, upon request of an authorized representative of the Department, permit examination and transcription of information from such logbook. Information so received by the Department shall be considered as confidential.

(2) Black rockfish/blue rockfish/nearshore fishery — see ORS 508.953.

(3) Bay clam dive fishery: The Department shall provide a logbook to each permit holder permitted to harvest bay clams. Each permit holder is responsible for maintaining the logbook in accordance with the instructions contained therein and shall, upon request of an authorized representative of the Department, permit examination and transcription of information from such logbook. Information so received by the Department shall be considered as confidential.

(4) Sardine Fishery: The Department shall provide a logbook to each permit holder. Each permit holder is responsible for maintaining the logbook in accordance with the instructions contained therein and shall, upon request of an authorized representative of the Department, permit examination and transcription of information from such logbook. Catch records and trade secrets documented in the log book are confidential.

(5) Ocean Dungeness Crab Fishery: The Department shall provide a logbook to each permit holder. Each permit holder is responsible for maintaining the logbook in accordance with the instructions contained herein and shall, upon request of an authorized representative of the Department, permit examination and collection of information from such logbook. Catch records and trade secrets documented in the logbook are confidential.

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.109

Hist.: FWC 3-1996, f. 1-31-96, cert. ef. 2-1-96; DFW 112-2003, f. & cert. ef. 11-14-03; DFW 137-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 139-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 114-2007, f. & cert. ef. 10-25-07

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

Adm. Order No.: DFW 115-2007

Filed with Sec. of State: 10-31-2007

Certified to be Effective: 4-1-08

Notice Publication Date: 9-1-2007

Rules Amended: 635-070-0000, 635-071-0000

Subject: Establish 2008 hunting regulations for game mammals, including season dates, open areas, and other rules including general hunting and controlled hunt regulations.

Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-070-0000

Purpose and General Information

(1) The purpose of these rules is to establish season dates, bag limits, areas, methods and other restrictions for hunting Cascade and Coast elk pursuant to ORS Chapter 496.

(2) Controlled hunt tag numbers for 2007 are listed in **Tables 1** and **2** and are adopted and incorporated into OAR chapter 635, division 070 by reference.

(3) OAR chapter 635, division 070 incorporates, by reference, the requirements for hunting western Oregon elk set out in the document entitled “**2008 Oregon Big Game Regulations**,” into Oregon Administrative Rules. Therefore, persons must consult the “**2008 Oregon Big Game Regulations**” in addition to OAR Chapter 635, to determine all applicable requirements for hunting western Oregon elk. The annual Oregon Big Game Regulations are available at hunting license agents and regional, district and headquarters offices of the Oregon Department of Fish and Wildlife.

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

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

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

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

Hist.: FWC 41-1988, f. & cert. ef. 6-13-88; FWC 35-1996, f. & cert. ef. 6-7-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 47-2001, f. & cert. ef. 6-13-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 9-2003(Temp), f. & cert. ef. 1-28-03 thru 6-16-03; DFW 50-2003, f. & cert. ef. 6-13-03; DFW 119-2003, f. 12-4-03, cert. ef. 4-1-04; DFW 130-2003(Temp), f. & cert. ef. 12-24-03 thru 3-1-04; DFW 8-2004(Temp), f. & cert. ef. 2-2-04 thru 7-31-04; DFW 53-2004, f. & cert. ef. 6-16-04; DFW 107-2004(Temp), f. & cert. ef. 10-18-04 thru 11-27-04; DFW 131-2004, f. 12-21-04, cert. ef. 4-1-05; DFW 53-2005, f. & cert. ef. 6-14-05; DFW 132-2005, f. 12-1-05, cert. ef. 4-1-06; DFW 41-2006, f. & cert. ef. 6-14-06; DFW 126-2006, f. 12-7-06, cert. ef. 4-1-07; DFW 42-2007, f. & cert. ef. 6-14-07; DFW 115-2007, f. 10-31-07, cert. ef. 4-1-08

635-071-0000

Purpose and General Information

(1) The purpose of these rules is to establish season dates, bag limits, areas, methods and other restrictions for hunting Rocky Mountain elk pursuant to ORS Chapter 496.

(2) Controlled hunt tag numbers for 2007 are listed in **Tables 1** and **2** and are adopted and incorporated in OAR chapter 635, division 071 by reference.

(3) OAR chapter 635, division 071 incorporates, by reference, the requirements for hunting Rocky Mountain elk set out in the document entitled “**2008 Oregon Big Game Regulations**,” into Oregon Administrative Rules. Therefore, persons must consult the “**2008 Oregon Big Game Regulations**” in addition to OAR Chapter 635, to determine all applicable requirements for hunting Rocky Mountain elk. The annual Oregon Big Game Regulations are available at hunting license agents and regional, district and headquarters offices of the Oregon Department of Fish and Wildlife.

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

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

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

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

Hist.: FWC 42-1988, f. & cert. ef. 6-13-88; FWC 35-1996, f. & cert. ef. 6-7-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 47-2001, f. & cert. ef. 6-13-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 9-2003(Temp), f. & cert. ef. 1-28-03 thru 6-16-03; DFW 50-2003, f. & cert. ef. 6-13-03; DFW 118-2003, f. 12-4-03, cert. ef. 1-1-04; DFW 1-2004(Temp), f. & cert. ef. 1-13-04 thru 7-9-04; DFW 53-2004, f. & cert. ef. 6-16-04; DFW 105-2004(Temp), f. & cert. ef. 10-13-04 thru 11-15-04, Administrative correction 11-22-04; DFW 131-2004, f. 12-21-04, cert. ef. 4-1-05; DFW 53-2005, f. & cert. ef. 6-14-05; DFW 132-2005, f. 12-1-05, cert. ef. 4-1-06; DFW 22-2006(Temp), f. & cert. ef. 4-7-06 thru 10-4-06; DFW 41-2006, f. & cert. ef. 6-14-06; DFW 126-2006, f. 12-7-06, cert. ef. 4-1-07; DFW 42-2007, f. & cert. ef. 6-14-07; DFW 115-2007, f. 10-31-07, cert. ef. 4-1-08

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

Adm. Order No.: DFW 116-2007

Filed with Sec. of State: 10-31-2007

Certified to be Effective: 3-1-08

Notice Publication Date: 9-1-2007

Rules Amended: 635-068-0000

Subject: Establish 2008 hunting regulations for game mammals, including season dates, open areas, and other rules including general hunting and controlled hunt regulations.

Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-068-0000

Purpose and General Information

(1) The purpose of these rules is to establish season dates, bag limits, areas, methods and other restrictions for hunting western Oregon deer pursuant to ORS Chapter 496.

(2) Controlled hunt tag numbers for 2007 are listed in **Tables 1** and **2** and are adopted and incorporated into OAR chapter 635, division 068 by reference.

(3) OAR chapter 635, division 068 incorporates, by reference, the requirements for hunting western Oregon deer set out in the document entitled “**2008 Oregon Big Game Regulations**,” into Oregon Administrative Rules. Therefore, persons must consult the “**2008 Oregon Big Game Regulations**” in addition to OAR Chapter 635, to determine all applicable requirements for hunting western Oregon deer. The annual Oregon Big Game Regulations are available at authorized license agents and regional, district, and headquarters offices of the Oregon Department of Fish and Wildlife.

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

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

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

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

Hist.: FWC 39-1988, f. & cert. ef. 6-13-88; FWC 35-1996, f. & cert. ef. 6-7-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 47-2001, f. & cert. ef. 6-13-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 3-2003, f. 1-17-03, cert. ef. 1-20-03; DFW 50-2003, f. & cert. ef. 6-13-03; DFW 121-2003, f. 12-4-03, cert. ef. 1-19-04; DFW 53-2004, f. & cert. ef. 6-16-04; DFW 124-2004, f. 12-21-04, cert. ef. 3-1-05; DFW 53-2005, f. & cert. ef. 6-14-05; DFW 131-2005, f. 12-1-05, cert. ef. 3-1-06; DFW 41-2006, f. & cert. ef. 6-14-06; DFW 125-2006, f. 12-4-06, cert. ef. 3-1-07; DFW 42-2007, f. & cert. ef. 6-14-07; DFW 116-2007, f. 10-31-07, cert. ef. 3-1-08

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

Adm. Order No.: DFW 117-2007

Filed with Sec. of State: 10-31-2007

Certified to be Effective: 2-1-08

Notice Publication Date: 9-1-2007

Rules Amended: 635-069-0000, 635-073-0000, 635-073-0065, 635-073-0070

Subject: Establish 2008 hunting regulations for game mammals, including season dates, open areas, and other rules including general hunting and controlled hunt regulations.

Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-069-0000

Purpose and General Information

(1) The purpose of these rules is to establish season dates, bag limits, areas, methods and other restrictions for hunting eastern Oregon deer pursuant to ORS Chapter 496.

(2) Controlled hunt tag numbers for 2007 are listed in **Tables 1** and **2** and are adopted and incorporated into OAR chapter 635, division 069 by reference.

(3) OAR chapter 635, division 069 incorporates, by reference, the requirements for hunting eastern Oregon deer set out in the document entitled “**2008 Oregon Big Game Regulations**,” into Oregon Administrative Rules. Therefore, persons must consult the “**2008 Oregon Big Game Regulations**” in addition to OAR Chapter 635, to determine all applicable requirements for hunting eastern Oregon deer. The annual Oregon Big Game Regulations are available at hunting license agents and regional, district and headquarters offices of the Oregon Department of Fish and Wildlife.

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

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

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

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

Hist.: FWC 40-1988, f. & cert. ef. 6-13-88; FWC 35-1996, f. & cert. ef. 6-7-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 32-1999(Temp), f. & cert. ef. 5-4-99 thru 10-31-99; DFW 34-1999(Temp), f. & cert. ef. 5-12-99 thru 10-31-99; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 20-2000(Temp), f. 4-12-00, cert. ef. 4-12-00 thru 6-30-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 47-2001, f. & cert. ef. 6-13-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 7-2003, f. 1-17-03, cert. ef. 2-1-03; DFW 50-2003, f. & cert. ef. 6-13-03; DFW 122-2003, f. 12-4-03, cert. ef. 2-2-04; DFW 53-2004, f. & cert. ef. 6-16-04; DFW 123-2004, f. 12-21-04, cert. ef. 2-1-05; DFW 53-2005, f. & cert. ef. 6-14-05; DFW 130-2005, f. 12-1-05, cert. ef. 2-1-06; DFW 41-2006, f. & cert. ef. 6-14-06; DFW 124-2006, f. 12-7-06, cert. ef. 2-1-07; DFW 42-2007, f. & cert. ef. 6-14-07; DFW 117-2007, f. 10-31-07, cert. ef. 2-1-08

635-073-0000

Purpose and General Information

(1) The purpose of these rules is to establish season dates, bag limits, areas and other restrictions for bow and muzzleloader hunting and controlled deer and elk youth hunts; pursuant to ORS Chapter 496.

(2) Controlled hunt tag numbers for 2007 for deer and elk bow and muzzleloader hunting and deer and elk youth hunts are listed in **Tables 1** and **2** and are adopted and incorporated into OAR chapter 635, division 073 by reference.

(3) OAR Chapter 073 incorporates, by reference, the requirements for bow and muzzleloader hunting and controlled deer and elk youth hunts set out in the document entitled “**2008 Oregon Big Game Regulations**,” into Oregon Administrative Rules. Therefore, persons must consult the “**2008 Oregon Big Game Regulations**,” in addition to OAR Chapter 635, to determine all applicable requirements for bow and muzzleloader hunting and controlled deer and elk youth hunts. The annual Oregon Big Game Regulations are available at hunting license agents and regional, district and headquarters offices of the Oregon Department of Fish and Wildlife.

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

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

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

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

Hist.: FWC 44-1988, f. & cert. ef. 6-13-88; FWC 18-1994, f. 3-30-94, cert. ef. 5-1-94; FWC 17-1996, f. 4-10-96, cert. ef. 4-15-96; FWC 35-1996, f. & cert. ef. 6-7-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 21-2000(Temp), f. 4-12-00, cert. ef. 4-12-00 thru 6-30-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 47-2001, f. & cert. ef. 6-13-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 3-2003, f. 1-17-03, cert. ef. 1-20-03; DFW 50-2003, f. & cert. ef. 6-13-03; DFW 122-2003, f. 12-4-03, cert. ef. 2-2-04; DFW 130-2003(Temp), f. & cert. ef. 12-24-03 thru 3-1-04; DFW 53-2004, f. & cert. ef. 6-16-04; DFW 123-2004, f. 12-21-04, cert. ef. 2-1-05; DFW 53-2005, f. & cert. ef. 6-14-05; DFW 130-2005, f. 12-1-05, cert. ef. 2-1-06; DFW 22-2006(Temp), f. & cert. ef. 4-7-06 thru 10-4-

06; DFW 41-2006, f. & cert. ef. 6-14-06; DFW 124-2006, f. 12-7-06, cert. ef. 2-1-07; DFW 42-2007, f. & cert. ef. 6-14-07; DFW 117-2007, f. 10-31-07, cert. ef. 2-1-08

635-073-0065

Early Western Oregon Bowhunting Seasons

(1) General Deer Bowhunting Seasons — Western Oregon.

(a) Open Season: August 30 — September 28, 2008;

(b) Bag Limit and Hunt Area: The bag limit is one buck deer having not less than a forked antler in the Tioga, Dixon, Sixes, Powers, Evans Creek, Rogue, Chetco, and Applegate units; the bag limit is one deer in the Alsea, Indigo, McKenzie, Melrose, Saddle Mountain, Santiam, Scappoose, Siuslaw, Stott Mountain, Trask, Willamette, and Wilson units,

(2) General Elk Bowhunting Seasons — Western Oregon.

(a) Open Season: August 30 — September 28, 2008;

(b) Bag Limit and Hunt Area: The bag limit is one legal bull elk in the Sixes, Powers, [and] Chetco and Santiam (within the exterior boundary of Mt. Hood National Forest) units; the bag limit is one legal bull or antlerless elk in the Alsea, Applegate, Dixon, Evans Creek, Indigo, McKenzie, Melrose, Rogue, Saddle Mountain, Santiam (within the exterior boundary of Mt. Hood National Forest, antlerless elk cannot be harvested), Scappoose, Siuslaw, Stott Mountain, Tioga, Trask, Willamette, and Wilson units.

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

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

Hist.: DFW 53-2004, f. & cert. ef. 6-16-04; DFW 53-2005, f. & cert. ef. 6-14-05; DFW 41-2006, f. & cert. ef. 6-14-06; DFW 42-2007, f. & cert. ef. 6-14-07; DFW 117-2007, f. 10-31-07, cert. ef. 2-1-08

635-073-0070

Early Eastern Oregon Bowhunting Seasons

(1) General Deer Bowhunting Seasons — Eastern Oregon.

(a) Open Season: August 30 — September 28, 2008;

(b) Bag Limit and Hunt Area: The bag limit is one buck deer having a visible antler in the Grizzly, Metolius, Upper Deschutes, Paulina, Sprague, Fort Rock, Heppner, Keno, Klamath Falls, Interstate, Warner, Wagonfire, Juniper, Beatys Butte, Steens Mountain, Owyhee, Malheur River, Silvies, Maury, Ochoco, Murderers Creek, Beulah, Fossil, Northside, Desolation, Ukiah, Starkey, Mt. Emily, Walla Walla, Wenaha, Sled Springs, Chesnimus, Minam, Catherine Creek, Sumpter, Lookout Mountain, Keating, Pine Creek, Imnaha, Snake River, Silver Lake, and Whitehorse units and that part of the White River Unit within the Mt. Hood National Forest except that: That part of the Whitehorse Unit south of Whitehorse Ranch Rd. and west of US Hwy 95 (Trout Creek Mts.), is closed to deer bowhunting during the general bowhunting season unless the hunter has a Trout Creek Mts. controlled bow deer tag. Approximately 40 square miles of the Starkey Experimental Forest within the Starkey Unit shall be closed to all bowhunting. The Chesnimus Unit shall be closed to deer bowhunting during the general bowhunting season unless the hunter also has a Chesnimus controlled bow elk tag (used or unused). The Sled Springs Unit shall be closed to deer bowhunting during the general bowhunting season unless the hunter also has a Sled Springs controlled bow elk tag (used or unused). The Ochoco Unit shall be closed to deer bowhunting during the general bowhunting season unless the hunter also has a Ochoco controlled bow elk tag (used or unused). The bag limit is one deer in the Biggs, Columbia Basin (except: That portion of the Columbia Basin Unit described as follows shall be closed to all bowhunting: Beginning at Heppner; north and west State Highway 74 to Lexington; north and east on State Highway 207 to Butter Creek Junction; south on Butter Creek Road to Highway 74 at Vinson; west on Highway 74 to Heppner; point of beginning.), Hood, and Maupin units.

(2) General Elk Bowhunting Seasons — Eastern Oregon.

(a) Open Season: August 30 — September 28, 2008;

(b) Bag Limit and Hunt Area: The bag limit is one legal bull elk in the Metolius, Upper Deschutes, Heppner, Keno, Klamath Falls, Interstate, Warner, Maury, Ukiah, Silver Lake, Sprague, Starkey, Mt. Emily, Walla Walla, Wenaha, Catherine Creek, Chesnimus, Minam, Keating, Snake River, Approximately 40 square miles of the Starkey Experimental Forest within the Starkey Unit shall be closed to all bowhunting. The Chesnimus Unit shall be closed to all elk bowhunting unless the hunter has a valid, controlled Chesnimus elk bow tag. The Sled Springs Unit shall be closed to all elk bowhunting unless the hunter has a valid, controlled Sled Springs elk bow tag. The Ochoco Unit shall be closed to all elk bowhunting unless the hunter has a valid, controlled Ochoco elk bow tag. The bag limit is one legal bull or antlerless elk in the Beatys Butte, Beulah, Biggs, Columbia Basin (except: That portion of the Columbia Basin Unit described as follows shall be closed to all bowhunting: Beginning at Heppner; north and west State Highway 74 to Lexington; north and east on State Highway 207

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to Butter Creek Junction; south on Butter Creek Road to Highway 74 at Vinson; west on Highway 74 to Heppner; point of beginning.), Desolation, Fort Rock, Fossil, Grizzly, Hood, Innaha, Juniper, Lookout Mountain, Malheur River, Maupin, Murderers Creek, Northside, Ochoco, Owyhee, Paulina, Pine Creek, Silvies, Sled Springs, Steens Mountain, Sumpter, Wagonfire, White River, and Whitehorse units.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 57-2001, f. & cert. ef. 7-6-01; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 50-2003, f. & cert. ef. 6-13-03; DFW 118-2003, f. 12-4-03, cert. ef. 1-1-04; DFW 53-2004, f. & cert. ef. 6-16-04; DFW 53-2005, f. & cert. ef. 6-14-05; DFW 41-2006, f. & cert. ef. 6-14-06; DFW 42-2007, f. & cert. ef. 6-14-07; DFW 117-2007, f. 10-31-07, cert. ef. 2-1-08

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

Adm. Order No.: DFW 118-2007

Filed with Sec. of State: 10-31-2007

Certified to be Effective: 1-1-08

Notice Publication Date: 9-1-2007

Rules Amended: 635-008-0085, 635-008-0170, 635-010-0045, 635-010-0158, 635-045-0000, 635-045-0002, 635-060-0000, 635-060-0009, 635-060-0023, 635-060-0055, 635-065-0001, 635-065-0090, 635-065-0401, 635-065-0625, 635-065-0740, 635-065-0760, 635-066-0000, 635-066-0010, 635-066-0020, 635-067-0000, 635-067-0016, 635-072-0000, 635-075-0011, 635-080-0034, 635-080-0053, 635-080-0060, 635-080-0077

Subject: Establish 2008 hunting regulations for game mammals, including season dates, open areas, location of cooperative travel management areas, wildlife areas, and other rules including general hunting and controlled hunt regulations. Specific rule changes include: changes to the sunset of the Land Owner Preference Pilot Program in Southwest Oregon; set 2008 spring bear controlled tag numbers; established rules for mandatory bear tooth collection; added domestic partner as a family members qualified for Combined Angling and Harvest Tags to Landowners; allow a certified nurse practitioner and licensed physician assistant to certify a person as disabled, changes to the tag sale deadlines; and changes to the modified preference points system.

Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-008-0085

Elkhorn Wildlife Area

The Elkhorn Wildlife Area is open to wildlife-oriented public use compatible with the goals and objectives contained in the **2006 Elkhorn Wildlife Area Management Plan** unless otherwise excluded or restricted by the following rules:

- (1) The area is closed to entry during the period December 1 through April 10, except by permit.
- (2) Camping is prohibited except during the period April 11 through November 30, and may not exceed a total of 14 days during a 30-day period.
- (3) Campfires or open burning is prohibited except at campsites. Open fires are prohibited during designated fire closures.
- (4) Dogs are prohibited from running at large.
- (5) ATV and Snowmobile use is prohibited on all area lands except for administrative use or by permit.

Stat. Auth.: ORS 496.012, 496.138, 496.146, 496.162 & 496.992
Stats. Implemented: ORS 496.012, 496.138, 496.146, 496.162 & 496.992
Hist.: GC 64, f. 4-3-57; GC 232, f. 8-13-70, ef. 9-11-70; GC 252, f. 5-11-72, ef. 6-1-72, Renumbered from 630-010-0500, Renumbered from 635-015-0005; FWC 63-1980, f. & ef. 11-4-80; FWC 2-1981(Temp), f. & ef. 1-20-81; FWC 30-1982, f. & ef. 5-18-82, Renumbered from 635-008-0005(5); FWC 53-1994, f. & cert. ef. 8-25-94; DFW 81-2006, f. & cert. ef. 8-11-06; DFW 118-2006, f. & cert. ef. 10-16-06; DFW 118-2007, f. 10-31-07, c. cert. ef. 1-1-08

635-008-0170

Wenaha Wildlife Area

The Wenaha Wildlife Area is open to wildlife-oriented public use compatible with goals and objectives contained in the **2007 Wenaha Wildlife Area Management Plan** unless otherwise excluded or restricted by the following rules:

- (1) Motor vehicles are prohibited except on parking areas, open roads and up to 300 feet off open roads for the purpose of moving to and from campsites.

(2) Camping is prohibited except on areas designated for that use, or by permit, and may not exceed a total of 14 days during a 30-day period.

(3) Campfires or open burning is prohibited except at campsites. Open fires are prohibited during designated fire closures.

Stat. Auth.: ORS 496.012, 496.138, 496.146, 496.162 & 496.992
Stats. Implemented: ORS 496.012, 496.138, 496.146, 496.162 & 496.992
Hist.: GC 64, f. 4-3-57; GC 232, f. 8-13-70, ef. 9-11-70; GC 252, f. 5-11-72, ef. 6-1-72, Renumbered from 630-010-0500, Renumbered from 635-015-0005; FWC 63-1980, f. & ef. 11-4-80; FWC 2-1981(Temp), f. & ef. 1-20-81; FWC 30-1982, f. & ef. 5-18-82, Renumbered from 635-008-0005(20); FWC 53-1994, f. & cert. ef. 8-25-94; DFW 27-2007, f. & cert. ef. 4-19-07; DFW 118-2007, f. 10-31-07, c. cert. ef. 1-1-08

635-010-0045

Issuing Combined Angling Harvest Tag to Landowners

When a resident landowner purchases a combined angling harvest tag for the purpose of angling for salmon, steelhead, or sturgeon on the landowner's property, the agent must issue a landowner license at no charge before issuing the combined angling harvest tag. This requirement applies also to members of the landowner's immediate family, which is limited to the landowner's spouse, domestic partner, children and parents who reside on the landowner's property. If any of the individuals covered by this rule angle from any place other than the landowner's property, the individual must purchase an angling license.

Stat. Auth.: ORS 496 & 497
Stats. Implemented: ORS 496 & 497
Hist.: 3WC 2, f. 12-19-73, ef. 1-11-74, Renumbered from 630-010-0043; FWC 124-1990, f. 11-28-90, cert. ef. 1-1-91; DFW 99-1999(Temp), f. 12-22-99, cert. ef. 1-1-00 thru 6-27-00; DFW 33-2000, f. & cert. ef. 6-19-00; DFW 118-2007, f. 10-31-07, c. cert. ef. 1-1-08

635-010-0158

Persons with Permanent Disabilities Permit

A person who meets the requirements contained in ORS 496.018 is entitled to a Permanent Disabilities Permit. In order to receive such a permit, a person must provide either

- (1) Written certification from a licensed physician certified nurse practitioner or licensed physician assistant stating that the person:
 - (a) Is permanently unable to walk without the use of, or assistance from, a brace, cane, crutch, prosthetic device, wheelchair, scooter or walker;
 - (b) Is restricted by lung disease to the extent that the person's forced expiratory volume for one second, when measured by a spirometer, is less than 35 percent predicted, or arterial oxygen tension is less than 55 mm/Hg on room air at rest;
 - (c) Has a cardiac condition to the extent that the person's functional limitations are classified in severity as Class III or Class IV, according to standards established by the American Heart Association;
 - (d) Has a permanent, physical impairment that prevents the person from holding or shooting a firearm or bow or from holding a fish rod in hand;
 - (e) Has central visual acuity that permanently does not exceed 20/200 in the better eye with corrective lenses, or the widest diameter of the visual field is no greater than 20 degrees; or

(2) Official written certification from the United States Department of Veterans Affairs or any branch of the Armed Forces of the United States that the veteran is at least 65 percent disabled.

Stat. Auth.: ORS 496 & 497
Stats. Implemented: ORS 496 & 497
Hist.: DFW 99-1999(Temp), f. 12-22-99, cert. ef. 1-1-00 thru 6-27-00; DFW 33-2000, f. & cert. ef. 6-19-00; DFW 30-2002, f. & cert. ef. 4-11-02; DFW 118-2007, f. 10-31-07, c. cert. ef. 1-1-08

635-045-0000

Purpose

- (1) The purpose of these rules is to list definitions pursuant to hunting seasons for big game and game birds.
- (2) The documents entitled "**2007-2008 Oregon Game Bird Regulations**", and "**2008 Oregon Big Game Regulations**", are incorporated by reference into these rules. These documents are available at hunting license vendors and regional, district and headquarters offices of the Oregon Department of Fish and Wildlife.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 36-1988, f. & cert. ef. 6-13-88; FWC 47-1989, f. & cert. ef. 7-25-89; FWC 14-1990, f. & cert. ef. 2-2-90; FWC 91-1990, f. & cert. ef. 9-4-90; FWC 42-1996, f. & cert. ef. 8-12-96; FWC 53-1997, f. & cert. ef. 9-3-97; DFW 61-1998, f. & cert. ef. 8-10-98; DFW 75-1998, f. & cert. ef. 9-4-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 56-1999, f. & cert. ef. 8-13-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 51-2000, f. & cert. ef. 8-22-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 73-2001, f. & cert. ef. 8-15-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 88-2002, f. & cert. ef. 8-14-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 76-2003, f. & cert. ef. 8-13-03; DFW 118-2003, f. 12-4-03, cert. ef. 1-1-04; DFW 84-2004, f. & cert. ef. 8-18-04; DFW 91-2005, f. & cert. ef. 8-19-05; DFW 128-2005, f. 12-1-05, cert. ef. 1-1-06; DFW 81-2006, f. & cert. ef. 8-11-06; DFW 127-2006,

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f. 12-7-06, cert. ef. 1-1-07; DFW 68-2007, f. & cert. ef. 8-14-07; DFW 118-2007, f. 10-31-07, c. cert. ef. 1-1-08

635-045-0002

Definitions

(1) "Adult hunting license" is a resident or nonresident hunter's license, resident combination angler's and hunter's license, disabled war veteran's license, pioneer's hunting license or senior citizen's hunting and fishing license.

(2) "Agricultural lands" are lands that are not less than ten acres in extent that have been cultivated and planted or irrigated to domestic crops that are currently in use. Isolated home gardens, abandoned farmsteads, logged lands, rangelands, and tree farms, are not included in this definition.

(3) "Antler Point" is a point at least one inch in length measured from tip of point to nearest edge of beam. This definition applies only to the three-point elk and spike only elk bag limits.

(4) "Antlerless deer" means doe or fawn deer.

(5) "Antlerless elk" means cow or calf elk.

(6) "Application" means the electronic form completed and purchased to apply for a hunt where the number or distribution of hunters is limited through a public drawing or other means. Mail order applications sent to the Department along with the proper remittance are used to generate the electronic form.

(7) "Baited Area" means an area where baiting has taken place.

(8) "Baiting" means the placing, exposing, depositing, distributing, or scattering of corn, wheat, salt or other feed to constitute a lure or enticement to, on, or over an area where hunters are attempting to take game birds.

(9) "Brace" is defined as an orthosis that is prescribed by a physician and fabricated by an orthotist certified by the American Board for Certification in Orthotics and Prosthetics, Inc.

(10) "Brace Height" is the distance from the back of the bow's riser at the handgrip to the string when the bow is at rest.

(11) "Buck Deer" means a male deer with at least one visible antler.

(12) "Buck Pronghorn" means a male pronghorn antelope with visible horns and a dark cheek patch below the ear.

(13) "Bull elk" for the purposes of a bag limit definition, means a male elk with at least one visible antler.

(14) "Calendar year" means from January 1 through December 31.

(15) "Carcass" is the skinned or unskinned body, with or without entrails, of a gamebird or game mammal.

(16) "Cascade elk" means any live elk occurring in the Dixon, Evans Creek, Indigo, Keno, McKenzie, Metolius, Rogue, Santiam and Upper Deschutes units and those parts of Fort Rock and Sprague units west of Highway 97, and that part of Grizzly Unit west of Hwy 97 and south of Hwy 26.

(17) "Cervid" means any member of the family cervidae (deer), including gametes or hybrids. Species included within the family, taxonomic nomenclature, and other matters pertaining to the identification of animals within the family shall be that of Walker's Mammals of the World, Sixth Edition, Johns Hopkins University Press, Baltimore, Maryland, 1999, by Ronald M. Nowak.

(18) "Cervid Propagation License – Type 1" means a license required to hold any live cervid species other than fallow deer and reindeer except as provided in OAR 635-049-0010(1)-(3).

(19) "Cervid Propagation License – Type 2" means a license required to hold live fallow deer and reindeer except as provided in OAR 635-049-0010(1)-(3).

(20) "Closed season" is any time and place when it is not authorized to take a specific species, sex or size of wildlife.

(21) "Coast elk" means any live elk occurring in the Alsea, Applegate, Chetco, Melrose, Powers, Saddle Mountain, Scappoose, Siuslaw, Sixes, Stott Mountain, Tioga, Trask, Willamette, and Wilson units.

(22) "Commission" means the Oregon Fish and Wildlife Commission.

(23) "Controlled hunt" is a season where the number or distribution of hunters is limited through a public drawing or other means.

(24) "Department" means the Oregon Department of Fish and Wildlife.

(25) "Director" means the Oregon Fish and Wildlife Director.

(26) "Doe or fawn pronghorn" means a female pronghorn antelope without a dark cheek patch below the ear or a pronghorn fawns (young of the year) of either sex.

(27) "Domestic partner" as used in this rule means a person in a relationship with another person, each of whom:

(a) Is under no legal disability to marry the other person, but for the fact that each is of the same sex;

(b) Desires a relationship of marriage under Oregon law and would enter into marriage with the other person, and only with the other person, if Oregon law permitted it;

(c) Acknowledges and accepts financial obligations to the other person and to third parties equivalent to the financial obligation that arise within a marriage recognized under Oregon state law; and

(d) Is not married and has no similar commitment and responsibility to any other person.

(e) Has continuously lived for 6 months with the other person

(28) "Eastern Oregon" means all counties east of the summit of the Cascade Range including all of Klamath and Hood River counties.

(29) "Eastern Oregon deer" means any live deer occurring east of the east boundaries of the Santiam, McKenzie, Dixon, Indigo and Rogue units.

(30) "Eligible Hunter" means someone who will be 12 years of age by the time they hunt.

(31) "Entry permit" means a permit issued by the Department to be in an area where entry is restricted by regulation.

(32) "Established airport" is one that the Aeronautics Division has licensed as a public-use airport, registered as a personal-use airport, or specifically exempted from either licensing or registration.

(33) "Evidence of lawful possession" means any license or permit allowing possession of the specified live cervid; or other documentation establishing lawful possession, including but not limited to a statement of no requirement for a license or permit for the specified live cervid granted by the country or state of origin.

(34) "Facility" means the location where animals are held, including the exterior perimeter fence and all pastures, paddocks, runways, buildings, and pens therein.

(35) "Feral Swine" means animals of the genus *Sus* as defined by the Oregon Department of Agriculture in OAR 603-010-0055.

(36) "Fiscal year" means from July 1 through June 30.

(37) "Furbearers" are beaver, bobcat, fisher, marten, mink, muskrat, otter, raccoon, red fox, and gray fox.

(38) "Game Birds" are any waterfowl, snipe, band-tailed pigeon, dove, pheasant, quail, partridge, grouse, or wild turkey.

(39) "Game mammals" are pronghorn antelope, black bear, cougar, deer, elk, moose, Rocky Mountain goat, bighorn sheep, and western gray squirrel.

(40) "General season" is any season open to the holder of a valid hunting license and appropriate game mammal tag without restriction as to the number of participants.

(41) "Hold" means any form of possession or control of an animal, gamete, hybrid, or part thereof.

(42) "Hunter certification" means to have met educational, safety or other requirements designated by administrative rule for participation in a hunt.

(43) "Hunt" means to take or attempt to take any wildlife by means involving the use of a weapon or with the assistance of any mammal or bird.

(44) "Husbandry" means the care given animals directly by their owners and managers, including but not limited to:

(a) Nutrition;

(b) Breeding program;

(c) Veterinary medical care;

(d) Environmental cleanliness; and

(e) Humane handling.

(45) "Immediate family" for the purpose of Landowner Preference, means a landowner's spouse, children, father, mother, brother, sister, stepchildren, and grandchildren.; for all other purposes, it means spouse, domestic partner, children, father, mother, brother, sister, stepchildren, and grandchildren.

(46) "Inedible" means unfit for human consumption.

(47) "Landowner", as used in OAR Chapter 635, Division 075, means:

(a) A person who holds title in trust or in fee simple to 40 or more contiguous acres of land; provided however that a recorded deed or contract of ownership shall be on file in the county in which the land is located; and/or

(b) A corporation holding title in fee simple to 40 or more contiguous acres of land; provided however that the corporation shall be registered with the State of Oregon; and/or

(c) A partnership holding title in fee simple to 40 or more contiguous acres of land; and/or

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(d) Persons who hold title as part of a time share are not eligible for landowner preference.

(48) "Low Income" means a person who is "economically disadvantaged" as defined in Section 4(8) of the Federal Job Training Partnership Act of 1982.

(49) "Mounted Wildlife" means any hide, head or whole body of wildlife prepared by a licensed taxidermist for display.

(50) "Muzzleloader" is any single-barreled (shotguns may be double barreled) long gun meant to be fired from the shoulder and loaded from the muzzle with an open ignition system and open or peep sights.

(51) "Native cervid" means mule deer, black-tailed deer, white-tailed deer, Roosevelt elk, Rocky Mountain elk and moose, including gamete or hybrid.

(52) "Nonindigenous cervid" means any member of a cervid species, including gamete or hybrid, not classified as a native cervid species.

(53) "On or within" means a straight line distance measured on a map.

(54) "One deer" means a buck, doe, or fawn deer.

(55) "One elk" means a bull, cow, or calf elk.

(56) "Open Ignition" is an ignition system where the percussion cap, or frizzen, or flint is visible and exposed to the weather at all times and is not capable of being closed or covered by any permanent piece of the weapon.

(57) "Partner" means a person in an association of two or more persons formed to carry on as co-owners for

(58) "Point-of-Sale" (POS) is a computerized licensing system available at locations that sell Oregon's hunting and angling licenses. Licenses and tags are generated and issued directly to customers from a POS machine at the time of sale.

(59) "Possession" means to have physical possession or to otherwise exercise dominion or control over any wildlife or parts thereof, and any person who counsels, aids or assists another person holding such wildlife is deemed equally in possession.

(60) "Postmark" means the date of mailing as stated in a mark applied by the U.S. Postal Service to a piece of mail. Office postal machine meter marks are not valid application deadline postmarks.

(61) "Predatory animals" means coyotes, rabbits, rodents, and feral swine which are or may be destructive to agricultural crops, products and activities.

(62) "Protected wildlife" means "game mammals" as defined in OAR 635-045-0002 (39), "game birds" as defined in OAR 635-045-0002 (38), "furbearers" as defined in OAR 635-045-0002 (37), "threatened and endangered species" as defined in OAR 635-100-0125, and "nongame wildlife protected" as defined in OAR 635-044-0130.

(63) "Pursue" means the act of trailing, tracking, or chasing wildlife in an attempt to locate, capture, catch, tree, or kill any game mammal or furbearer.

(64) "Raw pelt" means any pelt that has not been processed or converted to any usable form beyond initial cleaning, stretching, and drying.

(65) "Red deer" means any species, subspecies, or race of the elk-red deer-wapiti complex *Cervus elaphus* not indigenous to the state of Oregon.

(66) "Release" is permitting any domestically-raised or imported wildlife currently or previously in possession to exist alive outside an approved holding or propagation facility. For the purposes of OAR Chapter 635, Division 049, release means permitting a cervid currently or previously in possession to exist alive outside an approved holding or propagating facility, except animals that are in transit pursuant to OAR 635-049-0075

(67) "Resident" is any person who has resided in Oregon for a period of at least six months immediately prior to the date of making application for a license or tag. Members of the armed forces assigned to permanent duty status in Oregon including spouses and dependent children, and foreign exchange students attending school in Oregon under a foreign student exchange program may purchase a resident license and tags. All other persons are nonresidents.

(68) "Resident juvenile" is any "Resident" of Oregon 14 through 17 years of age.

(69) "River" is that portion of a natural water body lying below the level of bankfull stage. Bankfull stage is the stage or elevation at which overflow of the natural banks of a stream or body of water begins to inundate the upland.

(70) "Rocky Mountain elk" is any live elk occurring east of the following described line: Beginning at the California line on Highway 97; north on Highway 97 to State Highway 26 at Madras; northwest on Highway 26 to east boundary of Santiam Unit; north along east boundary of Santiam Unit to the Columbia River.

(71) "Shotgun" is a smoothbore firearm, designed for firing birdshot, and intended to be fired from the shoulder, with a barrel length of 18 inches or more, and with an overall length of 26 inches or more. Exception: Shotguns equipped with rifled slug barrels are considered shotguns when used for hunting pronghorn antelope, black bear, cougar, deer, or elk when centerfire rifles or shotguns are legal weapons.

(72) "Sight bait" is exposed flesh bait within 15 feet of any leghold trap set for carnivores.

(73) "Spike deer" is a deer with spike (unbranched) antlers.

(74) "Spike-only bull elk" means a bull elk with at least one visible unbranched antler (brow tines are not considered an antler branch under spike-only regulations).

(75) "Stockholder" is a person who owns stock within a corporation as defined in OAR 635-045-0002 (47) (b).

(76) "Tag" is a document authorizing the taking of a designated kind of mammal at a specified time and place.

(77) "Take" means to kill or obtain possession or control of any wildlife.

(78) "Three point plus elk" for the purposes of a bag limit definition, means a bull elk having 3 points or more on one antler including the brow tine.

(79) "Unbarbed broadhead" is a fixed position arrowhead where the rear edge of the blade(s) forms an angle with the arrow shaft to which it is attached of 90° or greater.

(80) "Unprotected Mammals and Birds" are European starling, house sparrow, rock pigeon and any mammal species for which there are no closed seasons or bag limits.

(81) "Valid certification permit" is a permit for the current season that has not become invalid after taking a season limit or illegal game bird.

(82) "Visible Antler" means a velvet or hardened antler that is visible above the hairline on the skullcap and is capable of being shed.

(83) "Wait period" means the length of time a successful controlled hunt applicant must wait before reapplying for the species for which he was successful in drawing.

(84) "Waste" means to allow any edible portion of any game mammal (except cougar) or game bird to be rendered unfit for human consumption, or, to fail to retrieve edible portions, except internal organs, of such game mammals or game birds from the field. Entrails, including the heart and liver, are not considered edible.

(85) "Waterfowl" means ducks, geese, mergansers and coots.

(86) "Weapon" is any device used to take or attempt to take wildlife.

(87) "Western Oregon" means all counties west of the summit of the Cascade Range except Klamath and Hood River counties.

(88) "Western Oregon deer" is any live deer except the Columbian white-tailed deer occurring west of the east boundaries of the Santiam, McKenzie, Dixon, Indigo, and Rogue units.

(89) "Wildlife" means fish, wild birds, amphibians, reptiles, wild mammals, and feral swine.

(90) "Wildlife" means for the purposes of harassment to relieve damage described in OAR 635-043-0096 through 635-043-0115, game mammals, game birds except migratory birds protected by Federal law, furbearing mammals and wildlife declared protected by the commission.

(91) "Wildlife" means for the purposes of scientific taking described in OAR 635-043-0023 through 635-043-0045, wild birds, wild mammals, amphibians and reptiles, including nests, eggs, or young of same.

(92) "Wildlife unit" is a geographic area described in OAR 635-080-0000 through OAR 635-080-0077.

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

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

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

Hist.: FWC 47-1989, f. & cert. ef. 7-25-89; FWC 104-1989, f. & cert. ef. 9-29-89; FWC 14-1990, f. & cert. ef. 2-2-90; FWC 22-1990, f. & cert. ef. 3-21-90; FWC 17-1991, f. & cert. ef. 3-12-91; FWC 33-1991, f. & cert. ef. 3-25-91; FWC 50-1991, f. & cert. ef. 5-13-91; FWC 57-1991, f. & cert. ef. 6-24-91; FWC 9-1993, f. & cert. ef. 2-8-93; FWC 6-1994, f. & cert. ef. 1-26-94; FWC 20-1995, f. & cert. ef. 3-6-95; FWC 63-1995, f. & cert. ef. 8-3-95; FWC 21-1996, f. & cert. ef. 5-1-96; FWC 50-1996, f. & cert. ef. 8-30-96; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 53-1997, f. & cert. ef. 9-3-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 73-2001, f. & cert. ef. 8-15-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 118-2003, f. 12-4-03, cert. ef. 1-1-04; DFW 142-2005, f. & cert. ef. 12-16-05; DFW 127-2006, f. 12-7-06, cert. ef. 1-1-07; DFW 68-2007, f. & cert. ef. 8-14-07; DFW 118-2007, f. 10-31-07, c. cert. ef. 1-1-08

635-060-0000

Purpose and General Information

(1) The purpose of these rules is to describe the requirements and procedures for controlled hunts pursuant to ORS 496.162.

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(2) The documents entitled “2007-2008 Oregon Game Bird Regulations”, and “2008,” are incorporated by reference into these rules. These documents are available at hunting license agents and regional, district, and headquarters offices of the Oregon Department of Fish and Wildlife.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 118, f. & ef. 6-3-77; FWC 25-1978, f. & ef. 5-26-78; FWC 32-1978, f. & ef. 6-30-78; FWC 29-1979, f. & ef. 8-2-79; FWC 33-1980, f. & ef. 6-30-80; FWC 7-1981, f. 2-18-81, ef. 6-1-81; FWC 10-1981, f. & ef. 3-31-81; FWC 22-1981, f. & ef. 6-29-81; FWC 21-1982, f. & ef. 3-31-82; FWC 38-1982, f. & ef. 6-25-82; FWC 34-1984, f. & ef. 7-24-84; FWC 16-1985, f. & ef. 4-11-85; FWC 43-1985, f. & ef. 8-22-85; FWC 35-1986, f. & ef. 8-7-86; FWC 11-1987, f. & ef. 3-6-87; FWC 40-1987, f. & ef. 7-6-87; FWC 12-1988, f. & cert. ef. 3-10-88; FWC 37-1988, f. & cert. ef. 6-13-88; FWC 14-1989, f. & cert. ef. 3-28-89; FWC 48-1989, f. & cert. ef. 7-25-89; FWC 23-1990, f. & cert. ef. 3-21-90; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 61-1998, f. & cert. ef. 8-10-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 56-1999, f. & cert. ef. 8-13-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 51-2000, f. & cert. ef. 8-22-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 73-2001, f. & cert. ef. 8-15-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 3-2002(Temp), f. & cert. ef. 1-3-02 thru 1-23-02; DFW 28-2002(Temp), f. 4-1-02, cert. ef. 4-2-02 thru 9-28-02; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 88-2002, f. & cert. ef. 8-14-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 76-2003, f. & cert. ef. 8-13-03; DFW 118-2003, f. 12-4-03, cert. ef. 1-1-04; DFW 84-2004, f. & cert. ef. 8-18-04; DFW 122-2004, f. 12-21-04, cert. ef. 1-1-05; DFW 91-2005, f. & cert. ef. 8-19-05; DFW 128-2005, f. 12-1-05, cert. ef. 1-1-06; DFW 81-2006, f. & cert. ef. 8-11-06; DFW 127-2006, f. 12-7-06, cert. ef. 1-1-07; DFW 68-2007, f. & cert. ef. 8-14-07; DFW 118-2007, f. 10-31-07, c. cert. ef. 1-1-08

635-060-0009 Successful Applicants

Successful controlled hunt applicants must purchase the controlled hunt tag or permit for the hunt in which they were successful from a department license agent connected to the computerized licensing system within the following dates:

(1) Spring black bear controlled hunts tag sales begin February 20, each year and end at 11:59 pm, Pacific Time, the day before the season start date.

(2) Pronghorn antelope, bighorn sheep, Rocky Mountain goat, deer and elk controlled hunts tag sales begin June 20 each year and end at 11:59 pm, Pacific Time, the day before the season start date for which the tag is valid.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 45-1994(Temp), f. & cert. ef. 7-29-94; FWC 94-1994, f. & cert. ef. 12-22-94; FWC 63-1995, f. & cert. ef. 8-3-95; FWC 21-1996, f. & cert. ef. 5-1-96; FWC 44-1996(Temp), f. 8-12-96, cert. ef. 8-14-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 6-1999(Temp), f. & cert. ef. 2-9-99 thru 2-19-99; DFW 12-1999(Temp), f. & cert. ef. 2-25-99 thru 6-30-99; Administrative correction 11-17-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 4-2002(Temp), f. & cert. ef. 1-3-02 thru 2-1-02; DFW 108-2002(Temp), f. & cert. ef. 9-26-02 thru 12-31-02; DFW 105-2004(Temp), f. & cert. ef. 10-13-04 thru 11-15-04; DFW 107-2004(Temp), f. & cert. ef. 10-18-04 thru 11-27-04; Administrative correction, 2-18-05; DFW 70-2007(Temp), f. & cert. ef. 8-13-07 thru 2-9-08; DFW 103-2007(Temp), f. & cert. ef. 9-27-07 thru 3-24-08; DFW 118-2007, f. 10-31-07, c. cert. ef. 1-1-08

635-060-0023 Modified Preference Point System

(1) The Modified Preference Point System separates the tags for each controlled game mammal hunt into two groups:

(a) Seventy-five percent of the tags will be issued through the preference point system;

(b) The remaining 25 percent of the tags will be issued by the equal-probability computer drawing.

(2) Applicants shall accrue no more than one preference point per hunt number series per year.

(a) Valid applicants who did not receive controlled hunt tags for their first choice hunt number in the 100, 200, 400, 600, or 700 series hunts during the controlled hunt drawing shall receive one preference point applicable to subsequent controlled hunt drawings for the respective hunt number series, except as excluded in OAR 635-060-0008(4).

(3) A preference point will automatically accrue within each controlled hunt series when an applicant's first choice is as follows:

- (a) Hunt number 199: controlled buck deer;
- (b) Hunt number 299: controlled elk;
- (c) Hunt number 499: controlled pronghorn antelope;
- (d) Hunt number 699: controlled antlerless deer;
- (e) Hunt number 799: controlled black bear.

(4) Youth nine years of age or older are eligible to apply for automatic Preference Points as described in (3) provided they have a social security number, a Hunter/Angler ID number issued by ODFW, and purchase the appropriate (resident or nonresident) adult hunting license.

(5) The Modified Preference Point System will group controlled hunt applicants by the number of preference points they have accrued for each

hunt number series. Applicants with the highest number of preference points for each hunt number will be drawn first. Applicants having the next highest number of preference points per hunt number will be drawn next. This tag issuance process will continue through descending numbers of preference points until 75 percent of the tags authorized for the hunt have been issued, unless all qualified applicants with preference points have been issued tags prior to that point. Any tags remaining following the issuance of preference point tags will be issued through the equal-probability computer drawing. Applicants unsuccessful in the preference point tag issuance procedure and those applicants without preference points will be placed in the equal-probability computer drawing for the remaining tags.

(6) Applicants successful in drawing their first choice hunt except numbers ending in 99 within a hunt number series shall have zero preference points when they next apply for a tag in that hunt number series.

(7) Beginning in 2008 applicants will not forfeit preference points accumulated for a hunt number series when they do not apply for that hunt number series for two consecutive years.

(8) Applicants who have their hunting license suspended or revoked by legal action will forfeit all preference points.

(9) Party applicant preference points shall be determined by totaling the preference points of all party members and then calculating the average of this total. Party preference points will be rounded up from x.51 (e.g. 3.51 to 4, 3.50 to 3) to the next whole number.

(10) Department records are final to determine accrued preference points for controlled hunt applicants.

(11) Each applicant's preference point accrual record will be linked to his or her permanent identification number. Preference point applicants shall use the permanent identification number each time they apply for a controlled hunt tag. Failure to do so shall place the applicant in the equal-probability drawing for his or her hunt number series and preference points will not be accrued together.

(12) Applicants will receive no preference points when:

(a) Their application is not received by the appropriate application date;

(b) They request their controlled hunt application be withdrawn prior to the controlled hunt drawing;

(c) The controlled hunt application has been falsified.

(13) The Modified Preference Point System shall apply to 100, 200, 400, 600, and 700 series hunts.

(14) In 2005, 800 series points will be converted into 600 series points.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 6-1994, f. & cert. ef. 1-26-94; FWC 13-1994(Temp), f. & cert. ef. 3-1-94; FWC 45-1994(Temp), f. & cert. ef. 7-29-94; FWC 94-1994, f. & cert. ef. 12-22-94; FWC 63-1995, f. & cert. ef. 8-3-95; FWC 21-1996, f. & cert. ef. 5-1-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 105-2004(Temp), f. & cert. ef. 10-13-04 thru 11-15-04; DFW 107-2004(Temp), f. & cert. ef. 10-18-04 thru 11-27-04; DFW 122-2004, f. 12-21-04, cert. ef. 1-1-05; DFW 118-2007, f. 10-31-07, c. cert. ef. 1-1-08

635-060-0055 Documents Required in Field

(1) A person hunting in any controlled game mammal hunt shall have on his or her person a valid hunting license, Hunter Education Certificate (for persons less than 18 years old), and a controlled hunt tag (if applicable) for the area and season being hunted. The hunting license number shall be the same as that indicated on the controlled hunt tag. Exception: Controlled hunts continuing or occurring after December 31, 2007 will have a 2008 hunting license number on the controlled hunt tag.

(2) A tag or permit holder for a hunt after December 31, 2007 shall have on his or her person a valid 2008 hunting license.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 32-1978, f. & ef. 6-30-78; FWC 29-1979, f. & ef. 8-2-79; FWC 33-1980, f. & ef. 6-30-80; FWC 7-1981, f. 2-18-81, ef. 6-1-81; FWC 10-1981, f. & ef. 3-31-81; FWC 22-1981, f. & ef. 6-29-81; FWC 38-1982, f. & ef. 6-25-82; FWC 34-1984, f. & ef. 7-24-84; FWC 43-1985, f. & ef. 8-22-85; FWC 35-1986, f. & ef. 8-7-86; FWC 11-1987, f. & ef. 3-6-87; FWC 12-1988, f. & cert. ef. 3-10-88; FWC 37-1988, f. & cert. ef. 6-13-88; FWC 14-1989, f. & cert. ef. 3-28-89; FWC 48-1989, f. & cert. ef. 7-25-89; FWC 23-1990, f. & cert. ef. 3-21-90; FWC 18-1991, f. & cert. ef. 3-12-91; FWC 14-1992, f. 3-10-92, cert. ef. 3-13-92 (and corrected 3-13-92); FWC 36-1993, f. & cert. ef. 6-14-93; FWC 51-1993, f. & cert. ef. 8-25-93; FWC 6-1994, f. & cert. ef. 1-26-94; FWC 45-1994(Temp), f. & cert. ef. 7-29-94; FWC 94-1994, f. & cert. ef. 12-22-94; FWC 63-1995, f. & cert. ef. 8-3-95; FWC 21-1996, f. & cert. ef. 5-1-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 4-2003, f. 1-17-03, cert. ef. 4-1-03; DFW 119-2003, f. 12-4-03, cert. ef. 4-1-04; DFW 131-2004, f. 12-21-04, cert. ef. 4-1-05; DFW 132-2005, f. 12-1-05, cert. ef. 4-1-06; DFW 126-2006, f. 12-7-06, cert. ef. 4-1-07; DFW 118-2007, f. 10-31-07, c. cert. ef. 1-1-08

ADMINISTRATIVE RULES

635-065-0001

Purpose and General Information

(1) The purpose of these rules is to establish license and tag requirements, limits, areas, methods and other restrictions for hunting game mammals pursuant to ORS Chapter 496.

(2) OAR chapter 635, division 065 incorporates, by reference, the requirements for hunting game mammals set out in the document entitled “2008 Oregon Big Game Regulations,” into Oregon Administrative Rules. Therefore, persons must consult the “2008 Oregon Big Game Regulations” in addition to OAR Chapter 635, to determine all applicable requirements for game mammals. The annual Oregon Big Game Regulations are available at hunting license agents and regional, district, and headquarters offices of the Oregon Department of Fish and Wildlife.

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

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

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

Hist.: FWC 38-1988, f. & cert. ef. 6-13-88; FWC 63-1989, f. & cert. ef. 8-15-89; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 3-2002(Temp), f. & cert. ef. 1-3-02 thru 1-23-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 9-2003(Temp), f. & cert. ef. 1-28-03 thru 6-16-03; DFW 85-2003(Temp), f. & cert. ef. 8-27-03 thru 2-23-04; DFW 88-2003(Temp), f. & cert. ef. 9-3-03 thru 12-31-03; DFW 118-2003, f. 12-4-03, cert. ef. 1-1-04; DFW 122-2004, f. 12-21-04, cert. ef. 1-1-05; DFW 128-2005, f. 12-1-05, cert. ef. 1-1-06; DFW 127-2006, f. 12-7-06, cert. ef. 1-1-07; DFW 118-2007, f. 10-31-07, c. cert. ef. 1-1-08

635-065-0090

Disabled Hunter Seasons and Bag Limits

(1) ORS 496.018 provides that in order to be considered a person with a disability under the wildlife laws, a person shall provide to the Fish and Wildlife Commission either written certification from a licensed physician, certified nurse practitioner, or licensed physician assistant of certain specified disabilities or written proof that the U.S. Department of Veterans Affairs or the Armed Forces shows the person to be at least 65 percent disabled. To implement that statute, this rule provides for the issuance of an “Oregon Disabilities Hunting and Fishing Permit” by the Department.

(2) To obtain an “Oregon Disabilities Hunting and Fishing Permit,” a person shall submit to the Department a completed form specified by the Department. If the completed form accurately provides all required information, the Department shall issue an “Oregon Disabilities Hunting and Fishing Permit”. Permits are valid for two calendar years. To renew a permit, the holder must submit a new, updated application form.

(3) The Department may revoke, suspend or decline to issue or renew an “Oregon Disabilities Hunting and Fishing Permit” for failure to submit accurate information. The holder or applicant may request a contested case hearing to appeal such an action.

(4) A person who possesses an Oregon Disabilities Hunting and Fishing Permit issued by the department is qualified for expanded bag limits as follows: [Table not included. See ED. NOTE.]

(5) The Oregon Disabilities Hunting and Fishing Permit is valid only with a general season or controlled bull elk, buck deer, or pronghorn antelope tag for the area and time period being hunted. The permit must be carried on the person while hunting.

(6) An able-bodied companion may accompany a person with an Oregon Disabilities Hunting and Fishing Permit and kill any animal wounded by the permit holder. The wounded animal must be killed using a legal weapon for the season and species designated on the tag. The companion must immediately attach the permit holder’s tag to the carcass of the animal. The companion is not required to possess a hunting license or tag.

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

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

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

Hist.: FWC 29-1987, f. & cert. ef. 6-19-87; FWC 63-1989, f. & cert. ef. 8-15-89; FWC 20-1991, f. & cert. ef. 3-12-91; FWC 36-1993, f. & cert. ef. 6-14-93; FWC 18-1994, f. 3-30-94, cert. ef. 5-1-94; FWC 4-1995, f. 1-23-95, cert. ef. 7-1-95; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 122-2004, f. 12-21-04, cert. ef. 1-1-05; DFW 53-2005, f. & cert. ef. 6-14-05; DFW 142-2005, f. & cert. ef. 12-16-05; DFW 41-2006, f. & cert. ef. 6-14-06; DFW 42-2007, f. & cert. ef. 6-14-07; DFW 118-2007, f. 10-31-07, c. cert. ef. 1-1-08

635-065-0401

Deadline for Purchase of General Season Tags

(1) No western Oregon deer rifle tag shall be issued after 11:59 pm, Pacific Time, October 3, 2008.

(2) No deer bow tag shall be issued after 11:59 pm, Pacific Time, August 29, 2008.

(3) No bear tag shall be issued after 11:59 pm, Pacific Time, October 3, 2008.

(4) No cougar (mountain lion) tag shall be issued after 11:59 pm, Pacific Time, October 3, 2008.

(5) No Rocky Mountain Elk Rifle First Season Tag shall be issued after 11:59 pm, Pacific Time, October 28, 2008.

(6) No Rocky Mountain Elk Rifle Second Season Tag shall be issued after 11:59 pm, Pacific Time, November 7, 2008.

(7) No Coast First Season Elk Tag shall be issued after 11:59 pm, Pacific Time, November 14, 2008.

(8) No Coast Second Season Elk Tag shall be issued after 11:59 pm, Pacific Time, November 21, 2008.

(9) No Cascade Elk Rifle Tag shall be issued after 11:59 pm, Pacific Time, October 17, 2008.

(10) No elk bow tag shall be issued after 11:59 pm, Pacific Time, August 29, 2008.

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

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

Hist.: FWC 123, f. & cert. ef. 6-9-77; FWC 33-1978, f. & cert. ef. 6-30-78; FWC 28-1979, f. & cert. ef. 8-2-79; FWC 33-1980, f. & cert. ef. 6-30-80; FWC 6-1981, f. & cert. ef. 1-23-81; FWC 11-1981, f. & cert. ef. 3-31-81; FWC 20-1981, f. & cert. ef. 6-19-81; FWC 37-1982, f. & cert. ef. 6-25-82; FWC 28, f. & cert. ef. 7-8-83; FWC 34-1984, f. & cert. ef. 7-24-84; FWC 43-1985, f. & cert. ef. 8-22-85; FWC 35-1986, f. & cert. ef. 8-7-86; FWC 41-1987, f. & cert. ef. 7-6-87; FWC 13-1988, f. & cert. ef. 3-10-88; FWC 38-1988, f. & cert. ef. 6-13-88; FWC 15-1989, f. & cert. ef. 3-28-89; FWC 63-1989, f. & cert. ef. 8-15-89; Renumbered from 635-065-0010; FWC 24-1990, f. & cert. ef. 3-21-90; FWC 55-1990, f. & cert. ef. 6-21-90; FWC 20-1991, f. & cert. ef. 3-12-91; FWC 58-1991, f. & cert. ef. 6-24-91; FWC 36-1993, f. & cert. ef. 6-14-93; FWC 18-1994, f. 3-30-94, cert. ef. 5-1-94; FWC 4-1995, f. 1-23-95, cert. ef. 7-1-95; FWC 18-1996, f. 4-10-96, cert. ef. 8-1-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 108-2002(Temp), f. & cert. ef. 9-26-02 thru 12-31-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 118-2003, f. 12-4-03, cert. ef. 1-1-04; DFW 122-2004, f. 12-21-04, cert. ef. 1-1-05; DFW 128-2005, f. 12-1-05, cert. ef. 1-1-06; DFW 127-2006, f. 12-7-06, cert. ef. 1-1-07; DFW 70-2007(Temp), f. & cert. ef. 8-13-07 thru 2-9-08; DFW 103-2007(Temp), f. & cert. ef. 9-27-07 thru 3-24-08; DFW 118-2007, f. 10-31-07, c. cert. ef. 1-1-08

635-065-0625

Regulations on State Wildlife Areas, Refuges and Special Areas

State wildlife areas, refuges and special areas shall be open to hunting during authorized seasons, subject to the following special regulations and exceptions:

(1) Bear Valley National Wildlife Refuge (Klamath County): The Bear Valley Refuge shall be closed to all entry from November 1 through March 31 annually.

(2) Bridge Creek Wildlife Area (Umatilla County): Open to public access and hunting. Motorized vehicle travel restricted to open roads. Entry is by permit only December 1 through April 30.

(3) Cascade Head — Lincoln City Area: The Cascade Head - Lincoln City Area shall be closed to hunting with centerfire rifles, muzzleloaders, or handguns. Hunting shall be restricted to archery and shotguns only during authorized seasons, except for Department approved emergency hunts. Hunters using shotguns for elk shall use slugs (single projectile) only. The Cascade Head — Lincoln City Area boundaries shall be defined as follows: Beginning at the Pacific Ocean and Siletz River mouth, east along the north shoreline of the Siletz River to Drift Cr. Rd. (mile post 1 on Hwy 229); north on Drift Cr. Rd. to Anderson Cr. Rd.; north on Anderson Cr. Rd. to Schooner Cr. Rd.; west on Schooner Cr. Rd. to Forest Rd. 2200; north and east on FR 2200 to FR 1726; west on FR 1726 to FR 2100; northeast on FR 2100 to the power line crossing; north along the power line to State Hwy. 18; west on Hwy 18 to Old Scenic Hwy 101; north on Old Scenic Hwy 101 to Three Rocks Rd.; west on Three Rocks Rd. to U.S. Hwy 101; north on Hwy 101 to FR 1861; west on FR 1861 to Harts Cove trailhead; west on Harts Cove trail to the Pacific Ocean; south along the coastline to the Siletz River, point of beginning.

(4) Cold Springs Refuge (Umatilla County): The Cold Springs Refuge shall be closed to deer and elk hunting.

(5) Dean Creek Elk Viewing Area (Douglas County): All Bureau of Land Management lands within or adjacent to Township 22S Range 11W (including Spruce Reach Island) are closed to hunting. Also, other lands located with in the following boundary are closed to hunting during all elk and deer seasons that pertain to this area: beginning at the intersection of Schofield Rd. and Hwy. 38, south on Schofield Rd. to it’s intersection with Hakki Ridge Rd., east on Hakki Ridge Rd. to the crest of Hakki Ridge., east along the crest of Hakki Ridge to it’s intersection with the BLM boundary located in T22S, R11W Section 4, easterly along the BLM boundary to Hwy. 38, Hwy 38 to point of beginning.

(6) Denman Wildlife Area (Jackson County): The Denman Wildlife Area shall be open to hunting only during game mammal and game bird seasons. Use of rifles and handguns is prohibited at all times.

(7) Dunes National Recreational Area: Use of rifles and handguns is prohibited for all hunting in that portion of the Siuslaw Unit west of Highway 101 and north of Tahkenitch Creek.

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(8) North Bank Habitat Management Area (previously known as the Dunning Ranch Area in Douglas County): 6,500 acres located approximately eight miles northeast of Roseburg. Area: All BLM lands located in T25S, R5W, Sections 35,36; T26S, R5W, Sections 1,2,11,12,13,14; T25S, R4W, Sections 31,32,33; T26S, R4W, Sections 4,5,6,7,8,18. This area shall be closed to all big game hunting except for and during controlled deer hunts specific to the management area by hunters possessing a controlled hunt tag for the area.

(9) E.E. Wilson Wildlife Area (Benton County): This area is open to deer hunting during authorized seasons, except closed to bow hunting for deer when juvenile pheasant hunts are in progress. Rabbit hunting is permitted from November 1 through February each year. Hunting is by permit only. Permits are available at area headquarters and shall be filled out and returned each day hunted. Use of rifles, handguns, and crossbows shall be prohibited at all times.

(10) Elkhorn Wildlife Area (Baker/Union counties): Closed to all entry December 1 through April 10 annually. The Roth Tract is closed to all hunting. The Roth Tract is closed to public entry except by entry permit; an entry permit is required at all times of the year.

(11) Enterprise Wildlife Area (Wallowa County): Open to hunting seven days a week. No entry permit is required. Posted portions of the area lying south of the Union Pacific Railroad line and the entire Marr Tract are closed to all hunting.

(12) Fern Ridge Wildlife Area (Lane County): Open to black-tailed deer hunting during authorized seasons, except that East and West Coyote units are closed after October 31, and hunting in Fisher Butte Unit after October 31 is limited to Saturdays, Sundays, and Wednesdays, Thanksgiving Day, Christmas Day, New Year's Day, and Veteran's Day only. A free daily hunting permit is required for East Coyote, West Coyote, Fisher Butte, and Royal Amazon units. Permits are available at check stations located at area access points. Hunters are limited to shotguns and archery equipment only. The discharging of rifles and handguns within the wildlife area is prohibited.

(13) William Finley National Wildlife Refuge (Benton County):

(a) Portions of the refuge shall be open to deer hunting August 30 through September 28, 2008 under the regulations for bowhunting seasons.

(b) Portions of the refuge shall be open to hunting for buck deer October 4 through October 29, 2008 under regulations for the general western Oregon deer buck season. Use of rifles is prohibited.

(c) All hunters shall obtain a refuge permit and check in and out of the refuge daily. Information on open areas and special regulations are available at the refuge.

(14) Gods Valley Wildlife Area (Clatsop County): Vehicles shall be restricted to county roads.

(15) Government Island State Recreation Area (Multnomah County): Use of rifles, handguns, and shotguns with slugs or buckshot, and bows is prohibited at all times.

(16) Irrigon, Coyote Springs, Power City, and Boardman wildlife management areas (Morrow and Umatilla counties): Use of rifles and handguns are prohibited at all times.

(17) Hart Mountain National Antelope Refuge (Lake County): Portions of the refuge shall be open for hunting as prescribed under chukar season, controlled pronghorn antelope and bighorn sheep hunts, deer bowhunting season, and muzzleloader deer season. The refuge is open for pronghorn antelope and bighorn sheep auction and raffle tag holders but is closed for Access and Habitat deer and elk auction and raffle tag holders.

(18) Heppner Regulated Hunt Area: Open fires and camping prohibited in posted areas. Approximately 69 square miles in Townships 2, 3, and 4 South, Ranges 26, 27 and 28 East;

(19) Jewell Meadows Wildlife Area (Clatsop County): The Beneke Tract and the Humbug Tract shall be open to hunting only during authorized game mammal and game bird seasons. The Beneke Tract is closed to all public entry during any open Saddle Mountain elk season. It is unlawful to shoot rifles and bows from or across open fields during any open Saddle Mountain Unit or Wilson Unit elk seasons. The Fishhawk Tract is closed to public access. Posted lands of Cavenham Forest Industries, Inc., in T5N, R7W, Sections 2, 3 and 4, 9, 10 and 11 and T6N, R7W, Sections 33 and 34, are closed to all hunting. All areas posted as Refuge are closed to public access. Entry for other purposes is only by permit obtained at the Jewell Wildlife Area Headquarters.

(20) John Day Fossil Beds National Monument: Those parts of the National Monument in the Grizzly, Biggs, Fossil, and Northside Units are closed to all hunting and trapping.

(21) John Day River Refuge: All land within 1/4 mile of the John Day River mean high water line from the Columbia River upstream to Thirty

Mile Creek. The area shall be open to hunting of upland game birds during authorized seasons only between September 1 and October 31 annually but closed to all waterfowl hunting. Hunting of big game is allowed during authorized seasons.

(22) Klamath Wildlife Area (Klamath County): This area is closed to all deer hunting.

(23) Klamath Marsh National Wildlife Refuge: Closed to deer and elk hunting.

(24) Ladd Marsh Wildlife Area (Union County): All land north and east of Foothill Road shall be closed to all deer and elk hunting except during controlled youth deer hunts and closed to all rifle and handgun shooting.

(25) Long Ranch (Linn County): Forty-eight acres in T13S, R4E, and S32 shall be closed to all hunting.

(26) Lower Deschutes Wildlife Area: Open to hunting of big game, game birds, and waterfowl during authorized seasons. Discharge of firearms prohibited the remainder of the year. Access by foot, boat or bicycle only.

(27) Malheur National Wildlife Refuge (Harney County): Portions of the refuge in Blitzen Valley lying west of State Highway 205 shall be open during authorized rifle and bow deer seasons.

(28) McDonald Forest-Dunn Forest Area (Benton County): The area is closed to all hunting except during controlled hunts as authorized by the commission.

(29) McKay Creek Refuge (Umatilla County): This refuge is closed to deer and elk hunting.

(30) Metolius Wildlife Refuge (Jefferson County). All hunting, injuring, taking, killing, or destroying any wild bird or mammal on public land is prohibited on public lands within T12 and T13S, R9E, bounded by USFS road 1420 and 1419 on the west; road 1400 on the south and east; and road 1420-400, Metolius River, and posted boundary from the Metolius River to road 1400 on the north (approximately five square miles). 36 CFR 261.58(v).

(31) Mill Creek Watershed (Umatilla County): This watershed is closed to all access and hunting except by holders of a Mill Creek Watershed controlled elk tag and a Forest Service entry permit.

(32) Newberry Crater Wildlife Refuge (Deschutes County). All hunting, injuring, taking, killing, or destroying any wild bird or mammal on public land is prohibited on public lands within the rim of Newberry Crater in: T21S, R12E; T22S, R12E; T21S, R13E; T22S, R13E (approximately 15 square miles).

(33) Rimrock Springs Wildlife Area (Grizzly Unit): This area is closed to all hunting.

(34) Rogue River Area:

(a) All land within one mile of the Rogue River between Grave Creek and Lobster Creek is closed to bear hunting.

(b) All land within 1/4 mile of the Rogue River in the wild river section from Grave Creek downstream to Watson Creek is closed to all hunting except during authorized seasons.

(35) Saddle Mountain Unit (White-tailed Deer Area): That portion of Saddle Mountain Wildlife Unit north of Burlington Northern railroad tracks to Astoria is closed to all deer hunting.

(36) Sauvie Island Wildlife Area (Multnomah-Columbia counties): This area shall be open to bowhunting for black-tailed deer August 30 through September 28, 2008. Daily permits are required. Hunters shall check in and out daily. This area shall be closed to deer hunting after September 28, 2008. Oak Island shall be closed to deer hunting. Use of rifles, handguns and crossbows shall be prohibited at all times. Parking permits are required.

(37) Phillip W. Schneider Wildlife Area (Grant County): Open to public access and hunting. Motorized vehicle travel restricted to open roads. Some roads closed seasonally from December 1 through April 30, or year-round; including BLM land within the exterior boundaries of the Wildlife Area.

(38) Snake River Islands (Malheur County): Closed to hunting with centerfire rifles and centerfire handguns.

(39) South Slough National Estuarine Reserve: Specific areas are closed to hunting due to public health and safety. Contact reserve headquarters office for specific closures.

(40) Starkey Experimental Forest Enclosure (Union County): That portion of The Starkey Experimental Forest within the eight foot elk-proof fence enclosure is closed to all hunting during deer and elk season except for persons possessing a controlled hunt tag for the area. A posted 1/4 mile buffer zone on the National Forest lands surrounding the enclosure is closed to all hunting with a centerfire rifle. The enclosure is open to deer

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and elk hunting only by permit during controlled hunts. The 12-foot right-of-way along each side of all 8-foot-high perimeter and internal game fences is closed to all motorized travel. Public entry is allowed only through the main gate. The Experimental Forest is closed to all public entry during the winter closure, which runs from the day after the controlled antlerless elk hunt until May 1 annually. Access and Habitat auction or raffle tag holders are not eligible to hunt in the Starkey Experimental Forest enclosure.

(41) Summer Lake Wildlife Area (Lake County): Open to public access and hunting during authorized mule deer and game bird hunting seasons. Closed to deer hunting during any pheasant, quail or waterfowl hunting seasons and posted refuge areas are closed to hunting. Motorized vehicle travel restricted to open roads. Some roads may be closed seasonally from Mar. 15-Aug.15 and 3 days prior to and during waterfowl hunting seasons. Hunters must obtain a daily hunting permit and check out at the end of the day. Permits and Area maps are available at Headquarters (1.3 mi. south of the town of Summer Lake). It is unlawful to discharge firearms except during deer and game bird hunting seasons or by permit. Centerfire rifles and handguns are prohibited for deer hunting.

(42) Umatilla Refuge (Morrow County): This refuge shall be closed to deer and elk hunting except during controlled hunts specific to the refuge and emergency hunts as provided in OAR Chapter 635, Division 078.

(43) Wallowa Lake (Wallowa County): All land on or within 1/4 mile of the Wallowa River from Wallowa Lake upstream to the falls and within 1/4 mile along the west side of Wallowa Lake from the Wallowa Lake State Park to the Wallowa River outlet is closed to all big game hunting.

(44) Wenaha Wildlife Area (Union County): Open to public access and hunting. Motorized vehicle travel restricted to open roads.

(45) Willamette River Greenway Corridor: Hunting is permitted with shotguns or bows and arrows only during authorized season on Willamette River Greenway parcels, except in those parcels where hunting is prohibited.

(45) White River Wildlife Area: Open to hunting during authorized seasons.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 123, f. & ef. 6-9-77; FWC 33-1978, f. & ef. 6-30-78; FWC 28-1979, f. & ef. 8-2-79; FWC 33-1980, f. & ef. 6-30-80; FWC 6-1981, f. & ef. 1-23-81; FWC 11-1981, f. & ef. 3-31-81; FWC 20-1981, f. & ef. 6-19-81; FWC 37-1982, f. & ef. 6-25-82; FWC 28, f. & ef. 7-8-83; FWC 34-1984, f. & ef. 7-24-84; FWC 43-1985, f. & ef. 8-22-85; FWC 35-1986, f. & ef. 8-7-86; FWC 41-1987, f. & ef. 7-6-87; FWC 38-1988, f. & cert. ef. 6-13-88; FWC 94-1988(Temp), f. & cert. ef. 9-19-88; FWC 15-1989, f. & cert. ef. 3-28-89; FWC 63-1989, f. & cert. ef. 8-15-89; FWC 24-1990, f. & cert. ef. 3-21-90; FWC 55-1990, f. & cert. ef. 6-21-90; FWC 20-1991, f. & cert. ef. 3-12-91; FWC 58-1991, f. & cert. ef. 6-24-91; FWC 36-1993, f. & cert. ef. 6-14-93; FWC 18-1994, f. 3-30-94, cert. ef. 5-1-94; FWC 4-1995, f. 1-23-95, cert. ef. 7-1-95; FWC 18-1996, f. 4-10-96, cert. ef. 8-1-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 9-2003(Temp), f. & cert. ef. 1-28-03 thru 6-16-03; DFW 118-2003, f. 12-4-03, cert. ef. 1-1-04; DFW 122-2004, f. 12-21-04, cert. ef. 1-1-05; DFW 128-2005, f. 12-1-05, cert. ef. 1-1-06; DFW 127-2006, f. 12-7-06, cert. ef. 1-1-07; DFW 118-2007, f. 10-31-07, c. cert. ef. 1-1-08

635-065-0740

Hunting Prohibited

It is *unlawful*:

(1) To hunt with a centerfire or muzzleloading rifle during eastern Oregon controlled buck season (October 4 — October 15, 2008 Cascade bull elk season, Coast bull elk seasons, Rocky Mountain bull or either-sex elk seasons, or the standard Rocky Mountain unit's antlerless elk seasons (Nov. 22 — Nov. 30, 2008) without a valid, unused tag for that species, time period and area on their person.

EXCEPTION: Landowners, or their agent, hunting predators on lands they own or lease may use centerfire or muzzleloading rifles to hunt on such lands.

EXCEPTION: Hunters may use .22 caliber or smaller centerfire rifles for hunting coyotes (Canis latrans) in the Juniper, Beatys Butte, East Beulah, Whitehorse and Owyhee units and in the Wagonite Unit south of the Lake County Road 5-14 during Rocky Mountain bull or either-sex elk seasons, or the standard Rocky Mountain unit's antlerless elk seasons (Nov. 22 — Nov. 30, 2008).

(2) To hunt on any refuge closed by the state or federal government.

(3) To hunt within the corporate limits of any city or town, public park or cemetery, or on any campus or grounds of a public school, college, or university or from a public road, road right-of-way, or railroad right-of-way.

(4) Notwithstanding section (4) of this rule, controlled antlerless elk hunts are permitted within the south city limits of Seaside if the herd should become a serious problem.

(5) To hunt game mammals outside any area designated by a controlled hunt tag when such tag is required for that hunt season.

(6) To hunt in any Safety Zones created and posted by the department.

(7) To hunt protected wildlife except:

(a) by a permit or during an authorized season established by the commission.

(b) That crow, blackbirds, cowbirds, and magpies may be taken under Federal regulations for reason of depredation or health hazards as described in the Code of Federal Regulations.

(8) To pursue or assist another to pursue a cougar (mountain lion) during an authorized cougar (mountain lion) season unless in possession of an unused cougar (mountain lion) tag or accompanied by the holder of an unused cougar (mountain lion) tag which is valid for that area and time period.

(9) To engage in computer-assisted hunting (internet hunting) or provide or operate facilities for computer-assisted hunting in Oregon. As used in this act, "computer-assisted hunting" (internet hunting) means the use of a computer or any other device, equipment, or software to remotely control the aiming and discharge of a firearm, bow, or any other weapon to hunt any game bird, wildlife, game mammal, or other mammal, and "facilities for computer-assisted remote hunting" means real property and improvements on the property associated with hunting, including hunting blinds, offices and rooms equipped to facilitate computer-assisted remote hunting. Nothing in subsection (9) of this section prohibits the use computer-assisted hunting by employees or agents of county, state or federal agencies while acting in their official capacities.

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

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

Hist.: FWC 123, f. & ef. 6-9-77; FWC 28-1979, f. & ef. 8-2-79; FWC 33-1980, f. & ef. 6-30-80; FWC 6-1981, f. & ef. 1-23-81; FWC 11-1981, f. & ef. 3-31-81; FWC 20-1981, f. & ef. 6-19-81; FWC 37-1982, f. & ef. 6-25-82; FWC 41-1987, f. & ef. 7-6-87; FWC 15-1989, f. & cert. ef. 3-28-89; FWC 63-1989, f. & cert. ef. 8-15-89; FWC 24-1990, f. & cert. ef. 3-21-90; FWC 20-1991, f. & cert. ef. 3-12-91; FWC 58-1991, f. & cert. ef. 6-24-91; FWC 36-1993, f. & cert. ef. 6-14-93; FWC 18-1994, f. 3-30-94, cert. ef. 5-1-94; FWC 4-1995, f. 1-23-95, cert. ef. 7-1-95; FWC 18-1996, f. 4-10-96, cert. ef. 8-1-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 85-2003(Temp), f. & cert. ef. 8-27-03 thru 2-23-04; DFW 118-2003, f. 12-4-03, cert. ef. 1-1-04; DFW 122-2004, f. 12-21-04, cert. ef. 1-1-05; DFW 128-2005, f. 12-1-05, cert. ef. 1-1-06; DFW 127-2006, f. 12-7-06, cert. ef. 1-1-07; DFW 42-2007, f. & cert. ef. 6-14-07; DFW 118-2007, f. 10-31-07, c. cert. ef. 1-1-08

635-065-0760

Other Restrictions

It is *unlawful*:

(1) To take or hold in captivity the young of any game mammal.

(2) To hold in captivity any wildlife of this state for which a permit is required without first securing a permit.

(3) To release without a permit any wildlife brought from another state or country, or raised in captivity in this state.

(4) To resist game law enforcement officers.

(5) To refuse inspection of any license, tag or permit by an employee of the department; any person authorized to enforce the wildlife laws; or a landowner or agent of the landowner on his land.

(6) To take or attempt to take any game mammals, game birds, migratory waterfowl or any protected wildlife species of any size or sex or amount, by any method or weapon, during any time or in any area not prescribed in these rules.

(7) To disturb, damage, remove, alter or possess any official department signs.

(8) To sell, lend, or borrow any big game tag.

(9) It is unlawful to operate or to be transported in a motor-propelled vehicle in violation of Cooperative Travel Management Areas. "Motor-propelled vehicle" includes aircraft not landing on designated airstrips. Through cooperative agreement, motor vehicle use is limited to specific roads during the dates for the areas listed below. There are two methods of posting road access information; 1. signs showing road closed, or 2. round green reflectors marking roads open to motorized travel. Unit descriptions may be found in OAR 635-080-0000 through 635-080-0077. The following closures shall be effective during the specified periods each year:

(a) North Coast Access Area: Three days prior to opening of general archery season through December 1 — Applies to all gated, posted, and/or barrier-closed roads within the Saddle Mountain, Scappoose, Trask and Wilson wildlife management units.

(b) Upper Tualatin-Trask: Three days prior to the opening of controlled buck deer rifle season through the close of all bull elk rifle seasons — That part of the Trask Unit as follows: 60 square miles in Townships 1 and 2 North and 1 South, and Ranges 5 and 6 West;

(c) Rickreall Regulated Hunt Area: November 1 through November 30 annually — That part of Stott Mt. Unit as follows: 12 square miles in Townships 7 and 8 South, Ranges 6 and 7 West;

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(d) Luckiamute: Permanent Closure — Those parts of the Stott Mt./Alsea Units as follows: 9 square miles in Townships 8 and 9 South, Ranges 7 and 8 West.

(e) Mid-Coast: Permanent Closure — That part of the Alsea Unit as follows: posted and barrier closed roads (including bermed) in the Siuslaw National Forest lands south of US Hwy 20 and north of state Hwy 126;

(f) Smith Ridge: Permanent Closure — That part of the McKenzie Unit as follows: 8 square miles in Townships 13 and 14 South, Ranges 6 and 7 East;

(g) Chucksney Mountain: September 1 through November 30 annually — That part of the McKenzie Unit as follows: 6 square miles in Township 19 South, Range 5 1/2 East;

(h) Skookum Flat: Permanent Closure — That part of the McKenzie Unit as follows: 8 square miles in Townships 19 and 20 South, Range 6 East;

(i) Eagle Creek: Three days prior to opening of general Cascade elk season through close of general Cascade elk season. That part of the McKenzie Unit as follows: 66 square miles in Townships 21 and 22 South, Ranges 5, 5 1/2 and 6 East;

(j) Scott Creek: Permanent Closure — That part of the McKenzie Unit as follows: 51 square miles in Townships 14, 15, and 16 South, Ranges 6 and 7 East;

(k) Coos Bay BLM: Permanent Closure — That part of the Tioga Unit as follows: Individual posted roads on lands administered by BLM, Coos Bay District.

(l) Upper Rogue: Three days prior to the general Cascade elk season through the end of the general Cascade elk season — That part of the Rogue Unit as follows: High Cascades Ranger District, Rogue River National Forest;

(m) Jackson: Three days prior to the general Cascade elk season through April 30 annually — That part of the Rogue, Dixon, and Evans Creek units as follows: 104 square miles in Townships 32, 33, 34, and 35 South, Ranges 1 and 2 West and 1 and 2 East; off-road motor vehicle travel is prohibited at all times;

(n) Pokegama: November 20 through March 31 annually — That part of the Keno Unit as follows: 97 square miles in Townships 40 and 41 South, Ranges 4, 5, and 6 East;

(o) Lower Klamath Hills: Permanent Closure — That part of the Klamath Unit as follows: 3 square miles in Township 40 South, Range 9 East;

(p) Goodlow Mountain Area Closure: December 1 through March 31 annually — That part of the Klamath Unit as follows: 17 square miles in Townships 38 and 39 South, Ranges 12 and 13 East;

(q) Sun Creek: November 1 through June 30 annually That part of the Sprague Unit as follows: 14 square miles in Township 32 South, Ranges 6 and 7 1/2 East;

(r) Fox Butte: Three days prior to the opening of controlled buck deer season through the close of the controlled buck deer season — That part of the Paulina Unit as follows: 230 square miles in Townships 20, 21, 22, 23, and 24 South, Ranges 14, 15, and 16 East;

(s) Timbers: Permanent Closure — That part of the Paulina Unit as follows: 25 square miles in Townships 23 and 24 South, Ranges 9 and 10 East;

(t) Rager: Three days prior to the opening of controlled buck deer rifle season through the close of antlerless elk rifle season — That part of the Ochoco Unit as follows: 352 square miles south of U.S. Highway 26 and west of the South Fork John Day River.

(u) White River Wildlife Area: December 1 through March 31 annually — That part of the White River Unit as follows: 59 square miles along the eastern edge of the Mt. Hood National Forest in the southern half of the White River Unit;

(v) Lower Deschutes: Permanent Closure — That part of the Biggs Unit as follows: 12 square miles along lower 17 miles of Deschutes River except the county access road to Kloan;

(w) Murderers Creek-Flagtail: Three days prior to the opening of controlled buck deer rifle season through the close of controlled buck deer rifle season and from three days prior to the controlled Rocky Mountain bull elk first season through the Rocky Mountain bull elk second season — That part of the Murderers Creek Unit as follows: 185 square miles in Townships 13, 14, 15, 16, and 17 South, Ranges 26, 27, 28, and 29 East;

(x) Camp Creek: Three days prior to opening of controlled buck deer rifle season through the close of controlled buck deer rifle season and from three days prior to the controlled Rocky Mountain bull elk first season through the Rocky Mountain bull elk second season — That part of the

Northside Unit as follows: 54 square miles in Townships 10, 11, and 12 South, Ranges 31, 32, and 33 East.

(y) Heppner Regulated Hunt Area: Year-round, unless posted otherwise. That part of the Heppner Unit as follows: Approximately 69 square miles in Townships 2, 3, 4, 6, and 7 South, Ranges 26, 27, and 28 East;

(z) Bridge Creek Wildlife Area: December 1 through April 30 annually — That part of the Ukiah Unit as follows: 20 square miles in Townships 5 and 6 south, Ranges 31 and 32 East in the Southwest corner of Ukiah Unit;

(aa) Dark Canyon: Three days prior to the opening of controlled buck deer season through the close of the last elk season encompassing this travel management area. That part of the Sumpter Unit as follows: 20 square miles in Townships 11 and 12 South, Ranges 40 and 41 East;

(bb) Patrick Creek: Three days prior to the opening of controlled buck deer season through the close of the last elk season and May 1 through June 30 encompassing this travel management area. That part of the Sumpter Unit as follows: 8 square miles in Townships 10 and 11 South, Ranges 35 1/2 and 36 East;

(cc) Dry Beaver/Ladd Canyon: Permanent Closure — That part of the Starkey Unit as follows: 125 square miles in Townships 4, 5 and 6 South, Ranges 35, 36, 37 and 38 East;

(dd) Clear Creek: Three days prior to opening of Rocky Mountain bull elk season through close of Rocky Mountain bull elk second season That part of the Starkey Unit as follows: 21 square miles in Township 5 South, Ranges 37 and 38 East;

(ee) Trail Creek: Three days prior to opening of Rocky Mountain bull elk season through close of Rocky Mountain bull elk second season- That part of the Starkey Unit as follows: 29 square miles in Townships 6 and 7 South, Ranges 35 1/2 and 36 East;

(ff) Indian Creek-Gorham Butte: Three days prior to opening of Rocky Mountain bull elk season through close of Rocky Mountain bull elk second season That part of the Starkey Unit as follows: 24 square miles in Townships 6 and 7 South, Ranges 36 and 37 East;

(gg) Elkhorn Wildlife Area: Permanent Closure — Those parts of the Starkey and Sumpter units as follows: 7 square miles in Township 6 South, Range 38 East;

(hh) Starkey Experimental Forest Enclosure: Permanent Closure — That part of the Starkey Unit as follows: 40 square miles in Townships 3 and 4 South, Range 34 East;

(ii) Hall Ranch: Three days prior to the opening of Rocky Mt bull elk first season through April 30 — that part of the Catherine Creek Unit as follows: 3 square miles in Township 5 South, Range 41 East;

(jj) Little Catherine Creek: Three days prior to opening of archery season through May 31 — That part of the Catherine Creek Unit as follows: 22 square miles in Townships 3, 4 and 5 South, Ranges 40 and 41 East;

(kk) Walla Walla: Permanent Closure — Those parts of Walla Walla, Wenaha, and Mt. Emily units as follows: All gated, posted, and closed roads within the Walla Walla Ranger District of the Umatilla National Forest.

(ll) Wenaha Wildlife Area: Permanent Closure — That part of the Wenaha Unit as follows: 17 square miles in Townships 5 and 6 North, Ranges 42 and 43 East along eastern edge of Umatilla Forest in northeast corner of Wenaha Unit;

(mm) Noregaard: Three days prior to archery season through May 31. However, roads will be open to permit removal of camping equipment during a time period extending through two Sundays following the end of the last antlerless elk rifle season. That part of the Sled Springs Unit as follows: 175 square miles in west one-third of Sled Springs Wildlife Unit.

(nn) Shamrock: Three days prior to archery season through May 31. However, roads will be open to permit removal of camping equipment during a time period extending through two Sundays following the end of the last antlerless elk rifle season. — That part of the Sled Springs Unit as follows: 20 square miles in Township 4 North, Range 44 East;

(oo) Chesnimnus: Three days prior to Chesnimnus rifle bull season through end of Chesnimnus rifle bull season - That portion of the Chesnimnus Wildlife Unit within the boundaries of the Wallowa-Whitman National Forest;

(pp) Cemetery Ridge Road: Permanent Closure — That part of the Chesnimnus Unit as follows: Cemetery Ridge Road north of the south boundary of Section 4, Township 3 North, and Range 48 East.

(qq) Lord Flat Trail (#1774): Three days prior to archery season through the end of all elk rifle seasons 15 miles of road in Townships 1 South and 1 and 2 North, Ranges 49 and 50 East;

(rr) Grouse-Lick Creeks: Three days prior to opening of Rocky Mountain bull elk first season through the close of Rocky Mountain bull elk

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second season That part of the Imnaha Unit as follows: 100 square miles in Townships 2, 3, 4, and 5 South, Ranges 46, 47 and 48 East;

(ss) Clear Lake Ridge: Three days prior to opening of archery season through December 1 annually — That part of the Imnaha Unit as follows: Five square miles in Township 2 South, Range 47 East, Sections 3 and 4 and Township 1 South, Range 47 East, Sections 28, 15, 33, 34 and 22.

(tt) Mehlorn: Permanent Closure: That part of the Pine Creek and Keating Units as follows: 26 square miles in Township 6 South, Ranges 45 and 46 East;

(uu) Lake Fork-Dutchman: Three days prior to opening of archery season to the end of all elk rifle seasons and from May 1 to July 1 — That part of the Pine Creek Unit as follows: 42 square miles in Townships 6 and 7 South, Ranges 46 and 47 East;

(vv) Okanogan-Fish: Three days prior to the opening of buck deer rifle season to the end of elk rifle seasons and from May 1 to July 1 — That part of the Pine Creek Unit as follows: 20 square miles in Township 6 and 7 South, Ranges 46 and 47 East;

(ww) Summit Point: Permanent Closure: That part of the Keating Unit as follows: 14 square miles in Townships 6 and 7 South, Ranges 44 and 45 East.

(xx) Eagle Creek: December 1 — April 15: That part of the Keating Unit as follows: 17 square miles in Townships 7 and 8 South, Range 44 and 45 East;

(yy) Conroy Cliff: October 1 through October 15, 2008 and October 26 through November 16, 2008 — That part of the Malheur River Unit as follows: 46 square miles in Townships 16, 17, and 18 South, Ranges 32 1/2, 34, and 35 East;

(zz) Devine Ridge-Rattlesnake: October 1 through October 15, 2008 and 26 through November 16, 2008 — That part of the Malheur River Unit as follows: 59 square miles in Townships 20 and 21 South, Ranges 31, 32, 32 1/2 East;

(aaa) Dairy Creek: October 1 through October 15, 2008 and 26 through November 16, 2008 — That part of the Silvies Unit as follows: 98 square miles in Townships 19, 20, 21, and 22 South, Ranges 24, 25, and 26 East;

(bbb) Burnt Cabin: October 1 through October 15, 2008 and 26 through November 16, 2008 — That part of the Silvies Unit as follows: 22 square miles in Townships 18 and 19 South, Ranges 26 and 27 East;

(ccc) Walker Rim: Three days prior to the opening of controlled buck deer season through the close of the controlled buck deer season - That part of the Fort Rock Unit as follows: 113 square miles in Townships 24, 25, and 26 South, Ranges 8, 9, and 10 East;

(ddd) North Paunina: Permanent Closure — That part of the Fort Rock Unit as follows: 12 square miles in Townships 25 and 26 South; Range 8 East;

(eee) Sugarpine Mountain: Permanent Closure — That part of the Fort Rock Unit as follows: 40 square miles in Township 28, Ranges 9 and 10 East;

(fff) Stott Mt.-North Alsea: One day prior to opening of archery season through the bull elk rifle seasons— All gated and/or barrier closed roads within the Alsea Unit north of US Hwy 20 and west of State Hwy 233 (Kings Valley Hwy); and in the Stott Mt. Unit. Cooperators require: day use only on private lands, no ATV use on private lands and designated state lands, no vehicle may block any road or gate. Access may be closed during extreme fire danger;

(ggg) Spring Butte: Permanent Closure — That part of the Paulina Unit as follows: 30 square miles in Township 23 South, Range 11 East;

(hhh) Wildhorse Ridge/Teepee Butte: Three days prior to archery season through the end of all elk rifle seasons. Posted and gated roads north of 46 roads in Chesnimnus Unit are closed;

(iii) Hells Canyon National Recreation Area: Permanent Closure—Those parts of the Chesnimnus, Imnaha, Snake River, and Pine Creek Units in Eastern Wallowa County that are closed by the National Recreation Area;

(jjj) PO Saddle Road—Three days prior to opening of archery season through June 15th, annually—Three miles of road in Townships 3 and 4 South, Range 48 East.

(kkk) Whiskey Creek — Three days prior to archery season through May 31. However, roads will be open to permit removal of camping equipment during a time period extending through two Sundays following the last antlerless elk season. That part of the Sled Springs unit as follows- 45 square miles in Townships 2 and 3 North, Ranges 43, 44, and 45 East.

(lll) South Boundary: Permanent Closure — That part of the Ochoco Unit as follows: 47 square miles in Townships 15 and 16 South, Ranges 20, 21, and 22 East.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162

Hist.: FWC 123, f. & ef. 6-9-77; FWC 33-1978, f. & ef. 6-30-78; FWC 28-1979, f. & ef. 8-2-79; FWC 33-1980, f. & ef. 6-30-80; FWC 6-1981, f. & ef. 1-23-81; FWC 11-1981, f. & ef. 3-31-81; FWC 20-1981, f. & ef. 6-19-81; FWC 37-1982, f. & ef. 6-25-82; FWC 28, f. & ef. 7-8-83; FWC 34-1984, f. & ef. 7-24-84; FWC 43-1985, f. & ef. 8-22-85; FWC 35-1986, f. & ef. 8-7-86; FWC 15-1989, f. & cert. ef. 3-28-89; FWC 63-1989, f. & cert. ef. 8-15-89; FWC 24-1990, f. & cert. ef. 3-21-90; FWC 55-1990, f. & cert. ef. 6-21-90; FWC 58-1991, f. & cert. ef. 6-24-91; FWC 36-1993, f. & cert. ef. 6-14-93; FWC 18-1994, f. 3-30-94, cert. ef. 5-1-94; FWC 4-1995, f. 1-23-95, cert. ef. 7-1-95; FWC 30-1995, f. & cert. ef. 4-17-95; FWC 18-1996, f. 4-10-96, cert. ef. 8-1-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 5-2003, f. 1-17-03, cert. ef. 7-1-03; DFW 116-2003(Temp), f. & cert. ef. 11-25-03 thru 3-31-04; DFW 120-2003, f. 12-4-03, cert. ef. 6-16-04; DFW 125-2004, f. 12-21-04, cert. ef. 6-1-05; DFW 133-2005, f. 12-1-05, cert. ef. 6-1-06; DFW 128-2006, f. 12-7-06, cert. ef. 6-1-07; DFW 118-2007, f. 10-31-07, c cert. ef. 1-1-08

635-066-0000

Purpose and General Information

(1) The purpose of these rules is to establish season dates, bag limits, areas, methods, and other restrictions for hunting black bear pursuant to ORS Chapter 496.

(2) OAR chapter 635, division 066 incorporates, by reference, the requirement for black bear hunting set out in the document entitled “**2008 Oregon Big Game Regulations**,” into Oregon Administrative Rules. Therefore, persons must consult the “**2008 Oregon Big Game Regulations**” in addition to OAR Chapter 635, to determine all applicable requirements for the hunting of black bear. The annual Oregon Big Game Regulations are available at authorized license agents and regional, district and headquarters offices of the Oregon Department of Fish and Wildlife.

[Publications referenced are available from the agency.]

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

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

Hist.: FWC 64-1989, f. & cert. ef. 8-15-89; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 118-2003, f. 12-4-03, cert. ef. 1-1-04; DFW 122-2004, f. 12-21-04, cert. ef. 1-1-05; DFW 128-2005, f. 12-1-05, cert. ef. 1-1-06; DFW 127-2006, f. 12-7-06, cert. ef. 1-1-07; DFW 118-2007, f. 10-31-07, c cert. ef. 1-1-08

635-066-0010

General Season Regulations

(1) Pursuant to ORS 497.112, annual black bear tag sales to nonresident black bear hunters for the general fall season shall be limited to no more than three percent of the total tag sales based on previous year’s hunter densities.

(a) Tags shall be available at any authorized license agent and through the Salem Headquarters office on a first-come, first-served basis.

(b) The application procedure shall be as follows:

(A) An applicant may purchase a nonresident general black bear tag at any hunting license agent or;

(B) An applicant shall mail or fax copies, through the Salem Headquarters only, of his/her nonresident driver’s license or adult nonresident hunting license or provide documentation which includes the following information:

(1) Applicant’s full name and current address;

(2) Applicant’s date of birth;

(3) Applicant’s Social Security number;

(4) Applicant’s telephone number;

(c) An applicant shall include a fee of \$151.50 with the application.

(d) The applicant shall state the areas for which he/she is applying in order of choice.

(2) Open Area: The entire state is open, except that lands within one mile of the Rogue River between Grave Creek and Lobster Creek are closed to all black bear hunting. Nonresidents shall be restricted to hunting black bear only in specific areas as described below.

(a) Nonresident black bear tags shall be distributed by areas as described in the Black Bear Management Plan. These areas are described as follows:

(A) Northwest: All of wildlife management units: 10, 11, 12, 14, 15, 17, and 18.

(B) Southwest: All of wildlife management units: 20, 23, 24, 25, 26, 27, 28, and 29.

(C) Cascades: All of wildlife management units: 16, 19, 21, 22, 30, 31, 34, 39, 41, and 42 and those portions of wildlife management units 33 and 77 lying west of Highway 97.

(D) Eastern: All of wildlife management units: 32, 35, 38, 40, and 43 and those portions of wildlife management units 33 and 77 lying east of Highway 97; and all other wildlife management units to the east of these units.

ADMINISTRATIVE RULES

- (3) No person shall use dogs to hunt or pursue black bear.
- (4) No person shall use bait to attract or hunt black bear.

(5) The skull of any bear taken must be presented to an ODFW office or designated collection site, by the person who took the animal, within 10 days of the kill to be checked and marked. Checkout at ODFW offices must occur during normal business hours (8-5, Mon-Fri.). Hunters are required to check in the skull only for the purpose of inspection, tagging and removal of a tooth for aging.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 118-2003, f. 12-4-03, cert. ef. 1-1-04; DFW 118-2007, f. 10-31-07, c. cert. ef. 1-1-08

635-066-0020

Controlled Seasons

(1) Tags will be issued by way of a controlled hunt drawing. The number of tags issued to nonresidents will be limited to no more than three percent of the total tags authorized for each hunt. Persons receiving a controlled black bear tag may also purchase a general season black bear tag and one SW Oregon additional bear tag and one "leftover" controlled spring bear tag.

- (2) No person shall use dogs to hunt or pursue black bear.
- (3) No person shall use bait to attract or hunt black bear.

(4) The skull of any bear taken must be presented to an ODFW office or designated collection site, by the person who took the animal, within 10 days of the kill to be checked and marked. Checkout at ODFW offices must occur during normal business hours (8-5, Mon-Fri.). Hunters are required to check in the skull only for the purpose of inspection, tagging and removal of a tooth for aging.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 9-1997, f. & cert. ef. 2-27-97; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 118-2007, f. 10-31-07, c. cert. ef. 1-1-08

635-067-0000

Purpose and General Information

(1) The purpose of these rules is to establish season dates, bag limits, areas, methods, and other restrictions for hunting pronghorn antelope, cougar, bighorn sheep, and Rocky Mountain goat pursuant to ORS Chapter 496.

(2) OAR chapter 635, division 067 incorporates, by reference, the requirements for hunting pronghorn antelope, cougar, bighorn sheep, and Rocky Mountain goat set out in the document entitled "2008 Oregon Big Game Regulations," into Oregon Administrative Rules. Therefore, persons must consult the "2008 Oregon Big Game Regulations" in addition to OAR Chapter 635, to determine all applicable requirements for hunting pronghorn antelope, cougar, bighorn sheep, and Rocky Mountain goat. The annual Oregon Big Game Regulations are available at authorized license agents and regional, district and headquarters offices of the Oregon Department of Fish and Wildlife.

(3) Controlled hunt tags shall be issued by a controlled hunt drawing following the procedures established in OAR chapter 635, division 060. Permitted arms and ammunition are established in OAR chapter 635, division 065. Controlled hunt tag numbers for 2007 are listed in Tables 1, 2, and 3 and are adopted and incorporated into OAR chapter 635, division 067 by reference.

[ED. NOTE: Tables referenced are available from the agency.]
[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 65-1989, f. & cert. ef. 8-15-89; FWC 35-1996, f. & cert. ef. 6-7-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 47-2001, f. & cert. ef. 6-13-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 50-2003, f. & cert. ef. 6-13-03; DFW 118-2003, f. 12-4-03, cert. ef. 1-1-04; DFW 53-2004, f. & cert. ef. 6-16-04; DFW 122-2004, f. 12-21-04, cert. ef. 1-1-05; DFW 53-2005, f. & cert. ef. 6-14-05; DFW 128-2005, f. 12-1-05, cert. ef. 1-1-06; DFW 41-2006, f. & cert. ef. 6-14-06; DFW 127-2006, f. 12-7-06, cert. ef. 1-1-07; DFW 42-2007, f. & cert. ef. 6-14-07; DFW 118-2007, f. 10-31-07, c. cert. ef. 1-1-08

635-067-0016

Extended Cougar Seasons

UPPER ROGUE RVR: Those portions of units 28, 29, and 30 beginning at I-5 and Jump Off Joe Cr Rd in Josephine Co; east on Jump Off Joe

Cr Rd to Ditch Cr Summit Rd 34-4-8; east on 34-4-8 to Ditch Cr Rd; south on Ditch Cr Rd and Pleasant Cr Rd to East Evans Cr Rd; east and north on East Evans Cr Rd to Cleveland Ridge Rd; north and east on Cleveland Ridge Rd to W Fork Trail Cr Rd; southeast on W Fork Trail Cr Rd to State Hwy 62; northeast on State Hwy 62 to Crowfoot Rd; south on Crowfoot Rd to Butte Falls Hwy; east on Butte Falls Hwy to Doubleday Rd; southwest on Doubleday Rd to Salt Creek Rd (36-2-7); east on Salt Creek Rd to Wasson Canyon Rd; south on Wasson Canyon Rd to Hwy 140; east on Hwy 140 to boundary of Rogue River National Forest; south and east on external boundary of Rogue River National Forest to intersection of Owens Road in T38S R3E Sec 4; southwest on Owens Rd to Conde Creek Rd; southwest on Conde Creek Rd to Dead Indian Memorial Hwy; south on Dead Indian Memorial Hwy, Burnt Cr Rd, and Little Hyatt Lk Rd to State Hwy 66; west on Hwy 66 to Emigrant Cr Rd; southeast on Emigrant Cr Rd 0.1 mi to Carter Cr; south on Carter Cr to Southern Pacific Railway lines; west on Southern Pacific Railway lines to Old State Hwy 99; south and west on Old Hwy 99 to I-5; South on I-5 to Mt. Ashland Ski Rd; west on Mt. Ashland Ski Rd to boundary of Rouge River National Forest; north, east and west along external boundary of NF to Wagner Cr Rd (FR 22); south on Wagner Cr Rd to Brick Pile Rd (FR 2250); west on Brick Pile Rd to Little Applegate Rvr; west on Little Applegate Rvr to Applegate Rvr; west on Applegate Rvr to Rogue Rvr; northwest on Rogue Rvr to Merlin-Galice Rd; east on Merlin-Galice Rd to Hugo Rd; north on Hugo Rd to Three Pines Rd; east on Three Pines Rd to I-5 and Jump Off Joe Cr Rd, point of beginning.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 38-1997, f. & cert. ef. 6-17-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 118-2007, f. 10-31-07, c. cert. ef. 1-1-08

635-072-0000

Purpose and General Information

(1) The purpose of these rules is to establish season dates, bag limits, areas, and other restrictions for hunting western gray squirrels pursuant to ORS Chapter 496.

(2) OAR chapter 635, division 072 incorporates, by reference, the requirements for hunting western gray squirrel set out in the document entitled "2008 Oregon Big Game Regulations," into Oregon Administrative Rules. Therefore, persons must consult the "2008 Oregon Big Game Regulations" in addition to OAR Chapter 635, to determine all applicable requirements for hunting western gray squirrel. The annual Oregon Big Game Regulations are available at hunting license agents and regional, district and headquarters offices of the Oregon Department of Fish and Wildlife.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 43-1988, f. & cert. ef. 6-13-88; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 118-2003, f. 12-4-03, cert. ef. 1-1-04; DFW 122-2004, f. 12-21-04, cert. ef. 1-1-05; DFW 128-2005, f. 12-1-05, cert. ef. 1-1-06; DFW 118-2007, f. 10-31-07, c. cert. ef. 1-1-08

635-075-0011

Southwest Oregon Landowner Preference Pilot Program

(1) This rule implements SB 240, through which the 2007 Legislative Assembly directed the Department to implement a Southern Oregon Landowner Preference Pilot Program to operate from July 1, 2004 until June 30, 2014. As directed by statute, the pilot program addresses damage caused by elk on private lands in Jackson, Josephine, Coos, Curry and Douglas Counties by granting extra landowner preference tags to qualifying landowners.

- (2) A "qualifying landowner" is:
 - (a) An individual, partnership, corporation, unincorporated association or other nongovernmental entity which;
 - (b) Owns, leases or rents land in Jackson, Josephine, Coos, Curry or Douglas County; and
 - (c) Whose land:
 - (A) Is (at the time of application) suffering damage from elk; or
 - (B) Has within the past five years suffered damage from elk and the Department has taken action to alleviate that damage; or
 - (C) Is in an area designated as an "elk de-emphasis zone" by the Department.

(3) "Damage" has the same definition as that in the "damage statute" (ORS 498.012): harm to land, livestock or agricultural or forest crops.

(4) This pilot program operates in the same manner as the landowner preference tag program in OAR 635-075-0000 through -0030, except that:

ADMINISTRATIVE RULES

- (a) Pilot program tags are limited to antlerless elk;
- (b) pilot program tags may be used to take elk only on property owned, leased or rented by the landowner or by a business entity that includes the landowner as a principal partner or shareholder;
- (c) Qualifying landowners may exchange unused general season elk tags or controlled hunt tags for pilot program tags;
- (d) No more than five pilot program tags may be valid at any one time on a particular property;
- (e) Qualifying landowners may receive tags regardless of the size of their property. There is no minimum acreage requirement;
- (f) Qualifying landowners may register for pilot program tags at any time.

(g) The validity period (the time during which pilot program tags may be used on a particular property) shall be negotiated between the Department's district biologist and the qualifying landowner;

(h) Each qualifying landowner receiving pilot program tags must (within 10 days of a designated hunt period) report to the local Department district biologist the number of elk taken by the landowner with pilot program tags;

(i) Pilot program tags may be obtained from, and exchanged through, Department district biologists (rather than point of sale vendors).

(5) The Department shall establish an advisory committee that includes but is not limited to hunters, landowners, elected officials, Department staff and Oregon State Police to meet at least once annually to review the pilot program and recommend any necessary changes.

Stat. Auth.: ORS 496.012, 496.138 & 497.112

Stats Implemented: 496.012, 496.138 & 497.112

Hist.: DFW 110-2003, f. & cert. ef. 11-13-03; DFW 118-2007, f. 10-31-07, c cert. ef. 1-1-08

635-080-0034

Upper Deschutes Unit

The Upper Deschutes Unit, number 34, is that area beginning at Bend; southwest on U.S. Highway 97 to Crescent; west on Klamath County Road 61 to Crescent Creek; southwest on Crescent Creek to State Highway 58; northwest on State Highway 58 to Pacific Crest Trail; north along Pacific Crest Trail to U.S. Highway 242; east on State Highway 242 to Sisters; east on State Highway 126 to Redmond; southwest on U.S. Highway 97 to Bend, point of beginning.

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

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

Hist.: FWC 119, f. & ef. 6-3-77; FWC 26-1978, f. & ef. 5-26-78; FWC 72-1989, f. & ef. 8-15-89; FWC 36-1993, f. & cert. ef. 6-14-93; FWC 6-1995, f. 1-23-95, cert. ef. 4-1-95; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 118-2007, f. 10-31-07, c cert. ef. 1-1-08

635-080-0053

Catherine Creek Unit

The Catherine Creek Unit, number 53, is that area beginning at Elgin; northeast on State Highway 82 to Minam; south along Minam River to the boundary of Wallowa-Whitman National Forest; west along forest boundary to Point Prominence Road (62 and 6220); south along Point Prominence Road to Moss Springs Campground; south and east from Moss Springs Campground on Lodgepole Trail 1920 to Cartwheel Ridge Trail 1907; north and east on Cartwheel Ridge Trail 1907 to the divide between the Catherine Creek and Minam River drainages past Burger Butte to Granite Butte; generally south on the divide between Catherine Creek and Eagle Creek drainages to Flagstaff Butte; west on Forest Road 7700582 to Forest Road 77; west on Forest Road 77 to Forest Road 6730; south on 6730 to Forest Road 6730310; west on 6730310 to Forest Road 6750300; west on 6750300 to Lick Creek Road 6750; south on Lick Creek Road 6750 to Big Creek Road 67; west on Big Creek Road to Medical Springs; southwest on State Highway 203 to the Powder River; northwest on Powder River to Interstate Highway 84 at North Powder; north on Interstate Highway 84 to State Highway 82 at La Grande; northeast on State Highway 82 to Elgin, point of beginning.

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

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

Hist.: FWC 119, f. & ef. 6-3-77; FWC 26-1978, f. & ef. 5-26-78; FWC 21-1979, f. & ef. 6-5-79; FWC 32-1980, f. & ef. 6-30-80; FWC 35-1986, f. & ef. 8-7-86; FWC 46-1988, f. & cert. ef. 6-13-88; FWC 72-1989, f. & cert. ef. 8-15-89; FWC 27-1991, f. & cert. ef. 3-12-91; FWC 36-1993, f. & cert. ef. 6-14-93; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 118-2007, f. 10-31-07, c cert. ef. 1-1-08

635-080-0060

Minam Unit

The Minam Unit, number 60, is that area beginning at the town of Minam; southeast on State Highway 82 to head of Wallowa Lake; southwest on West Fork Trail to Hawkins Pass; southwest along summit of Eagle Mountains to Granite Butte; northwest along summit separating Big Minam and Catherine Creek drainages past Burger Butte and Meadow Mountain to

Cartwheel Ridge Trail 1907; West on Cartwheel Ridge Trail to Lodgepole Trail to Moss Springs; north on Point Prominence Road to the boundary of Wallowa-Whitman National Forest; north and east along National Forest boundary to Minam River; north along Minam River to State Highway 82 at the town of Minam, point of beginning.

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

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

Hist.: FWC 119, f. & ef. 6-3-77; FWC 26-1978, f. & ef. 5-26-78; FWC 21-1979, f. & ef. 6-5-79; FWC 35-1986, f. & ef. 8-7-86; FWC 46-1988, f. & cert. ef. 6-13-88; FWC 72-1989, f. & cert. ef. 8-15-89; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 118-2007, f. 10-31-07, c cert. ef. 1-1-08

635-080-0077

Fort Rock Unit

The Fort Rock Unit, number 77, is that area beginning at Silver Lake; west on State Highway 31 to Klamath Marsh Road; west on Klamath Marsh Road to Williamson River; west and south along Williamson River returning to Klamath Marsh-Silver Lake Road; west on Klamath Marsh Road to U.S. Highway 97; west on Scott Creek Road 66 one mile to Sand Creek; southwest along Sand Creek to Crater Lake National Park boundary; north and west along Crater Lake National Park boundary to Pacific Crest Trail; north along Pacific Crest Trail to State Highway 58; southeast on State Highway 58 to Crescent Creek; north along Crescent Creek to county road 61 to Crescent; east on county road 61 to Crescent; north on U.S. Highway 97 to Gilchrist main logging road one mile north of Gilchrist; east on Gilchrist main logging road 9775 to State Highway 31 between mileposts 16 and 17; southeast on State Highway 31 to the Fort Rock Road at Horse Ranch; east and south on Fort Rock Road past Fort Rock to Christmas Valley; southwest on Wagonfire Road to State Highway 31 nine miles east of Silver Lake; west on State Highway 31 to Silver Lake, point of beginning.

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

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

Hist.: FWC 119, f. & ef. 6-3-77; FWC 26-1978, f. & ef. 5-26-78; FWC 28-1983, f. & ef. 7-8-83; FWC 35-1986, f. & ef. 8-7-86; FWC 46-1988, f. & cert. ef. 6-13-88; FWC 72-1989, f. & cert. ef. 8-15-89; FWC 6-1995, f. 1-23-95, cert. ef. 4-1-95; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 118-2007, f. 10-31-07, c cert. ef. 1-1-08

Rule Caption: Adopted amendments to the Summer Lake and White River Wildlife Area management plans

Adm. Order No.: DFW 119-2007

Filed with Sec. of State: 10-31-2007

Certified to be Effective: 10-31-07

Notice Publication Date: 9-1-2007

Rules Amended: 635-008-0155, 635-008-0175

Subject: Adopted amendments to Oregon Administrative Rules for the Summer Lake, and White River Wildlife Area Long Range Management Plans, amendments will guide management activities for the next 10 years.

Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-008-0155

Summer Lake Wildlife Area

The Summer Lake Wildlife Area is open to wildlife-oriented public use compatible with the goals and objectives contained in the 2007 Summer Lake Wildlife Area Management Plan unless otherwise excluded or restricted by the following rules:

(1) Posted Refuges are closed to all entry during authorized game bird and game mammal hunting seasons, except to retrieve lawfully taken wildlife, or by permit.

(2) Discharging firearms is prohibited except as authorized during game bird and game mammal hunting seasons, or by permit.

(3) Motor vehicles and other motor driven modes of transportation are prohibited except on parking areas and open roads, or by permit.

(4) Camping or leaving vehicles unattended is prohibited except on areas designated for that use, and may not exceed 14 days per stay, except by permit.

(5) Running or training of dogs is prohibited except by permit.

Stat. Auth.: ORS 496.012, 496.138, 496.146, 496.162 & 496.992

Stats. Implemented: ORS 496.012, 496.138, 496.146, 496.162 & 496.992

Hist.: GC 64, f. 4-3-57; GC 232, f. 8-13-70, ef. 9-11-70; GC 252, f. 5-11-72, ef. 6-1-72, Renumbered from 630-010-0500, Renumbered from 635-015-0005; FWC 63-1980, f. & ef. 11-4-80; FWC 2-1981(Temp), f. & ef. 1-20-81; FWC 30-1982, f. & ef. 5-18-82, Renumbered from 635-008-0005(17); FWC 53-1994, f. & cert. ef. 8-25-94; DFW 119-2007, f. & cert. ef. 10-31-07

ADMINISTRATIVE RULES

635-008-0175

White River Wildlife Area

The White River Wildlife Area is open to wildlife-oriented public use compatible with the goals and objectives contained in the 2007 White River Wildlife Area Management Plan unless otherwise excluded or restricted by the following rules:

(1) Motor vehicles are prohibited except on parking areas, open roads and up to 300 feet off open roads for the purpose of moving to and from campsites.

(2) Camping is prohibited except on areas designated for that use, or by permit, and may not exceed 14 days per stay.

(3) Campfires or open burning is prohibited except at campsites. Open fires are prohibited during designated fire closures.

(4) Running or training of dogs is prohibited December 1 through March 31, except by permit.

Stat. Auth.: ORS 496.012, 496.138, 496.146, 496.162 & 496.992
Stats. Implemented: ORS 496.012, 496.138, 496.146, 496.162 & 496.992
Hist.: GC 64, f. 4-3-57; GC 232, f. 8-13-70, ef. 9-11-70; GC 252, f. 5-11-72, ef. 6-1-72, Renumbered from 630-010-0500, Renumbered from 635-015-0005; FWC 63-1980, f. & ef. 11-4-80; FWC 2-1981(Temp), f. & ef. 1-20-81; FWC 30-1982, f. & ef. 5-18-82, Renumbered from 635-008-0005(21); FWC 53-1994, f. & cert. ef. 8-25-94; DFW 119-2007, f. & cert. ef. 10-31-07

Rule Caption: Nearshore Species Cumulative Trip Limits for Commercial Nearshore Fishery Revised.

Adm. Order No.: DFW 120-2007(Temp)

Filed with Sec. of State: 10-30-2007

Certified to be Effective: 11-1-07 thru 12-31-07

Notice Publication Date:

Rules Amended: 635-004-0033

Rules Suspended: 635-004-0033(T)

Subject: Amended rule revises the cumulative trip limit for vessels having a limited entry Black rockfish and Blue rockfish permit and vessels having a Black rockfish and Blue rockfish permit with a nearshore endorsement, as follows: Decreases the Black rockfish and Blue rockfish daily trip limit to 15 pounds for period 6 (November-December) only. These revisions are effective at 12:01 a.m. Thursday, November 1, 2007.

Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-004-0033

Groundfish Restrictions

(1) The season for most species of ocean food fish is open year-round, until catch quotas are met (where applicable). Regulations for the following species or species groups of ocean food fish change throughout the season and the Oregon Administrative Rules and federal regulations should be consulted before fishing:

- (a) Minor Nearshore Rockfish;
- (b) Minor Shelf Rockfish;
- (c) Minor Slope Rockfish;
- (d) Black Rockfish;
- (e) Blue Rockfish;
- (f) Cabezon;
- (g) Canary Rockfish;
- (h) Greenling;
- (i) Tiger Rockfish;
- (j) Vermilion Rockfish;
- (k) Widow Rockfish;
- (l) Yelloweye Rockfish;
- (m) Yellowtail Rockfish;
- (n) Darkblotched Rockfish;
- (o) Pacific Ocean Perch;
- (p) Longspine Thornyhead;
- (q) Shortspine Thornyhead;
- (r) Arrowtooth Flounder;
- (s) Dover Sole;
- (t) Petrale Sole;
- (u) Rex Sole;
- (v) Other Flatfish;
- (w) Lingcod;
- (x) Sablefish;
- (y) Pacific Whiting.

(2) For the purpose of this rule, "Other nearshore rockfish" means: black and yellow (*Sebastes chrysomelas*); brown (*S. auriculatus*); calico (*S. dalli*); China (*S. nebulosus*); copper (*S. caurinus*); gopher (*S. carnatus*);

grass (*S. rastelliger*); kelp (*S. atrovirens*); olive (*S. serranoides*); quillback (*S. maliger*); and treefish (*S. serriceps*).

(3) For the purpose of this rule a "commercial harvest cap" is defined as the total fishery-related mortality for a given species, or species group, that may occur in a single calendar year in Oregon commercial fisheries. For 2007, the commercial harvest cap for black rockfish is 100.6 metric tons.

(4) For the purpose of this rule a "commercial landing cap" is defined as the total landed catch of a given species, or species group, that may be taken in a single calendar year in Oregon commercial fisheries. For 2007, the commercial landing caps are:

- (a) Black rockfish and blue rockfish combined of 104.6 metric tons.
- (b) Other nearshore rockfish, 12.0 metric tons.
- (c) Cabezon, 31.3 metric tons.
- (d) Greenling, 23.4 metric tons.

(5) For the purpose of this rule, the periods to which cumulative trip limits apply are: January through February (period 1); March through April (period 2); May through June (period 3); July through August (period 4); September through October (period 5); and November through December (period 6).

(6) For black and blue rockfish combined, no vessel may land more than:

- (a) 600 pounds in period 1;
- (b) 800 pounds in period 2;
- (c) 1600 pounds in each of periods 3 and 4;
- (d) 2000 pounds in period 5; and
- (e) 15 pounds per day not, to exceed a cumulative total of 800 pounds in period 6.

(7) In each period, no vessel may land more than:

(a) 700 pounds of other nearshore rockfish, combined for period 5 and 6;

- (b) 4000 pounds of cabezon for period 5 and 6; or
- (c) 800 pounds of greenling species for period 5 and 6.

Stat. Auth.: ORS 506.109 & 506.119
Stats. Implemented: ORS 506.129
Hist.: FWC 73-1982(Temp), f. & ef. 10-27-82; FWC 1-1983 (Temp), f. & ef. 1-6-83; FWC 10-1983, f. & ef. 3-1-83; FWC 23-1983(Temp), f. & ef. 6-14-83; FWC 41-1983(Temp), f. & ef. 9-6-83; FWC 3-1984 f. & ef. 1-26-84; FWC 18-1984 (Temp), f. 5-4-84, ef. 5-6-84; FWC 36-1984(Temp), f. 7-31-84, ef. 8-1-84; FWC 1-1985(Temp), f. & ef. 1-4-85; FWC 5-1985, f. & ef. 2-19-85; FWC 18-1985(Temp), f. 4-26-85, ef. 4-27-85; FWC 52-1985(Temp), f. 8-30-85, ef. 9-1-85; FWC 65-1985 (Temp), f. & ef. 10-4-85; FWC 82-1985, f. 12-16-85, ef. 1-1-86; FWC 50-1986(Temp), f. & ef. 8-29-86; FWC 81-1986, f. 12-31-86, ef. 1-1-87; FWC 57-1987(Temp), f. & ef. 7-24-87; FWC 104-1987, f. 12-18-87, ef. 1-1-88; FWC 97-1988(Temp), f. & cert. ef. 1-6-88; FWC 103-1988, f. 12-29-88, cert. ef. 1-1-89; FWC 49-1989(Temp), f. & cert. ef. 7-26-89; FWC 69-1990 (Temp), f. 7-24-90, cert. ef. 7-25-90; FWC 122-1990, f. 11-26-90, cert. ef. 11-29-90; FWC 130-1990, f. 12-31-90, cert. ef. 1-1-91; FWC 48-1991(Temp), f. & cert. ef. 5-3-91; FWC 82-1991(Temp), f. 7-30-91, cert. ef. 7-31-91; FWC 83-1991, f. 8-1-91, cert. ef. 7-31-91; FWC 58-1992(Temp), f. & cert. ef. 7-29-92; FWC 141-1991, f. 12-31-91, cert. ef. 1-1-92; FWC 9-1992, f. 2-20-92, cert. ef. 2-21-92; FWC 58-1992(Temp), f. & cert. ef. 7-29-92; FWC 6-1993, f. 1-28-93, cert. ef. 2-1-93; FWC 10-1993, f. & cert. ef. 2-10-93; FWC 1-1994, f. & cert. ef. 1-14-94; FWC 32-1994, f. & cert. ef. 6-3-94; FWC 44-1994, f. 7-26-94, cert. ef. 8-1-94; FWC 95-1994, f. 12-28-94, cert. ef. 1-1-95; FWC 45-1995, f. & cert. ef. 6-1-95; FWC 94-1995(Temp), f. 12-29-95, cert. ef. 1-1-96; FWC 9-1996, f. 3-5-96, cert. ef. 3-8-96; DFW 118-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 119-2002(Temp), f. 10-24-02, cert. ef. 10-25-02 thru 12-31-02; DFW 135-2002, f. 12-23-02, cert. ef. 1-1-03; DFW 14-2003(Temp), f. 2-20-03, cert. ef. 2-21-03 thru 8-19-03; DFW 25-2003, f. & cert. ef. 3-26-03; DFW 60-2003(Temp), f. 7-15-03, cert. ef. 7-16-03 thru 12-31-03; DFW 79-2003(Temp), f. & cert. ef. 8-18-03 thru 12-31-03; DFW 102-2003(Temp), f. 9-30-03, cert. ef. 10-1-03 thru 12-31-03; DFW 128-2003, f. 12-15-03, cert. ef. 1-1-04; DFW 76-2004(Temp), f. 7-23-04, cert. ef. 7-28-04 thru 12-31-04; DFW 100-2004(Temp), f. & cert. ef. 9-28-04 thru 12-31-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 120-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 31-2005(Temp), f. 4-29-05, cert. ef. 5-1-05 thru 10-27-05; DFW 82-2005(Temp), f. 7-29-05, cert. ef. 8-1-05 thru 12-31-05; DFW 86-2005(Temp), f. & cert. ef. 8-3-05 thru 12-31-05; DFW 119-2005(Temp), f. 10-10-05, cert. ef. 10-11-05 thru 12-31-05; DFW 135-2005(Temp), f. 11-30-05, cert. ef. 12-1-05 thru 12-31-05; DFW 138-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 50-2006(Temp), f. 6-28-06, cert. ef. 7-1-06 thru 12-27-06; DFW 83-2006(Temp), f. 8-10-06, cert. ef. 8-11-06 thru 2-6-07; DFW 108-2006(Temp), f. 9-29-06, cert. ef. 10-1-06 thru 12-31-06; DFW 133-2006(Temp), f. 12-21-06, cert. ef. 1-1-07 thru 6-29-07; DFW 3-2007, f. & cert. ef. 1-12-07; DFW 83-2007(Temp), f. 8-31-07, cert. ef. 9-1-07 thru 12-31-07; DFW 120-2007(Temp), f. 10-30-07, cert. ef. 11-1-07 thru 12-31-07

Rule Caption: Adoption and Amendment of Rules for Issuance and Management of Sturgeon Propagation Permits.

Adm. Order No.: DFW 121-2007

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Rules Adopted: 635-007-0725, 635-007-0730, 635-007-0735, 635-007-0740, 635-007-0745

Rules Amended: 635-007-0501, 635-007-0600, 635-007-0650, 635-007-0705, 635-007-0710, 635-007-0720

ADMINISTRATIVE RULES

Subject: Adopted and amended rules necessary to allow issuance of sturgeon propagation permits and management of commercial propagation of sturgeon in response to passage of Oregon Senate Bill 569 in 2007. Modifications establish the number of permits that may be issued each calendar year; the method for allocating the permits; the standards and criteria under which a permit must be exercised; the annual fee for issuance or renewal of the permit; and additional conditions deemed necessary by the Fish and Wildlife Commission to ensure compliance with SB 569.

Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-007-0501

Definitions

As used in this Division and Division 40:

(1) "Anadromous" means fish which migrate from saltwater to freshwater for spawning.

(2) "Aquaria species" means those fish legally acquired and sold in the pet store trade for use in home aquaria, except game fish, sturgeon, state or federally protected threatened and endangered species and those species listed as Prohibited or Controlled. "Aquaria" are any tanks, pools, ponds, bowls or other containers intended for and capable of holding or maintaining live fish and from which there is no outfall to any waters of this state.

(3) "Aquatic habitat" means the waters which support fish or other organisms which live in water and which includes the adjacent land area and vegetation (riparian habitat) that provides shade, food, and/or protection for those organisms.

(4) "Area" means a stream, a lake, a group of streams or lakes, or a portion of the ocean managed for or with a common stock of fish, or for protection of a stock or stocks of fish.

(5) "Biological requirements" refers to those environmental conditions such as water quality, water quantity, and available food that are necessary for fish to grow and/or reproduce.

(6) "Brood stock" means a group of fish, generally from the same population, that are held and eventually artificially spawned to provide a source of fertilized eggs for hatchery programs.

(7) "Brood year" means the year in which more than fifty percent of the adults in a population of fish spawn.

(8) "Commission" means the Oregon Fish and Wildlife Commission.

(9) "Compensation" means activities that replace fish, or their habitat lost through development or other activities.

(10) "Conservation" means managing for sustainability of native fish so that present and future generations may enjoy their ecological, economic, recreational, and aesthetic benefits.

(11) "Cooperative Salmon Hatchery Project" means a fish propagation enhancement project authorized under OAR 635-009-0400 through 635-009-0455.

(12) "Department" means the Oregon Department of Fish and Wildlife.

(13) "Depressed" means below established goal such as a fish production or escapement goal shown in a management plan or below the level of production or escapement that the Commission determines to be an optimal level.

(14) "Disease" means problems caused by infectious agents, such as parasites or pests, and by other conditions that impair the performance of the body or one of its parts.

(15) "Disease agent" means an organism that is detrimental to fish.

(16) "Endemic disease" means a disease commonly detected in a population of naturally produced native fish.

(17) "Enhancement" means management activities including rehabilitation and supplementation that increase fish production beyond the existing levels.

(18) "Export" means to transport any fish or eggs out of state.

(19) "Facility Manager" means hatchery manager, owner or person responsible for compliance with these rules.

(20) "Fish" means all game fish as defined by ORS 496.009 and food fish as defined by ORS 506.036, which live or could live in the waters of this state.

(21) "Fish Hatchery" means a facility at which adult broodstock are held, or where eggs are collected and incubated, or where eggs are hatched, or where fish are reared.

(22) "Fry" means fish which have recently hatched and have not fed.

(23) "Foreign" means fish which originate through human intervention from a different population.

(24) "Genetic engineering" means the introduction of genetic material into an organism's genotype through molecular genetics techniques.

(25) "Genetic Resources" means the kind and frequency of genes found within a population or collection of populations.

(26) "Genotype" means the kinds of and the combination of genes possessed by an individual.

(27) "Goal" means a statement of intent which leads to policy, rules, and operation plans for implementation of a Department Program.

(28) "Hatchery produced fish" means a fish incubated or reared under artificial conditions for at least a portion of its life.

(29) "Hatchery production system" means the fish, facilities and operations associated with collecting, spawning, incubating, rearing, distributing and releasing hatchery produced fish.

(30) "Hatchery Program" means a program in which a specified hatchery population is planted in a specified geographical location.

(31) "Hold fish" means to capture and/or remove live fish in or from the waters of this state and/or maintain live fish in captivity but does not include fish held live for less than one day for examination and release without transfer from the waters where caught or collected.

(32) "Import" means to transport fish or eggs into the state.

(33) "Indigenous" means descended from a population that is believed to have been present in the same geographical area prior to the year 1800 or that resulted from a natural colonization from another indigenous population.

(34) "Marine species" means those fish found in the ocean or the saline or brackish water of estuaries or bays along the coast, but not generally found in freshwater streams.

(35) "Mitigation" means to lessen the impact of activities or events that cause fish or habitat loss.

(36) "Native fish" means indigenous to Oregon, not introduced. This includes both naturally produced and hatchery produced fish.

(37) "Naturally produced" means fish that reproduce and complete their full life cycle in natural habitats.

(38) "Naturally Spawned" means fish produced in the natural environment as the result of natural reproduction.

(39) "Natural production system" means the fish and environment associated with completing the life-cycles of naturally produced fish populations.

(40) "Nongame Fish" means any fish other than those specifically defined as game fish in ORS 496.009.

(41) "Operation plan" means an action plan developed by the Department that generally addresses how the objectives in a management plan for harvest or production of a species shall be attained.

(42) "Optimum" means the desired fish production level as stated in management plans or set by specific Commission action.

(43) "Phenotype" means any characteristic of an organism that is determined by the organism's genes, genotype and the environment.

(44) "Policy" means mandatory direction or constraints that provide the framework for Department programs.

(45) "Population" means a group of fish originating and reproducing in a particular area at a particular time which do not interbreed to any substantial degree with any other group reproducing in a different area or in the same area at a different time.

(46) "Presmolt" means a juvenile anadromous fish which has fed and reared but is not yet a smolt.

(47) "Production" means the number or pounds of fish raised in a hatchery or resulting from natural spawning and rearing in freshwater, estuarine, or ocean habitats; also used in reference to harvest.

(48) "Propagation of fish" means the spawning, incubating, and/or rearing of fish by a human for sale, release or other uses.

(49) "Random mortality" means fish mortality that generally does not affect the genotypic or phenotypic traits of fish populations.

(50) "Rehabilitation" means short-term management actions which may include fish stocking, habitat improvement, harvest management, or other work, that restore fish populations depressed by natural or man-made events.

(51) "Release" means liberating fish or allowing fish to move into waters of the state.

(52) "Risk" means the extent to which, a management practice may reduce population productivity or cause an undesirable change in genetic characteristics of a population.

(53) "Sensitive" means those fishes that have been designated for special consideration pursuant to OAR 635-100-0040.

(54) "Selective mortality" means fish mortality that generally affects the genotypic and phenotypic traits of fish populations.

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(55) "Serious depletion" means a significant likelihood that the species management unit will become threatened or endangered under either the state or federal Endangered Species Act.

(56) "Significant or substantial" means a condition of sufficient magnitude such that it is likely to influence continued natural production at optimum levels.

(57) "Smolt" means a juvenile salmon or trout that is capable of initiating a seaward migration and is capable of living in the sea.

(58) "Species" means any group or population that interbreeds and is substantially reproductively isolated.

(59) "Species hybridization" means the crossing of two different taxonomic species.

(60) "Species management unit" means a collection of populations from a common geographic region that share similar genetic and ecological characteristics.

(61) "STEP" means Salmon Trout Enhancement Program.

(62) "Stock" means an aggregation for management purposes of fish populations which typically share common characteristics such as life histories, migration patterns, or habitats.

(63) "Stray" means a hatchery fish that spawns naturally in a location different from the location intended when the fish was stocked.

(64) "Supplementation" means continued planting of fish to maintain or increase fish abundance in areas where natural production is insufficient to meet management objectives.

(65) "Sustainable" means persistence over time, that is to say the ability of a population or a species management unit to maintain temporal, spatial, genetic, and ecological coherence while withstanding demographic, environmental, and genetic variation and catastrophic events from natural and human induced causes.

(66) "Taxonomic species" means a group of fish that have been assigned a scientific name in the form of genus and species by the American Fisheries Society Committee on Common and Scientific Names of Fishes.

(67) "Transfer" means moving fish from one facility to another or to waters of the state.

(68) "Transgenic fish" means fish that have genes or groups of genes that have been transferred from another organism through the process of genetic engineering.

(69) "Wild fish" means any naturally spawned fish in the taxonomic classes, Agnatha, Chondrichthyes, and Osteichthyes, belonging to an indigenous population.

Stat. Auth.: ORS 496.012 & 496.138

Stats. Implemented: ORS 496.171, 496.172, 496.176, 496.182, 496.430, 496.435, 496.445, 496.450 & 496.455

Hist.: FWC 25-1984, f. 6-21-84, ef. 7-1-84; FWC 6-1990, f. & cert. ef. 1-29-90; FWC 2-1992, f. 1-28-92, cert. ef. 2-1-92; FWC 37-1992, f. 5-29-92, cert. ef. 6-1-92; FWC 15-1997, f. & cert. ef. 3-10-97; DFW 131-2002, f. & cert. ef. 11-22-02; DFW 65-2003, f. & cert. ef. 7-17-03; DFW 96-2003, f. & cert. ef. 9-19-03; DFW 121-2007, f. & cert. ef. 11-14-07

635-007-0600

Permit Required to Transport, Hold, or Release Fish

(1) Except as provided in OAR 635-007-0620 and in sections (3) and (4) of this rule, any person shall have in possession a Fish Transport Permit in order to:

(a) Transport live fish into, within or out of this state; or

(b) Hold any live fish in the waters of this state.

(2) Any person releasing or attempting to release any live fish into the waters of this state shall have in possession a Fish Transport Permit. A separate Fish Transport Permit shall be obtained for each release site but not for each delivery of fish made to a site during the authorized permit period, provided the total number of fish delivered does not exceed the number authorized to be transported under the permit.

(3) Section (1) of this rule shall not apply to:

(a) Aquaria species intended for aquaria use. Aquaria use means holding fish in closed systems where untreated effluent does not enter state waters;

(b) Shellfish taken for personal use or fish taken in duly authorized commercial fisheries. A transport permit is required is required for persons importing live fish for sale to wholesalers, fish dealers, retail fish dealers, restaurants, or the ultimate consumer;

(c) Activities authorized under a STEP Permit (OAR 635-009-0115);

(d) Federally licensed projects which have been approved by the Department;

(e) Fish transport activities specifically authorized under a Scientific Taking Permit issued by the Department.

(4) A valid Department egg or fish shipment report, or copy thereof, may be used in lieu of a Fish Transport Permit to transport, hold or release live eggs or fish sold or provided by the Department.

(5) The Department may refuse to issue a Fish Transport Permit on the following grounds:

(a) The holding or release of the fish specified in the application will be the first introduction of that species into the waters of the holding or release site;

(b) The Department finds the holding or release of the fish specified, either singly or in combination with the holding or release of fish under other permits, would tend to adversely affect existing fish populations in or below the holding or release site; or

(c) The applicant has violated any term of any statute or regulation, or any license, permit or operational plan issued by the Department;

(d) The applicant has failed to pay any sums it owes to the Department or which are owed to the Department under any license or permit it holds or the benefits of which it enjoys.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 497.252, 497.298, 498.222 & 508.111

Hist.: FWC 27-1982, f. & ef. 4-30-82; FWC 25-1984, f. 6-21-84, ef. 7-1-84, Renumbered from 635-043-0300; FWC 3-1991, f. & cert. ef. 1-18-91; DFW 38-1999, f. & cert. ef. 5-24-99; DFW 110-2001, f. & cert. ef. 11-23-01; DFW 121-2007, f. & cert. ef. 11-14-07

635-007-0650

License Required

(1) Except as provided in section (3) of this rule, any person shall obtain a Fish Propagation License in order to propagate for sale and sell any live fish.

(2) A separate Fish Propagation License shall be obtained for each rearing site and shall be renewed annually.

(3) Section (1) of this rule shall not apply to:

(a) The propagation and sale of nongame aquaria species in aquaria;

(b) The operation of salmon hatcheries regulated under ORS 508.700 through 508.745 and OAR chapter 635, division 040 as further clarified at OAR 635-007-0680; or

(c) Activities authorized under a STEP Permit (OAR 635-009-0115);

(d) Activities authorized under a Cooperative Salmon Hatchery Agreement (OAR 635-009-0400 through 635-009-0455).

(4) The department may attach to the fish propagation license any terms and conditions it deems necessary to achieve compliance with Oregon laws or rules.

(5) The department may refuse to issue any fish propagation license if:

(a) Applicant fails to meet any of the deadlines specified in OAR 635-007-0655;

(b) The propagation of the fish specified in the application will be the first introduction of that species into the watershed in which the proposed facility is located;

(c) The department finds the operation, as proposed by the applicant, would tend to be harmful to existing fish populations in or below the site of the proposed propagation facility;

(d) The department finds the applicant violated any terms of any license, permit or operational plan issued by the department;

(e) The department finds the applicant has failed to comply with any statute, rule or reporting requirements relevant to the operation of the propagation facility; or

(f) The applicant has failed to pay any sums it owes to the department or which are owed to the department under any license or permit it holds or the benefits of which it enjoys.

Stat. Auth.: ORS 496.138 & 506.119

Stats. Implemented: ORS 496.146, 497.252 & 506.124

Hist.: FWC 27-1982, f. & ef. 4-30-82; FWC 25-1984, f. 6-21-84, ef. 7-1-84, Renumbered from 635-043-0400; FWC 3-1991, f. & cert. ef. 1-18-91; FWC 15-1997, f. & cert. ef. 3-10-97; DFW 121-2007, f. & cert. ef. 11-14-07

635-007-0705

Obtaining Sturgeon and Eggs for Propagation

Any person desiring to propagate sturgeon must develop sturgeon broodstock from which to take eggs to continue the sturgeon propagation operation. Oversize sturgeon shall not be collected on a continuing basis to support either experimental or production rearing. Sturgeon eggs or sperm taken from wild fish to provide seed for propagation and development of broodstock for a fish propagation facility may be obtained only by a person who held a permit to collect wild broodstock in the year 2006, and only through the year 2010, and may be obtained in the manner described in sections (1) to (3) of this rule.

(1) Legal Size Sturgeon may be taken pursuant to:

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(a) Commercial fishing activities under a valid commercial fishing license;

(b) Commercial fishing activities by other fishermen under a valid commercial fishing license. Sturgeon may be purchased from such fishermen, as authorized by rules for the purchase of fish from commercial fishermen. A wholesale fish dealer's license is required;

(c) Sport fishing activities under a valid sport fishing license. Sturgeon caught under a sport fishing license shall not be transported via land except as authorized in a fish transport permit. Sport fishermen shall not be compensated for any fish or eggs provided to a fish propagation facility operator.

(2) Oversize Sturgeon: A person may only collect oversize female sturgeon under a special permit issued by the Department as further provided in OAR 635-007-0710. The permit will only authorize collection of fish from Oregon waters of the main stem Columbia below Bonneville Dam, unless the permittee also has a valid State of Washington permit for collecting oversize female sturgeon in Washington state waters. Any such fish collected under Washington state permits shall reduce the total number allowed to be collected in Oregon:

(a) In addition to open commercial fishing seasons in which legal gear may be used, a permittee may collect oversize female sturgeon by gill net having a mesh size greater than nine inches, stretch measure, during the period April 1 through June 30. Nets shall be tended at all times. A commercial fishing license shall also be required;

(b) A permittee may personally collect oversize female sturgeon with sport gear. A sport fishing license shall also be required.

(3) Licensed Propagation Facility: Eggs, brood stock or juveniles may be obtained from a licensed propagation facility.

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 497.325, 497.330

Hist.: FWC 33-1988, f. & cert. ef. 5-24-88; DFW 121-2007, f. & cert. ef. 11-14-07

635-007-0710

Special Permit Rules to Collect Male and Oversize Female Sturgeon

Any person desiring to propagate sturgeon must develop sturgeon broodstock from which to take eggs to continue the sturgeon propagation operation. Oversize sturgeon shall not be collected on a continuing basis to support either experimental or production rearing. Sturgeon eggs or sperm taken from wild fish to provide seed for propagation and development of broodstock for a fish propagation facility may be obtained only by a person who held a permit to collect wild broodstock in the year 2006, and only through the year 2010, and may be obtained in the manner described in sections (1) to (3) of this rule:

(1) Application and Eligibility for Permit: A special permit to collect oversize female sturgeon shall be issued only to an individual who held such a permit for the year 2006, and may only authorize collection of oversize sturgeon through the year 2010. The individual applicant shall:

(a) Make a request in writing;

(b) Demonstrate in such request the individual has the technical expertise and experience to handle adult sturgeon, conduct an examination of the fish to determine the state of maturity, and take eggs without harm to the fish or eggs;

(c) Designate in the request an Oregon licensed fish propagation facility for fish rearing; and

(d) Designate in the request a landing site in Oregon for transfer of the collected fish to the fish propagation facility.

(2) Obligations of the Permittee:

(a) The permittee shall not collect more than six oversize female sturgeon for the purpose of holding and egg collection at the licensed fish propagation facility designated by the Department in the issued permit. Permittee may also collect up to 12 male sturgeon less than six feet in length which may be held live for the purpose of fertilizing said eggs when collected;

(b) The permittee shall tag both males and oversize female sturgeon at the time of capture with tags provided by the Department;

(c) The permittee shall be present during capture and shall transport collected sturgeon, by boat, to the landing site designated in the permit for transfer to the fish propagation facility. The sturgeon may be held for a reasonable length of time for removal of ripe eggs or collection of sperm, and for recovery prior to transfer and release back to the river in good condition at the landing site. Fish transport permits are required;

(d) The permittee may conduct an examination of the sturgeon for maturity by making a small incision in the fish to check for ripeness. The incision shall be properly sutured prior to holding or release;

(e) The permittee shall carry the permit at all times when conducting operations authorized by the permit and shall cause a copy of such permit to be posted at the propagation facility designated in the permit;

(f) The permittee shall notify the Department prior to the initiation of any sturgeon collection authorized by the special permit;

(g) The permittee shall make available to the Department, at permittee's expense, up to 5,000 fingerlings unless the Department requests fewer, from each oversize wild female sturgeon spawned for stocking within the state;

(h) The permittee shall file monthly reports with the Department, by the 10th of each month, on a form or format acceptable to the Department, which shows the number of wild sturgeon examined, tagged, collected, held, and spawned, as well as other general information about operations conducted under the special permit and fish propagation program.

(3) Permit Limitations; Non-transferability:

(a) The total number of oversize female sturgeon which may be collected from Oregon waters shall be reduced proportionately by any such sturgeon collected in the state of Washington;

(b) The special permit shall be issued only to an individual and is not transferable from said individual to another individual. In the event the individual issued the permit is no longer available to conduct permit activities or carry out responsibilities required by these rules, a new application for a permit shall be submitted to the Department.

(4) Annual Permit Renewal:

(a) The special permit is an annual permit and shall expire on December 31 of each year;

(b) A fee of \$10 is required to be submitted with the application for the special permit;

(c) In order to renew the special permit, the permittee shall submit a written request for renewal, together with a fee of \$10 and a copy of the permittee's annual operations report by January 10 of the next year. The annual operations report shall summarize the monthly reports and show the numbers of fish sold and on hand.

(5) Refusal to Issue or Renew a Special Permit; Revocation and Suspension:

(a) Where the Commission proposes to refuse to issue or renew a special permit or to revoke or suspend a special permit an opportunity for a hearing shall be given, as provided in ORS Chapter 183, the Administrative Procedures Act;

(b) The Commission may refuse to issue or renew a special permit or revoke or suspend a special permit where the individual applying for or holding the special permit:

(A) Fails to comply with OAR 635-007-0700 through 635-007-0720 and/or 635-004-0090; or

(B) Has been convicted of any crime relating to the fish and wildlife laws of this state, or any other state or of the United States; or

(C) Has been convicted of any crime involving dishonesty, misrepresentation or fraud under the laws of this state, or any other state or of the United States; or

(D) Has been convicted of any violation of OAR 635-007-0700 through 635-007-0720 and/or 635-004-0090.

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 497.325, 497.330

Hist.: FWC 33-1988, f. & cert. ef. 5-24-88; DFW 121-2007, f. & cert. ef. 11-14-07

635-007-0720

Possession of Sturgeon for Spawning and Propagation

(1) General Authorization. The Department will allow:

(a) Holding of male and oversize female sturgeon collected from the wild, until spawned for collection and incubation of eggs (pursuant to the special permit);

(b) Holding of adults raised at the fish propagation facility, or fish obtained through legal sport fishing or commercial activities; and

(c) Subsequent propagation and sale of white sturgeon under a sturgeon propagation permit.

(2) Special Requirements: The Department shall be immediately notified of the death of any adult sturgeon held at the licensed fish propagation facility or killed during any collection operation authorized by a special permit to collect male and oversize female sturgeon.

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 497.325, 497.330

Hist.: FWC 33-1988, f. & cert. ef. 5-24-88; DFW 121-2007, f. & cert. ef. 11-14-07

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635-007-0725

Permit Required

(1) Except as provided in section (4) of this rule, any person shall obtain a Sturgeon Propagation Permit in order to propagate for sale or sell any live sturgeon or sturgeon eggs.

(2) Each year the Department is authorized to issue up to 15 sturgeon propagation permits. Permits will be allocated first to those persons who currently hold sturgeon propagation permits except for good cause not to reissue a permit (such as violations of terms or conditions of a current propagation permit or violations of other fish and wildlife laws), and thereafter to those persons submitting a completed, acceptable application in the order in which the completed applications were received.

(3) A separate Sturgeon Propagation Permit shall be obtained for each commercial propagation site and shall be renewed annually.

(4) Any permit in good standing is entitled to be renewed for the following year. Any permits remaining after December 31 may be distributed by lottery amongst the applicants in January of the following year, and any permits remaining shall then be distributed on a first come — first serve basis.

(5) The department may attach to the Sturgeon propagation permit any terms and conditions it deems necessary to achieve compliance with Oregon laws or rules or protect native wildlife.

(6) The department may refuse to issue any Sturgeon propagation permit if:

(a) Applicant fails to meet any of the deadlines specified in OAR 635-007-0730;

(b) Propagation of sturgeon will be the first introduction of that species into the watershed in which the proposed facility is located;

(c) The department finds the operation, as proposed by the applicant, would tend to be harmful to existing fish populations;

(d) The department finds the applicant violated any terms of any license, permit or operational plan issued by the department;

(e) The department finds the applicant has failed to comply with any statute, rule or reporting requirements relevant to the operation of the propagation facility; or

(f) The applicant has failed to pay any sums it owes to the department or which are owed to the department under any license or permit it holds or the benefits of which it enjoys.

Stat. Auth.: ORS 496.012, 496.138

Stats. Implemented: ORS 496.171, 496.172, 496.176, 496.182, 496.430, 496.435, 496.445, 496.450, 496.455

Hist.: DFW 121-2007, f. & cert. ef. 11-14-07

635-007-0730

Permit Application Process

(1) Any person wishing to obtain or renew a Sturgeon Propagation Permit shall complete and submit to the Department the appropriate permit application form. Application forms are available upon request from the Oregon Department of Fish and Wildlife. Applications to renew an existing permit shall be submitted to the Department by December 1 of the year prior to the permit year in order to renew the permit as a matter of right.

(2) In addition to the application form, persons requesting to license a new or not yet built facility shall describe in writing:

(a) The location and physical layout of the facility;

(b) Water supply (source, quantity, presence or absence of fish, and manner of access);

(c) Species and sources of fish to be propagated;

(d) The status of applications for any required federal, state or local permits, including a water right from the Oregon Water Resources Department (WRD), a National Pollution Discharge Elimination System (NPDES) permit from the Oregon Department of Environmental Quality (DEQ), and land use permits from the county in which the facility is located.

(3)(a) Prior to issuance of any new propagation license, the applicant shall develop a propagation facility operational plan, in consultation with the Department and Department approval obtained. Based on the species reared, size of operation and/or risk of escape, the Department may accept an abbreviated level of detail in the operational plan. Unless otherwise specified by the Department based on the above criteria, the operational plan shall include engineering designs of the facility drawn to scale and shall describe both the facility and its operations in detail and shall, at a minimum, include:

(A) Species to be reared, ponding strategies by month, and projected loading densities per pond by month;

(B) Pond cleaning schedules;

(C) Transportation schedules for fish moved into and out of the facility;

(D) Hatchery staff assignments;

(E) Fish monitoring studies;

(F) Facility screening, including designs, operations, and maintenance;

(G) Avian enclosures on each rearing container;

(H) Fish handling procedures;

(I) Fish disease treatment procedures;

(J) Use of quarantine and isolation facilities;

(K) Procedures for handling emergency situations;

(L) Chlorine monitoring regimen, where chlorination is required.

(b) Except as otherwise specified by the Department based on species reared, size of operation and/or risk of escape, the applicant shall:

(A) Develop and conduct fish population studies approved by the Department and funded by the applicant, sufficient to document preconstruction status of fish populations in the affected waterway; and

(B) Develop and fund similar studies to be conducted in subsequent years to document changes caused by hatchery operation.

(4) Prior to commencing operation of a facility, applicants must have both a fish propagation license and specific written authorization to operate from the Department. Authorization to operate shall be granted only:

(a) Upon determination that all required federal, state and local permits have been obtained; and

(b) After inspection and acceptance by the Department of any required fish screens, avian enclosures, disease control mechanisms, and isolation facilities.

(5) The Department shall renew propagation licenses upon acceptance of:

(a) A complete renewal application, submitted by December 1 of the prior year;

(b) A propagation facility operational plan as provided in subsection (3)(a) of this rule approved by the Department for the year for which the license is to be renewed, submitted by December 1 with the renewal application.

(c) Results of post-siting fish population studies, if required under subsection (3)(b) of this rule, submitted by December 1 of the prior year; and

(d) Documentation that any required federal, state and local permits, including appropriate WRD water rights and DEQ NPDES permits, have been obtained.

(e) To the extent that any sales summary information or final activity report cannot be provided by December 1 due to lack of data, such information shall be provided on a separate form by January 15, as required in OAR 635-007-0735(3).

Stat. Auth.: ORS 496.012, 496.138

Stats. Implemented: ORS 496.171, 496.172, 496.176, 496.182, 496.430, 496.435, 496.445, 496.450, 496.455

Hist.: DFW 121-2007, f. & cert. ef. 11-14-07

635-007-0735

Duties of Sturgeon Propagation Permittees

(1) Each permitted Sturgeon propagator shall obtain a Fish Transport Permit for any sturgeon transported to the permitted facility or from the permitted facility to another site prior to such transportation and shall provide a copy of such permit to the person transporting the sturgeon for delivery to the person or entity receiving the fish.

(2) Each permitted Sturgeon propagator shall maintain at the propagation facility a record of all business transactions involving the sale, purchase, shipment or loss of sturgeon or sturgeon eggs and shall make such record available for inspection upon request by the Department or the Oregon State Police.

(3) Each permitted Sturgeon propagator shall submit an annual report of operations by January 15 of the next year; and shall submit the report by that date even if the permittee did not renew. The sales of fish shall be reported as total numbers and pounds of each species sold, either live or dead, during the year. The sales of sturgeon eggs shall be reported as total numbers of each species sold during the year.

(4) The Department may require permitted Sturgeon propagators to submit monthly reports of sturgeon on hand at the facility. If required, this report shall list the species, stock, number per species and stock on hand, disease losses for each stock during the month, causative agent for such losses, and remedial treatments used to reduce losses.

(5) Each permitted sturgeon propagator shall comply with all statutes and regulations of other agencies pertaining to the operation of the propagation facility.

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(6) Each permitted sturgeon propagator shall comply with the terms and conditions of his permit and operational plan.

(7) Sturgeon propagation facilities and records are subject to inspection at any time by the Department or the Oregon State Police.

Stat. Auth.: ORS 496.012, 496.138
Stats. Implemented: ORS 496.171, 496.172, 496.176, 496.182, 496.430, 496.435, 496.445, 496.450, 496.455
Hist.: DFW 121-2007, f. & cert. ef. 11-14-07

635-007-0740

Purchase of Sturgeon from Sturgeon Propagation Permittee

(1) No angling license is required to angle at the facilities of a permitted Sturgeon propagator.

(2) It is *unlawful*:

(a) To possess Sturgeon received from a Sturgeon propagation permittee without having a written receipt; or

(b) For the propagator to sell fish so taken without providing a written receipt, which includes:

- (A) Name of Sturgeon propagation permittee;
- (B) Location from which Sturgeon were taken;
- (C) Date shipped/received;
- (D) Name of purchaser; and
- (E) Number of each species of Sturgeon received.

(3) A fish transport permit shall accompany the receipt of sale for any live sturgeon.

Stat. Auth.: ORS 496.012, 496.138
Stats. Implemented: ORS 496.171, 496.172, 496.176, 496.182, 496.430, 496.435, 496.445, 496.450, 496.455
Hist.: DFW 121-2007, f. & cert. ef. 11-14-07

635-007-0745

Revocation of Sturgeon Propagation Permit

(1) The Commission may revoke a Sturgeon Propagation Permit in accordance with the applicable provisions of ORS 183.310 through 183.500 based on any of the following:

(a) The Commission finds that the conduct of the facility would tend to be harmful to existing game fish or food fish populations; or

(b) The permittee has violated any terms of any license, permit or operational plan issued by the Department; or

(c) The permittee has filed to comply with any statute, rule or reporting requirement relevant to the operation of the facility; or

(d) After request by the Department, the permittee has failed to pay any sums it owes to the Department or which are owed to the Department under any license or permit it holds or the benefits of which it enjoys.

(2) Revocation of a Sturgeon Propagation Permit shall be in addition to and not in lieu of other penalties provided by law.

Stat. Auth.: ORS 496.012, 496.138
Stats. Implemented: ORS 496.171, 496.172, 496.176, 496.182, 496.430, 496.435, 496.445, 496.450, 496.455
Hist.: DFW 121-2007, f. & cert. ef. 11-14-07

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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 16-2007(Temp)

Filed with Sec. of State: 10-16-2007

Certified to be Effective: 10-16-07 thru 4-11-08

Notice Publication Date:

Rules Amended: 413-015-0115, 413-015-0415, 413-015-0420

Subject: OAR 413-015-0115 which defines terms used in rules about child protective services (CPS) is being amended to add definitions for the terms designated medical professional, reasonable suspicion, and suspicious physical injury. OAR 413-015-0415 and 413-015-0420 about CPS assessment activities and initial contact are being amended to require that the Department and the law enforcement agency assure that suspicious physical injuries in which there is a reasonable suspicion of abuse are evaluated by a designated medical professional or available physician within 48 hours; require CPS workers photographing suspicious physical injuries to send those photographs to a designated medical professional within 72 hours; require that all photographs be filed in the case record and labeled with identifying information within 48 hours or the next business day, which ever occurs later; require the Department to make pho-

tographs of suspicious physical injuries available to multi-disciplinary team (MDT) members if the case is staffed by the MDT; clarify that photographs of the anal or genital region may be taken only by medical personnel; and state that the CPS worker must facilitate an assessment by a medical professional if the alleged child abuse or neglect involves injury to the anal or genital region.

Rules Coordinator: Annette Tesch—(503) 945-6067

413-015-0115

Definitions

Unless the context indicates otherwise, these terms are defined for use in OAR chapter 413, division 015:

(1) "Caregiver" means a guardian, legal custodian, or other person acting in loco parentis, who exercises significant authority over and responsibility for a child.

(2) "Child" means a person under 18 years of age.

(3) "Child abuse or neglect" means any form of abuse, including abuse through neglect and abuse or neglect by a third party, of a person under age 18.

(4) "Child protective services (CPS)" means a specialized social service program that the Department provides on behalf of children who may be unsafe after a report of child abuse or neglect is received.

(5) "Child protective services assessment" means activities and interventions that identify and analyze safety threats, determine if there is reasonable cause to believe child abuse or neglect occurred, and assure child safety through protective actions or ongoing safety planning.

(6) "Child protective services supervisor (CPS supervisor)" means an employee of Child Welfare trained in child protective services and designated as a supervisor.

(7) "Child protective services worker (CPS worker)" means an employee of Child Welfare who has completed the mandatory Department training for child protective service workers.

(8) "Child Safety Meeting" means a facilitated meeting held at the conclusion of a CPS assessment for the purpose of developing an ongoing safety plan.

(9) "Department" means the Department of Human Services, Child Welfare.

(10) "Department response" means how the Department intends to respond to information that a child is unsafe after a report of alleged abuse or neglect is received.

(11) "Designated medical professional" means (as defined in ORS 418.747(8)) a physician, physician assistant, or nurse practitioner who has been designated by the local multi-disciplinary team and trained to conduct child abuse medical assessments (as defined in ORS 418.782), and who is — or who may designate another physician, physician assistant, or nurse practitioner who is — regularly available to conduct these medical assessments.

(12) "Face-to-face" means an in-person interaction between individuals.

(13) "FACIS" means the Family and Child Information System.

(14) "Former foster child" means a person under 21 years of age, who was in substitute care in Oregon, including substitute care provided by the Federally Recognized Tribes, after the age of 14 and remained in substitute care for an accumulative 180 days or longer.

(15) "Guided Assessment Process (GAP)" is a tool used to document the CPS assessment.

(16) "Harm" means any kind of impairment, damage, detriment, or injury to a child's physical, sexual, emotional, or mental development or functioning. Harm is the result of child abuse or neglect and may vary from mild to severe.

(17) "ICWA" means the Indian Child Welfare Act.

(18) "Initial contact" means the first face-to-face contact between a CPS worker and a family. The initial contact includes face-to-face contact with the alleged child victim, his or her siblings, parent or caregiver, and other children and adults living in the home; accessing the home environment; identifying safety threats; and determining if a protective action is needed.

(19) "Legal guardian" means a person or agency having the powers and responsibilities of a parent to make binding decisions for a child, including the authority to ---

(a) Authorize surgery for the child;

(b) Authorize enlistment in the armed forces;

(c) Consent to the child's adoption when the child is in the permanent custody of the agency; and

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(d) Make other decisions of substantial legal significance concerning the child (but a guardian is not a conservator of the child's property or estate).

(20) "Multi-disciplinary team (MDT)" means a county investigative team described in ORS 418.747 that includes law enforcement personnel, child protective service workers, district attorneys, school officials, health department staff, and juvenile department personnel.

(21) "Observable" means specific, definite, real, can be seen and described. Observable does not include suspicion and gut feeling.

(22) "Ongoing safety plan" means a documented set of actions or interventions that manage a child's safety after the Department has identified one or more safety threats to which the child is vulnerable and determined the parent or caregiver is unable or unwilling to protect the child. An ongoing safety plan can be in-home or out-of-home and is adjusted when necessary to provide the least intrusive interventions.

(23) "Out of control" means family behaviors, conditions, or circumstances that can affect a child are unrestrained, unmanaged, without limits or monitoring, not subject to influence or manipulation within the control of the family, resulting in an unpredictable and chaotic family environment.

(24) "Personal representative" means a person who is at least 18 years of age and is selected to be present and supportive during the CPS assessment by a child who is the victim of a person crime as defined in ORS 147.425 and is at least 15 years of age at the time of the crime. The personal representative may not be a person who is a suspect in, party or witness to, the crime.

(25) "Protective action" means an immediate, same day, short-term plan sufficient to protect a child from a safety threat in order to allow completion of the CPS assessment.

(26) "Protective capacity" means behavioral, cognitive, and emotional characteristics that can specifically and directly be associated with a person's ability and willingness to care for and keep a child safe.

(27) "Protective custody" means custody authorized by ORS 419B.150.

(28) "Reasonable suspicion" means a reasonable belief given all of the circumstances, based upon specific and describable facts, that the suspicious physical injury may be the result of abuse. Explanation: The belief must be subjectively and objectively reasonable. In other words, the person subjectively believes that the injury may be the result of abuse, and the belief is objectively reasonable considering all of the circumstances. Instinct and experience cannot be the entire basis of the belief. But the circumstances that may give rise to a reasonable belief may include, but not be limited to, observations, interviews, experience and training. The fact that there are possible non-abuse explanations for the injury does not negate reasonable suspicion.

(29) "Referral" means a report that has been assigned for the purpose of CPS assessment.

(30) "Report" means an allegation of child abuse or neglect provided to Child Welfare that the screener evaluates to determine if it constitutes a report of child abuse or neglect as defined in ORS 419B.005.

(31) "Reporter" means an individual who makes a report.

(32) "Safe" means there is an absence of safety threats, the child is not vulnerable to identified safety threats, or there is sufficient parent or caregiver protective capacity to protect the vulnerable child from the identified safety threats.

(33) "Safety service provider" means a participant in a protective action or ongoing safety plan whose actions, assistance, or supervision help a family in managing a child's safety or increasing the protective capacities of the child's parent or caregiver.

(34) "Safety services" mean the actions, assistance, and supervision provided by safety service providers to manage the identified safety threats to a child.

(35) "Safety threat" means family behavior, conditions, or circumstances that could result in harm to a child.

(36) "Screener" means a Child Welfare employee with training required to provide screening services.

(37) "Screening" means the process used by a screener to determine the Department response when information alleging abuse or neglect is received.

(38) "Severe harm" means 'substantial', as used in ORS 419B.005; immobilizing impairment; life-threatening damage; or significant or acute injury to a child's physical, sexual, psychological, or mental development or functioning.

(39) "Substance" means any controlled substance as defined by ORS 475.005, prescription medications, over the counter medications, or alcoholic beverages.

(40) "Suspicious physical injury" (as defined in 2007 Oregon Laws Chapter 674) includes, but is not limited to:

(a) Burns or scalds;

(b) Extensive bruising or abrasions on any part of the body;

(c) Bruising, swelling, or abrasions on the head, neck, or face;

(d) Fractures of any bone in a child under the age of three;

(e) Multiple fractures in a child of any age;

(f) Dislocations, soft tissue swelling, or moderate to severe cuts;

(g) Loss of the ability to walk or move normally according to the child's developmental ability;

(h) Unconsciousness or difficulty maintaining consciousness;

(i) Multiple injuries of different types;

(j) Injuries causing serious or protracted disfigurement or loss of impairment of the function of any bodily organ; or

(k) Any other injury that threatens the physical well-being of the child.

(41) "Third-party abuse" means abuse by a person who is not the child's parent, not the child's caregiver or other member of the child's household, and not a person responsible for the child's care, custody, and control. Examples of persons who could be considered as a third-party under this definition include school personnel, day-care providers, coaches, and church personnel.

(42) "Unsafe" means there is a safety threat to which the child is vulnerable and there is insufficient parent or caregiver protective capacity to protect a vulnerable child from the identified safety threats.

(43) "Vulnerable child" means a child who is unable to protect him or herself. This includes a child who is dependent on others for sustenance and protection. A vulnerable child is defenseless, exposed to behavior, conditions, or circumstances that he or she is powerless to manage, and is susceptible and accessible to a threatening parent or caregiver. Vulnerability is judged according to physical and emotional development, ability to communicate needs, mobility, size, and dependence.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 147.425, 409.185, 418.005, 418.015, 418.747, 419B.005 - 419B.050, 2007 OL 674

Hist.: CWP 25-2003, f. & cert. ef. 7-1-03; CWP 14-2004, f. 7-30-04, cert. ef. 8-1-04; CWP 17-2004, f. & cert. ef. 11-1-04; CWP 4-2005, f. & cert. ef. 2-1-05; CWP 19-2005(Temp), f. 12-30-05, cert. ef. 1-1-06 thru 6-30-06; CWP 14-2006, f. 6-30-06, cert. ef. 7-1-06; CWP 3-2007, f. & cert. ef. 3-20-07; CWP 16-2007(Temp), f. & cert. ef. 10-16-07 thru 4-11-08

413-015-0415

CPS Assessment Activities

The required CPS assessment activities are outlined below. The activities are described in a logical order in these rules, but the order in which they occur is controlled by the specific circumstances in a given case.

(1) Review Records.

(a) The assigned CPS worker must:

(A) Thoroughly review the documentation in the referral;

(B) Thoroughly review the paper and electronic records maintained by Child Welfare for historical information on the family and the child that may be useful in completing the CPS assessment; and

(C) Thoroughly review available Self Sufficiency records.

(D) Make diligent efforts to contact another state's child welfare agency to obtain records, if any, when the CPS worker has information that the family has lived in another state.

(b) The CPS worker must review the documents to identify information related to:

(A) Safety threats;

(B) History or a pattern of abuse or neglect;

(C) Child and family support systems and protective capacity; and

(D) Worker safety.

(2) Contact Collateral Sources.

(a) The CPS worker must contact collateral sources who can clarify or supplement the information in the referral and in records already reviewed.

(A) The CPS worker must contact the assigned self sufficiency worker, if any.

(B) The CPS worker may contact other collateral sources including, but not limited to:

(i) Individuals who have regular contact with the child;

(ii) Doctors or others who have evaluated or maintain records on the child;

(iii) People who are in an established personal or professional relationship with the parent or caregiver and who can judge the quality and nature of the parent or caregiver behavior; and

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(iv) People who have records or information about the parent or caregiver as a result of their involvement with, or exposure to, the parent or caregiver.

(b) The CPS worker must gather information from collateral sources throughout the CPS assessment.

(c) The CPS worker must:

(A) Protect the identity of collateral sources to the extent possible.

(B) Consult with the district attorney or the assistant attorney general to obtain a court order for records from a collateral source, if the source is unable or unwilling to share information with Child Welfare.

(3) Consult with CPS Supervisor.

(a) The CPS worker must consult with a CPS supervisor or designee:

(A) When the CPS worker has reasonable cause to believe the alleged perpetrator is an employee of any program, office, or division of the Department or Oregon Youth Authority (OYA);

(B) When a referral involves the home of a Department certified foster parent or relative caregiver;

(C) When a referral involves allegations that child abuse or neglect occurred in a licensed child caring agency;

(D) Prior to a decision to place a child in protective custody, or after placement if consultation before placement will delay the safety intervention;

(E) Prior to initiating court action, or after initiating court action if consultation before will delay the safety intervention;

(F) When the referral involves a child fatality;

(G) When making dispositions in complicated or sensitive situations or cases; or

(H) Prior to a decision to close a case during or at the end of the CPS assessment.

(b) Subject to the discretion of the CPS supervisor, the CPS worker will consult with a CPS supervisor or designee at additional key points during the assessment, such as:

(A) Before making initial contact with the family; or

(B) When a referral indicates potential danger to the worker.

(4) Contact and Work with Other Entities. The CPS worker may need to work with representatives of other entities to develop a sufficient protective action or ongoing safety plan, to analyze safety threats, and to complete the CPS assessment.

(a) The CPS worker may, as appropriate, notify or consult with other Department programs or other agencies, including but not limited to the Office of Vocational Rehabilitation Services and Animal Control.

(b) The CPS worker must contact and work with other entities as follows:

(A) Child Care Division. The CPS worker must notify and coordinate with the Child Care Division when a report involves a registered day-care home or a licensed day-care center, as required by ORS 418.747(2)(e) and 419B.020(1).

(B) Oregon Youth Authority (OYA). The CPS worker must notify OYA when the allegation involves an OYA certified foster home.

(C) Seniors and People with Disabilities Division (SPD).

(i) The CPS worker must notify the Office of Investigations and Training with the Department when the allegation involves a child with developmental disabilities in an SPD licensed group home.

(ii) The CPS worker must make a report to the Office of Investigations and Training with the Department when the CPS worker has reasonable cause to believe:

(I) That any person 18 years of age or older with a mental illness or a developmental disability whom the CPS worker comes into contact with, while acting in an official capacity, has suffered abuse.

(II) That any person with whom the CPS worker comes into contact, while acting in an official capacity, has abused a person 18 years of age or older with a mental illness or developmental disability.

(iii) The CPS worker must make a report to SPD when the CPS worker has reasonable cause to believe:

(I) That any person 65 years of age or older with whom the CPS worker comes into contact, while acting in an official capacity, has suffered abuse.

(II) That any person with whom the CPS worker comes into contact, while acting in an official capacity, has abused a person 65 years of age or older.

(D) Child Caring Agency Licensing Program. The CPS worker must notify the Department's Child Caring Agency Licensing Program when the allegation involves a licensed child caring facility.

(E) Indian Tribes. If the CPS worker knows or has reason to know that the child is an Indian child, the CPS worker must give notice within 24

hours to the Indian child's tribe that a CPS assessment is being conducted unless the screener documented completion of this notification in the referral.

(F) Probation and Parole. The CPS worker must contact probation and parole when the allegation involves a parent or caregiver, or alleged perpetrator who is supervised by probation or parole.

(G) Law Enforcement. If the screener did not cross report, the CPS worker must contact one or more law enforcement agencies in accordance with the protocols of the local MDT agreement and in accordance with cross reporting rules, OAR 413-015-0300 to 413-015-0310. When there is a joint response involving a CPS worker and LEA staff, the CPS worker is still responsible for all of the activities necessary to complete a CPS assessment which are summarized in OAR 413-015-0400. Whenever possible, the CPS worker must coordinate assessment activities with LEA in the following situations:

(i) Presence of danger. When the CPS worker has information that indicates that the child is unsafe right now.

(ii) Family cooperation. When the CPS worker has information that the family may not allow the CPS worker to observe the alleged victim or other children in the home.

(iii) Protective custody. When the CPS worker has information that a child may need to be placed in protective custody.

(iv) Child interview. When the CPS worker and the LEA officer must each interview a child, it is preferable to coordinate the interviews to reduce the number of interactions with the child.

(v) Worker safety. When the CPS worker has information that indicates the family behavior, circumstances, or situation could pose a danger to the CPS worker.

(vi) Crime committed. When the CPS worker suspects or receives a report that a crime may have been committed.

(H) Public or Private Schools. The CPS worker may interview a child at school when the worker believes it will be the best environment in which to assure a child's safety when making contact with the child. ORS 419B.045 provides requirements for CPS investigations that are conducted on school premises. The CPS worker must do following:

(i) Notify the school administrator that a CPS assessment must be conducted. If the school administrator is a subject of the CPS assessment, then notification is not required.

(ii) Report to the school office, provide identification, inform school personnel of the CPS assessment, and provide the name of the child to be interviewed.

(iii) Request information from school personnel regarding the disabilities of the child, if any, prior to an interview with the affected child.

(iv) Interview the child out of the presence of other persons, unless the CPS worker believes the presence of a school employee or other person would facilitate the interview. If the CPS worker believes that a school employee does not need to be present, but the school employee insists on being present during the interview, the worker should confer with the CPS supervisor for assistance in handling the situation.

(v) Discuss further actions with the child at the conclusion of the interview.

(vi) Inform school personnel when the interview has been completed.

(vii) Inform school personnel if the child is taken into protective custody.

(viii) Inform school personnel that the CPS worker will notify parents of the interview.

(ix) Contact the CPS supervisor if school officials refuse to allow the assessment to take place on school property.

(I) Multi-Disciplinary Teams (MDTs). Department district managers must develop interagency agreements regarding assessment of child abuse and neglect, as necessary, with local MDTs. Requirements for MDT protocols are set out in ORS 418.747.

(5) Obtain Interpreters and Translation. The CPS worker must obtain the services of a competent interpreter and competent written translation service for families, including hearing-impaired family members, who have limited or no means of communicating in or reading English.

(6) Determine ICWA Status and Comply with ICWA, if Applicable.

The CPS worker must initiate the process to determine the child's ICWA status and notify the Indian child's tribe if ICWA applies. To initiate this process, the CPS worker must:

(a) Complete a form CF 1270, "Verification of ICWA Eligibility," to assist in determining ICWA eligibility.

(b) Contact the child's tribe when an Indian child is the subject of a CPS assessment. Federally recognized tribes must be notified within 24

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hours after information alleging abuse or neglect is received by Child Welfare.

(c) If the Indian child is enrolled or eligible for enrollment in a federally recognized tribe, notify the child's tribe if the child may be placed in protective custody.

(d) Consult with the local Department ICWA liaison, a supervisor, or the ICWA manager if the worker has questions regarding the involvement of a tribe or the ICWA status of a child.

(e) Make a diligent attempt to address the following when determining the placement resource:

(A) Contact the Tribe's social services department;

(B) Search for relative resources;

(C) Search for available Indian homes; and

(D) Contact other Indian tribes and other Indian organizations with available placement resources; and

(f) Unless the Indian child's tribe has established a different order of preference, comply with the ICWA placement preference, which is:

(A) Placement with a member of Indian child's extended family.

(B) Placement with a foster family that is licensed, approved or specified by the Indian child's tribe.

(C) Placement with an Indian foster home licensed or approved by an authorized non-Indian licensing authority.

(D) Placement with an institution for children approved by an Indian tribe or operated by an Indian organization which has a program suitable to meet the Indian child's needs.

(7) Determine Refugee Status and Comply with the Refugee Children Act, if applicable. During a CPS assessment, the CPS worker must consider whether the child is a refugee child. Under ORS 418.925, a "refugee child" is a "person under 18 years of age who has entered the United States and is unwilling or unable to return to the person's country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular group or political opinion, or whose parents entered the United States within the preceding 10 years and are or were unwilling or unable to return to their country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular group or political opinion."

(a) If it appears that a child is a refugee child:

(A) The CPS worker must ask about the child or parents' country of origin, length of time the child or parents have been in the United States, and the reasons why the child or parents came to the United States. The CPS worker does not have to make a legal determination that the child and parent are refugees, but if the child or the parents indicate they are refugees, then the CPS worker must proceed as if they are, until or unless it is known that they are not refugees.

(B) The CPS worker is not required to determine whether the child is a refugee child, but if the child appears to be a refugee child the CPS worker must proceed as if they are, until or unless it is known that the child is not a refugee child.

(b) The CPS worker may not take a refugee child into protective custody unless, in addition to the other requirements for taking a child into custody, the CPS worker determines that:

(A) Removal is necessary to prevent imminent serious emotional or physical harm to the child; and

(B) Reasonable efforts to alleviate the harm through remedial or preventive services do not alleviate the harm, have failed, or are not practical in an emergency situation.

(c) No refugee child may remain in placement more than five days unless there has been a judicial determination, supported by clear and convincing evidence that:

(A) Preventative or remedial services provided by the Department have failed to alleviate the need for removal; and

(B) Return to the home will likely result in psychological or physical damage to the child.

(d) When a refugee child is placed in care, the juvenile court petition must include, in addition to the information required by ORS 419B.809, the following information:

(A) A specific and detailed account of the circumstances that led the Department to conclude that the child was in imminent danger of serious emotional or physical harm;

(B) Specific actions the Department has taken or is taking to alleviate the need for removal;

(C) Assurance that the Department has complied with placement preferences listed in ORS 418.937 and listed in subsection (e) of this section; and

(D) Assurance that the Department is making or has made diligent efforts to locate and give notice to all affected refugee family members and to the Refugee Child Welfare Advisory Committee that the petition has been filed.

(e) The CPS worker must consider the refugee child's culture and tradition when making any placement decision for a refugee child and, unless shown to be inappropriate and inconsistent with the best interests of the child, place the child with the following in order of preference:

(A) Natural parents.

(B) Extended family member.

(C) Members from the same cultural heritage.

(D) Persons with knowledge and appreciation of the child's cultural heritage.

(f) The CPS worker may determine that placement under subsection (e) of this section is inappropriate and inconsistent with the best interests of the child if:

(A) The preferred placement presents safety threats to the child;

(B) The extreme medical, physical, or psychological needs of the child cannot be met in the placement; or

(C) There is an informed request from either of the child's biological parents not to use a placement, if the request is consistent with stability, security, and the individual needs of the child.

(g) The CPS worker must staff the case with the Refugee Child Welfare Advisory Committee (RCWAC). The CPS worker must contact the Cultural Competency Coordinator for Child Welfare to arrange a time for the staffing. In preparation for the staffing, the CPS worker must:

(A) Invite the CPS supervisor to the staffing; and

(B) Be prepared to discuss the reasons for the CPS referral, the information indicating that family members are refugees, and their country of origin.

(8) Take Photographs.

The CPS worker must, during the CPS assessment, take photographs and document, as necessary, child abuse, neglect, and observable safety threats.

(a) As provided in ORS 419B.028, a law enforcement officer or the CPS worker may take photographs for the purpose of documenting the child's condition at the time of the CPS assessment.

(b) As provided in ORS 419B.028, if a law enforcement officer or the CPS worker conducting an investigation of an allegation of child abuse or neglect under ORS 419B.020 observes a child who has suffered suspicious physical injury and the law enforcement officer or CPS worker has a reasonable suspicion that the injury may be the result of abuse, the law enforcement officer or CPS worker, in accordance with the protocols and procedures of the county multi-disciplinary team described in ORS 418.747, will immediately photograph or cause to have photographed the suspicious physical injuries:

(A) During the investigation of a new allegation of abuse, each time, during the investigation, an injury is observed that was not previously observed by a person conducting the investigation; and

(B) Regardless of whether the child has previously been photographed or assessed during an investigation of an allegation of abuse.

(c) When a child is photographed pursuant to subsection (b) of this section:

(A) The person taking the photographs or causing to have the photographs taken shall, within 48 hours or by the end of the next regular business day, whichever occurs later:

(i) Provide hard copies or prints of the photographs and, if available, copies of the photographs in an electronic format to the designated medical professional; and

(ii) Place hard copies or prints of the photographs and, if available, copies of the photographs in an electronic format in the child welfare record labeled with the case name, case number, sequence number, person letter, child's name, and date taken.

(B) If a county multidisciplinary team staffing of the case is held, photographs of the injury will be made available to each team member involved in the case staffing at the first meeting regarding the child's case.

(d) The CPS worker must document injuries, hazardous environments, and any observable safety threats in the assessment narrative by use of photographs, written description, or illustrations.

(e) Photographs of the anal or genital region may be taken only by medical personnel.

(9) Obtain Medical Assessment. The CPS worker must, during the CPS assessment as required in this section, facilitate a medical assessment of the child and obtain the child's medical history when necessary to assure

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child safety, determine treatment needs, reassure the child and family, or assist in analyzing safety threats.

(a) When the CPS worker determines that the child is in need of a medical assessment as part of a CPS assessment, the CPS worker must consult with a CPS supervisor as soon as possible, but not at the expense of delaying medical treatment.

(b) If a person conducting an investigation under ORS 419B.020 observes a child who has suffered suspicious physical injury and the person has a reasonable suspicion that the injury may be the result of abuse, the person must, in accordance with the protocols and procedures of the county multi-disciplinary team described in ORS 418.747, ensure that:

(A) A designated medical professional conducts a medical assessment within 48 hours of the observation of the suspicious physical injury, or sooner if dictated by the child's medical needs; or

(B) An available physician conducts a medical assessment if, after reasonable efforts to locate, a designated medical professional is not available to conduct a medical assessment within 48 hours. The CPS worker is required to document in FACIS efforts to locate the designated medical professional when an available physician is used.

(c) The CPS worker must facilitate an assessment by a medical professional if the alleged child abuse or neglect involves injury to the anal or genital region.

(d) When there are indications of severe physical trauma to the child, the CPS worker must make arrangements to immediately transport the child to a medical facility, which may include calling 911. The CPS worker must also make arrangements for medical examination of a child for mild or moderate physical trauma.

(e) To make arrangements for the medical examination of a child, the CPS worker must do the following, unless completing the action would delay medical treatment for the child:

(A) Discuss with the parent or caregiver the need for medical examination or treatment.

(B) Ask the parent or caregiver to take the child to a medical facility for a medical examination or treatment.

(C) Request that the parent sign a form DHS 2099, "Authorization for Use and Disclosure of Information."

(D) Contact an LEA immediately and seek a juvenile court order to obtain protective custody of the child for the purpose of obtaining a medical examination or treatment when:

(i) The parent or caregiver refuses to obtain needed medical examination or treatment;

(ii) The parent or caregiver may flee with the child;

(iii) Delaying medical examination or treatment could harm the child; or

(iv) The CPS worker has reason to believe medical examination will reveal evidence of child abuse or neglect.

(E) Immediately seek medical care and consultation when the child may have a life-threatening condition, or a deteriorating condition that may become life-threatening.

(F) As soon as possible and not later than 24 hours after learning of the exposure, make arrangements to have the child tested for chemical exposure to harmful substances when there is reason to believe a child has been exposed to dangerous chemicals such as those found in a chemical drug lab.

(f) When a report of suspected medical neglect of an infant with a disability and with life-threatening conditions is referred for CPS assessment, the assigned CPS worker must comply with Child Welfare Policy I-B.2.2.2, "Investigation of Suspected Medical Neglect-Infants", OAR 413-030-0600 to 413-030-0650.

(g) When it is medically indicated to subject a child in the custody of the Department to HIV testing, the CPS worker must comply with Child Welfare Policy I-B.5.1, "HIV Testing of Children in Custody and HIV Confidentiality", OAR 413-040-0400 to 413-040-0450.

(h) As provided in ORS 147.425, a child who is the victim of a person crime and is at least 15 years of age at the time of the abuse may have a personal representative present during a medical examination. If a CPS worker believes that a personal representative would compromise the CPS assessment, a CPS worker may prohibit a personal representative from being present during the medical examination.

(i) When the CPS worker is assessing a CPS allegation of medical neglect, the CPS worker must consult with a health care professional as part of the assessment.

(10) Obtain Psychological and Psychiatric Evaluations.

(a) The CPS worker must make a referral for a psychological or psychiatric evaluation of the parent, caregiver, or child by a mental health pro-

fessional to assure child safety, determine treatment needs, or assist in analyzing safety threats when during the CPS assessment the CPS worker identifies a specific condition or behavior that requires additional professional evaluation. This includes but is not limited to:

(A) Unusual or bizarre forms of punishment;

(B) Mental illness;

(C) Suicidal ideation;

(D) Homicidal ideation; or

(E) Unusual or bizarre child or parental behavior that is indicative of emotional problems.

(b) The CPS worker must obtain consent of the parent or caregiver prior to making a referral for a psychological or psychiatric evaluation of the parent, caregiver, or child, unless the evaluation is court ordered.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 147.425, 409.185, 418.005, 418.015, 418.747, 419B.005 - 419B.050, 2007 OL 674

Hist.: CWP 3-2007, f. & cert. ef. 3-20-07; CWP 16-2007(Temp), f. & cert. ef. 10-16-07 thru 4-11-08

413-015-0420

Make Initial Contact

The CPS worker must make an initial contact within the assigned response time line.

(1) To make an initial contact, the CPS worker must:

(a) Have face-to-face contact with and interview the alleged victim, his or her siblings, and other children living in the home. The purpose of the face-to-face contact and interview with the alleged victim, his or her siblings, and other children living in the home is to gather information regarding possible child abuse and neglect, assess if the children are vulnerable to identified safety threats, and assess the children's immediate safety. If it is not possible during the initial contact for the CPS worker to make a face-to-face contact with and interview the siblings or other children living in the home, the CPS worker must document why contact was not made and must complete the face-to-face contact and interview as soon as possible.

(b) Interview and observe children as follows:

(A) The CPS worker must notify parents of the intent to interview a child, unless notification could compromise the child's safety or a criminal investigation.

(B) The CPS worker must make diligent efforts to contact the child at home, school, day care, or any other place where the worker believes the child may be found. If the CPS worker is unsuccessful, the CPS worker must document in the assessment activities section of the GAP all attempts made to contact the child and the dates of those attempted contacts.

(C) When the CPS worker contacts the child at home and the parent or caregiver is not present:

(i) The CPS worker must consult with a CPS supervisor and seek assistance from LEA if the referral indicates that: there may be severe harm or threat of severe harm to the child; there is reasonable cause to believe the child's health or safety is endangered by the conditions of the dwelling; or the child is inadequately supervised and there is an immediate need to evaluate the child's health and safety.

(ii) The CPS worker must wait until the parent is present in the home to complete a child interview in the home if the referral does not indicate severe harm or threat of severe harm to the child or if there is not reasonable cause to believe the child's health or safety is endangered by the conditions of the dwelling or that the child is inadequately supervised.

(D) When the CPS worker is denied access to the child or to the child's residence, the CPS worker must:

(i) If the referral indicates that the child may be unsafe, request assistance from LEA in assessing the situation and in taking the child into protective custody if needed.

(ii) If the referral indicates that the child is presently safe, the CPS worker must do the following:

(I) Attempt to contact other persons who may have relevant information regarding the referral;

(II) Persist in attempts to gain cooperation from the family or caregivers, depending on the known child safety information; and

(III) Seek LEA assistance.

(iii) Consult with the CPS supervisor, the district attorney, assistant attorney general, or the county juvenile department to discuss possible juvenile court action; or

(iv) Seek a protective custody order from the juvenile court.

(E) The CPS worker must notify the parents or caregivers the same day a child is interviewed. If the same day notification could make a child or adult unsafe, a CPS supervisor may authorize an extension for one day to allow a planned notification that is less likely to compromise safety. The

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CPS worker must document the supervisory approval and an explanation describing the basis for the approval.

(F) The CPS worker must conduct interviews in a manner that assures privacy for the child.

(G) If the parent or caregiver is the alleged perpetrator or if the presence of the parent or caregiver might impede the interview, the CPS worker must attempt to interview children outside the presence of their parents or caregivers.

(H) A CPS worker must allow a child who is the victim of a person crime as defined in ORS 147.425 and is at least 15 years of age at the time of the abuse to have a personal representative be present during an interview. If a CPS worker believes that the personal representative would compromise the CPS assessment, the CPS worker may prohibit a personal representative from being present during the interview.

(I) The CPS worker must observe the child's injuries or signs of neglect. The CPS worker may need to remove a child's clothing to make adequate observations. In that event, the CPS worker must:

(i) Use discretion and make the child as comfortable as possible.

(ii) Seek parental consent and assistance, when possible and appropriate.

(iii) Consider requesting a worker or other support person, who is the same gender as the child, be present to serve as a witness and provide comfort for the child.

(J) The CPS worker may observe injuries to a child's anal or genital region if the child is not school aged and if the injury can be observed without the CPS worker touching the child's anal or genital region.

(c) Have face-to-face contact with and interview the non-offending parent or caregiver and all adults living in the home. The purpose of this face-to-face contact and interview is to find out what the non-offending parent or caregiver and other adults living in the home know about the alleged child abuse or neglect, gather information related to the safety of the child, and gather information to determine if the parent or caregiver can or cannot and will or will not protect the child. If it is not possible during the initial contact for the CPS worker to make face-to-face contact with and interview the non-offending parent or caregiver and other adults living in the home, the CPS worker must document why the contact was not made and must complete the face-to-face contact and interview as soon as possible.

(A) Whenever practicable, the CPS worker must interview both parents and caregivers in person, as follows:

(i) Interview each person individually;

(ii) Ask questions about domestic violence in separate interviews only; and

(iii) Provide all adults living in the home with a written notice that a criminal records check may be conducted on them.

(B) The CPS worker must provide the parent or caregiver with a "What you need to know about a Child Protective Services assessment" pamphlet, which includes written information regarding the CPS assessment process, including the court process and the rights of the parent and caregiver.

(C) The CPS worker must interview the non-custodial legal parent during the CPS assessment. This is not required during the initial contact, but must be completed as part of the assessment process because the non-custodial parent may have essential information or be a placement resource. If the interview of the non-custodial legal parent may make a child or adult unsafe, a CPS supervisor may authorize an exception to this requirement based on written documentation that supports the conclusion that an interview with a non-custodial legal parent should not be conducted.

(d) Have face-to-face contact with and interview the alleged perpetrator. Except as provided in this subsection, the CPS worker must make face-to-face contact with and interview the alleged perpetrator during the initial contact when he or she is the child's custodial parent, caregiver, any person living in the home, or is present in the home when the CPS worker makes contact. The purpose of this interview is to evaluate the alleged perpetrator's reaction to allegations of abuse or neglect as well as to the child and his or her condition, and to gather further information about the alleged perpetrator and the family in relation to the safety of the child.

(A) The CPS worker is not required to make face-to-face contact with or interview the alleged perpetrator during the initial contact if:

(i) The alleged perpetrator is not a custodial parent, caregiver, anyone living in the home, or is not present in the home when the CPS worker makes contact. The CPS worker still must interview the alleged perpetrator, but may complete the interview during the course of the CPS assessment; or

(ii) There is a criminal investigation and the interview cannot be coordinated with an LEA within the time lines for initial contact.

(B) The decision not to interview an alleged perpetrator as provided in subparagraphs (A)(i) or (ii) of this subsection must be approved by a CPS supervisor, and the CPS worker must document both the approval and the reason for not completing the interview.

(C) When interviewing the alleged perpetrator, the CPS worker must:

(i) Coordinate the interviews of the alleged perpetrator with LEA when law enforcement is conducting an investigation;

(ii) Consult with a CPS supervisor if an interview with the alleged perpetrator could make a child or adult unsafe;

(iii) Provide the alleged perpetrator with a written notice that a criminal records check may be conducted on them; and

(iv) Make inquiries about the employment status of the alleged perpetrator. If the CPS worker has reasonable cause to believe the alleged perpetrator is an employee of any program, office, or division of the Department or OYA, the CPS worker must notify a CPS supervisor. The CPS supervisor must confirm the person's employee status by contacting a Central Office Field Services representative. If the CPS supervisor determines the alleged perpetrator is an employee of the Department or OYA, the CPS supervisor must notify the Department Office of Human Resources at the time of the assessment and at the time the assessment is reviewed as required in OAR 413-015-0475. The CPS supervisor must document the notifications in FACIS.

(D) When interviewing an alleged perpetrator who is the parent or caregiver, the CPS worker must provide the parent or caregiver with a "What you need to know about a Child Protective Services assessment" pamphlet, which includes written information regarding the CPS assessment process, including the court process and the rights of the parent and caregiver.

(e) Gather safety-related information through interviews and observation.

(A) The CPS worker must gather relevant information and facts necessary to complete all parts of the CPS assessment. The CPS worker must gather information through interview and observation about the following:

(i) The extent of the child abuse or neglect;

(ii) The circumstances surrounding the child abuse or neglect;

(iii) Child functioning;

(iv) Adult functioning;

(v) Parenting practices and skills; and

(vi) Disciplinary practices.

(B) Interview. If possible, family members should be interviewed separately in the following order, using information gathered from one interview to assist in the next interview:

(i) Alleged victim.

(ii) Siblings and other children in the home.

(iii) Non-offending parents and caregivers, including all of the non-offending adults in the home.

(iv) Non-custodial legal parent.

(v) Alleged perpetrator.

(C) The CPS worker must, to the extent possible, do the following during interviews with family members:

(i) Present identification to the family at the beginning of the interview and provide a business card or other document to the parents and caregivers containing the CPS worker's name and phone number.

(ii) Clearly state the reason for the interview, provide statutory authority to assess reports of child abuse and neglect, and give an explanation of the alleged child abuse or neglect.

(iii) Allow the parent or caregiver to respond to each allegation.

(iv) Assure the privacy of the persons being interviewed.

(v) Focus the interview on the safety of the children.

(vi) Assess whether the parents or caregivers are involved in domestic violence.

(vii) Summarize and discuss the initial impressions and intentions resulting from the interview with appropriate family members or caregivers.

(viii) Obtain from the parents or caregivers the names of persons who can provide additional information in determining child safety and completing the CPS assessment.

(ix) Ask the parents and caregivers to sign an authorization to release information to enable Child Welfare to obtain confidential information from physicians, mental health providers, school employees, or other service or treatment providers.

(x) Inform the parents and caregivers about the Child Welfare grievance procedure.

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(D) Observation. The CPS worker must observe the identified child, parent or caregiver, and the home environment. Specific areas for observation are:

- (i) Physical condition of the child, including any observable effects of child abuse or neglect;
- (ii) Emotional status of the child, including mannerisms, signs of fear, and developmental status;
- (iii) Reactions of the parents or caregivers to the Department concerns;
- (iv) Emotional and behavioral status of the parents or caregivers during the interviewing process;
- (v) Interactions between family members, including verbal and body language;
- (vi) Condition of the child's living space, including where the child sleeps; and
- (vii) Physical condition of the home.

(f) Determine if there is a safety threat.

During the initial contact, the CPS worker must determine, based on the information obtained at that time, if there is a safety threat to the child.

(A) To determine that there is a safety threat, the CPS worker must analyze the information gathered and conclude that:

- (i) A specific, observable, describable family behavior, condition, or circumstance is present; and
- (ii) The specific, observable, describable family behavior, condition, or circumstance reasonably could result in harm to a child.

(B) If the CPS worker determines during the initial contact that there is no safety threat and the child is safe, then the CPS worker must continue the activities required to sufficiently complete the CPS assessment.

(C) If the CPS worker determines there is a safety threat to the child, the CPS worker must determine if, because of the safety threat, the child is unsafe and a protective action is required. The CPS worker must then continue the activities required to sufficiently complete the CPS assessment.

(g) Determine if the child is unsafe. If the CPS worker determines, based on the available information, that there is a safety threat to the child, the CPS worker must determine if the safety threat makes the child unsafe.

(A) To assess the child's safety, the CPS worker must analyze the information gathered, and

(i) Determine if the child is vulnerable to harm resulting from the identified family behavior, condition, or circumstance, as described in OAR 413-015-0425.

(ii) Determine if the child's parent or caregiver can or cannot and will or will not protect the child from harm resulting from the identified family behavior, condition, or circumstance, as described in OAR 413-015-0430.

(B) If the CPS worker determines that the child is not vulnerable to harm resulting from the identified safety threat, then the child is safe and the CPS worker must continue the activities required to sufficiently complete the CPS assessment.

(C) If the CPS worker determines that the child's parent or caregiver can and will protect the child from harm resulting from the identified safety threat, then the child is safe. The CPS worker must continue the activities required to sufficiently complete the CPS assessment.

(D) If the CPS worker determines that the child is vulnerable to the identified safety threat and the child's parent or caregiver cannot or will not protect the child from harm resulting from the identified safety threat, the child is unsafe and the CPS worker must initiate a protective action as described in OAR 413-015-0435. The CPS worker must then continue the activities required to sufficiently complete the CPS assessment.

(2) Documentation of the Initial Contact. The CPS worker must document the dates of the initial contact using the GAP. The CPS worker must document attempted and successful contacts.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 147.425, 409.185, 418.005, 418.015, 418.747, 419B.005 - 419B.050, 2007 OL. 674

Hist.: CWP 3-2007, f. & cert. ef. 3-20-07; CWP 16-2007(Temp), f. & cert. ef. 10-16-07 thru 4-11-08

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Rule Caption: Changing OARs affecting Child Welfare programs.

Adm. Order No.: CWP 17-2007(Temp)

Filed with Sec. of State: 11-1-2007

Certified to be Effective: 11-1-07 thru 4-28-08

Notice Publication Date:

Rules Adopted: 413-050-0235

Rules Amended: 413-050-0200, 413-050-0210, 413-050-0220, 413-050-0230, 413-050-0280

Rules Suspended: 413-050-0240, 413-050-0250, 413-050-0260, 413-050-0270, 413-050-0290, 413-050-0300

Subject: The Department is adopting OAR 413-050-0235; amending OAR 413-050-0200, 413-050-0210, 413-050-0220, 413-050-0230, and 413-050-0280, and suspending OAR 413-050-0240, 413-050-0250, 413-050-0260, 413-050-0270, 413-050-0290, and 413-050-0300, which concern the Supportive or Remedial Day Care (SRDC) program in Child Welfare, to revise the definition of key terms, revise service criteria, set its policies for rates and provider selection, and reorganize the rules to make them easier to follow. In the revised rules, service criteria are more clearly and specifically described; use of SRDC to support employment of a parent or caretaker is specifically prohibited; use of a professional evaluation to determine a child's special needs is required; the length of time SRDC may be provided is revised and reduced; the exception process is revised and now allowed only for the length of time SRDC is provided and for the rate paid; and exceptions must be authorized by the District Manager.

Rules Coordinator: Annette Tesch—(503) 947-6067

413-050-0200

Purpose

The purpose of these rules (OAR 413-050-0200 to 413-050-0280) is to describe service authorization criteria and methods to determine the payment rate related to the Department of Human Services Supportive or Remedial Day Care (SRDC) service.

Stat. Auth.: ORS 181.534, 181.537, 409.050, 418.005

Stats. Implemented: ORS 181.534, 181.537, 409.010, 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 14-2002(Temp), f. & cert. ef. 12-19-02 thru 6-17-03; CWP 24-2003(Temp) f. & cert. ef. 6-18-03 thru 12-14-03; CWP 41-2003, f. & cert. ef. 12-12-03; CWP 17-2007(Temp), f. & cert. ef. 11-1-07 thru 4-28-08

413-050-0210

Definition

The following definitions apply to OAR 413-050-0200 to 413-050-0280:

(1) "Case plan" means a goal oriented, time limited individualized plan for the child and the child's family, developed by the Department and the parents or legal guardians, that identifies the family behaviors, conditions, or circumstances, safety threats to the child, and the expected outcomes that will improve the protective capacity of the parents or legal guardians.

(2) "CCD" means the Child Care Division of the Employment Department.

(3) "Day care provider" means a day care provider regulated by the Child Care Division (CCD) or if exempt from CCD regulation, approved by the Department for payment as a day care provider, foster parent, or relative caregiver.

(4) "Department" means the Department of Human Services.

(5) "Expert evaluation" means a written assessment prepared by a professional with specialized knowledge of a particular subject matter such as physical health, psychological health, mental health, sexual deviancy, substance abuse, and domestic violence. The assessment provides information regarding an individual's functioning in the area of the professional's specialized knowledge.

(6) "Foster parent" means a person who operates a home that has been approved by the Department to provide care for an unrelated child or young adult placed in the home by the Department.

(7) "Relative caregiver" means a person who operates a home that has been approved by the Department to provide care for a related child or young adult who is placed in the home by the Department.

(8) "SRDC" means supportive or remedial day care services, which are a time-limited day care service that the Department provides to an eligible child subject to the availability of allocated funds and other limitations prescribed in these rules (OAR 413-050-0200 to 413-050-0280).

(9) "Substitute care" means the out-of-home placement of a child or young adult who is in the legal or physical custody of the Department.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.050, 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 14-2002(Temp), f. & cert. ef. 12-19-02 thru 6-17-03; CWP 24-2003(Temp) f. & cert. ef. 6-18-03 thru 12-14-03; CWP 41-2003, f. & cert. ef. 12-12-03; CWP 17-2007(Temp), f. & cert. ef. 11-1-07 thru 4-28-08

ADMINISTRATIVE RULES

413-050-0220

Service Authorization Criteria

(1) Except as provided in sections (2), (3), and (4) of this rule and in OAR 413-050-0230, the Department may purchase Supportive or Remedial Day Care Services (SRDC) if:

(a) A child under 13 years of age is receiving Child Protective Services, Substitute Care, or Family Support Services; and

(b) SRDC will:

(A) Prevent the placement of the child substitute care;

(B) Facilitate the child's return to the child's parent or legal guardian with an in-home safety plan;

(C) Meet the needs of a child whose physical, social, mental, or emotional needs, as documented by an expert evaluation, cannot be fully met by the parent or legal guardian;

(D) Allow a parent or legal guardian to participate in specific activities or services described in the case plan;

(E) Maintain the child's placement with his or her current relative caregiver or foster parent that is in jeopardy due the caregiver's illness; or

(F) Maintain the child's placement with his or her current relative caregiver or foster parent as part of a short term, planned support to stabilize the placement.

(2) SRDC may not be used to support the employment or educational activities of a parent, legal guardian, relative caregiver, or foster parent.

(3) Except as provided in section (4) of this rule, SRDC service in the child's home may be authorized when the requirements of subsections (a) or (b) of this section are met:

(a) A child, who is ordinarily in SRDC purchased by the Department, is ill.

(A) This is limited to no more than five days of care in any calendar month and may not exceed the number of hours per day already authorized.

(B) When a child who is ordinarily in SRDC purchased by the Department is ill, an additional payment may be made to a day care provider, who is either a regulated CCD provider, or if exempt from CCD regulation a Department-approved day care provider, relative caregiver, or foster parent.

(b) A child who has a disability requires care and no out-of-home day care is available or can be developed that meets the child's needs.

(A) Document the unsuccessful effort made to locate or develop a Day Care Home or Center resource; and

(B) Describe the specific problem that requires services in the child's home.

(4) The plan for care in the child's home may not exceed the cost of out-of-home day care.

(5) Case Record Documentation:

(a) The caseworker must review the appropriateness of an SRDC service as a component of the case plan. The caseworker must document that the SRDC service will be part of a coordinated, goal oriented, time limited case plan that will accomplish one or more of the purposes described in paragraphs (A) to (F) in subsection (1)(b) of this rule.

(b) The caseworker must document in the case record how the SRDC service will support or assist in achieving the case plan or maintaining the child's placement.

(6) The caseworker's supervisor must approve the use of the SRDC service.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.050, 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 14-2002(Temp), f. & cert. ef. 12-19-02 thru 6-17-03; CWP 24-2003(Temp) f. & cert. ef. 6-18-03 thru 12-14-03; CWP 41-2003, f. & cert. ef. 12-12-03; CWP 17-2007(Temp), f. & cert. ef. 11-1-07 thru 4-28-08

413-050-0230

Service Limits

(1) Expenditures by the Department under these rules (OAR 413-050-0200 to 413-050-0280) are subject to the availability of state and federal funds, as applicable, and are subject to immediate curtailment by the Department if the necessary state or federal authorizations or funding are curtailed. If all allocated SRDC funds have been expended, caseworkers must document the unmet needs and notify the District Manager or designee of those unmet needs.

(2) The maximum amount of the SRDC service that the Department may authorize for any child per week is eight hours a day, five days a week.

(3) When SRDC services are used to permit a child to remain at home as an alternative to substitute care, to permit a child to return home from substitute care, to permit a parent or legal guardian to participate in specific activities or services described in the case plan, or because the child's physical, social, mental, or emotional needs were not being met by a parent or legal guardian (see OAR 413-050-0220(1)(b)(A)-(D)):

(a) The initial service authorization period is up to three months.

(b) The supervisor may approve an extension of the SRDC service authorization for up to an additional three months.

(c) The District Manager may review and approve a recommendation for the use of the SRDC service for longer than six months with documentation that the extension will prevent the child's placement in foster or shelter care in the very near future.

(4) When SRDC services are used (pursuant to OAR 413-050-0220(1)(b)(E) or (D)) to maintain a foster care or relative care placement jeopardized by illness of the relative caregiver or foster parent or as part of a short term, planned support to stabilize the placement:

(a) The initial SRDC service authorization period is one month.

(b) The supervisor may approve an extension of the SRDC service authorization at one month intervals for a maximum of three months.

(c) The District Manager may review and approve a recommendation for the use of the SRDC service for longer than three months with documentation that an extension will prevent the child's move to another substitute care placement.

(5) The caseworker and supervisor must review the use of an SRDC service before extending the SRDC service authorization for any additional period of time allowed in sections (3) or (4) of this rule and before recommending an extension for District Manager approval. The review will determine whether there is still a need for the SRDC services that meets the service criteria in OAR 413-050-0220(1).

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

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 13-2001, f. 6-29-01, cert. ef. 7-1-01; SOSCF 14-2002(Temp), f. & cert. ef. 12-19-02 thru 6-17-03; CWP 24-2003(Temp) f. & cert. ef. 6-18-03 thru 12-14-03; CWP 41-2003, f. & cert. ef. 12-12-03; CWP 17-2007(Temp), f. & cert. ef. 11-1-07 thru 4-28-08

413-050-0235

Selecting a Day Care Provider

(1) This rule governs the selection of day care providers for an SRDC service under OAR 413-050-0200 to 413-050-0280.

(2) All day care providers must be regulated by the Child Care Division (CCD), or if exempt from CCD regulations, approved by the Department as a day care, foster care, or relative care provider.

(3) The caseworker assists the parent or legal guardian in selecting the day care provider that most closely matches the needs of the child and the family.

(4) The caseworker makes the final selection of the day care provider based on the needs of the child and goals of the case plan.

(5) Valid reasons for not selecting a person as a day care provider include behavior which may have a detrimental effect on a child, or a physical or mental problem which may adversely affect the child.

Stat. Auth.: ORS 181.534, 181.537, 409.050, 418.005

Stats. Implemented: ORS 181.534, 181.537, 409.010, 418.005

Hist.: CWP 17-2007(Temp), f. & cert. ef. 11-1-07 thru 4-28-08

413-050-0240

Payment Process

The Department payment is subject to Department established eligibility conditions described in these rules.

(1) The Department will pay only for day care authorized by the Department.

(2) If a child is in day care when the service plan is made, payment shall be made only from the date the service is authorized.

(3) SOSCF The Department will make payments for temporary absences if requested by the provider, subject to the following requirements and limits:

(a) The provider must use the same policy for all families, including those served and not served by the Department;

(b) The child must be expected to continue in day care with the same provider after the absence;

(c) The Department will not make payment for absence(s) exceeding a total of five days in any calendar month; and

(d) Absence days, or portions thereof, will include only the time(s) for which care has been authorized by the Department.

(4) Department payments will only be made to a day care provider who is a CCD regulated provider, or a CCD exempt provider who is a Department approved day care, foster care, or relative care provider. Child Care Division of the Employment Department approved provider, a Department approved day care provider, or foster care provider, or relative care provider.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

ADMINISTRATIVE RULES

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 14-2002(Temp), f. & cert. ef. 12-19-02 thru 6-17-03; CWP 24-2003(Temp) f. & cert. ef. 6-18-03 thru 12-14-03; CWP 41-2003, f. & cert. ef. 12-12-03; Suspended by CWP 17-2007(Temp), f. & cert. ef. 11-1-07 thru 4-28-08

413-050-0250

Payment Authorization

(1) Complete a "Supportive or Remedial Day Care Payment Authorization/Termination Notice" (CF 116) and a "Plan/Service Authorization" (CF 308). Distribute the CF 116 and input information from the CF 308 into IIS.

(2) Invoices (See the Integrated Information System (IIS) User's Guide, Client Subsystem):

(a) A "Day Care Invoice" (CPO 350FI-A) will be generated automatically and mailed to the provider from the Department when information from the CF 308 has been input no later than the seventh working day prior to the end of the service month;

(b) If information from the CF 308 has not been input within the above stated time, or a supplemental payment is to be made, local Department staff shall send a CF 283, "Supplemental Client Invoice-Day Care," to the care provider;

(c) Checks are written up to the amount authorized. Authorization should be input into IIS prior to service provision whenever possible. The worker will be notified of a discrepancy between authorization and billing amounts by the Department Accounting Services.

(A) If the provider billed the Department for additional care that was authorized but not input, the local Department must prepare a CF 283, "Supplemental Invoice." Complete the invoice for the difference to be paid showing the unit, rate, and amount. Local Department staff shall sign the provider's name and their own name and mail it to the Department Accounting Services;

(B) If the provider did not bill the Department for additional care that was authorized but not input, the local Department staff must send a CF 283 to the provider to complete and mail to Department Accounting Services;

(C) A CF 308 must also be completed to authorize additional service. For additional service the "Type of Service" code is DSUP for out-of-home providers and DISP for care provided in the child's home.

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 14-2002(Temp), f. & cert. ef. 12-19-02 thru 6-17-03; CWP 24-2003(Temp) f. & cert. ef. 6-18-03 thru 12-14-03; CWP 41-2003, f. & cert. ef. 12-12-03; Suspended by CWP 17-2007(Temp), f. & cert. ef. 11-1-07 thru 4-28-08

413-050-0260

Payment Revision or Plan Closure

(1) When a child is no longer in care or the client becomes ineligible prior to the projected end date, the service worker must notify the provider and the client that the Department will no longer pay for care. This is done by sending a copy of the most recent CF 116 with the termination section completed.

(2) When a child who is ordinarily in day care purchased by the Department is ill an additional payment may be made to a substitute provider, who is either a regulated CCD provider, or if exempt from CCD regulation a Department approved day care, foster care or relative care provider.

(3) Any time there is an overpayment the worker must initiate overpayment and/or fraud procedures. See OAR 413-310-0000 through 0100 (Department child welfare policy III-B.1).

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 14-2002(Temp), f. & cert. ef. 12-19-02 thru 6-17-03; CWP 24-2003(Temp) f. & cert. ef. 6-18-03 thru 12-14-03; CWP 41-2003, f. & cert. ef. 12-12-03; Suspended by CWP 17-2007(Temp), f. & cert. ef. 11-1-07 thru 4-28-08

413-050-0270

Billing Method

(1) Department payments for day care are made by check to the provider on behalf of the client after all care for the month has been given. The invoice is to be submitted to the Department Central Office by the provider for payment.

(2) Family day care providers must bill at an hourly rate (with the exception that they may bill at a daily rate for before and/or after school care) not to exceed the total authorized.

(3) Center and group home providers may bill at an hourly, daily, weekly, or monthly rate not to exceed the total authorized.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 14-2002(Temp), f. & cert. ef. 12-19-02 thru 6-17-03; CWP 24-2003(Temp) f. & cert. ef. 6-18-03 thru 12-14-03; CWP 41-2003, f. & cert. ef. 12-12-03; Suspended by CWP 17-2007(Temp), f. & cert. ef. 11-1-07 thru 4-28-08

413-050-0280

Determining Day Care Payment Rates

(1) The Department will pay the day care provider's standard payment rate for all children or the Department SRDC service maximum payment rate (see section (6) of this rule), whichever is less.

(2) The day care provider may not ask a parent, legal guardian, relative caregiver, or foster parent for, or accept, directly or indirectly, any additional payment for care funded by the Department unless there is a written agreement between the Department and the day care provider. (See CF 116A, "Request for an Exception")

(3) Except as provided in section (4) of this rule, when the infant payment rate has been authorized for a child and the child reaches 30 months of age, the rate must be revised.

(a) The caseworker is responsible for revising the infant payment rate, effective no later than the first of the month after the child reaches 30 months of age.

(b) The caseworker shall send the day care provider a revised CF 116, and revise the Type of Service and authorized amounts on the CF 308 and input into IIS.

(4) Although there are no special day care rates for children who have physical, developmental, or emotional disabilities:

(a) If a child 30 months of age or over, functions below the level that is normal for children of his or her chronological age, the Department may authorize up to the infant payment rate for the care of that child.

(b) The caseworker, with supervisory approval, must document in the case record why the infant payment rate is authorized for a child 30 months or older. Documentation must include the following:

(A) The unsuccessful effort to locate a resource at the Department non-infant payment rate; and

(B) A description of the specific problem which requires services above those covered by the non-infant payment rate.

(c) The District Manager may authorize a higher payment rate than the infant payment rate when requirements of paragraphs (b)(A) and (b)(B) of this section are met and the child's need for a greater level of care is documented by an expert evaluation.

(5) Rates charged to the Department for day care services may not exceed rates charged for comparable services to children not served by the Department:

(a) Donations and subsidies of cash or in-kind services may be used to reduce charges which would otherwise be made for day care services;

(b) Such donations and subsidies must be used to reduce charges for all children in care unless the donor specifies in writing that the donation is to be used for either a specific family or category of families; and

(c) Separate records must be kept by the day care provider for all donations and subsidies received and disbursed.

(6) The maximum payment rates permitted for SRDC services are as follows:

(a) Family Day Care.

(A) Infant (under 30 months) — \$1.95 an hour per child, not to exceed \$414 per child per month.

(B) Non-infant (30 months or older) — \$1.62 an hour per child, not to exceed \$345 per child per month.

(b) Day Care Center Group Day Care Homes.

(A) Infant (under 30 months) — usual and customary rates, not to exceed \$549 per child per month.

(B) Non-infant (30 months and older) — usual and customary rates, not to exceed \$435 per child per month.

(c) Care in the child's home: The day care provider in the child's home will be paid the Oregon minimum wage, regardless of the number of children served or the age of the child.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 14-2002(Temp), f. & cert. ef. 12-19-02 thru 6-17-03; CWP 24-2003(Temp) f. & cert. ef. 6-18-03 thru 12-14-03; CWP 41-2003, f. & cert. ef. 12-12-03; CWP 17-2007(Temp), f. & cert. ef. 11-1-07 thru 4-28-08

413-050-0290

Maximum Rates

(1) The maximum rates the Department of Human Services pays for Supportive or Remedial Day Care are determined annually and will be furnished upon request.

(2) Care in the child's home: Minimum wage for care in a child's own home is governed by the state minimum wage law. It may not be negotiat-

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ed. Overtime at one-and-one-half times the regular rate must be paid for all hours worked in excess of 40 hours in a work week (seven sequential days). Overtime shall not be paid to a provider who lives in the child's home.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 14-2002(Temp), f. & cert. ef. 12-19-02 thru 6-17-03; CWP 24-2003(Temp) f. & cert. ef. 6-18-03 thru 12-14-03; CWP 41-2003, f. & cert. ef. 12-12-03; Suspended by CWP 17-2007(Temp), f. & cert. ef. 11-1-07 thru 4-28-08

413-050-0300

Exceptions

(1) Specific exceptions to any section of these rules may be granted for good and just cause by the Department.

(a) The exception must be requested in writing and show how the intent of the rule will be met.

(b) No exception will be granted which may jeopardize the health, safety, and well-being of any child in care.

(c) No exceptions will be allowed to use a provider who is not regulated by the Child Care Division, or if exempt from CCD regulation, a provider who is not approved by the Department as a day care, foster care, or relative care provider.

(d) No exceptions will be allowed to the minimum standards for the use of alternate care givers in Foster Care, Relative Care and Adoptive Families, established in OAR 413-200-0301 through 0401, "Safety Standards for Foster Care, Relative Care and Adoptive Families (**Client Services Manual II-B.1**).

(2) All exceptions must be approved by the person designated by the Department and be on file in the case record. The granting of an exception shall not constitute a precedent for any other provider or client.

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 14-2002(Temp), f. & cert. ef. 12-19-02 thru 6-17-03; CWP 24-2003(Temp) f. & cert. ef. 6-18-03 thru 12-14-03; CWP 41-2003, f. & cert. ef. 12-12-03; Suspended by CWP 17-2007(Temp), f. & cert. ef. 11-1-07 thru 4-28-08

Rule Caption: Changing OARs affecting Child Welfare programs.

Adm. Order No.: CWP 18-2007

Filed with Sec. of State: 11-1-2007

Certified to be Effective: 11-1-07

Notice Publication Date: 7-1-2007

Rules Amended: 413-080-0059

Subject: OAR 413-080-0059 about monitoring the safety and well-being of a child or young adult in substitute care in Child Welfare programs is being amended to expand the actions required of a caseworker when certain conditions are not met for a child or young adult in a provider placement. This amendment makes permanent a temporary rule adopted on May 15, 2007. In addition, the above rule was also changed to correct formatting and punctuation.

Rules Coordinator: Annette Tesch—(503) 945-6067

413-080-0059

Monitoring the Safety and Well-Being of the Child or Young Adult in Substitute Care

(1) To monitor the safety and well-being of the child or young adult when the parent or legal guardian is unable or unwilling to protect the child or young adult from the identified safety threats and substitute care is necessary to assure child safety, the caseworker must make the following contacts:

(a) Face-to-face contact with the child or young adult every 30 days;

(b) Contact with the relative caregiver, foster parent, or provider every 30 days; and

(c) Face-to-face contact with the relative caregiver, foster parent, or provider in the home or facility a minimum of once every 60 days. The face-to-face contact must include at least one of the certified or licensed adults who provide direct care for the child or young adult.

(2) Monitor and assess the child or young adult's safety and well-being in substitute care with a relative caregiver or foster parent.

(a) Within each 30-day period, the caseworker must complete all of the following activities:

(A) Have a conversation with a verbal child or young adult.

(B) Assess the child or young adult's progress in and adjustment to the placement.

(C) Receive updates from the child or young adult and from the relative caregiver or foster parent.

(D) Assess the safety and well-being of the child or young adult in the home by determining whether each of the following conditions exists in the home:

(i) The child or young adult is comfortable and the environment of the home is supportive and safe.

(ii) Adults in the home take an active role in caring for and supervising the child or young adult in the home.

(iii) Adult family members possess the physical, emotional, and cognitive capacity to sufficiently care for the child or young adult.

(iv) Family members and the child or young adult have formal and informal contact with others in the community.

(v) The child or young adult is accepted as part of the household.

(vi) The relative caregiver or foster family understands and is attentive to the vulnerability and need for protection of the child or young adult.

(vii) The relative caregiver or foster family is amenable to Department oversight and willing to partner with the Department.

(viii) When the child or young adult is placed with a relative caregiver, the child or young adult's parents and other family members understand the role of the relative caregiver in managing safety as a substitute care resource.

(ix) The child has a sufficiently positive relationship with the relative caregiver or foster family's own children who live in the home.

(x) The relative caregiver or foster family is caring for children matching the preferences and experience of the family.

(xi) The interactions between the child or young adult and other children placed in the home are sufficient to assure safety.

(xii) The present demands of the home do not exceed the ability of the relative caregiver or foster parent to provide safe and protective care.

(E) Document the date, time, location, and observations of the conditions that exist in the home in FACIS case notes.

(b) If one or more of the conditions described in paragraph (a)(D) of this section do not exist in the home, and the caseworker cannot confirm safety and well-being of the child or young adult in the home of the relative caregiver or foster parent, the caseworker must:

(A) Assess child safety immediately and determine if there is a safety threat as described in OAR 413-015-0420(1)(f)(A)(i) and (ii).

(B) If a safety threat is identified, immediately:

(i) Consult with the caseworker's supervisor to determine any immediate protective action required to assure the child's safety or any action required to assure the safety of the young adult; and

(ii) Contact a CPS screener and report the identified safety threat to the child.

(C) Document the behaviors, conditions, or circumstances observed in the home and any immediate protective actions in FACIS.

(c) When the child or young adult is currently safe in the home, but the conditions described in this rule or Child Welfare Policy II-B.1, "Certification Standards for Foster Parents, Relative Caregivers, and Pre-Adoptive Parents", (OAR 413-200-0301 to 413-200-0396) are not fully met, the caseworker must:

(A) Document date, time, location, and current behaviors, conditions, or circumstances observed in the home in FACIS notes and notify the certifier or certifier's supervisor within one working day.

(B) The caseworker must have face-to-face contact with the relative caregiver or foster parent within the next 30 days and the visit must occur in the home. The caseworker must observe the behaviors, conditions, or circumstances of the foster parent or relative caregiver, the child, and other children in the home, and conditions in the home.

(i) When the caseworker can confirm that current conditions in the home provide safety and well-being for the child or young adult, the caseworker must:

(I) Document the date, time, location, and observations of the condition of the environment in FACIS notes; and

(II) Notify the certifier of the improved behaviors, conditions, or circumstances in the home.

(ii) When the caseworker cannot confirm that current conditions in the home provide safety and well-being for the child or young adult, the caseworker must:

(I) Consult with the supervisor to determine whether to recommend to the certifier implementation of a Placement Support Plan to assist the relative caregiver or foster parent, or whether the child or young adult should no longer remain in the home because the conditions necessary to provide safety and well-being cannot be sustained in this home.

(II) Send written notification to the certifier of the behaviors, conditions, or circumstances in the home.

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(III) Document the date, time, location, and the behaviors, conditions, or circumstances in the home in FACIS notes.

(3) Monitoring and assessing safety when the child or young adult is in a provider placement.

(a) During each 30-day period, the caseworker must:

(A) Assess the progress in and adjustment to the placement of the child or young adult;

(B) Have a conversation with a verbal child or young adult;

(C) Receive updates from the child or young adult and from the provider;

(D) Assess the safety of the child or young adult in the home or facility by determining whether each of the following conditions exists:

(i) The child or young adult is comfortable and the environment is supportive and safe.

(ii) Adults take an active role in caring for and supervising the child or young adult.

(iii) Adults possess the physical, emotional, and cognitive capacity to sufficiently care for the child or young adult.

(iv) The child or young adult has formal and informal contact with others in the community.

(v) The child or young adult is accepted as part of the household or facility.

(vi) The provider understands and is attentive to the vulnerability and need for protection of the child or young adult.

(vii) The provider is amenable to Department oversight and willing to partner with the Department.

(viii) The child or young adult has a sufficiently positive relationship with other children in the home or facility of the provider.

(ix) The provider is caring for children matching the preferences and experience of the provider.

(x) The interactions between the child or young adult and other children placed in the home or facility is sufficient to assure safety.

(xi) The present demands of the home or facility do not exceed the ability of the provider to provide safe and protective care.

(E) Document the date, time, location, and observations of the condition of the environment in FACIS.

(b) If one or more of the conditions described in paragraph (a)(D) of this section do not exist in the home or facility, and the caseworker cannot confirm safety and well-being of the child or young adult, the caseworker must:

(A) Assess child safety immediately and determine if there is a safety threat as described in OAR 413-015-0420(1)(f)(A)(i) and (ii).

(B) If a safety threat is identified, immediately:

(i) Consult with the caseworker's supervisor to determine any immediate protective action required to assure the child's safety or any action required to assure the safety of the young adult; and

(ii) Contact a CPS screener and report the identified safety threat to the child.

(C) Document the behaviors, conditions, or circumstances observed in the home or facility and any immediate actions in FACIS case notes.

(c) If the caseworker does not identify a safety threat but the conditions described in paragraph (a)(D) of this section are not fully met, the caseworker must complete the following activities:

(A) Contact the child-caring agency's management and the Department's Child Caring Agency Licensing Program to report the conditions in the home or facility and request additional supportive resources for the provider.

(B) Document in FACIS the contact required in paragraph (A) of this subsection.

(C) Have face-to-face contact with the provider within the next 30 days in the home or facility of the provider, and:

(i) Observe the actions and behaviors of the provider, the child or young adult, and other children in the home or facility, and conditions in the home or facility.

(ii) Confirm that current conditions in the home or facility provide safety and well-being for the child or young adult.

(iii) Contact the child-caring agency's management and the Department's Child Caring Agency Licensing Program to confirm the conditions in the home or facility provide safety and well-being for the child or young adult.

(D) After the contact required in paragraph (C) of this subsection, when the caseworker cannot confirm that current conditions in the home or facility provide safety and well-being for the child or young adult, the caseworker must consult with the supervisor to determine:

(i) Whether an immediate protective action is required to assure the child's safety or any other action is required to assure the safety of the young adult; or

(ii) Whether consultation with the child-caring agency's management is necessary to determine what additional support is necessary to assure the safety of the child or young adult in the home or facility of the provider.

(E) After the actions required in paragraph (D) of this subsection, the caseworker or caseworker's supervisor must contact the Department's Child Caring Agency Licensing Program. The caseworker must report the date, time, location, observations of the conditions of the home or facility, and any actions taken by the caseworker during or after the visit.

(F) Document the date, time, location, observations of the condition of the home or facility, and any actions in FACIS case notes.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 10-2007(Temp), f. 5-14-07, cert. ef. 5-15-07 thru 11-9-07; CWP 18-2007, f. & cert. ef. 11-1-07

Rule Caption: Changing OARs affecting Child Welfare programs.

Adm. Order No.: CWP 19-2007

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Rules Amended: 413-200-0270, 413-200-0272, 413-200-0274, 413-200-0278, 413-200-0281, 413-200-0287, 413-200-0292, 413-200-0296, 413-200-0306, 413-200-0314, 413-200-0335, 413-200-0354, 413-200-0358, 413-200-0371, 413-200-0379, 413-200-0383, 413-200-0390

Rules Repealed: 413-200-0270(T), 413-200-0272(T), 413-200-0274(T), 413-200-0278(T), 413-200-0281(T), 413-200-0287(T), 413-200-0292(T), 413-200-0296(T), 413-200-0306(T), 413-200-0314(T), 413-200-0335(T), 413-200-0354(T), 413-200-0358(T), 413-200-0371(T), 413-200-0379(T), 413-200-0383(T), 413-200-0390(T)

Subject: OAR 413-200-0270 is being amended to clarify the purpose of OAR 413-200-0270 to 413-200-0296 as these rules pertain to an adoptive applicant.

OAR 413-200-0272 is being amended to remove the definition of "firearm" which is no longer needed with the amendments to OAR 413-200-0335.

OAR 413-200-0274 about responsibilities for certification is being amended to clarify authority to approve certification after a child abuse or neglect disposition, parameters of requesting child abuse background history checks, parameters of issuing a two-year certificate of approval, and clarify parameters of verification of Foundations training.

OAR 413-200-0278 about responsibilities for issuing a certificate of approval is being amended to clarify timeframes for certification assessment activities and how the rules pertain to an adoptive applicant.

OAR 413-200-0281 is being amended to clarify parameters of child abuse and neglect and criminal history background checks for alternate caregivers.

OAR 413-200-0287 about responsibilities regarding a two-year renewal of the Certificate of Approval is being amended to change the title of the rule to clarify its purpose. This rule is also being amended to clarify when a child abuse history background check is required.

OAR 413-200-0292 about responsibilities regarding recertification of a previously certified home is being amended to change the title of the rule to clarify its purpose. This rule is also being amended to clarify requirements for criminal history background checks for new household members and the assessment process for family whose certificate of approval has expired. This rule is also being amended to add an approval for exemption from the requirement for Foundations training.

OAR 413-200-0296 about the denial or revocation of a certificate of approval is being amended to clarify the Department requirement for written notice of intent to revoke.

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OAR 413-200-0306 is being amended to remove the definition of “firearm” which is no longer needed with the amendments to OAR 413-200-0335. Other changes to this rule are discussed below.

OAR 413-200-0314 about the process to apply for a certificate of approval is being amended to clarify requirements about references and the applicant’s requirement for Department access to every member of the household.

OAR 413-200-0335 is being amended so that the storage and transportation of firearms in the presence foster children is no longer regulated in this rule, although the use of firearms by a child or young adult continues to require Department authorization.

OAR 413-200-0354 is being amended to clarify the certified family responsibilities regarding a child’s education, including cross-referencing a definition of “surrogate” which is being added to OAR 413-200-0506.

OAR 413-200-0358 about requirements regarding a child or young adult’s discipline is being amended to cross-reference a definition of “physical restraint” which is being added to OAR 413-200-0506.

OAR 413-200-0371 is being amended to clarify the permitted use of relief or respite care providers.

OAR 413-200-0379 about education and training for applicants and certified families is being amended to clarify parameters of verification of Foundations training.

OAR 413-200-0383 is being amended to clarify parameters of required notification for certified families.

OAR 413-200-0390 is being amended to clarify how recertification requirements apply to an adoptive applicant.

These rule changes will make permanent temporary rules adopted on July 13, 2007.

In addition, the above rules have been changed to reflect new Department terminology and to correct formatting and punctuation.
Rules Coordinator: Annette Tesch—(503) 945-6067

413-200-0270

Purpose

(1) The purpose of these rules (OAR 413-200-0270 to 413-200-0296) is to describe the activities of the Department related to:

(a) The certification of a relative caregiver or foster parent, and the assessment of a pre-adoptive applicant;

(b) Monitoring a certified family’s compliance to the Certification Standards; and

(c) Recertification of a family.

(2) A certified relative caregiver, foster parent, and pre-adoptive parent will be referred to as a certified family throughout these rules.

(3) Regardless of the nature of the relationship between a family and a child or young adult, a family must be assessed and certified prior to the placement of the child or young adult in the home. No child or young adult in the care or custody of the Department may be placed in an uncertified home.

(4) In these rules, unless otherwise indicated, a child or young adult refers to a child or young adult in the care or custody of the Department.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005 - 418.640

Hist.: SOSCF 17-1999, f. & cert. ef. 8-12-99; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 18-2007, f. & cert. ef. 11-1-07; CWP 19-2007, f. & cert. ef. 11-1-07

413-200-0272

Definitions

The following definitions apply to OAR 413-200-0270 to 413-200-0296:

(1) “Applicant” means an individual or individuals who apply for a Certificate of Approval to become a certified family.

(2) “Certificate of Approval” means a document that the Department issues to approve the operation of a child-specific relative caregiver home, child-specific foster home, pre-adoptive home, or a regular foster home.

(3) “Certified family” means an individual or individuals who hold a Certificate of Approval from the Department to operate a home to provide care, in the home in which they reside, to a child or young adult in the care or custody of the Department.

(4) “Certifier” means a Child Welfare employee who conducts assessments of applicants interested in providing relative or foster care to a child

or young adult in the care or custody of the Department, determines whether or not to recommend approval of the operation of a relative care or foster home, and monitors the compliance of a relative care or foster care home with Child Welfare certification rules.

(5) “Child” means a person under 18 years of age.

(6) “Child-Specific Certificate of Approval” means a document authorizing an individual or individuals to operate a home to provide care for a specific child or young adult in the care or custody of the Department.

(7) “Criminal records check” means the process for obtaining and reviewing an individual’s criminal history information.

(8) “Department” means the Department of Human Services, Child Welfare.

(9) “Denial” means the refusal of the Department to issue an initial or renew a Certificate of Approval to operate a certified home to provide care for a child or young adult in the care or custody of the Department.

(10) “Designee” means a person whom the designator directly and immediately supervises, or a person with equal or greater management responsibility than the designator.

(11) “Discipline” means a training process a certified family uses to help a child or young adult develop the self control and self direction necessary to assume responsibilities, make daily living decisions, and learn to conform to accepted levels of social behavior.

(12) “Foster parent” means a person who operates a home that has been approved by the Department to provide care for an unrelated child or young adult placed in the home by the Department.

(13) “Home study” means a document containing an analysis of the ability of the applicant to provide safe and appropriate care of a child or young adult in the care or custody of the Department.

(14) “Inactive Referral Status” means a period of time, not to exceed 12 months, during which neither the Department nor any other agency will place an additional child or young adult with a certified family. The certified family or the Department may initiate the Inactive Referral Status.

(15) “Member of the household” means any adult or child living in the home, including any caregiving employees and volunteers who may reside in the home.

(16) “Placement support plan” means a documented set of actions or resources that is developed to assist a relative caregiver or foster parent to maintain conditions that provide safety and well-being for children or young adults in the home.

(17) “Pre-adoptive parent” means an individual with a current Certificate of Approval to operate a home to provide care for a child placed by the Department for purposes of adoption.

(18) “Psychotropic medication” means medication, the prescribed intent of which is to affect or alter thought processes, mood, or behavior, including, but not limited to antipsychotic, antidepressant, and anxiolytic medication and behavior medications. The classification of a medication depends upon its stated, intended effect when prescribed because it may have many different effects.

(19) “Relative caregiver” means a person who operates a home that has been approved by the Department to provide care for a related child or young adult placed in the home by the Department.

(20) “Relief or Respite Care” means:

(a) A formal planned arrangement to relieve a certified family’s responsibilities by a person temporarily assuming responsibility for the care and supervision of the child or young adult; or

(b) Assistance provided by a person who comes into the home of the certified family to care for the child or young adult in the care or custody of the Department.

(21) “Revocation” means an administrative act by the Department that rescinds an existing Certificate of Approval.

(22) “Young adult” means a person aged 18 through 20 years who remains in the care and custody of the Department, and lives in substitute care or lives independently through the Department’s Independent Living Subsidy Program.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005 - 418.640

Hist.: SOSCF 17-1999, f. & cert. ef. 8-12-99; Renumbered from 413-200-0280, CWP 4-2007, f. & cert. ef. 3-20-07; CWP 11-2007(Temp), f. & cert. ef. 6-1-07 thru 11-27-07; Suspended by CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07

413-200-0274

Responsibilities for Certification

(1) Sections (2) to (5) of this rule cover Department responsibilities for an expedited process for certification of an applicant for a Child-Specific Certificate of Approval. Sections (6) and (7) cover Department responsibilities for certification of all other applicants.

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(2) To complete the expedited process for assessment of an applicant for a Child-Specific Certificate of Approval, the certifier must:

(a) Review the completed application.

(b) Have face-to-face contact with the applicant and all members of the household. If a member of the household is unavailable when conducting face-to-face contact for a child-specific certificate of approval, the certifier must:

(A) Obtain the approval of the supervisor to delay face-to-face contact with that member of the household; and

(B) Determine a date and time for the face-to-face contact within one week of the date the member of the household becomes available.

(c) Verify applicant identity by viewing photo identification of each applicant.

(d) Explain the certification process.

(e) Discuss with the applicant the role and responsibility of the Department.

(f) Assess the applicant's motivation for and interest in caring for the child or young adult.

(g) Complete a home visit. Observe and assess the safety of the physical environment and complete a Safety Assessment of the home.

(h) Gather and analyze information, through interview and observation, as it relates to each applicant's personal qualifications and assess the conditions that appear to exist in the home that provide safety and well-being for a child or young adult.

(i) Assure completion of a criminal records check on each adult member of the household; and, at the Department's discretion, on any child under 18, as described in Child Welfare Policy I-G.1.4, "Criminal History", OAR 413-120-0400 to 413-120-0470.

(A) Assess any safety concerns regarding the applicant or member of the household; and

(B) If appropriate, obtain an exception pursuant to OAR 413-120-0450(6) for any criminal history of an applicant or member of the household.

(j) Assure initiation of Child Abuse History Background Checks for each adult member of the household.

(A) A child abuse history background check must be completed in the state of Oregon and requested from any other state where the individual has resided in the last five years;

(B) Assess any safety concerns regarding the applicant or member of the household; and

(C) If appropriate, obtain approval from the District Manager, Assistant District Manager, or designee on a form approved by the Department when Child Protective Services has concluded that a member of the household is the perpetrator of a Founded Disposition or has on his or her record an Unable to Determine Child Abuse or Neglect Disposition in Oregon or has a similar disposition from another state to continue certification.

(k) Obtain at least two personal references for the applicant.

(l) Assure the applicant possesses a valid driver license and auto insurance if the applicant will transport a child or young adult in the care or custody of the Department.

(m) Determine, with input from the applicant, the gender, ages, and maximum number of children and young adults that may be placed in the home by the Department.

(n) If appropriate, obtain approval from the Child Welfare program manager or designee on a form approved by the Department when:

(A) The applicant or a member of the household is an in-home day care provider or foster care provider licensed by another child-caring agency, unless placement is authorized under an Interagency Agreement;

(B) The applicant or a member of the household is an adult foster care or in-home adult day care provider; or

(C) The applicant applying to become a relative caregiver is 18, 19, or 20 years of age.

(o) If appropriate, obtain approval from the District Manager on a form approved by the Department, when the applicant applies for a child specific Certificate of Approval through an office other than the office in the county in which the family resides.

(p) If appropriate, obtain the approval of the Child Welfare program manager when the children or young adults placed in the home will exceed the maximum number of children or young adults as described in OAR 413-200-0276.

(q) After completing the activities in section (2)(a)–(p) of this rule, the Department may issue a child-specific Certificate of Approval for up to 90 days.

(3) Within 90 days of the date the Child-Specific Certificate of Approval is issued, the certifier must:

(a) Obtain at least two additional references. Two of the four required references may be provided by the applicant's relatives.

(b) Contact the caseworker of the child or young adult placed in the home regarding the child or young adult's adjustment in placement and the certified family's ability to meet the child or young adult's needs.

(c) Conduct another home visit to gather social history information regarding personal qualifications of the certified family and assess the conditions that appear to exist in the home that provide safety and well-being for a child or young adult.

(d) Complete the Child Abuse History Background Checks for each adult member of the household as required in paragraph (2)(j)(A) of this rule and request a Child Abuse History Background Check for each adult member of the household who has lived in another country in the last five years.

(e) Verify that the certified family will have completed:

(A) Orientation within 30 days after the Child-Specific Certificate of Approval was issued; and

(B) Foundations of Relative Care, Foster Care, and Pre-Adoptive Care (Foundations) training before or within 12 months after the date on which the Certificate of Approval was issued, or have written documentation of completion of equivalent training content from another licensed child-caring agency within two years of an applicant's dated application for a Certificate of Approval from the Department.

(f) Discuss and develop a training plan for each certified adult in the family.

(g) Document the assessment of the certified family's ability to provide safety and well-being for the child or young adult in a home study.

(4) After completing the activities in section (3) of this rule, the Department may approve the certified family for the two-year certification period and issue a Child-Specific Certificate of Approval with an effective date on the day which the activities in section (3) of this rule were completed and an end date two years from the effective date on the initial Child-Specific Certificate of Approval.

(5) When the activities described in subsections (3)(a) to (3)(g) of this rule have not been completed within 90 days, the District Manager, Assistant District Manager, or designee may extend the Child-Specific Certificate of Approval for:

(a) No longer than 60 days; or

(b) Longer than 60 days if an activity has not been completed due to circumstances beyond the control of the Department.

(6) To complete the assessment for the certification of all other applicants, the certifier must:

(a) Review the completed application.

(b) Have face-to-face contact with the applicant and all members of the household.

(c) Verify applicant identity by viewing the photo identification of each applicant.

(d) Explain the certification process.

(e) Discuss with the applicant the role and responsibility of the Department.

(f) Assess the applicant's motivation for and interest in caring for the child or young adult.

(g) Complete a minimum of two home visits. Observe and assess the safety of the physical environment and complete a safety assessment of the home.

(h) Gather social history information through interview and observation. Analyze information as it relates to each applicant's personal qualifications and assess the conditions that appear to exist in the home that provide safety and well-being for a child or young adult.

(i) Assure completion of a criminal records check on each adult member of the household; and, at the Department's discretion, on any child under 18, as described in Child Welfare Policy I-G.1.4, "Criminal History", OAR 413-120-0400 to 413-120-0470.

(A) Assess any safety concerns regarding the applicant or member of the household; and

(B) If appropriate, obtain an exception pursuant to OAR 413-120-0450(6) for any criminal history of an applicant or member of the household.

(j) Assure completion of Child Abuse History Background Checks for each adult member of the household.

(A) If the applicant or an adult member of the household has lived outside the state of Oregon and within the United States in the previous five

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years, a child abuse history background check must be obtained from each state where the individual resided in the last five years;

(B) If the applicant or an adult member of the household has lived outside of the United States in the previous five years, a child abuse history background check must be requested from each country where the individual lived within the past five years;

(C) Assess any safety concerns regarding the applicant or member of the household; and

(D) If appropriate, obtain approval from the District Manager, Assistant District Manager, or designee on a form approved by the Department when Child Protective Services has concluded that a member of the household is the perpetrator of a Founded Disposition, has on his or her record an Unable to Determine Child Abuse or Neglect Disposition in Oregon, or has a similar disposition from another state to continue certification.

(k) Obtain at least four personal references for the applicant, only two of which may be provided by the applicant's relatives.

(l) Assure the applicant possesses a valid driver license and auto insurance if the applicant will transport a child or young adult in the care or custody of the Department.

(m) Determine, with input from the applicant, the gender, ages, and maximum number of children and young adults that may be placed in the home by the Department.

(n) If appropriate, obtain approval from the Child Welfare program manager or designee on a form approved by the Department when:

(A) The applicant or a member of the household is an in-home day care provider or foster care provider licensed by another child-caring agency, unless placement is authorized under an Interagency Agreement;

(B) The applicant or a member of the household is an adult foster care or in-home adult day care provider; or

(C) The applicant applying to become a relative caregiver is 18, 19, or 20 years of age.

(o) If appropriate, obtain approval from the District Manager on a form approved by the Department when the applicant applies for a Certificate of Approval through an office other than the office in the county in which the family resides.

(p) If appropriate, obtain the approval of the Child Welfare program manager when the children or young adults placed in the home will exceed the maximum number of children or young adults as described in OAR 413-200-0276.

(q) Verify that the applicant has completed Orientation and Foundations of Relative Care, Foster Care, and Pre-Adoptive Care (Foundations) before or within 12 months after the date on which the Certificate of Approval was issued, or has written documentation of completion of equivalent training content from another licensed child-caring agency within two years of an applicant's dated application for a Certificate of Approval from the Department.

(r) Discuss and develop a training plan with each applicant.

(s) Document the assessment of the applicant's ability to provide safety and well-being for the child or young adult in a home study.

(7) After completing the activities in section (6) of this rule, the Department may issue a Certificate of Approval for a two-year period.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005 - 418.640

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07

413-200-0278

Responsibilities for Issuing a Certificate of Approval

(1) The Department must complete the assessment activities described in OAR 413-200-0274, and issue a Certificate of Approval or provide notice of intent to deny a Certificate of Approval within 180 days of receipt of an application to become a foster parent or relative caregiver, unless the application is withdrawn or the assessment period is extended by the District Manager, Assistant District Manager, or designee. Approval and notice of adoptive homes is described in Child Welfare Policy I-G.1.3, "Adoption Applications", OAR 413-120-0230 and 413-120-0240.

(2) The supervisor reviews all assessment activities, ensures all safety components of the certification standards are met, ensures any required exception has been obtained for OAR 413-200-0274(2)(i)(B) or 413-200-0274(6)(i)(B), and required approvals have been obtained for OAR 413-200-0274(2)(j)(C), 413-200-0274(2)(n)-(p), 413-200-0274(6)(j)(C), 413-200-0274(6)(n)(A)-(C), or 413-200-0274(6)(o) or (p) prior to the Department issuing a Certificate of Approval.

(a) The Department may issue a Child-Specific Certificate of Approval for up to 90 days when all activities required in OAR 413-200-0274(2) have been completed; or

(b) When all assessment activities are completed and written documentation has been submitted, the Department may issue a two-year Certificate of Approval to provide relative or foster care.

(3) A Certificate of Approval must include the following information:

(a) The name of each primary adult, including married couples and domestic partners, approved as the certified family;

(b) The address to which the certificate applies;

(c) The age range (birth – 20) and gender of the children or young adults for whom the certified family is approved to provide care;

(d) The maximum number of children or young adults that can be placed in the home;

(e) The provider number that the Department has given the home;

(f) The beginning and expiration dates of the certificate; and

(g) The signature of the Child Welfare program manager or designee.

(4) A Child-Specific Certificate of Approval must state the number, age range, and gender of the specific children or young adults placed in the home.

(5) The Department may at its discretion modify the Certificate of Approval to increase or decrease the maximum number of children or young adults, within the limits prescribed in OAR 413-200-0276(1), the age range, or the gender of the children or young adults for whom the family is certified.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005 - 418.640

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07

413-200-0281

Alternate Caregivers

The certifier must:

(1) Discuss with the certified family the plan for providing care to a child or young adult, when the certified family will be unavailable to provide care.

(2) Assure completion of criminal records checks on any person the certified family has identified to provide relief or respite care for the certified family; review the information, and, if needed and appropriate, obtain an exception as described in Child Welfare Policy I-G.1.4, "Criminal History", OAR 413-120-0400 to 413-120-0470 and in 413-200-0274(6)(j)(A)-(D) prior to the individual providing relief or respite care.

(3) Conduct Child Abuse history background checks on any person the certified family has identified to provide relief or respite care as described in OAR 413-200-0274(6)(j)(A)-(D) and review the information to assure the person presents no safety concerns.

(4) Analyze information under sections (2) and (3) of this rule prior to determining the person is safe and appropriate to provide relief or respite care and authorizing the person to provide relief and respite care.

(5) Document the analysis under section (4) of this rule in the certification record.

(6) Notify the certified family of the authorization for the person identified to provide relief or respite care.

(7) Verify that any certified family identified to provide relief or respite care for another certified family has a current Certificate of Approval.

(8) When the analysis under section (4) of this rule results in a determination that the person is not either a safe or appropriate person to provide relief or respite care, notify the certified family that the person cannot be used to provide relief or respite care.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005 - 418.640

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07

413-200-0287

Responsibilities Regarding Two-Year Renewal of the Certificate of Approval

(1) A certified family must be assessed every two years. The Department must complete the assessment and provide written notice of the decision to renew a certificate approval or intent to deny the renewal of the certified family's certificate of approval, prior to expiration of the existing certificate. To renew a Certificate of Approval, the certifier must complete all of the following:

(a) Complete a home visit and have face-to-face contact with all members of the household.

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(b) Review the completed Certified Family Certificate Renewal or Change of Status Application.

(c) Confirm completion of required hours of training, and develop a training plan for the new certification period.

(d) Assure completion of criminal records checks on each adult member of the household; and, at the Department's discretion, any child under 18, as described in Child Welfare Policy I-G.1.4, "Criminal History", OAR 413-120-0400 to 413-120-0470:

(A) Assess any safety concerns regarding the applicant or member of the household; and

(B) Obtain an exception per OAR 413-120-0450(6) Criminal History Checks for any new criminal history conviction for an applicant or member of the household, if appropriate.

(e) Assure completion of Child Abuse History Background Checks for each adult member of the household.

(A) If the applicant or an adult member of the household has lived outside the state of Oregon in the previous five years, and an out-of-state child abuse history background check has not been completed, a child abuse history background check must be requested from each state or country where the individual resided in the last five years.

(B) Assess any safety concerns regarding the applicant or adult member of the applicant's household.

(C) If appropriate, obtain approval from the District Manager or designee, on a form approved by the Department, when Child Protective Services has concluded that a member of the applicant's household is the perpetrator of a Founded Disposition or has on his or her record an Unable to Determine Child Abuse or Neglect Disposition or similar disposition from another state to continue certification.

(f) Review and assess whether conditions appear to exist in the home that provide safety and well-being for the child or young adult.

(g) Review and analyze the certified family's skills and abilities in maintaining conditions in the home that provide safety and well-being for the child or young adult, maintaining relationships with the community and the Department, and supporting the child or young adult's case plan.

(h) Update the home study including results of the assessment completed in subsections (a) to (g) of this section and submit to the supervisor for approval.

(2) The supervisor reviews and may approve or deny the home study and, if he or she approves, the Department issues a two-year certificate of approval.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005 - 418.640

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07

413-200-0292

Responsibilities Regarding Recertification of a Previously Certified Home

(1) When a certified family has been closed less than six months, the previous Certificate of Approval would not have expired during the months the home was closed (if the Certificate of Approval was not revoked), the certified family continues to live in the same residence, and the certified family requests that the Department reopen the Certificate of Approval, the certifier must:

(a) Provide the family with a Certified Family Certificate Renewal or Change of Status Application;

(b) Complete criminal records and child abuse history background checks on any new adult member living in the household as described in OAR 413-200-0272(2)(i)-(j).

(c) Conduct a home visit to identify and assess any changes in the environment or family;

(d) Observe and assess the safety of the physical environment and complete a safety assessment of the home; and

(e) Document in the certification file the circumstances that the Department reopened the Certificate of Approval.

(2) When a certified family has been closed for six months or more or the previous Certificate of Approval would have expired during the months the home was closed, and the previously certified family contacts the Department to become certified again, the certifier must:

(a) Provide the necessary documents for an initial application for a Certificate of Approval to provide care to the certified family for completion;

(b) Complete the assessment process as described in OAR 413-200-0274;

(c) Update the family's home study and document any changes in the family's circumstances since the most recent closure of the Certificate of Approval; and

(d) Submit the updated home study to the supervisor for approval.

(3) The supervisor reviews and may approve or deny the home study and, if he or she approves, issue a two-year Certificate of Approval.

(4) Foundations training is required if a family previously certified by the Department has not been certified within the last two years unless the supervisor waives the training requirement based on the family's documented knowledge and skills in caring for a child or young adult placed in the home by the Department.

(5) When the certified family moves to another residence in the State of Oregon, the Certificate of Approval automatically terminates. The Department may issue a new Certificate of Approval for the new residence after the activities described in this section have been completed. Within 14 working days, the certifier must:

(a) Provide the certified family a Certified Family Certificate Renewal or Change of Status Application;

(b) Review the completed Certified Family Certificate Renewal or Change of Status Application;

(c) Conduct a home visit and Safety Assessment prior to recommending a Certificate of Approval for the family to the supervisor; and

(d) Document in the certification file the circumstances of the family's relocation.

(6) When a certified family has been initially certified by the local Child Welfare office in the county in which the family resides and the family moves to another county, all of the following actions are required:

(a) The issuing Child Welfare office's certification supervisor must notify the certification supervisor in a Child Welfare office in the county to which the certified family is moving;

(b) The certification file and ongoing Department responsibilities are transferred to a Child Welfare office in the county to which the certified family is moving, unless the District Manager in the county to which the certified family is moving has approved that Department certification responsibilities remain in the Child Welfare office in the county from which the certified family is moving.

(c) Complete the actions described in section (5) of this rule.

(7) When a certified family wishes to move outside the State of Oregon with a child or young adult, refer to Child Welfare Policy I-B.3.4.2, "Interstate Compact on the Placement of Children", OAR 413-040-0200 to 413-040-0330.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005 - 418.640

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07

413-200-0296

Responsibilities Regarding Denial or Revocation of a Certificate of Approval

(1) The Department may deny an application for a Certificate of Approval or revoke a Certificate of Approval when the applicant or certified family does not meet one or more of the certification rules.

(2) The certifier must provide the applicant a written notice of the intent to deny a Certificate of Approval, which must state the reason or reasons for the denial.

(3) The Department must revoke a Certificate of Approval when a certified family violates one or more of the rules in Child Welfare Policy II-B.1, "Certification Standards for Foster Parents, Relative Caregivers, and Pre-Adoptive Parents", OAR 413-200-0301 to 413-200-0396, and at the conclusion of a CPS assessment, the Department determines that a child is unsafe and the certified family cannot or will not protect the child.

(4) The Department may deny an application or revoke a Certificate of Approval if the Department discovers an Applicant or certified family has falsified information (by act of commission or omission) before or after the Certificate of Approval has been issued or if a certified family fails to provide information or inform the Department of any disqualifying condition that arises after the Certificate of Approval has been issued.

(5) The certifier must provide the certified family a written notice of intent to revoke, which must state each reason for the revocation.

(6) The Department must remove from the home all the children or young adults in the care or custody of the Department upon making the decision to revoke the certified family's Certificate of Approval.

(7) When the Department has revoked a family's Certificate of Approval or denied an application for a Certificate of Approval, the Department has the discretion to require a waiting period of up to five years before the Department will accept a new application.

Stat. Auth.: ORS 418.005

ADMINISTRATIVE RULES

Stats. Implemented: ORS 418.005 - 418.640
Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07

413-200-0306

Definitions

The following definitions apply to OAR 413-200-0301 to 413-200-0396:

(1) "Applicant" means an individual or individuals who apply for a Certificate of Approval to become a certified family.

(2) "Certificate of Approval" means a document that the Department issues to approve the operation of a child-specific relative caregiver home, child-specific foster home, pre-adoptive home, or a regular foster home.

(3) "Certified family" means an individual or individuals who hold a Certificate of Approval from the Department to operate a home to provide care, in the home in which they reside, to a child or young adult in the care or custody of the Department.

(4) "Certifier" means a Child Welfare employee who conducts assessments of applicants interested in providing relative or foster care to a child or young adult in the care or custody of the Department, determines whether or not to recommend approval of the operation of a relative care or foster home, and monitors the compliance of a relative care or foster care home with Child Welfare certification rules.

(5) "Child" means a person under 18 years of age.

(6) "Child-Specific Certificate of Approval" means a document authorizing an individual or individuals to operate a home to provide care for a specific child or young adult in the care or custody of the Department.

(7) "Criminal records check" means the process for obtaining and reviewing an individual's criminal history information.

(8) "Department" means the Department of Human Services, Child Welfare.

(9) "Denial" means the refusal of the Department to issue or renew a Certificate of Approval to operate a home to provide care for a child or young adult in the care or custody of the Department.

(10) "Designee" means a person who the designator directly and immediately supervises, or a person with equal or greater management responsibility than the designator.

(11) "Discipline" means a training process a certified family uses to help a child or young adult develop the self control and self direction necessary to assume responsibilities, make daily living decisions, and learn to conform to accepted levels of social behavior.

(12) "Foster parent" means a person who operates a home that has been approved by the Department to provide care for an unrelated child or young adult placed in the home by the Department.

(13) "Inactive Referral Status" means a period of time, not to exceed 12 months, during which neither the Department nor any other agency will place an additional child or young adult with a certified family. The certified family or the Department may initiate the Inactive Referral Status.

(14) "Member of the household" means any adult or child living in the home, including any caregiving employees and volunteers who may reside in the home.

(15) "Physical restraint" means the act of restricting a child or young adult's voluntary movement as an emergency measure in order to manage and protect the child or young adult or others from injury when no alternate actions are sufficient to manage the child or young adult's behavior. "Physical restraint" does not include temporarily holding a child or young adult to assist him or her or assure his or her safety, such as preventing a child from running onto a busy street.

(16) "Pre-adoptive parent" means an individual with a current Certificate of Approval to operate a home to provide care for a child placed by the Department for purposes of adoption.

(17) "Psychotropic medication" means medication, the prescribed intent of which is to affect or alter thought processes, mood, or behavior, including but not limited to, antipsychotic, antidepressant, and anxiolytic medication and behavior medications. The classification of a medication depends upon its stated, intended effect when prescribed because it may have many different effects.

(18) "Relative caregiver" means a person who operates a home that has been approved by the Department to provide care for a related child or young adult placed in the home by the Department.

(19) "Relief or Respite Care" means:

(a) A formal planned arrangement to relieve a certified family's responsibilities by a person temporarily assuming responsibility for the care and supervision of the child or young adult; or

(b) Assistance provided by a person who comes into the home of the certified family to care for the child or young adult in the care or custody of the Department.

(20) "Revocation" means an administrative act by the Department that rescinds an existing Certificate of Approval.

(21) "Surrogate" means a person who has been appointed to safeguard a child's rights in the special education decision-making process. The person may be appointed pursuant to OAR 581-015-2320 for school-age children, OAR 581-015-2760 for preschool children, or by the juvenile court under ORS 419B.220.

(22) "Young adult" means a person aged 18 through 20 years who remains in the care and custody of the Department, and lives in substitute care or lives independently through the Department's Independent Living Subsidy Program.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005 - 418.640

Hist.: SOSCF 7-2001, f. & cert. ef. 3-23-01; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 11-2007(Temp), f. & cert. ef. 6-1-07 thru 11-27-07; Suspended by CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07

413-200-0314

Process to Apply for a Certificate of Approval

(1) To become a certified family, the applicant must:

(a) Apply for certification in the county of the applicant's residence, except as provided in OAR 413-200-0274(2)(o)(A) and 413-200-0274(4)(o)(A);

(b) Complete a Department application;

(c) Provide the names and contact information of four references, two of whom may be relatives of the applicant, who can attest to the applicant's character and ability to provide safe and protective care for a child or young adult, and the names and contact information of at least two persons with whom the certified family is likely to remain in contact if displaced due to a natural disaster;

(d) Complete all required paperwork requested by the Department;

(e) Allow Department staff to conduct an in home safety assessment of conditions that appear to exist in the home that provide safety and well-being for the child or young adult;

(f) Allow Department staff to have face-to-face contact with all members of the applicant's household;

(g) Provide social and family history information to the Department; and

(h) Provide information about any current or previous licenses, certifications, or applications for relative care, foster care, day care, adoption, or any other types of services for vulnerable individuals including adult care giving. Information must include the organization's name, any denials, suspensions, revocations, or terminations.

(2) All adult members of the applicant's household must have face-to-face contact with a Department certifier and must provide:

(a) Information regarding criminal involvement, including arrests and convictions regarding any member of the household; and

(b) Consent to a criminal records check.

(3) The applicant must allow the Department, at its discretion, to gather information regarding the criminal records of any child under 18 who lives in the household.

(4) All adult members of the applicant's household must provide:

(a) Information regarding any previous allegations of child abuse and neglect; and

(b) Consent to a child abuse and neglect background check.

(5) Withdrawal of Application. Applicants who have applied or are applying for a Certificate of Approval may voluntarily withdraw their application to provide care for a child or young adult. The family must provide their voluntary withdrawal notice:

(a) On a form provided by the Department;

(b) In a written format of their choice; or

(c) Verbally to a certifier or certifier's supervisor.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005 - 418.640

Hist.: SOSCF 7-2001, f. & cert. ef. 3-23-01; Renumbered from 413-200-0381, CWP 4-2007, f. & cert. ef. 3-20-07; CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07

413-200-0335

Certification Standards Regarding the Home Environment

(1) The home and surrounding environment of a certified family must comply with all of the following requirements:

(a) Be the primary residence of the certified family and the residence where the child or young adult resides with the certified family.

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(b) Have adequate space for each member of the household, including space for safe and appropriate sleeping arrangements.

(A) A certified family and Department staff must consider a child or young adult's age, gender, special needs, behavior, and history of abuse or neglect in determining appropriate sleeping arrangements.

(B) Unrelated foster children may not share a bed.

(c) Have safe and adequate drinking water and an adequate source of safe water to be used for personal hygiene.

(d) Have access to a working telephone to make and receive phone calls.

(e) Have the necessary equipment for the safe preparation, storage, serving, and clean-up of food.

(f) Provide safe storage of all medications in the household, and store psychotropic medications for any member of the household in locked storage.

(g) Have easily accessible first aid supplies, and a reasonable understanding of how to use such supplies.

(h) Have a safe, properly maintained, and operational heating system. Space heaters must be plugged directly into a wall outlet and must be equipped with tip-over protection.

(2) In order to maintain a safe environment for a child or young adult, a certified family must:

(a) Comply with state and local ordinances and consider a child or young adult's age, special needs and capabilities, to establish the necessary safeguards around potential water hazards, outdoor play equipment, or other outdoor tools, chemicals, or potentially dangerous hazards.

(b) Assure that:

(A) Swimming pools, wading pools, ponds, hot tubs and other water hazards are inaccessible to a child or young adult unless responsibly supervised;

(B) Outdoor tools and equipment, machinery, chemicals, flammables, and combustibles are stored in a safe manner;

(C) Animals are properly cared for and kept in compliance with local ordinances; and

(D) A child or young adult's access to potentially dangerous animals is restricted.

(c) Consider the child or young adult's age, special needs and capabilities when determining if an animal is a safe and appropriate pet.

(d) Notify and receive authorization from a child or young adult's caseworker or the caseworker's supervisor prior to a child or young adult's beginning hunting or target practice.

(3) In order to protect the safety of a child or young adult in care, a certified family must store hunting and sporting equipment, such as knives, spears, arrows, hunting sling shots, bows, and martial art weapons, in a safe and secure manner, and inaccessible to a child or young adult.

(4) The certified family must comply with all of the following fire safety requirements.

(a) The home of a certified family must:

(A) Have at least one working smoke alarm on each floor and one in each bedroom where a child or young adult sleeps;

(B) Have at least one operable fire extinguisher rated 2-A:10-B-C or higher;

(C) Have at least one means of emergency exit and one means of rescue from the home;

(D) Have a barrier around fireplaces, wood stoves, or other heating systems which may cause burns to a child or young adult developmentally unable to reasonably follow safety rules regarding such devices; and

(E) Have operable, quick-release mechanisms on barred windows. No bedroom occupied by a child or young adult, who is unable to use the quick-release mechanism, may have a barred window.

(b) Provide to the Department and display in the home a written comprehensive home evacuation plan, share the plan with each child or young adult at the time of placement, and practice the evacuation plan at least every six months. A certified family must include in the written comprehensive home evacuation plan a provision for the safe exit of a child or young adult who is not capable of understanding or participating in the evacuation plan.

(c) Assure that a bedroom used by a child or young adult has:

(A) One unrestricted exit;

(B) At least one secondary means of exit or rescue;

(C) A working smoke alarm; and

(D) Unrestricted, direct access, at all times, to hallways, corridors, living rooms or other such common areas.

(5) Any door that locks on the inside must be operable from the outside of the room, and any door that locks on the outside must be operable from the inside of the room.

(6) Transportation requirements.

(a) A certified family must have available, and be willing to use, a safe and reliable method of transportation.

(b) Any member of the household transporting a child or young adult must provide proof of a valid driver's license and current insurance, as required by law, on any family-owned motorized vehicle by which a child or young adult might be transported when a family has applied for certification and at each re-certification.

(c) As required by current state law, a certified family must assure that:

(A) Only a licensed and insured driver transports a child or young adult in motorized vehicles; and

(B) A child or young adult uses a seat belt or age and size appropriate safety seat when transported in motorized vehicles.

(d) A certified family must obtain written authorization from the Department prior to transporting a child or young adult out of the State of Oregon.

(7) Smoking limitations. A certified family must assure that:

(a) A child or young adult is not exposed to any type of second-hand smoke in the certified family's home or vehicle; and

(b) No member of the household provides any form of tobacco products to a child or young adult.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005 - 418.640

Hist.: SOSCF 29-2000(Temp), f. & cert. ef. 9-27-00 thru 3-23-01; SOSCF 7-2001, f. & cert. ef. 3-23-01; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 11-2007(Temp), f. & cert. ef. 6-1-07 thru 11-27-07; Suspended by CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07

413-200-0354

Requirements Regarding a Child or Young Adult's Education

(1) The certified family must comply with all of the following requirements:

(a) Enroll the child or young adult in his or her school or educational placement, after the school or educational placement has been determined by the Department.

(b) Support the child or young adult in his or her school or educational placement.

(c) Assure the child or young adult regularly attends the school or educational placement and monitor the child or young adult's educational progress, including keeping records of:

(A) The child or young adult's report cards;

(B) Any reports received from the teacher or the school or educational placement;

(C) Any evaluations received as a result of educational testing or assessment; and

(D) Disciplinary reports regarding the child or young adult.

(d) Monitor the child or young adult's educational successes, learning style, and potential learning difficulties.

(e) Work with the child or young adult's caseworker when referring the child or young adult for assessment of a possible disability.

(f) Notify the child or young adult's caseworker of the certified family's interest in or intent to be appointed as the child or young adult's educational surrogate parent ("surrogate" is defined in OAR 413-100-0506).

(g) Work with the Department to regularly share information regarding the child or young adult's educational progress.

(2) The certified family may be appointed to safeguard a child's rights in the special education decision-making process. This appointment may occur pursuant to OAR 581-015-2320 for school-age children, OAR 581-015-2760 for preschool children, or by the juvenile court under ORS 419B.220.

(3) The certified family may provide consent for a child or young adult placed in the home to participate in routine school-related activities, such as school enrollment, field trips within the state of Oregon, routine social events, sporting events, and cultural events.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005 - 418.640

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07

413-200-0358

Requirements Regarding a Child or Young Adult's Discipline

(1) When disciplining a child or young adult, the certified family must not use corporal punishment, verbal abuse, or withholding food or other items essential to a child or young adult's protection, safety, or well-being.

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Examples of prohibited discipline include, but are not limited to, the following:

- (a) Use of or threatened use of any form of physical force.
- (b) Verbal abuse including derogatory remarks about the child or young adult, the child or young adult's family characteristics, physical traits, culture, ethnicity, language, sexual orientation, or traditions.
- (c) Denying a child or young adult visits, telephone, or other types of contact with persons authorized in a visit and contact plan.
- (d) Assigning extremely strenuous exercise or work.
- (e) Use of or threatened use of restraining devices.
- (f) Punishment for bed-wetting or punishment related to toilet training.

(g) Directing a child or young adult or permitting a child or young adult to punish another child or young adult.

- (h) Threat of removal from the certified family home as punishment.
- (i) Use of the shower as punishment.
- (j) Group punishment for the misbehavior of one child or young adult.
- (k) Extreme isolation as a means of punishment that restricts a child or young adult's ability to talk with or associate with others.

(l) Locking a child or young adult in a room.

(2) The certified family must demonstrate a willingness to understand the meaning of the child or young adult's behaviors and the ability to develop and use appropriate strategies to address challenging behaviors. Appropriate strategies may include:

- (a) Concentrating on changing only the behavior that is causing the most difficulty for the child or young adult and others;
- (b) Emphasizing ways to help the child or young adult develop self-control;
- (c) Taking a positive approach to changing challenging behavior;
- (d) Selecting and implementing strategies that respect and involve the child or young adult in the change process; and
- (e) Being mindful of the child or young adult's age, developmental level, and past experiences with abuse and neglect.

(3) The certified family may use a time-out only for the purpose of giving the child or young adult a short break to allow the child or young adult to calm himself or herself and regain control, and not as a punishment. The certified family must take into consideration the child or young adult's age and developmental level in determining the length of a time-out.

(4) Only an adult in a certified family or Department staff, who has been trained to use a physical restraint, may do so, except in circumstances described in Child Welfare Policy I-B.1.6, "Behavior Intervention", OAR 413-020-0200 to 413-020-0245 when a child, young adult, or others are at imminent risk of danger. Physical restraint (defined in OAR 413-200-0306) must be a safety measure of last resort.

(5) The certified family must notify and request assistance of the Department when the child or young adult's challenging behavior may be beyond the certified family's ability to discipline in a positive manner.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005 - 418.640

Hist.: SOSCF 7-2001, f. & cert. ef. 3-23-01; Renumbered from 413-200-0347, CWP 4-2007, f. & cert. ef. 3-20-07; CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07

413-200-0371

Responsibilities and Notification Requirements for Selection and Use of Alternate Caregivers

(1) Except as provided in section (2) of this rule, the certified family is responsible for identifying and selecting safe and responsible alternate caregivers for a child or young adult placed in their home, and take into consideration:

(a) Each child or young adult's age, special needs, attachment, and individual behaviors; and

(b) The length of time that the child or young adult will be with the alternate caregivers described in this rule.

(2) The Department may determine that a particular alternate caregiver is inappropriate based upon the needs of the child or young adult.

(3) Responsibilities when Using a Babysitter.

(a) The certified family must use a responsible person 14 years of age or older for short-term intermittent child care, and must:

(A) Have an available method through which they may be contacted in an emergency;

(B) Assure the babysitter is capable of assuming child care responsibilities required to meet the needs of the children in the certified family's home, and will be present at all times; and

(C) Assure the babysitter does not provide overnight care.

(b) A babysitter does not need to complete a criminal history background check.

(4) Responsibilities and notification requirements when using Relief Care or Respite Care.

(a) The certified family must select a relief or respite caregiver who is:

(A) At least 18 years of age;

(B) Capable of assuming child care responsibilities, including meeting any special needs of each child or young adult in the certified family's care; and

(C) Present at all times.

(b) The certified family must:

(A) Have an available method through which they may be contacted in an emergency; and

(B) Provide to the Department the name, address, and telephone number of the relief or respite caregiver for the purpose of the Department's conducting the criminal records check and child abuse and neglect history check, prior to the person providing relief or respite care.

(c) The certified family must receive Department approval prior to using a relief or respite caregiver.

(5) A certified family may use a licensed, registered, or approved childcare center or day care provider for a child or young adult and must notify the Department in advance of using the licensed childcare center or day care provider.

(6) Family and childhood activities.

(a) The certified family may give consent for a child or young adult in the Department's care or custody to participate in ordinary childhood activities, such as sleepovers with friends and organized activities provided by schools, churches, civic organizations, scouts, or similar groups.

(b) The certified family must verify that the event is safe, adequately supervised, and appropriate for the child or young adult based upon his or her needs.

(c) When the certified family has any questions regarding the child or young adult participating in the activity, the family must consult with the child or young adult's caseworker.

(7) The certified family must notify the child or young adult's caseworker prior to the child or young adult being absent from the certified family for more than 24 hours.

(8) The certified family is responsible for notifying the certifier or the certifier's supervisor in advance when the certified family plans to provide relief or respite care for another certified family and the number of children or young adults in the home will exceed the maximum number of children or young adults on the certified family's Certificate of Approval.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005 - 418.640

Hist.: SOSCF 29-2000(Temp), f. & cert. ef. 9-27-00 thru 3-23-01; SOSCF 7-2001, f. & cert. ef. 3-23-01; SOSCF 15-2002(Temp), f. & cert. ef. 12-19-02 thru 6-17-03; CWP 29-2003, f. 7-31-03 cert. ef. 8-1-03; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07

413-200-0379

Education and Training for Applicants and Certified Families

(1) All applicants must participate in the Department's Orientation prior to receiving a Certificate of Approval, or within 30 days after the placement of a child or young adult in a home that has been issued a Child-Specific Certificate of Approval.

(2) Applicants and certified families must complete the Foundations of Relative Care, Foster Care, and Pre-Adoptive Care (Foundations) training before or within 12 months after the date on which the Certificate of Approval was issued, or have written documentation of completion of equivalent training content from another licensed child-caring agency within two years of an applicant's dated application for a Certificate of Approval from the Department.

(3) Foundations training is required if an applicant previously certified by the Department has not been certified within the last two years unless the supervisor waives the training requirement based on the family's documented knowledge and skills in caring for a child or young adult placed in the home by the Department.

(4) The certified family and the Department certifier must develop a training plan for each person certified in the family to complete at least 30 hours of training during each two-year certification period.

(5) Applicants and certified families who have limited English proficiency or a hearing or visual impairment, and cannot meet the training requirements outlined in sections (1) to (3) of this rule may be provided an individualized training plan prepared by the certifier and approved by the Children, Adults and Families Division, Foster Care Program Office.

(6) The Department may require a certified family to obtain more than the 30 hours of training for a two-year certification period depending on the

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needs of the child or young adult placed in their home or the knowledge, skills, and abilities of the certified family.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005 – 418.640
Hist.: SOSCF 7-2001, f. & cert. ef. 3-23-01 Renumbered from 413-200-0349, CWP 4-2007, f. & cert. ef. 3-20-07; CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07

413-200-0383

Other Required Notifications

A certified family must notify the certifier or certifier's supervisor of all of the following:

- (1) Any person joining or leaving the household.
- (2) Any anticipated change in address.
- (3) Any physical or structural changes in the home in which they live.
- (4) Any arrests or court convictions for any member of the household.

This notification must occur within one working day.

(5) Any known allegation of child abuse or neglect perpetrated by any member of the household, or an individual who regularly visits the home. Such notification must occur on the day that the certified family learns of the allegation.

(6) The suspension of a driver's license of any adult on the Certificate of Approval or any member of the household.

(7) Any change in the physical or mental health of a member of the household that reasonably could affect the member's or the family's ability to meet the needs of safety, health, and well-being of a child or young adult.

(8) Any time any member of the household applies to become an in-home child care provider, an adult foster care, or in-home adult day care provider, in order to obtain the approval of the Department prior to providing such care.

(9) Any time another agency wishes to place a child or young adult in the certified home, in order to obtain the approval of the Department prior to providing such care.

(10) Any time the certified family agrees to provide relief or respite care for another certified family.

(11) Any other circumstance that could reasonably affect the safety or well-being of a child or young adult in the certified family's home.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005 – 418.640
Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07

413-200-0390

Requirements Regarding the Certificate of Approval

(1) An applicant may receive a Child-Specific Certificate of Approval for up to 90 days when assessment activities described in Child Welfare Policy II-B.1.1, "Department Responsibilities for Certification and Supervision of Relative Caregivers, Foster Parents, and Pre-Adoptive Parents", OAR 413-200-0274(2)(a)-(p) have been completed; and, when all assessment activities have been completed, may receive a Certificate of Approval for up to two years.

(2) A certified family must apply every two years to be re-certified as a foster parent or relative caregiver.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.630 - 418.640
Hist.: SOSCF 29-2000(Temp), f. & cert. ef. 9-27-00 thru 3-23-01; SOSCF 7-2001, f. & cert. ef. 3-23-01; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07

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Subject: OAR 413-350-0000, 413-350-0010, 413-350-0020, 413-350-0030, 413-350-0040, 413-350-0050, 413-350-0060, 413-350-0070, 413-350-0080, and 413-350-0090 are being amended make these rules consistent with Department-wide rules (OAR 407-003-0000 and 407-003-0010), clarify the rules, update program names and statutory references, and remove redundant language. In addition, the above rules may have been changed to reflect new Department terminology and to correct formatting and punctuation.

Rules Coordinator: Annette Tesch—(503) 945-6067

413-350-0000

Purpose

The purpose of these rules (OAR 413-350-0000 to 413-350-0090) is to prescribe procedures for viewing and copying public records held by the Child Welfare program and describe the process for charging fees when the Department makes the public records available.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 192.420, 192.430, 192.440, 409.010, 418.005, 419B.035
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 20-2007, f. & cert. ef. 11-1-07

413-350-0010

Definitions

The following definitions apply to OAR 413-350-0000 to 413-350-0090:

(1) "Custodian" means the Child Welfare program manager or designee of the program manager responsible for the service location at which the record is located.

(2) "Public record" includes any writing containing information relating to the conduct of the public's business, including but not limited to records prepared, owned, used, or retained by a public body regardless of physical form or characteristics.

(3) "Writing" means the definition of "writing" in the version of OAR 407-003-0000 that is current when the public record request is made.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 192.420, 192.430, 192.440, 409.010, 418.005, 419B.035
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 20-2007, f. & cert. ef. 11-1-07

413-350-0020

Access

Any person has a right to inspect any public record held by the Child Welfare Program to the extent provided by these rules (OAR 413-050-0000 to 413-050-0090).

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 192.420, 192.430, 192.440, 409.010, 418.005, 419B.035
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 20-2007, f. & cert. ef. 11-1-07

413-350-0030

Access to Electronic Public Records

When access is permitted under these rules (OAR 413-350-0000 to 413-350-0090):

(1) If the public record is maintained in electronic form, Child Welfare shall provide copies of the electronic public record, in the form requested, if available.

(2) If the public record is not available and maintained in the form requested, Child Welfare shall provide copies of the public record in the form in which it is maintained.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 192.420, 192.430, 192.440, 409.010, 418.005, 419B.035
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 20-2007, f. & cert. ef. 11-1-07

413-350-0040

Exemptions from Disclosure

(1) Per ORS 192.496, the following records are exempt from disclosure:

(a) Records less than 75 years old that contain information about the physical or mental health or psychiatric care or treatment of a living individual, if the public disclosure thereof would constitute an unreasonable invasion of privacy. The party seeking disclosure shall have the burden of showing by clear and convincing evidence that the public interest requires disclosure in the particular instance and that public disclosure would not constitute an unreasonable invasion of privacy.

(b) Records less than 75 years old that were sealed in compliance with statute or by court order. Such records may be disclosed upon order of a court of competent jurisdiction or as otherwise provided by law.

(c) Records of a person who is or has been in the custody or under the lawful supervision of a state agency, a court or a unit of local government, are exempt from disclosure for a period of 25 years after termination of such custody or supervision to the extent that disclosure thereof would interfere with the rehabilitation of the person if the public interest in confidentiality clearly outweighs the public interest in disclosure. Nothing in this subsection, however, shall be construed as prohibiting disclosure of the fact that a person is in custody.

(d) Student records required by state or federal law to be exempt from disclosure.

(2) Per ORS 192.501, the following public records are exempt from disclosure:

(a) Records of a public body pertaining to litigation to which the public body is a party if the complaint has been filed, or if the complaint has not been filed, if the public body shows that such litigation is reasonably

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likely to occur. This exemption does not apply to litigation that has been concluded, and nothing in this subsection shall limit any right or opportunity granted by discovery or disposition statutes to a party to litigation or potential litigation.

(b) Investigatory information compiled for criminal law purposes. The record of an arrest or the report of a crime shall be disclosed unless and only for so long as there is a clear need to delay disclosure in the course of a specific investigation, including the need to protect the complaining party or the victim. Nothing in this subsection shall limit any right constitutionally guaranteed, or granted by statute, to disclosure or discovery in criminal cases. For purposes of this subsection, the record of an arrest or the report of a crime includes, but is not limited to:

(A) The arrested person's name, age, residence, employment, marital status and similar biographical information;

(B) The offense with which the arrested person is charged;

(C) The conditions of release pursuant to ORS 135.230 to 135.290;

(D) The identity and biographical information concerning both complaining party and victim;

(E) The identity of the investigating and arresting agency and the length of the investigation;

(F) The circumstances of arrest, including time, place, resistance, pursuit and weapons used; and

(G) Such information as may be necessary to enlist public assistance in apprehending fugitives from justice.

(c) Test questions, scoring keys, and other data used to administer a licensing examination, employment, academic or other examination or testing procedure before the examination is given and if the examination is to be used again. Records establishing procedures for and instructing persons administering, grading or evaluating an examination or testing procedure are included in this exemption, to the extent that disclosure would create a risk that the result might be affected.

(d) Investigatory information relating to any complaint filed under ORS 659A.820 or 659A.825, until such time as the complaint is resolved under ORS 659A.835, or a final order is issued under ORS 659A.850.

(e) Investigatory information relating to any complaint or charge filed under ORS 243.676 and 663.180.

(f) A personnel discipline action, or materials or documents supporting that action.

(g) Computer programs developed or purchased by or for any public body for its own use. As used in this subsection, "computer program" means a series of instructions or statements which permit the functioning of a computer system in a manner designed to provide storage, retrieval, and manipulation of data from such computer system, and any associated documentation and source material that explain how to operate the computer program. "Computer program" does not include:

(A) The original data, including but not limited to, numbers, text, voice, graphics, and images;

(B) Analyses, compilations, and other manipulated forms of the original data produced by use of the program; or

(C) The mathematical and statistical formulas that would be used if the manipulated forms of the original data were to be produced manually.

(h) Data and information provided by participants to mediation under ORS 36.256.

(i) Investigatory information relating to any complaint or charge filed under ORS chapter 654, until a final administrative determination is made or, if a citation is issued, until an employer receives notice of any citation.

(3) Per ORS 192.502, the following records are exempt from disclosure:

(a) Communications within a public body or between public bodies of an advisory nature to the extent that they cover other than purely factual materials and are preliminary to any final agency determination of policy or action. This exemption shall not apply unless the public body shows that in the particular instance the public interest in encouraging frank communication between officials and employees of public bodies clearly outweighs the public interest in disclosure.

(b) Information of a personal nature such as, but not limited to, that kept in a personal, medical or similar file, if the public disclosure thereof would constitute an unreasonable invasion of privacy, unless the public interest by clear and convincing evidence requires disclosure in the particular instance. The party seeking disclosure shall have the burden of showing that public disclosure would not constitute an unreasonable invasion of privacy.

(c) Information submitted to a public body in confidence and not otherwise required by law to be submitted, where such information should reasonably be considered confidential, the public body has obliged itself in

good faith not to disclose the information, and when the public interest would suffer by the disclosure.

(d) Information or records of the Department of Corrections, including the State Board of Parole and Post-Prison Supervision, to the extent that disclosure would interfere with the rehabilitation of a person in custody of the Department of Corrections or substantially prejudice or prevent the carrying out of the functions of the Department of Corrections, if the public interest in confidentiality clearly outweighs the public interest in disclosure.

(e) Any public records or information the disclosure of which is prohibited by federal law or regulations.

(f) Public records or information the disclosure of which is prohibited or restricted or otherwise made confidential or privileged under Oregon law.

(g) Public records or information described in this rule, furnished by the public body originally compiling, preparing, or receiving them to any other public officer or public body in connection with performance of the duties of the recipient, if the considerations originally giving rise to the confidential or exempt nature of the public records or information remain applicable.

(h) Employee and retiree address, telephone number, and other non-financial membership records and employee financial records maintained by the Public Employees' Retirement System pursuant to ORS chapters 238 and 238A.

Stat. Auth.: ORS 409.050, 418.005

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

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 20-2007, f. & cert. ef. 11-1-07

413-350-0050

Supervisory Review

Prior to any person viewing or copying a public record held by Child Welfare, the supervisor or person designated by the branch must determine which material in the record is exempt from disclosure. If the supervisor or person designated by the branch has any doubt as to whether information contained in the record is exempt from disclosure, the supervisor must consult with designated or Central office staff.

Stat. Auth.: ORS 409.050, 418.005

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

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 30-2001, f. 6-29-01 cert. ef. 7-1-01; CWP 20-2007, f. & cert. ef. 11-1-07

413-350-0060

Time Frame

Child Welfare provides an opportunity for the inspection and copying of records when access and copying is otherwise permitted under these rules (OAR 413-350-0000 to 413-350-0090). To protect its records and prevent interference with the regularly scheduled duties of its staff, Child Welfare and the person requesting to inspect the record shall establish a reasonable time at which the records may be inspected. The time frame for inspection shall normally be within ten working days. When this time frame is not possible, the custodian or person designated by the branch will discuss the reasons with the requester and provide an expected date for inspecting the record. If copies are requested, Child Welfare shall make them within a reasonable time period, not to exceed five working days from the date of the request for the specific material, and shall mail the material to the requester.

Stat. Auth.: ORS 409.050, 418.005

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

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 20-2007, f. & cert. ef. 11-1-07

413-350-0070

Viewing and Copying Procedures

(1) When Child Welfare is required or permitted to make records available pursuant to ORS 419B.035, the identities of the abuse reporters and victims will be deleted from the material provided for examination. Prior to allowing viewing and copying of the public record, Child Welfare shall separate any material that is exempt from disclosure from non-exempt material, and make the non-exempt material available for examination.

(2) Names, addresses, and other identifying information of mandatory abuse reporters, as well as voluntary abuse reporters and persons making complaints who requested confidentiality, must be covered to protect their identity. The names of alleged perpetrators if the perpetrators are juveniles in Child Welfare custody and the names of victims must also be covered.

(3) Child Welfare shall provide the person requesting examination a place to review the record. A person designated by Child Welfare shall sit with the person reviewing the record in order to assure it is not altered in any way.

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(4) The person viewing the record may designate pages to be copied, or may request copies of specific information contained in the record. Only Child Welfare staff may copy the designated material.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 192.420, 192.430, 192.440, 409.010, 418.005, 419B.035
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 20-2007, f. & cert. ef. 11-1-07

413-350-0080

Charges

(1) Child Welfare shall charge for the cost of making the record available to the extent permitted by OAR 407-003-0010.

(2) Child Welfare shall inform the requester of estimated charges as provided by OAR 407-003-0010(5).

(3) The requester may ask Child Welfare for a waiver of the charges for the cost of making the record available. Child Welfare may reduce or waive fees as provided by OAR 407-003-0010.

(4) If Child Welfare denies the initial request for a waiver of all or part of the actual cost of providing the record, the requester may proceed as provided by OAR 407-003-0010(7).

Stat. Auth.: ORS 192.430, 409.050, 418.005
Stats. Implemented: ORS 192.430, 192.440, 409.010, 418.005
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 12-2000, f. & cert. ef. 5-5-00; CWP 20-2007, f. & cert. ef. 11-1-07

413-350-0090

Availability of Alternative Print Format

Upon request of a person with a disability for public records otherwise available to the requester under these rules (OAR 413-350-0000 to 413-350-0090), Child Welfare will consult with that individual about making the requested records available in alternative print format at no additional cost to the requester and follow OAR 407-005-0010(8).

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: 409.010, 418.005
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 20-2007, f. & cert. ef. 11-1-07

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

Rule Caption: Disease Reporting.

Adm. Order No.: PH 13-2007

Filed with Sec. of State: 11-7-2007

Certified to be Effective: 11-7-07

Notice Publication Date: 10-1-2007

Rules Amended: 333-018-0015

Rules Repealed: 333-018-0015(T)

Subject: The Department of Human Services, Public Health Division is permanently amending Oregon Administrative Rules (OAR) 333-018-0015 and repealing Temporary Rule 333-018-0015 related to disease reporting.

Rules Coordinator: Judy Murdza—(971) 673-0561

333-018-0015

What Is to Be Reported and When

(1) Health care providers shall report all cases or suspected cases of the diseases, infections, microorganisms, and conditions specified below. The timing of health care provider reports is specified to reflect the severity of the illness or condition and the potential value of rapid intervention by public health agencies.

(2) When local public health authorities cannot be reached within the specified time limits, reports shall be made directly to DHS, which shall maintain an around-the-clock public health consultation service.

(3) Licensed laboratories shall report all test results indicative of and specific for the diseases, infections, microorganisms, and conditions specified below. Such tests include but are not limited to: microbiological culture, isolation, or identification; assays for specific antibodies; and identification of specific antigens, toxins, or nucleic acid sequences.

(4) Reportable diseases, infections, microorganisms, and conditions, and the time frames within which they must be reported are as follows:

(a) Immediately, day or night: *Bacillus anthracis* (anthrax); *Clostridium botulinum* (botulism); *Corynebacterium diphtheriae* (diphtheria); *Severe Acute Respiratory Syndrome* (SARS) and infection by SARS-coronavirus; *Yersinia pestis* (plague); intoxication caused by marine microorganisms or their byproducts (for example, paralytic shellfish poisoning, domoic acid intoxication, ciguatera, scombroid); any known or suspected common-source outbreaks; any uncommon illness of potential public health significance.

(b) Within 24 hours (including weekends and holidays): *Haemophilus influenzae* (any invasive disease; for laboratories, any isolation or identification from a normally sterile site); measles (rubeola); *Neisseria meningitidis* (any invasive disease; for laboratories, any isolation or identification from a normally sterile site); pesticide poisoning; poliomyelitis; rabies (human or animal); rubella; and *Vibrio* (all species).

(c) Within one local public health authority working day: *Bordetella pertussis* (pertussis); *Borrelia* (relapsing fever, Lyme disease); *Brucella* (brucellosis); *Campylobacter* (campylobacteriosis); *Chlamydia* (*Chlamydia psittaci* (psittacosis); *Chlamydia trachomatis* (chlamydia; lymphogranuloma venereum); *Clostridium tetani* (tetanus); *Coxiella burnetii* (Q fever); Creutzfeldt-Jakob disease and other transmissible spongiform encephalopathies; *Cryptosporidium* (cryptosporidiosis); *Cyclospora cayentanensis* (cyclosporiasis); *Escherichia coli* (Shiga-toxigenic, including E. coli O157 and other serogroups); *Francisella tularensis* (tularemia); *Giardia* (giardiasis); *Haemophilus ducreyi* (chancroid); *hantavirus*; hepatitis A; *hepatitis B* (acute or chronic infection); *hepatitis C*; *hepatitis D* (delta); *HIV infection* (does not apply to anonymous testing) and AIDS; *Legionella* (legionellosis); *Leptospira* (leptospirosis); *Listeria monocytogenes* (listeriosis); *mumps*; *Mycobacterium tuberculosis* and *M. bovis* (tuberculosis); *Neisseria gonorrhoeae* (gonococcal infections); *pelvic inflammatory disease* (acute, non-gonococcal); *Plasmodium* (malaria); *Rickettsia* (all species: Rocky Mountain spotted fever, typhus, others); *Salmonella* (salmonellosis, including typhoid); *Shigella* (shigellosis); *Taenia solium* (including cysticercosis and undifferentiated Taenia infections); *Trachinella* (trichinosis); *Yersinia* (other than pestis); any infection that is typically arthropod vector-borne (for example: Western equine encephalitis, Eastern equine encephalitis, St. Louis encephalitis, dengue, West Nile fever, yellow fever, California encephalitis, ehrlichiosis, babesiosis, Kyasanur Forest disease, Colorado tick fever, etc.); human bites by any other mammal; and hemolytic uremic syndrome.

(d) Within seven days: suspected lead poisoning (for laboratories; this includes all blood lead tests performed on persons with suspected lead poisoning).

(5) Licensed laboratories shall report, within seven days, the results of all tests of CD4+ T-lymphocyte absolute counts and the percent of total lymphocytes that are CD4 positive, and HIV nucleic acid (viral load) tests.

Stat. Auth.: ORS 433.004, 433.006
Stats. Implemented: ORS 431.110, 432.060, 433.001, 433.004, 433.006, 433.012, 433.110, 433.019, 433.130, 437.010-437.990, 616.745, 624.080
Hist.: HD 15-1981, f. 8-13-81, ef. 8-15-81; HD 20-1985(Temp), f. & ef. 9-30-85; HD 4-1987, f. 6-12-87, ef. 6-19-87; HD 15-1988, f. 7-11-88, cert. ef. 9-1-88; HD 13-1990(Temp), f. 5-25-90, cert. ef. 8-1-90; HD 5-1991, f. 3-29-91, cert. ef. 4-1-91; HD 10-1991, f. & cert. ef. 7-23-91; HD 9-1992, f. & cert. ef. 8-14-92; HD 29-1994, f. & cert. ef. 12-2-94; OHD 22-2001, f. & cert. ef. 10-19-01; OHD 3-2002, f. & cert. ef. 3-4-02; PH 11-2005, f. 6-30-05, cert. ef. 7-5-05; PH 7-2006, f. & cert. ef. 4-17-06; PH 13-2006(Temp), f. 6-27-06, cert. ef. 7-1-06 thru 12-27-06; PH 19-2006, f. & cert. ef. 9-13-06; PH 11-2007(Temp), f. & cert. ef. 8-22-07 thru 2-18-08; PH 13-2007, f. & cert. ef. 11-7-07

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

Rule Caption: Transition Spousal Pay Program (General Fund) to the Title XIX Home and Community-Based Services Waiver

Adm. Order No.: SPD 17-2007

Filed with Sec. of State: 10-26-2007

Certified to be Effective: 10-28-07

Notice Publication Date: 10-1-2007

Rules Amended: 411-030-0020, 411-030-0080

Rules Repealed: 411-030-0020(T), 411-030-0080(T)

Subject: The Department of Human Services, Seniors and People with Disabilities Division is permanently adopting the temporary rule amendments that became effective on May 1, 2007 to transition the Spousal Pay Program from a state General Fund program to a program receiving federal match dollars included in Oregon's Title XIX Home and Community-Based Services Waiver.

Rules Coordinator: Christina Hartman—(503) 945-6398

411-030-0020

Definitions

As used in these rules:

(1) "Activities of Daily Living (ADL)" means those personal, functional activities required by an individual for continued well-being, which are essential for health and safety. Activities consist of eating, dressing/grooming, bathing/personal hygiene, mobility (ambulation and

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transfer), elimination (toileting, bowel and bladder management), and cognition/behavior as defined in OAR 411-015-0006.

(2) "Architectural Modifications" means any service leading to the alteration of the structure of a dwelling to meet a specific service need of the eligible individual.

(3) "Area Agency on Aging (AAA)" means the Department of Human Services designated agency charged with the responsibility to provide a comprehensive and coordinated system of services to seniors or people with disabilities in a planning and service area. For purposes of these rules, the term Area Agency on Aging is inclusive of both Type A and Type B Area Agencies on Aging as defined in ORS 410.040 and described in ORS 410.210 through 410.300.

(4) "Assistive Devices" means any category of durable medical equipment, mechanical apparatus, electrical appliance, or instrument of technology used to assist and enhance an individual's independence in performing any activity of daily living. This definition includes the use of service animals, general household items or furniture to assist the individual.

(5) "Business Days" means Monday through Friday and excludes Saturdays, Sundays and state or federal holidays.

(6) "Case Manager" means a Department of Human Services or AAA employee who assesses the service needs of an applicant, determines eligibility, and offers service choices to the eligible individual. The Case Manager authorizes and implements the service plan, and monitors the services delivered.

(7) "Client" or "Client-Employer" means the individual eligible for in-home support services.

(8) "Client-Employed Provider Program (CEP)" refers to the program wherein the provider is directly employed by the client and provides either hourly or live-in services. In some aspects of the employer and employee relationship, the Department of Human Services acts as an agent for the client-employer. These functions are clearly described in OAR 411-031-0040.

(9) "Contracted In-Home Care Agency" means an incorporated entity or equivalent, licensed in accordance with OAR 333-536-0000 through 333-536-0100 that provides hourly contracted in-home care to individuals of the Department of Human Services or Area Agency on Aging.

(10) "Cost Effective" means being responsible and accountable with Department of Human Services resources. This is accomplished by offering less costly alternatives when providing choices that adequately meet an individual's service needs. Those choices include other programs available from the Department, the utilization of assistive devices, natural supports, architectural modifications and alternative service resources (defined in OAR 411-015-0005). Less costly alternatives may include resources not paid for by the Department.

(11) "Department" or "DHS" means the Department of Human Services.

(12) "Exception" means an approval for a monthly payment or monthly rate granted to a specific individual in their current residence (or in the proposed residence identified in the exception request) that exceeds the monthly rates on the SPD published rate schedule. The approval is based on the exceptional service needs of the individual and is contingent upon meeting the requirements in OAR 411-027-0000 and 411-027-0050. The term "exception" is synonymous with "exceptional rate" or "exceptional payment."

(13) "Homecare Worker (HCW)" means a provider, as described in OAR 411-031-0040, that provides either hourly or live-in services to eligible individuals and is employed by the individual. The term Homecare Worker includes Client-Employed Providers in the Spousal Pay and Oregon Project Independence Programs. It also includes Client-Employed Providers that provide State Plan Personal Care services to seniors and people with physical disabilities. The term does not include Independent Choices Program Providers nor Personal Care Attendants enrolled through Developmental Disability Services or the Addictions and Mental Health Division.

(14) "Hourly Services" means the in-home support services, including activities of daily living and self-management tasks, that are provided at regularly scheduled times.

(15) "In-Home Support Services" means those activities of daily living and self-management tasks that assist an individual to stay in his or her own home.

(16) "Live-In Services" means those Client-Employed Provider Program services provided when an individual requires activities of daily living, self-management tasks and twenty-four hour availability. Time spent by any live-in employee doing self-management and twenty-four hour availability are exempt from federal and state minimum wage and overtime

requirements. To ensure continuity of service for the individual, live-in service plans must include at least one Homecare Worker providing 24-hour availability for a minimum of five days in a calendar week.

(17) "Natural Supports" or "Natural Support System" means the resources available to an individual from their relatives, friends, significant others, neighbors, roommates and the community. Services provided by natural supports are resources not paid for by the Department of Human Services, except as allowed in the Independent Choices Program defined in OAR chapter 411, division 036.

(18) "Oregon Project Independence (OPI)" means the program of in-home support services defined in OAR chapter 411, division 032.

(19) "Provider" means the individual who actually renders the service.

(20) "Self-Management" or "Instrumental Activities of Daily Living (IADL)" means those activities, other than activities of daily living, required by an individual to continue independent living. The definitions and parameters for assessing needs in self-management tasks are identified in OAR 411-015-0007.

(21) "Service Need" means the assistance an individual requires from another person for those functions or activities identified in OAR 411-015-0006 and 411-015-0007.

(22) "SPD" or "Division" means the Seniors and People with Disabilities Division, within the Department of Human Services.

(23) "Twenty-Four Hour Availability" means the availability and responsibility of an employee to meet activities of daily living and self-management needs of an eligible individual as required by that person over a twenty-four hour period. These services are provided by a live-in employee and are exempt from federal and state minimum wage and overtime requirements.

(24) "Waivered Services" means services provided through Oregon's Medicaid Home and Community-Based Services Waiver under the authority of section 1915 (c) and through Oregon's Research and Demonstration Program (Independent Choices Program) under the authority of section 1115 (c) of the Social Security Act, that allows the state to provide home and community-based services to eligible individuals in place of nursing facility services. Waivered services include in-home services, residential care facility services, assisted living facility services, adult foster care services, home-delivered meals (when provided in conjunction with in-home services), specialized living services, Spousal Pay Program services and adult day services.

Stat. Auth.: ORS 409.050, 410.070 & 410.090

Stats. Implemented: ORS 410.010, 410.020 & 410.070

Hist.: SSD 5-1983, f. 6-7-83, ef. 7-1-83; SSD 3-1985, f. & ef. 4-1-85; SSD 5-1987, f. & ef. 7-1-87; SSD 4-1993, f. 4-30-93, cert. ef. 6-1-93; SSD 6-1994, f. & cert. ef. 11-15-94; SPD 14-2003, f. & cert. ef. 7-31-03; SPD 15-2003 f. & cert. ef. 9-30-03; SPD 18-2003(Temp), f. & cert. ef. 12-11-03 thru 6-7-04; SPD 15-2004, f. 5-28-04, cert. ef. 6-7-04; SPD 18-2005(Temp), f. 12-20-05, cert. ef. 12-21-05 thru 6-1-06; SPD 20-2006, f. 5-26-06, cert. ef. 6-1-06; SPD 3-2007(Temp), f. 4-11-07, cert. ef. 5-1-07 thru 10-28-07; SPD 17-2007, f. 10-26-07, cert. ef. 10-28-07

411-030-0080

Spousal Pay Program

(1) The Spousal Pay Program is one of the live-in service options under the In-Home Support Services Program (defined in chapter 411, division 030) for those who qualify.

(2) For the purposes of this program, a spouse is defined as a person who is legally married per OAR 461-001-0000 to an individual eligible for the In-Home Support Services Program.

(3) An individual may be eligible for the Spousal Pay Program when all of the following conditions are met:

(a) The individual has met all program requirements of the In-Home Support Services Program; and

(b) As determined by an assessment described in chapter 411, division 015 rules, the individual requires full assistance in at least four of the six activities of daily living described in OAR 411-015-0006; and

(c) The individual would otherwise require nursing facility services without in-home support services; and

(d) The individual has a medically-diagnosed, progressive, debilitating condition that will limit additional activities of daily living, or has experienced a spinal cord injury or similar disability with permanent impairment of the ability to perform activities of daily living; and

(e) At the time of requesting enrollment in the Spousal Pay Program, the individual is determined, through a Pre-Admission Screening (PAS) assessment (as defined in OAR 411-070-0040) to meet the requirements described in sections (3)(b), (3)(c) and (3)(d) of this rule. The PAS assessment is a second, independent assessment, conducted by a Department or AAA representative using the Client Assessment and Planning System (CA/PS); and

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(f) The individual's service needs exceed in both extent and duration the usual and customary services rendered by one spouse to another; and

(g) The spouse demonstrates the capability and health to provide the services and actually provides the principal services, including the majority of service plan hours, for which payment has been authorized; and

(h) The spouse meets all requirements for enrollment as a Homecare Worker in the Client-Employed Provider Program as described in OAR 411-031-0040; and

(i) DHS Central Office has reviewed the request and approved program eligibility at enrollment and annually upon re-assessment.

(4) Payments:

(a) All payments must be prior authorized by the Department or its designee.

(b) The hours authorized in the service plan must consist of one-half of the assessed hours for 24-hour availability, one-half of the assessed hours for self-management tasks, plus all of the hours for specific activities of daily living based on the service needs of the individual.

(c) Spousal Pay Providers are paid at live-in Homecare Worker rates as bargained in the 2007-2009 Collective Bargaining Agreement between the Home Care Commission and Service Employees International Union, Local 503, OPEU for activities of daily living, self-management tasks and 24 hour availability, except as described otherwise in section (4)(d) of this rule.

(d) Homecare Workers who marry their client-employer retain the same standard of compensation, if their employer meets the spousal pay eligibility criteria as described in section (3) of this rule. Additional self-management task hours may be authorized in the service plan when necessary to prevent a loss of compensation to the Homecare Worker following marriage to the client-employer.

(e) Spousal Pay Providers must not claim payment from the Department for:

(A) Hours that the Spousal Pay Provider did not work; or

(B) Time spent arranging coverage to meet the client-employer's needs; or

(C) Services provided to the client by substitute providers.

(f) DHS is not responsible for payment of a substitute provider during interim absences while the Spousal Pay Provider is taking leave without pay. As used in this rule, leave without pay means time that is not covered by the Spousal Pay Homecare Worker's live in paid leave benefit. During these interim absences when the spouse needs to secure a substitute provider to perform the authorized duties normally performed by the Spousal Pay Provider, the spouse must arrange for adequate coverage to meet the service needs and pay the substitute provider for periods of leave without pay.

(5) Individuals receiving Spousal Pay Program services who have excess income must contribute to the cost of services pursuant to OAR 461-160-0610 and 461-160-0620.

Stat. Auth.: ORS 409.050, 410.070 & 410.090

Stats. Implemented: ORS 410.010, 410.020, 410.070, 410.802 & 411.803

Hist.: SSD 4-1984, f. 4-27-84, ef. 5-1-84; SSD 3-1985, f. & ef. 4-1-85; SSD 4-1993, f. 4-30-93, cert. ef. 6-1-93, Renumbered from 411-030-0027; SDSD 2-2000, f. 3-27-00, cert. ef. 4-1-00; SPD 2-2003(Temp), f. 1-31-03, cert. ef. 2-1-03 thru 7-30-03; SPD 14-2003, f. & cert. ef. 7-31-03; SPD 15-2003 f. & cert. ef. 9-30-03; SPD 15-2004, f. 5-28-04, cert. ef. 6-7-04; SPD 20-2006, f. 5-26-06, cert. ef. 6-1-06; SPD 3-2007(Temp), f. 4-11-07, cert. ef. 5-1-07 thru 10-28-07; SPD 17-2007, f. 10-26-07, cert. ef. 10-28-07

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Rule Caption: Client-Employed Provider Program.

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

Filed with Sec. of State: 10-30-2007

Certified to be Effective: 11-1-07 thru 4-29-08

Notice Publication Date:

Rules Amended: 411-031-0040

Subject: The Department of Human Services, Seniors and People with Disabilities Division (SPD) is temporarily amending OAR 411-031-0040 to reflect the 2007-2009 Collective Bargaining Agreement between the Home Care Commission and the Service Employees International Union (SEIU), Local 503, Oregon Public Employees Union (OPEU).

Rules Coordinator: Christina Hartman—(503) 945-6398

411-031-0040

Client-Employed Provider Program

The Client-Employed Provider Program contains systems and payment structures to employ both hourly and live-in providers. The live-in structure assumes that the provider will be required for activities of daily living and self-management tasks and twenty-four hour availability. The

hourly structure assumes that the provider will be required for activities of daily living and self-management tasks during specific substantial periods. Except as indicated, all of the following criteria apply to both structures:

(1) **EMPLOYMENT RELATIONSHIP.** The relationship between the provider and the client is that of employee and employer.

(2) **CLIENT-EMPLOYER JOB DESCRIPTIONS.** Each Client-Employer is responsible for creating and maintaining a job description for the potential employee in coordination with the services authorized by the Case Manager.

(3) **HOMECARE WORKERS LIABILITIES.** The only benefits available to Homecare Workers are those negotiated in the 2007-2009 Collective Bargaining Agreement between the Home Care Commission and the Service Employee's International Union, Local 503, Oregon Public Employees' Union. This agreement does not include participation in the Public Employees Retirement System or the Oregon Public Service Retirement Plan. Homecare Workers are not state employees.

(4) **CLIENT-EMPLOYER ABSENCES.** When a Client-Employer is absent from the home due to an illness or medical treatment and is expected to return to the home within a 30 day period, a live-in provider, that is the only live-in provider for that client, may be retained to ensure his or her presence upon the Client-Employer's return or to maintain the client's home for up to 30 days at the rate of pay immediately preceding the client's absence. Spousal Pay Providers are not eligible for payment during a client absence.

(5) **SELECTION OF HOMECARE WORKER.** The Client-Employer carries primary responsibility for locating, interviewing, screening, and hiring his or her own employees. The Client-Employer has the right to employ any individual who successfully meets the provider enrollment standards described in section (8) of this rule. The SPD/AAA office determines whether the employee meets minimum qualifications to provide the authorized services paid by SPD.

(6) **EMPLOYMENT AGREEMENT.** The Client-Employer retains the full right to establish the employer-employee relationship at any time after Bureau of Citizenship and Immigration Services papers have been completed and identification photocopied. SPD will not guarantee payment for those services until all acceptable enrollment standards have been verified and both the employer and Homecare Worker have been formally notified in writing that payment by SPD is authorized.

(7) **TERMS OF EMPLOYMENT.** The terms of the employment relationship are the responsibility of the Client-Employer to establish at the time of hire. These terms of employment include dismissal or resignation notice, work scheduling, and absence reporting as well as any sleeping arrangements or meals provided for live-in or hourly employees.

(8) **PROVIDER ENROLLMENT.**

(a) **Enrollment Standards.** A Homecare Worker must meet all of the following standards to be enrolled with the SPD's Client-Employed Provider Program:

(A) The Homecare Worker must maintain a drug-free work place.

(B) The Homecare Worker must be "approved" following a criminal history check as defined in OAR 407-007-0210.

(C) The Homecare Worker must have the skills, knowledge, and ability to perform, or to learn to perform the required work.

(D) The Homecare Worker's U.S. employment authorization must be verified.

(E) The Homecare Worker must be 18 years of age or older. SPD Central Office may approve a restricted enrollment, as described in section (8)(d) of this rule, for a Homecare Worker who is at least sixteen years of age.

(F) The Homecare Worker must complete an orientation as described in section (8)(e) of this rule.

(b) SPD/AAA may deny an application for provider enrollment in the Client-Employed Provider Program when:

(A) The applicant has a history of violating protective service and abuse rules;

(B) The applicant has committed fiscal improprieties;

(C) The applicant does not have the skills, knowledge or ability to adequately or safely provide services;

(D) The applicant lacks the ability or willingness to maintain Client-Employer confidentiality;

(E) The applicant has an unacceptable criminal history;

(F) The applicant is not 18 years of age;

(G) The applicant has been excluded by the Health and Human Services, Office of Inspector General, from participation in Medicaid, Medicare and all other Federal Health Care Programs; or

ADMINISTRATIVE RULES

(H) SPD/AAA has information that enrolling the applicant as a Homecare Worker would put vulnerable clients at risk.

(c) Criminal History Rechecks. Criminal history rechecks will be conducted at least every other year from the date the Homecare Worker is enrolled. SPD/AAA may conduct a recheck more frequently based on additional information discovered about the Homecare Worker, such as possible criminal activity or other allegations.

(A) When a Homecare Worker is approved without restrictions following a criminal history check fitness determination, the approval will meet the Homecare Worker enrollment requirement statewide whether the qualified entity is a state-operated SPD office or an AAA operated by a county, Council of Governments or a non-profit organization.

(B) Criminal history check approval is effective for two years unless:

(i) Based on possible criminal activity or other allegations against the Homecare Worker, a new fitness determination is conducted resulting in a change in approval status; or

(ii) Approval under probationary status has ended following a final fitness determination, as defined in OAR 407-007-0210 and described in 407-007-0310 and 407-007-0320; or

(iii) The approval has ended because DHS has inactivated or terminated the Homecare Worker's provider enrollment for one or more reasons described in this rule or OAR 411-031-0050.

(C) Prior criminal history check approval for another DHS provider type is inadequate to meet criminal history check requirements for Homecare Worker enrollment.

(d) Limited enrollment.

(A) SPD/AAA may approve a limited enrollment for a provider as an Exclusive Homecare Worker based on the applicant's personal choice to provide services only to specific family members, friends or neighbors. To remove Exclusive Homecare Worker status and be designated as a Career Homecare Worker, a Homecare Worker must complete a new application and criminal history check and be approved by SPD/AAA.

(B) SPD/AAA may approve a limited enrollment for a provider as a Restricted Homecare Worker to provide services to specific individuals. To remove Restricted Homecare Worker status and be designated as a Career Homecare Worker, the applicant must complete a new application and criminal history check and be approved by SPD/AAA.

(i) Criminal History. After conducting a weighing test as described in OAR chapter 407, division 007, SPD/AAA may approve a Homecare Worker with prior criminal history under a restricted enrollment to provide services to only specific individuals who are family members, neighbors or friends.

(ii) Based on the applicant's lack of skills, knowledge or abilities, SPD/AAA may approve an applicant as a Restricted Homecare Worker to provide services only to specific individuals who are family members, neighbors or friends.

(iii) Based on an exception to the age requirements for provider enrollment approved by SPD Central Office as described in section (8)(a)(E) of this rule, a Homecare Worker who is at least 16 years of age may be approved as a Restricted Homecare Worker.

(C) Applicants who choose to provide services only to family, friends or neighbors, will only be approved for limited enrollment as a Restricted Homecare Worker when:

(i) The applicant has a potentially disqualifying criminal history that following a weighing test he or she would be denied as a Career Homecare Worker; or

(ii) The applicant lacks the skills, knowledge or abilities to be approved as a Career Homecare Worker; or

(iii) The applicant is at least 16 years of age and has been approved by SPD Central Office for an exception to the age requirements for provider enrollment as described in section (8)(a)(E) of this rule.

(e) Homecare Worker Orientation. Homecare Workers must participate in an orientation arranged through a SPD/AAA office. The orientation should occur within the first 30 days after becoming enrolled in the Client-Employed Provider Program and prior to beginning work for any specific SPD/AAA clients. When completion of an orientation is not possible within those timelines, orientation must be completed within 90 days of being enrolled. If a Homecare Worker fails to complete an orientation within 90 days of provider enrollment, their provider number will be inactivated and any authorization for payment of services will be discontinued.

(f) A Homecare Worker's provider enrollment may be inactivated when:

(A) The Homecare Worker has not provided any paid services to any client in the last twelve months;

(B) The Homecare Worker fails to complete a criminal history check authorization or provide fingerprints in accordance with the criminal history check, when requested by SPD/AAA;

(C) The Homecare Worker informs SPD/AAA they will no longer be providing Homecare Worker services in Oregon;

(D) The provider fails to participate in a Homecare Worker orientation arranged through an SPD/AAA office within 90 days of provider enrollment; or

(E) A complaint is being investigated against a Homecare Worker who, at the time, is not providing any paid services to clients.

(9) PAID LEAVE.

(a) Live-in Homecare Workers. Irrespective of the number of clients served, SPD will authorize one twenty-four hour period of leave each month, when a live-in Homecare Worker or Spousal Pay Provider is the only live-in provider during the course of a month. For any part of a month worked, the live-in Homecare Worker will receive a proportional share of that twenty-four hour period of leave authorization. A prorated share of the twenty-four hours will be allocated proportionately to each live-in when there is more than one live-in provider per client.

(A) Accumulation and Usage. A provider may not accumulate more than 144 hours of accrued leave. The employer, Homecare Worker, and Case Manager will coordinate the timely use of these hours. Live-in Homecare Workers must take vacation leave in 24-hour increments. Accrued leave must be taken while employed as a live-in.

(B) The Right to Retain Live-in Paid Leave. The Homecare Worker retains the right to access earned paid leave when terminating employment with one employer, so long as the Homecare Worker is employed with another employer as a live-in within one year of termination.

(C) Transferability of Live-In Paid Leave. Live-in Homecare Workers who convert to hourly or separate from live-in service and return as an hourly Homecare Worker within one year from the last date of live-in services will be credited with their unused hours of leave up to a maximum of 32 hours.

(D) Cash out of paid leave.

(i) DHS will pay live-in Homecare Workers 50 percent of all unused paid leave on January 31 of each year. The balance of paid leave is reduced 50 percent with the cash out.

(ii) Vouchers requesting payment of paid leave received after January 31 may only be paid up to the amount of remaining unused paid leave.

(iii) Effective July 1, 2008, a live-in Homecare Worker may submit a request for payment of 50 percent of unused paid leave if:

(I) The live-in Homecare Worker's client-employer is no longer eligible for In-Home Services described in chapter 411, division 030; and

(II) The live-in Homecare Worker does not have alternative residential housing.

(iv) If a request for payment of 50 percent of unused paid leave based on sections (9)(a)(D)(iii)(I) and (9)(a)(D)(iii)(II) of this rule is granted, the Homecare's paid leave balance is reduced to zero.

(b) Hourly Homecare Workers. On July 1st of each year, active Homecare Workers who worked 80 authorized and paid hours in any one of the three months that immediately precede July (April, May, June) will be credited with one 16 hour block of paid leave to use during the current fiscal biennium (July 1 through June 30) in which it was accrued. On February 1st of each year, active employees who worked 80 authorized and paid hours in any one of the three months that immediately precede February (November, December, January) will be credited with 16 hours of paid time off. One 16 hour block of paid leave will be credited to each eligible Homecare Worker, irrespective of the number of clients they serve. Such leave will not be cumulative from biennium to biennium.

(A) Utilization of Hourly Paid Leave.

(i) Such time off must be utilized in one eight -hour block subject to authorization. If the Homecare Worker's normal workday is less than eight hours, such time off may be utilized in blocks equivalent to the normal workday. Any remaining hours that are less than the normally scheduled workday may be taken as a single block.

(ii) Hourly Homecare Workers may take unused paid leave when their employer is temporarily unavailable for the Homecare Worker to provide services.

(B) Limitations of Hourly Paid Leave. Homecare Workers will not be compensated for paid leave unless the time off work is actually taken except as noted in section (9)(b)(D) of this rule.

(C) Transferability of Hourly Paid Leave. An hourly Homecare Worker who transfers to work as a live-in Homecare Worker (within the biennium that their hourly leave is earned) will maintain their balance of hourly paid leave and begin accruing live-in paid leave.

ADMINISTRATIVE RULES

(D) Cash out of paid leave.

(i) DHS will pay hourly providers for all paid leave unused on January 31 of each year. The balance of paid leave is reduced to zero with the cash out.

(ii) Vouchers requesting payment of paid leave received after January 31 will not be paid if paid leave has already been cashed out.

(10) SPD FISCAL AND ACCOUNTABILITY RESPONSIBILITY.

(a) Direct Service Payments. SPD will make payment to the provider on behalf of the client for all in-home services. This payment will be considered full payment for the services rendered under Title XIX. Under no circumstances is the Homecare Worker to demand or receive additional payment for these Title XIX-covered services from the client or any other source. Additional payment to Homecare Workers for the same services covered by Oregon's Title XIX Home and Community Based Services Waiver is prohibited.

(b) Timely Submission of Claims. In accordance with OAR 410-120-1300, all claims for services must be submitted within 12 months of the date of service.

(c) Ancillary Contributions.

(A) Federal Insurance Contributions Act (FICA). Acting on behalf of the Client-Employer, SPD will apply any applicable FICA regulations and will:

(i) Withhold the Homecare Worker-employee contribution from payments; and

(ii) Submit the Client-Employer contribution and the amounts withheld from the Homecare Worker-employee to the Social Security Administration.

(B) Benefit Fund Assessment. The Workers' Benefit Fund Assessment pays for programs that provide direct benefits to injured workers and their beneficiaries and that assist employers in helping injured workers return to work. The Department of Consumer & Business Services sets the Workers' Benefit Fund Assessment Rate for each calendar year. SPD calculates the hours rounded up to the nearest whole hour and deducts an amount rounded up to the nearest cent. Acting on behalf of the Client-Employer, SPD will:

(i) Deduct the Homecare Worker-employees' share of the Benefit Fund Assessment Rate for each hour or partial hour worked by each paid Homecare Worker;

(ii) Collect the Client-Employer's share of the Benefit Fund Assessment for each hour or partial hour of paid services received; and

(iii) Submit the client and Homecare Worker's contributions to the Workers' Benefit Fund.

(C) SPD will pay the employer's share of the Unemployment Tax.

(d) Ancillary Withholdings. For purposes of section (10)(d) of this rule, "labor organization" means any organization that has, as one of its purposes, representing employees in their employment relations.

(A) SPD will deduct from the Homecare Worker's monthly salary or wages the specified amount for payment to a labor organization.

(B) In order to receive this payment, the labor organization must enter into a written agreement with SPD to pay the actual administrative costs of the deductions.

(C) SPD will pay the deducted amount monthly to the designated labor organization.

(e) State and Federal Income Tax Withholding.

(A) SPD will withhold state and federal income taxes on all payments to Homecare Workers, as indicated in the Home Care Commission's Collective Bargaining Agreement with the Service Employee's International Union.

(B) Homecare Workers must complete and return a current Internal Revenue Service W-4 form to the local office. SPD will apply standard income tax withholding practices in accordance with the Code of Federal Regulations, Title 26, Part 31 (26 CFR 31).

(11) Homecare Worker Expenses Secondary to Performance of Duties.

(a) Providers may be reimbursed at \$0.485 cents per mile effective October 1, 2007 when they use their own car for service plan related transportation, if prior authorized by the Case Manager. If unscheduled transportation needs arise during non-office hours, an explanation as to the need for the transportation must be provided and approved prior to reimbursement.

(b) Medical transportation through the DHS, Division of Medical Assistance Programs (DMAP), volunteer transportation, and other transportation services included in the service plan will be considered a prior resource.

(c) DHS is not responsible for vehicle damage or personal injury sustained while using a personal motor vehicle for DMAP or service plan-related transportation, except as may be covered by workers' compensation.

(12) Workers' Compensation and health insurance are available to eligible Homecare Workers as defined in the 2007-2009 Home Care Commission's Bargaining Agreement with the Service Employee's International Union. In order to receive Homecare Worker services, the Client-Employer must provide written authorization and consent to SPD for the provision of workers' compensation insurance for their employee.

(13) OVERPAYMENTS.

(a) An overpayment is any payment made to a Homecare Worker by SPD that is more than the person is authorized to receive.

(b) Overpayments are categorized as follows:

(A) Administrative Error Overpayment. Occurs when SPD failed to authorize, compute or process the correct amount of in-home service hours or wage rate.

(B) Provider Error Overpayment. Occurs when SPD overpays the Homecare Worker due to a misunderstanding or unintentional error.

(C) Fraud Overpayment. "Fraud" means taking actions that could result in receiving a benefit in excess of the correct amount, whether by intentional deception, misrepresentation or failure to account for payments or money received. "Fraud" also means spending payments or money the provider was not entitled to and any act that constitutes fraud under applicable federal or state law (including 42 CFR 455.2). SPD will determine, based on a preponderance of the evidence, when fraud has resulted in an overpayment. The Department of Justice, Medicaid Fraud Unit will determine when a Medicaid Fraud allegation will be pursued for prosecution.

(c) Overpayments are recovered as follows:

(A) Overpayments will be collected prior to garnishments, such as child support, Internal Revenue Service back taxes, and educational loans.

(B) Administrative or provider error overpayments will be collected at no more than 5 percent of the Homecare Worker's gross wages.

(C) Fraud Overpayments. SPD will determine when a fraud overpayment has occurred and the manner and amount to be recovered.

(D) Providers no longer employed as Homecare Workers, will have any remaining overpayment deducted from their final check. The provider is responsible for repaying the amount in full when the final check is insufficient to cover the remaining overpayment.

Stat. Auth.: ORS 409.050, 410.090

Stats. Implemented: ORS 410.010, 410.020, 410.070, 410.612 & 410.614

Hist.: SPD 17-2004, f. 5-28-04, cert. ef. 6-1-04; SPD 40-2004(Temp), f. 12-30-04, cert. ef. 1-1-05 thru 6-30-05; SPD 10-2005, f. & cert. ef. 7-1-05; SPD 15-2006, f. 4-26-06, cert. ef. 5-1-06; SPD 28-2006(Temp), f. 10-18-06, cert. ef. 10-23-06 thru 4-20-07; SPD 4-2007, f. 4-12-07, cert. ef. 4-17-07; SPD 18-2007(Temp), f. 10-30-07, cert. ef. 11-1-07 thru 4-29-08

Rule Caption: Registration and Standards for Adult Day Services Programs.

Adm. Order No.: SPD 19-2007

Filed with Sec. of State: 11-7-2007

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Rules Adopted: 411-066-0015

Rules Amended: 411-066-0000, 411-066-0005, 411-066-0010, 411-066-0020

Rules Repealed: 411-066-0000(T), 411-066-0005(T), 411-066-0010(T), 411-066-0015(T), 411-066-0020(T)

Subject: The Department of Human Services, Seniors and People with Disabilities Division is permanently adopting the May 15, 2007 temporary rules in chapter 411, division 066 related to registration and certification standards for adult day services programs.

Rules Coordinator: Christina Hartman—(503) 945-6398

411-066-0000

Statement of Purpose

Adult day services are community-based group programs designed to meet the service needs of seniors and people with disabilities in a structured non-residential setting. These rules create a registry of adult day services programs and describe the process and criteria for listing on the registry. These rules also allow state certification of Medicaid contracted adult day services programs. Certification by the Department of Human Services, Seniors and People with Disabilities Division is intended to fulfill the Centers for Medicare and Medicaid Services (CMS) requirements of "state certified" adult day service programs with the purpose of continuing eligibility criteria for Medicare beneficiaries. The criteria for state certification are defined in these rules.

ADMINISTRATIVE RULES

Stat. Auth.: ORS 410.070, 410.490 & 410.495
Stats. Implemented: ORS 410.485 - 410.495
Hist.: SSD 12-1992, f. & cert. ef. 12-1-92; SDDS 4-1999, f. & cert. ef. 3-15-99; SPD 6-2007(Temp), f. & cert. ef. 5-15-07 thru 11-11-07; SPD 19-2007, f. & cert. ef. 11-7-07

411-066-0005

Definitions

(1) "Activities of Daily Living (ADL)" means those personal, functional activities required by an individual for continued well-being, which are essential for health and safety. Activities consist of Eating, Dressing/Grooming, Bathing/Personal Hygiene, Mobility (ambulation and transfer), Elimination (toileting, bowel and bladder management), and Cognition/Behavior as defined in OAR 411-015-0006.

(2) "Adult Day Services (ADS) Program" means a community-based group program designed to meet the needs of adults with functional impairments through service plans. These structured, comprehensive, non-residential programs provide health, social and related support services in a protective setting during part of a day, but for less than 24 hours per day.

(3) "Assistant Director" means the Assistant Director of the Department of Human Services, Seniors and People with Disabilities Division, or that person's designee.

(4) "Certification" means to certify the individual adult day services program by measuring the ability of the adult day services program to meet the Department of Human Services, Seniors and People with Disabilities Division standards as set forth in these rules.

(5) "DHS" means the Department of Human Services.

(6) "Group" means:

(a) A program with ten or more enrolled participants;

(b) Adult day services programs just beginning, with plans to enroll ten or more participants; or

(c) The enrolled participants in a certified adult day services program.

(7) "Long-Term Care Facilities (LTC)" means nursing facilities, residential care facilities, assisted-living facilities and adult foster homes.

(8) "Registry" means the registration database of all adult day services programs maintained by the Department of Human Services, Seniors and People with Disabilities Division.

(9) "SPD" means the Seniors and People with Disabilities Division, within the Department of Human Services.

Stat. Auth.: ORS 410.070, 410.490 & 410.495

Stats. Implemented: ORS 410.485 - 410.495

Hist.: SSD 12-1992, f. & cert. ef. 12-1-92; SDDS 4-1999, f. & cert. ef. 3-15-99; SPD 6-2007(Temp), f. & cert. ef. 5-15-07 thru 11-11-07; SPD 19-2007, f. & cert. ef. 11-7-07

411-066-0010

Registration

(1) All ADS programs that voluntarily provide SPD with the information described in section (2) of this rule will be placed on SPD's ADS registry.

(2) Information on the registry must include, but is not limited to:

(a) The name and address of the ADS program; and

(b) A checklist to determine the extent to which each ADS program is voluntarily complying with the standards set forth in OAR 411-066-0020.

Stat. Auth.: ORS 410.070, 410.490 & 410.495

Stats. Implemented: ORS 410.485 - 410.495

Hist.: SSD 12-1992, f. & cert. ef. 12-1-92; SDDS 4-1999, f. & cert. ef. 3-15-99; SPD 6-2007(Temp), f. & cert. ef. 5-15-07 thru 11-11-07; SPD 19-2007, f. & cert. ef. 11-7-07

411-066-0015

Certification

ADS programs that contract with SPD to provide services must be certified.

(1) INITIAL CERTIFICATION.

(a) To receive SPD certification and be eligible for a DHS Medicaid contract, ADS programs must complete the certification process that includes the following:

(A) Contacting SPD to schedule an initial certification on-site visit;

(B) Provision of a cover letter detailing qualifications and specific experience in delivering adult day services (at least six months in Oregon);

(C) Completion of an Adult Day Services Medicaid Provider Application;

(D) Completion of the ADS self assessment demonstrating the program meets the standards for adult day services in OAR 411-066-0020;

(E) Completion of a cost justification for the purpose of establishing a state contracted daily rate; and

(F) Participation in a follow-up on-site inspection by a representative(s) of SPD.

(b) SPD will complete an on-site certification assessment form after the visit, citing standards as "met" or "unmet".

(c) If all standards are met, SPD will certify the ADS program.

(d) If any of the standards are unmet, the application for certification will be denied. The ADS program may bring the unmet standards into compliance and request that SPD complete a site certification reassessment. A request for a site certification reassessment must be made within 30 calendar days after denial. If the request for the site certification reassessment is more than 30 calendar days, the ADS program will be required to resubmit the information in sections (1)(a)(B) through (1)(a)(F) of this rule.

(e) If the denial is upheld after a site certification reassessment, the ADS program may request an informal conference in writing within ten business days of receipt of the denial notice. Within ten business days of receipt of the request for an informal conference, the Assistant Director will review all material relating to the denial of the certification. The Assistant Director will determine, based on a review of the material, whether to uphold the denial. If the Assistant Director does not sustain the decision, certification will be granted immediately. The decision of the Assistant Director is subject to a contested case hearing under ORS 183.413 to 183.470 if requested within 90 days.

(2) MAINTAINING CERTIFICATION. Certification for an adult day services program may continue for up to two years from the effective date as long as the ADS program complies with the standards for certification as established in OAR 411-066-0020.

(a) Ninety-days prior to certification ending, ADS programs renewing certification and their DHS Medicaid contract must:

(A) Complete an Adult Day Services Medicaid Provider Application;

(B) Complete an ADS self assessment demonstrating the program meets the standards for adult day services in OAR 411-066-0020; and

(C) Participate in a follow-up on-site inspection by a representative(s) of SPD.

(b) SPD will complete an on-site certification assessment form after the visit, citing standards as "met" or "unmet".

(c) If all standards are met, SPD will notify the ADS program that certification will be renewed.

(d) If any of the standards are unmet, the ADS program must develop and submit to SPD, within seven calendar days, a written plan of action to comply with the standards. Depending upon the nature of the inadequacy, SPD may perform a follow-up inspection to confirm compliance. SPD may immediately suspend certification for threat to the participant's health, safety, welfare, or failure to comply with the standards.

(e) If the written plan of action is not accepted in full, or the follow-up inspection reveals non-compliance, SPD may deny, revoke or refuse to renew the certification and contract. The ADS program will be notified in writing of the decision.

(f) If the denial or revocation is upheld after reviewing the plan of action, or follow-up inspection, the ADS program may request an informal conference in writing within ten business days of receipt of the notice. Within ten business days of receipt of the request for the informal conference, the Assistant Director will review all material relating to the denial notice. The Assistant Director will determine, based on a review of the material, whether to uphold the denial or revocation. If the Assistant Director does not sustain the decision, certification will be granted immediately. The decision of the Assistant Director is subject to a contested case hearing under ORS 183.413 to 183.470 if requested within 90 days.

(3) SPD may perform an unannounced on-site certification review at anytime during the certification period to assure quality and safety standards continue to be met.

Stat. Auth.: ORS 410.070, 410.490 & 410.495

Stats. Implemented: ORS 410.485 - 410.495

Hist.: SPD 6-2007(Temp), f. & cert. ef. 5-15-07 thru 11-11-07; SPD 19-2007, f. & cert. ef. 11-7-07

411-066-0020

Standards for Adult Day Services Programs

(1) SERVICE PLANS. For each participant, the ADS program must have a service plan based on services needed and the ADS program's ability to provide those services. The service plan must include the following:

(a) Intake Screening. The intake screening must be completed by the ADS prior to admission in order to determine the appropriateness of the ADS program for the participant and to determine that the participant's needs are within the scope of the ADS program.

(b) Application. An application or enrollment agreement must be completed and include:

(A) Applicant's personal identifying information;

(B) Information regarding health, safety and emergency needs;

(C) Identification of services to be provided;

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(D) A disclosure statement that describes the ADS program's range of care and services;

(E) Criteria for admission and discharge; and

(F) Fees and arrangements for payment, including insurance coverage or other payment sources.

(c) Assessment. A written assessment of the participant must include functional abilities and disabilities, strengths and weaknesses, personal habits, preferences and interests, likes and dislikes, medical condition, medications, personal care, assistance required with activities of daily living, a statement on the ability to live independently, and any other information helpful to developing the service plan, such as life history.

(d) Written Service Plans. The service plan, which is based on the assessed needs, strengths, and abilities, must include realistic objectives that are both long-term and short-term. The service plan must also:

(A) Specify number of days per week of attendance;

(B) Define the services to be provided;

(C) Explain how the service will meet the assessed need; and

(D) Identify staff responsible for providing or monitoring service delivery.

(e) Coordination of Care. The need for coordination of care must be considered for each participant. If coordination of care is needed and the participant is receiving services from another agency or resides in a community based care setting, the ADS service plan should be developed to acknowledge and not duplicate the services provided by that agency or facility.

(f) Service Documentation and Reassessment. Progress notes on each participant must be written at least quarterly and must reflect a review of the service plan and the participant's status in regard to the services. Reassessing the participant's needs and reevaluating the appropriateness of the service plan must be completed not less than semiannually. A reassessment of the participant's needs and service plan must also be completed as needed when significant changes occur in the participant's functional ability, service needs, health status, or living situation.

(2) PARTICIPANT RECORDS.

(a) All ADS programs must maintain a current roster of all participants with dates of admission and discharge. The ADS programs must also accurately record daily attendance documenting the time the participant is in attendance at the ADS program. This does not include transportation to and from the ADS program site.

(b) All ADS programs must maintain an individual file on each participant containing the following:

(A) Intake screening and application forms;

(B) Photograph of participant and statement of use, with a signed release by the individual or guardian;

(C) Medical history. The ADS program must submit a request to the participant's physicians or primary care provider requesting pertinent medical information to assist in developing a service plan;

(D) Nutritional status assessment including medically prescribed dietary needs;

(E) Service plans including information found in section (1) of this rule;

(F) Correspondence;

(G) Transportation Plans. Transportation plans must specify the arrangements for transportation to and from the ADS program. The plan must identify the transportation service provider;

(H) Physician's name and contact information;

(I) Hospital's name and contact information;

(J) A list of the participant's medication;

(K) The ADS program's progress notes;

(L) Advance health care directive form, if the participant has completed a directive;

(M) A Physician's Order for Life Sustaining Treatment (POLST) or a statement that none has been signed, or a completed form developed by the ADS program to document resuscitation status; and

(N) Emergency contact information with at least two contacts (i.e. the participant's designated representative and others as indicated).

(c) The ADS program must retain clinical records for seven years and financial and other records for at least five years from the date(s) of service.

(3) SERVICES. ADS programs must make services identified in the service plan available to the participant. ADS programs must make the following services available:

(a) ADL Assistance. This includes assistance and supervision with activities of daily living.

(b) Social Services. The following social services, if identified on the services plan, must be provided to participants:

(A) Providing resources for mental health counseling within the community;

(B) Providing resources for other community services;

(C) Advocating for the participant's human and civil rights;

(D) Assessing for indicators of physical illness or disabilities and making recommendations and providing resources within the community;

(E) Assessing for indicators of mental illness or dementia and making recommendations and providing resources for diagnosis;

(F) Providing discharge planning and assisting in the transition; and

(G) Providing information and resources for persons not appropriate for adult day services.

(c) Nutrition Services. ADS programs must screen and assess participants for nutrition needs and must provide or refer within the community for nutrition services as appropriate.

(d) Food Services. ADS programs must provide those participants that are present at a typical mealtime with a minimum of one meal per day unless contraindicated by a health condition or by cultural or religious preference. The meal must meet the adult daily nutritional requirement as established by state and federal regulations. Documentation of the food served at meals must be kept in the ADS program's files for up to six months. Nourishing snacks must be available to participants between meals.

(e) Therapeutic Activities. ADS programs must take into consideration participant differences in age, health status, sensory deficits, needs, interests, abilities, and skills by providing opportunities for a variety of activities while encompassing different levels of involvement. The activity plan must be an integral part of the service plan based on the interests, needs, and abilities of the participant. The activities may include social, intellectual, cultural, emotional, physical and spiritual activities.

(f) Health-Related Services. ADS programs must provide health care coordination, prevention and education. Services, as appropriate to the participant, may include a health assessment, nursing consultation services and restorative therapy.

(g) Transportation. ADS programs must provide resources for transportation to enable persons, including persons with disabilities, to attend the ADS program. The ADS program must provide, arrange or contract for transportation to enable participants to attend ADS program-sponsored outings.

(h) Emergency Response for Participants. ADS programs must have a written procedure for handling participant, as well as facility-wide medical emergencies. This documentation must include procedures for notification, transportation arrangements and provision for escorts, if necessary. This provision, along with the participant's medical information, must be reviewed semiannually and kept in the participant's record.

(i) Resources. Guidance to locate resources must be made available to the families or caregivers and participants to enhance the general well-being and improve the level of independence of the participant.

(4) PHYSICAL DESIGN, ENVIRONMENT AND SAFETY.

(a) The facility housing the ADS program must comply with applicable state and local building regulations, zoning, fire and health codes or ordinances.

(b) The facility must be designed in such a way that it is accessible and functional in meeting the identified needs of the population it serves in accordance with the Americans with Disabilities Act.

(c) Each physical location must develop, maintain, update and enforce an emergency plan for the protection of all persons in the event of an emergency. The written emergency plan must address fire and natural and human caused events identified as a significant risk for the facility and locality. The written emergency plans must specify how the ADS program will notify participants and contacts of closure.

(d) The facility must have a minimum of one toilet per ten participants in an accessible bathroom. Each bathroom must be equipped with a sink, grab bars and call system appropriate to the population served. The participant's privacy and comfort must be considered in developing procedures for incontinence care. Bathrooms and fixtures must function properly and must be maintained in a sanitary and odor free condition.

(e) Each bathroom must contain an adequate supply of liquid hand soap, toilet tissue, and paper hand towels with dispenser or an electrical hand dryer. Common towels are not allowed.

(f) There must be a minimum of 60 square feet of common floor space per participant. (The square footage excludes hallways, offices, restrooms, and storage spaces.) ADS programs serving participants, of which 25 percent or more are cognitively impaired or require the use of adaptive equip-

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ment, must provide at least 80 square feet of common floor space per participant.

(g) The physical building, premises, and equipment must be maintained in a clean and sanitary condition, free of hazards and in good repair.

(h) Outside space that is used for outdoor activities must be safe, accessible to indoor areas and accessible to those with a disability.

(i) Heating, cooling, ventilation and lighting must be appropriate for the age and physical condition of the participants to provide for their health and safety.

(j) Flooring must be easily cleaned and made of a nonskid material. Stairways must have handrails and the stairs must be covered with nonskid material.

(k) There must be sufficient private space for the provision of confidential staff consultation with the participant, and nursing or therapy services if provided.

(l) There must be provisions for the participant to rest.

(m) There must be an accessible telephone available for use by participants.

(n) Storage space must be provided for files, records, recreational and cleaning supplies.

(o) Sufficient furniture for the entire participant population must be of sturdy construction that will not easily tip over or move when used for seating or support while walking. The furniture must be safe and comfortable.

(p) Safe drinking water must be readily available to participants at all times, as well as a supply of safe drinking water as part of the program's emergency disaster plan. Disposable paper cups, individual drinking cups or drinking fountain must be provided.

(q) ADS programs that dispense medications must designate a secured area for storing labeled medication away from the participant activity area. Each ADS program must have a written policy for medication management and must designate which staff are trained and authorized to administer medications. The medication management policy, which includes the training program, must be approved by a Registered Nurse or Pharmacist. ADS programs must only dispense physician approved medications.

(r) ADS programs must provide a safe and sanitary environment. This includes food services, general maintenance and cleaning, sewage disposal, infection control, and standard precautions.

(A) Food Services. In order to assure the provision of safe food, all facilities serving 16 or more persons must meet the minimum requirements as outlined in the DHS, Public Health Division's Food Sanitation Rules, OAR chapter 333, division 150. Facilities serving 15 or fewer persons or a facility that purchases meals from an outside meal source or prepare meals must meet the minimum requirements of the Food Sanitation Rules relating to the preparation, storage, and serving of food. Facilities serving 15 or fewer persons are not required to use commercial equipment.

(B) Garbage and Refuse. Garbage and refuse containers must be insect-proof, rodent-proof, leak-proof and nonabsorbent. Garbage and refuse must be removed at least once a week from the premises or more often if needed to prevent odors and attraction of insects, rodents and other animals. Items being recycled must be clean and pending removal, stored in a manner that does not present rodent harborage or insect breeding. Recycled items must be stored separately from food supplies and food preparation equipment.

(C) Cleaning and Maintenance. The facility must be kept clean, safe and in good repair. In facilities serving 16 or more persons, a utility sink must be provided.

(D) Sewage Disposal. If a community disposal system is available it must be utilized by the facility. If a septic system is utilized, it must be properly operating and meet code requirements.

(E) Infection Control. Local health department standards must be met regarding communicable diseases.

(F) Smoking. If permitted, smoking must be supervised in an outdoor, adequately ventilated and designated area away from the main ADS program.

(G) Standards of Precautions. Written procedures for the safe handling of soiled items minimizing the potential for the spread of communicable diseases must be established. Such procedures must include:

(i) Soiled item disposal and storage;

(ii) Hand washing;

(iii) Sanitizing of contaminated surfaces; and

(iv) Preventing contamination.

(5) EMERGENCY STANDARDS.

(a) ADS programs must adopt and implement emergency policies and procedures.

(b) The ADS program's emergency plan must be posted and provide the locations of fire extinguishers and exit routes.

(c) Staff must be trained in evacuation procedures and major emergency plans as part of their initial orientation and ongoing training.

(d) Records for fire and evacuation drills must be kept as a part of the ADS program's plan. Fire and evacuation drills must be held at least once every six months.

(e) A fire warning system must be installed in all adult day services facilities to insure the safety of the participants and the staff.

(f) At least one fire extinguisher classed as 2A-10BC must be visible and readily accessible.

(g) Written protocol regarding sick or injured participants must be developed and given to participants, family and care providers upon admission.

(h) Emergency first aid kits must be visible and accessible to staff. Personnel trained in first aid and CPR must be on duty whenever participants are present.

(i) At least two well-identified exits must be available.

(6) STAFFING REQUIREMENTS.

(a) All employees and volunteers must comply with the criminal history check rules in OAR 407-007-0200 through 407-007-0380. There must be written procedures to evaluate and determine employment status based on criminal findings.

(b) Each staff person and volunteer must be competent and qualified for the position held. Qualified means education or experience dealing with the adult day services population. Staff must hold personal information about participants and their families in confidence, treating all participants with respect and dignity.

(c) ADS programs must assure that employees and volunteers comply with standards for tuberculosis testing and hepatitis immunization specified by the local public health department.

(d) The staff to participant ratio must be a minimum of one staff person to six participants (1 to 6). ADS programs serving over 50 percent of participants who require full assistance with three or more activities of daily living must have a staff to participant ratio of one to four (1 to 4).

(e) Each ADS program that is located within the same facility as another program, (e.g. a hospital, nursing facility, senior center, church or community based care facility) must be separate and distinct with designated staff and staff hours committed to the ADS program.

(f) To insure adequate care and safety of participants, there must be provisions and identified resources for qualified substitute staff.

(g) Staff must have sufficient knowledge to provide essential services to the participants. There must be at least one staff person or combination of staff on duty at all times who are knowledgeable of:

(A) The fire, safety and disaster plan;

(B) Infection control;

(C) CPR and first aid;

(D) Body mechanics and transfer techniques;

(E) Personal care;

(F) Mandatory reporting laws of abuse and neglect;

(G) Managing behavioral symptoms; and

(H) The needs of the participants.

(h) Volunteers can be included in the staff ratio only when they conform to the same standards and requirements as paid staff, meet the job qualifications, have designated responsibilities, a signed written job description and documentation of volunteers' schedule in the facility.

(i) There must be general orientation and continued in-service training for both paid staff and volunteers including, but not limited to:

(A) Program mission and philosophy;

(B) Mandatory reporting laws of abuse and neglect and indicators of abuse;

(C) Behavioral intervention and behavior acceptance and accommodations;

(D) Standard precautions;

(E) Participant rights;

(F) Fire, safety, disaster plan and emergency procedures;

(G) Body mechanics and transfer techniques; and

(H) Assistance with ADLs.

(7) ADMINISTRATION.

(a) Plan of Operation. Each ADS program must develop and implement a plan of operation. The plan of operation must be reviewed and, if necessary, revised annually. The plan must include:

(A) A definition of the target population;

(B) Geographical definition of the service area;

(C) Description of basic services and any optional services;

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- (D) Hours and days of operation;
- (E) Admission and discharge policies and procedures;
- (F) Staffing;
- (G) Statement of participants' rights and grievance procedure;
- (H) Rates;
- (I) Procedures for reporting suspected abuse; and
- (J) A written policy for dealing with lost or wandering participants

must be developed and some type of identification for participants who wander must be provided.

(b) Advisory Committee. An ADS program must have a body that serves as an advisory committee. Members of the advisory committee must be representative of the community and must include family members of current or past participants and non-voting staff representatives. The advisory committee must meet at least twice a year and must have an opportunity, at least annually, to review and make recommendations on program policies. Agendas and minutes must be on file at the ADS program site.

(c) Discharge and Grievance Policy.

(A) The ADS program must develop a participant discharge policy that includes at a minimum:

- (i) Time frame for termination;
- (ii) Criteria for discharge;
- (iii) Notification procedures;
- (iv) Appeal policy; and
- (v) End of service. When possible, the ADS program must provide referrals or resources to the participant for services from other organizations whether the discharge was voluntary or involuntary.

(B) The discharge notification must include reasons for discharge and a discharge summary. Each participant, family or caregiver must receive a minimum of two weeks' notice. Notice may be issued with less than two weeks advance notice when the participant presents imminent danger to other participants or his or herself, or when the service needs have increased to the level at which the ADS program can no longer meet the participant's needs safely or adequately.

(C) A grievance policy for resolving participants' concerns, complaints or discharge from the ADS program must be developed and include, but not limited to, process and time frames, a written response to the participant and a written record of the grievance to be filed at the facility.

(d) Program Evaluation. As part of the quality assurance plan, the ADS program must develop policies and procedures for evaluating operation and services. The plan must include a survey of employees, participants, families or services providers and referral services discussing all aspects of the ADS program. The ADS program must determine further action to ensure continuous improvement in service delivery. A written report summarizing the annual evaluation findings, with implementation or correction time tables must be posted for review, provided to the ADS program's advisory committee, and the state's ADS program coordinator, as well as maintained as part of the facilities permanent record.

(e) Personnel Policies and Practices. The ADS program must have written personnel policies for both staff and volunteers.

(f) General Records Policies. The ADS program must have a records policy for administrative records and participants' records.

(A) The ADS programs must maintain administrative records which include personnel records, fiscal records, statistical reports, government-related records, contracts, organizational records, quality improvement plans or quality assurance plans, advisory committee minutes, certificates of annual fire and health inspections as required by local ordinances, and incident reports.

(B) The ADS programs must develop a written policy on confidentiality and the protection of participants' records. The policy must define procedures for the use and removal of:

- (i) Participants' records;
- (ii) Conditions for the release of information; and
- (iii) Conditions that require authorization in writing by the participant or his/her legally responsible person, for the release of information, not otherwise authorized by law.

Stat. Auth.: ORS 410.070, 410.490 & 410.495

Stats. Implemented: ORS 410.485 - 410.495

Hist.: SSD 12-1992, f. & cert. ef. 12-1-92; SDD 4-1999, f. & cert. ef. 3-15-99; SPD 6-2007(Temp), f. & cert. ef. 5-15-07 thru 11-11-07; SPD 19-2007, f. & cert. ef. 11-7-07

Department of Justice Chapter 137

Rule Caption: Corrects Cite Reference in Model Rule and Sentence Structure by Adding Word "By" Before Cite.

Adm. Order No.: DOJ 12-2007
Filed with Sec. of State: 10-30-2007
Certified to be Effective: 11-2-07
Notice Publication Date: 10-1-2007
Rules Amended: 137-003-0635

Subject: OAR 137-003-0635(3) is amended to correct a cite reference in that subsection from OAR 137-003-0520(3) to read OAR 137-003-0520. The amendment also inserts the word "by" before the corrected cite reference, which was omitted in a previous amendment to the rule.

Rules Coordinator: Carol Riches—(503) 947-4700

137-003-0635

Transmittal of Questions to the Agency

(1) Questions regarding the following issues may be transmitted to the agency:

- (a) The agency's interpretation of its rules and applicable statutes; or
- (b) Which rules or statutes apply to a proceeding.

(2) At the request of a party, the agency, or their representatives, or on the administrative law judge's own motion, the administrative law judge may transmit a question to the agency unless the agency by rule or in writing elects not to make available this process for transmittal of questions to the agency.

(3) The administrative law judge shall submit any transmitted question in writing to the agency. The submission shall include a summary of the matter in which the question arises and shall be served on the agency representative and parties in the manner required by OAR 137-003-0520.

(4) The agency may request additional submissions by a party or the administrative law judge in order to respond to the transmitted question.

(5) Unless prohibited by statute or administrative rules governing the timing of hearings, the administrative law judge may stay the proceeding and shall not issue the proposed order or the final order, if the administrative law judge has authority to issue the final order, until the agency responds to the transmitted question.

(6) The agency shall respond in writing to the transmitted question within a reasonable time and the response shall be made a part of the record of the contested case hearing. The agency's response may be to decline to answer the transmitted question. The agency shall provide its response to the administrative law judge and to each party. The parties may reply to the agency's response within a reasonable time.

Stat. Auth.: ORS 183.341

Stats. Implemented: ORS 183.341 & OL 1999, Ch. 849

Hist.: DOJ 10-1999, f. 12-23-99, cert. ef. 1-1-00; DOJ 9-2001, f. & cert. ef. 10-3-01; DOJ 19-2003, f. 12-12-03, cert. ef. 1-1-04; DOJ 11-2005, f. 10-31-05, cert. ef. 1-1-06; DOJ 12-2007, f. 10-30-07, cert. ef. 11-2-07

Department of Public Safety Standards and Training Chapter 259

Rule Caption: Adopt Contested Case Hearing Notice and Process when waiver of any physical requirement is denied.

Adm. Order No.: DPSST 13-2007(Temp)

Filed with Sec. of State: 11-1-2007

Certified to be Effective: 11-1-07 thru 4-18-08

Notice Publication Date:

Rules Amended: 259-008-0010

Subject: Establishes a Contested Case Hearing Process if the Board denies a request for a waiver of any physical requirement set forth in OAR 259-008-0010.

Rules Coordinator: Bonnie Salle—(503) 378-2431

259-008-0010

Minimum Standards for Employment as a Law Enforcement Officer

(1) Citizenship.

(a) A person may not be employed as a corrections officer for more than one year unless the person is a citizen of the United States.

(b) A person may not be employed as a police or parole and probation officer for more than 18 months unless the person is a citizen of the United States.

(2) Age. No law enforcement unit in this state shall employ as a police officer, corrections officer or parole and probation officer, any person who has not yet attained the age of 21 years.

(3) Fingerprints. On or within 90 days prior to the date of employment, each police, corrections, or parole and probation officer shall be fingerprinted on standard applicant fingerprint cards. The hiring agency is

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responsible for fingerprinting and shall forward two (2) cards to the Oregon State Police Identification Services Section for processing and assignment of identification number.

(a) Applicant's fingerprints will be retained and kept on file with the Oregon State Police Identification Services Section.

(b) The Oregon State Police Identification Services Section will notify the Department and the employing agency of any criminal record disclosed through processing the applicant's fingerprint card.

(c) If any procedural change is made by either the Federal Bureau of Investigation or the Oregon State Police Identification Services Section the Department shall comply with the most current requirements.

(d) If the fingerprint clearance has not been obtained prior to submission of the application for certification, a criminal history affidavit provided by the Department shall be completed and returned to the Department by the applicant pending fingerprint clearance.

(4) Criminal Records. No police, corrections, or parole and probation officer shall have been convicted:

(a) In this state or any other jurisdiction, of a crime designated under the law where the conviction occurred as being punishable as a felony or as a crime for which a maximum term of imprisonment of more than one (1) year may be imposed;

(b) Of violating any law involving the unlawful use, possession, delivery, or manufacture of a controlled substance, narcotic, or dangerous drug;

(c) In this state of violating any law subject to denial or revocation as identified in OAR 259-008-0070 or has been convicted of violating the statutory counterpart of any of those offenses in any other jurisdiction.

(5) Notification of Conviction:

(a) A law enforcement officer, instructor, telecommunicator, or EMD who is convicted of a crime, as identified in OAR 259-008-0070, while employed by a public or private safety agency must notify the agency head within 72 hours of the conviction.

(b) When an agency receives notification of a conviction from its employee, or another source, they must notify the Department within five (5) business days. The notification to the Department must be in writing and include the specific charges of the conviction, the county and state where the conviction occurred, the investigating agency and the date of the conviction.

(6) Moral Fitness (Moral Character). All law enforcement officers must be of good moral fitness as determined by a thorough background investigation.

(a) For purposes of this standard, lack of good moral fitness means conduct not restricted to those acts that reflect moral turpitude but rather extending to acts and conduct which would cause a reasonable person to have substantial doubts about the individual's honesty, fairness, respect for the rights of others, or for the laws of the state or the nation.

(b) The following are indicators of a lack of good moral fitness:

(A) Illegal conduct involving moral turpitude;

(B) Conduct involving dishonesty, fraud, deceit, or misrepresentation;

(C) Intentional deception or fraud or attempted deception or fraud in any application, examination, or other document for securing certification or eligibility for certification;

(D) Conduct that is prejudicial to the administration of justice;

(E) Conduct that adversely reflects on his or her fitness to perform as a law enforcement officer. Examples include but are not limited to: Intoxication while on duty, untruthfulness, unauthorized absences from duty not involving extenuating circumstances, or a history of personal habits off the job which would affect the officer's performance on the job which makes the officer both inefficient and otherwise unfit to render effective service because of the agency's and/or public's loss of confidence in the officer's ability to perform competently.

(c) If reliable evidence is received by the Board or Department that a law enforcement officer lacks good moral fitness, a rebuttable presumption will be raised that the law enforcement officer does not possess the requisite moral fitness to be a law enforcement officer. The burden shall be upon the law enforcement officer to prove good moral fitness.

(7) Education:

(a) Applicants for the position of a law enforcement officer will be required to furnish documentary evidence of one of the following:

(A) High School diploma; or

(B) Successful completion of the General Educational Development (GED) Test.

(i) For the purpose of determining high school graduation level as required by these rules, the applicant must have achieved a score no less

than that required by the Oregon Board of Education before issuing an Oregon GED certificate.

(ii) Applicants holding a GED from another state may be required to obtain an Oregon certificate at the discretion of the Department.

(b) Evidence of the above shall consist of official transcripts, diplomas, or GED test report forms. Other documentation may be accepted, at the discretion of the Department.

(c) Reading and Writing Standard. Before beginning basic police training, challenging basic police training, or beginning the police career officer development course, each applicant shall provide evidence to DPSST that the applicant has attained a minimum of a 12th grade reading and writing level in the English language. The hiring agency is responsible for administering a reading and writing instrument, approved by DPSST, and shall forward the results to DPSST on an application for training (Form F-5) prior to the applicant being admitted to basic police training. Implementation of this rule will take effect within one year from September 1, 2001.

(8) Physical Examination. All law enforcement officers and applicants must be examined by a licensed physician or surgeon.

(a) The medical examination shall be completed not more than 180 days prior to initial offer of employment, nor more than 90 days after initial offer of employment, and shall conform to applicable standards of the Americans with Disabilities Act (ADA). Title 42 USC 12101.

(b) Individuals who have had a successfully completed physical examination (while at the same employer) and are selected for a certifiable position in a discipline in which the individual is not yet certified must complete and pass a new physical examination.

(c) The Department will not require a new physical examination when a law enforcement officer obtains employment, or re-employment, in the same discipline if the officer:

(A) Has had a successfully completed a physical examination, and

(B) Is currently certified; or

(C) Is an officer currently employed full-time in another jurisdiction who has successfully completed a comparable physical examination in that jurisdiction.

(d) Notwithstanding subsection (c), a medical examination may be required by a hiring agency at its discretion.

(e) Police, Corrections, and Parole and Probation applicants must meet the following criteria:

(A) Visual Acuity. Corrected vision must be at least 20/30 (Snellen) in each eye. Due to the demonstrated likelihood of dislodgment or breakage, candidates who are able to wear only glasses with frames must meet an uncorrected standard not worse than 20/100 (Snellen) in each eye. Those candidates who use soft contact lenses (SCLs) must have vision correctable to at least 20/30 in each eye, with no uncorrected standard, provided the employing agency will monitor compliance. Replacement glasses or lenses (as appropriate) must be on the person or readily available at all times during each work shift.

(B) Color Vision. Red or green deficiencies may be acceptable, providing the applicant can read at least nine (9) of the first thirteen (13) plates of the Ishihara Test (24 Plate Edition). Applicants who fail the Ishihara test can meet the color vision standard by demonstrating that they can correctly discriminate colors via a field test conducted by the employer and approved by DPSST.

(C) Depth Perception. Depth Perception must be sufficient to demonstrate stereopsis adequate to perform the essential tasks of the job. The recommended test is the Random Stereo Test with 60 seconds of arc.

(D) Peripheral Vision. Visual Field Performance must be 140 degrees in the horizontal meridian combined.

(E) Night Blindness. A history of night blindness should be evaluated to determine applicant's capacity to perform essential tasks at night or in dark or low light settings.

(f) Applicants for the position of police or corrections officer must have sufficient hearing in both ears to perform essential tasks without posing a direct threat to themselves or others. The applicant must have no average loss greater than 25 decibels (db) at the 500, 1,000, 2,000 and 3,000-Hertz levels in either ear with no single loss in excess of 40 db.

(g) Applicants for the position of parole and probation officer must have sufficient hearing in both ears to perform essential tasks without posing a direct threat to themselves or others. The applicant must have no average loss greater than 35 decibels (db) at the 500, 1000, 2000, and 3000 Hertz levels in either ear with no single loss in excess of 45 db.

(h) If amplification device(s) is (are) necessary to meet the criteria in (f) or (g) above, or if applicant cannot meet the above criteria and wishes to pursue application, applicant must:

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(A) Obtain a hearing evaluation by a licensed audiologist or otorhinolaryngologist (ear, nose, throat) to determine current hearing aid requirement; and

(B) Achieve a Speech Reception Threshold (SRT) of no greater than 25 db for each ear;

(C) Police, corrections and parole and probation officers must achieve a Speech Discrimination test score of no less than 90% utilizing a standard 50-word presentation at 60 db Hearing Threshold Level (HTL). The Department may require an applicant to have another examination by a licensed audiologist or otorhinolaryngologist (ear, nose, and throat) designated by the Department to verify that the applicant's hearing meets the Board's minimum hearing standard. The verification examination will be at the expense of the applicant or the applicant's employing agency. The equipment utilized for all of these evaluations must be calibrated annually using current ANSI standards.

(D) Hearing amplification devices used to meet the hearing standard must be the type that protects the applicant from further hearing degradation due to amplification of loud sounds.

(i) Applicants for the position of police, corrections, or parole and probation officer must be able to use vocal chords and have significant speaking ability to perform speaking-related essential tasks. For police and corrections officers abnormalities of the nose, throat or mouth must not interfere with the applicant's breathing or proper fitting of gas mask or similar device.

(j) Applicants for the position of police, corrections, or parole and probation officer who have a history of organic cardio-vascular disease or a finding during the medical examination of organic cardio-vascular disease will necessitate further medical evaluation.

(A) Resting blood pressure must be less than or equal to 140 mmHg systolic and 90 mmHg diastolic on three successive readings.

(B) Applicants must not have a functional and therapeutic cardiac classification greater than the Heart Association's Class A.

(C) Failure to meet guidelines (j), (A) and (B) will require further medical evaluation.

(D) If the applicant has controlled hypertension not exceeding the above standards and is on medication with side effect profiles, which do not interfere with performance of duty, then the condition may not be excludable.

(E) Functional Capacity I patients with cardiac disease may not be excludable, if they have no limitations of physical activity and ordinary physical activity does not cause discomfort and they do not have symptoms of cardiac insufficiency, nor experience angina pain.

(F) Therapeutic Classification A patients with cardiac disease, whose physical activity is restricted, should be evaluated thoroughly.

(G) If further medical examination is required under (j), it will be at the expense of the applicant or hiring authority.

(k) All law enforcement applicants must submit a current-version DPSST Medical Examination Report (DPSST Form F2), or a medical report completed by a licensed physician containing at a minimum the information on Form F2 and a signed statement by the examining physician that the applicant does not have any condition, physical, mental, or emotional, which, in his/her opinion, suggests further examination. This Report will be furnished to the examining physician by the hiring agency. The physician must indicate that the applicant is or is not physically able to perform the duties of a law enforcement officer as prescribed by DPSST.

(l) A copy of the Medical Examination Report must be sent to the Department prior to acceptance into a basic course, or any course where such report is required by the Department.

(m) The Department may require an applicant offered conditional employment to take a subsequent examination by a licensed physician of the Department's choice at the expense of the applicant or the hiring authority.

(n) The Board may waive any physical requirement where, in its judgment, the waiver would not be detrimental to the performance of an officer's duties, including the protection of the public and the safety of co-workers. The applicant may be required to demonstrate the ability to perform the essential functions of the job.

(o) A person or department head requesting a waiver of any physical requirement set forth in section (8) of this rule shall submit the request to the Department in writing, accompanied by supporting documents or pertinent testimony which would justify the action requested. The supporting documents must include information pertinent to the waiver request. The Board or Department may require additional documentation or testimony by the person or department head requesting the waiver if clarification is needed. Any expense associated with providing documentation or testimony

will be borne by the person requesting the waiver or the requesting agency. If the person requesting the waiver does not obtain employment within one (1) year from the date a waiver is granted, the waiver will be considered void.

(A) If the Board grants a waiver, it will be recorded on the certification and any subsequent certification unless removed by the Board upon proof that the condition prompting the waiver no longer exists.

(B) If the Board denies a request for a waiver of any physical requirement set forth in section (8) of this rule, the Department will issue Notice and proceed as provided in section (9) of this rule.

(9) Contested Case Hearing Process for denial of waiver.

(a) Initiation of Proceedings: Upon determination that the reason for denial of a waiver is supported by factual data meeting the statutory and administrative rule requirements, a contested case notice will be prepared.

(b) Contested Case Notice: The "Contested Case Notice" will be prepared in accordance OAR 137-003-0001 of the Attorney General's Model Rules of Procedure adopted under OAR 259-005-0015. The Department will have a copy of the notice served on the public safety professional or individual.

(c) Response Time: A party who has been served with a "Contested Case Notice" has 60 days from the date of mailing or personal service of the notice in which to file with the Department a written request for a hearing.

(d) Default Order: If a timely request for a hearing is not received, the Contested Case Notice will become a final order denying the requested waiver.

(e) Hearing Request: When a request for a hearing is received in a timely manner, the Department will refer the matter to the Office of Administrative Hearings.

(f) Proposed Order: The assigned Administrative Law Judge will prepare Findings of Fact, Conclusions of Law and Proposed Final Order and serve a copy on the Department and on each party.

(g) Exceptions and Arguments: A party must file specific written exceptions and arguments with the Department no later than 14 days from date of service of the Findings of Fact, Conclusions of Law, and Proposed Final Order.

(A) The Department may extend the time within which the exceptions and arguments must be filed upon a showing of good cause.

(B) When the exceptions and arguments are filed, the party making the exceptions and arguments must serve a copy on all parties of record in the case and provide the Department with proof of service. A failure to serve copies and provide proof of service will invalidate the filing of exceptions and arguments as being untimely, and the Department may disregard the filing in making a final determination of the case.

(h) Final Order: The Department will issue a final order if a public safety professional or individual fails to file exceptions and arguments in a timely manner.

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

Stat. Auth.: ORS 181.640, 181.644, 183.341

Stats. Implemented: ORS 181.640, 181.644, 183.341

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1981, f. 9-26-81, ef. 11-2-81; PS 1-1983, f. & ef. 12-15-83; PS 1-1985, f. & ef. 4-24-85; PS 1-1987, f. & ef. 10-26-87; Renumbered from 259-010-0015, PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 2-1996, f. 5-15-96, cert. ef. 5-20-96; PS 4-1997, f. 3-20-97, cert. ef. 3-25-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 1-1999, f. & cert. ef. 3-9-99; BPSST 9-2000, f. 11-13-00, cert. ef. 11-15-00; BPSST 3-2001, f. & cert. ef. 8-22-01; BPSST 12-2001(Temp), f. & cert. ef. 10-26-01 thru 4-5-02; BPSST 5-2002(Temp), f. 4-3-02, cert. ef. 4-6-02 thru 8-1-02; BPSST 16-2002, f. & cert. ef. 7-5-2002; BPSST 20-2002, f. & cert. ef. 11-21-02; DPSST 3-2003, f. & cert. ef. 1-22-03; DPSST 6-2003, f. & cert. ef. 4-11-03; DPSST 8-2003, f. & cert. ef. 4-18-03; DPSST 14-2003, f. & cert. ef. 12-22-03; DPSST 3-2006, f. & cert. ef. 2-28-06; DPSST 12-2006, f. & cert. ef. 10-13-06; DPSST 10-2007, f. & cert. ef. 10-15-07; DPSST 13-2007(Temp), f. & cert. ef. 11-1-07 thru 4-18-08

Department of Transportation Chapter 731

Rule Caption: ConnectOregon II, Multimodal Transportation Fund Program.

Adm. Order No.: DOT 5-2007

Filed with Sec. of State: 11-15-2007

Certified to be Effective: 11-15-07

Notice Publication Date: 10-1-2007

Rules Amended: 731-035-0010, 731-035-0020, 731-035-0040, 731-035-0050, 731-035-0060, 731-035-0070, 731-035-0080

Subject: HB 2278 requires ODOT to amend its rules specifying the process by which a public body or private entity may apply for a loan or grant from the Multimodal Transportation Fund. HB 2278 author-

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izes the State Treasurer to issue lottery bonds to finance grants and loans for air, marine, public transit and rail transportation projects. These rule amendments modify the Multimodal Transportation Fund Program and eligibility standards, application requirements, criteria for application review and project selection, provisions of agreements with the Department, and sanctions.

Rules Coordinator: Lauri Salisbury—(503) 986-3171

731-035-0010

Purpose

ORS 367.080 to 367.086 creates the Multimodal Transportation Fund, allowing for the issuance of lottery bonds for the purpose of financing grants and loans to fund Transportation Projects that involve air, marine, rail or public transit. The purpose of division 35 rules is to establish the Multimodal Transportation Fund Program.

Stat. Auth.: ORS 184.616, 184.619 & Ch. 816, OL 2005

Stats. Implemented: Ch. 816, OL 2005

Hist.: DOT 8-2005(Temp), f. 11-17-05, cert. ef. 11-21-05 thru 5-19-06; DOT 3-2006, f. & cert. ef. 1-24-06; DOT 5-2007, f. & cert. ef. 11-15-07

731-035-0020

Definitions

For the purposes of division 35 rules, the following terms have the following definitions, unless the context clearly indicates otherwise:

(1) "Agreement" means a legally binding contract between the Department (or Oregon Department of Aviation) and Recipient that contains the terms and conditions under which the Department is providing funds from the Multimodal Transportation Fund for an Approved Project.

(2) "Applicant" means a Person or Public Body that applies for funds from the Multimodal Transportation Fund.

(3) "Approved Project" means a Project that the Commission has selected to receive funding through either a grant or loan from the Multimodal Transportation Fund.

(4) "Area Commissions on Transportation" means advisory bodies chartered by the Oregon Transportation Commission (OTC) through the Policy on Formation and Operation of Area Commissions on Transportation (ACTs) approved by the OTC on June 18, 2003.

(5) "Aviation" is defined in ORS 836.005(5).

(6) "Collateral" means real or personal property subject to a pledge, lien or security interest, and includes any property included in the definition of collateral in ORS 79.0102(1), and with respect to a Public Body, any real or personal property as defined in ORS 288.594.

(7) "Commission" means the Oregon Transportation Commission.

(8) "Department" means the Oregon Department of Transportation.

(9) "Director" means the Director of the Oregon Department of Transportation.

(10) "Economic and Community Development Department" means the department defined in ORS 285A.070.

(11) "Freight Advisory Committee" means the committee created in ORS 366.212.

(12) "Person" has the meaning given in ORS 174.100(5), limited to those Persons that are registered with the Oregon Secretary of State to conduct business within the State of Oregon.

(13) "Program" means the Multimodal Transportation Fund Program established by division 35 rules to administer the Multimodal Transportation Fund.

(14) "Program Funds" means the money appropriated by the Legislature to the Multimodal Transportation Fund. These funds may be used as either grants or loans to eligible projects.

(15) "Public Body" is defined in ORS 174.109.

(16) "Public Transit Advisory Committee" means a committee appointed by the Director and approved by the Commission to advise the Department on issues, policies and programs related to public transportation in Oregon.

(17) "Rail Advisory Committee" means a committee appointed by the Director and approved by the Commission to advise the Department on issues, policies and programs that affect rail freight and rail passenger facilities and services in Oregon.

(18) "Recipient" means an Applicant that enters into Agreement with the Department to receive funds from the Multimodal Transportation Fund.

(19) "Recipient's Total Project Costs" means the funds received from the Multimodal Transportation Fund program plus the required 20 percent matching funds under Oregon Administrative Rule 731-035-0070 (3)(a)(B), if applicable.

(20) "State Aviation Board" means the board created in ORS 835.102.

(21) "Transportation Project" or "Project" is defined in ORS 367.010(11). A Multimodal Transportation Fund Program Project must involve one or more of the following modes of transportation: air, marine, rail or public transit. The term includes, but is not limited to, a project for capital infrastructure and other projects that facilitate the transportation of materials, animals or people.

Stat. Auth.: ORS 184.616, 184.619 & Ch. 816, OL 2005

Stats. Implemented: Ch. 816, OL 2005

Hist.: DOT 8-2005(Temp), f. 11-17-05, cert. ef. 11-21-05 thru 5-19-06; DOT 3-2006, f. & cert. ef. 1-24-06; DOT 5-2007, f. & cert. ef. 11-15-07

731-035-0040

Application Requirements

Applicants interested in receiving funds from the Multimodal Transportation Fund must submit a written application to the Department. The application must be in a format prescribed by the Department and contain or be accompanied by such information as the Department may require, including the expected results from the proposed Project for each of the considerations as prescribed in 731-035-0060, documented desire for and support of the Project from the businesses and entities to be served by the Project, and documentation to validate the Project schedule and costs.

Stat. Auth.: ORS 184.616, 184.619 & Ch. 816, OL 2005

Stats. Implemented: Ch. 816, OL 2005

Hist.: DOT 8-2005(Temp), f. 11-17-05, cert. ef. 11-21-05 thru 5-19-06; DOT 3-2006, f. & cert. ef. 1-24-06; DOT 5-2007, f. & cert. ef. 11-15-07

731-035-0050

Application Review

(1) The Department will review applications received to determine whether the application is complete, and the Applicant and the Project are eligible for Program Funds.

(2) Applicants that meet all of the following criteria are eligible:

(a) The Applicant is a Public Body or Person within the state of Oregon.

(b) The Applicant, if applicable, is current on all state and local taxes, fees and assessments.

(c) The Applicant has sufficient management and financial capacity to complete the Project including without limitation the ability to contribute 20 percent of the eligible grant Project cost.

(3) Projects that meet all of the following criteria are eligible:

(a) The project is a Transportation Project.

(b) The Project will assist in developing a multimodal transportation system that supports state and local government efforts to attract new businesses to Oregon or that keeps and encourages expansion of existing businesses.

(c) The Project is eligible for funding with lottery bond proceeds under the Oregon Constitution and laws of the State of Oregon.

(d) The Project will not require or rely upon continuing subsidies from the Department for ongoing operations.

(e) The Project is not a public road or other project that is eligible for funding from revenues described in section 3a, Article IX of the Oregon Constitution, i.e. the State Highway Trust Fund.

(f) The Project is feasible, including the estimated cost of the Project, the expected results from the proposed Project for each of the considerations as prescribed in 731-035-0060, the Project schedule, and all applicable and required permits may be obtained within the Project schedule.

(4) If an Applicant or Project is not eligible for Program Funds, the Department will, within 15 days of determination:

(a) Specify the additional information the Applicant must provide to establish eligibility; or

(b) Notify the Applicant that the application request is ineligible.

(5) The Department may deem an application ineligible if the Applicant fails to meet eligibility requirements of subsection (2 and 3) of this rule, or fails to provide requested information in writing by the date required by the Department, or if the application contains false or misleading information.

(6) The Director will consider protests of the eligibility determination for the Program. Only the Applicant may protest. Protests must be submitted in writing to the Director within 30 days of the event or action that is being protested. The Director's decision is final.

(7) The Department will make all eligible applications available for review, as applicable under OAR 731-035-0060, to the State Aviation Board, the Freight Advisory Committee, the Public Transit Advisory Committee, the Rail Advisory Committee, the Economic and Community Development Department and any other transportation stakeholder and advocate entities identified by the Commission to provide recommenda-

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tions on Project funding including the Area Commissions on Transportation.

Stat. Auth.: ORS 184.616, 184.619 & Ch. 816, OL 2005
Stats. Implemented: Ch. 816, OL 2005
Hist.: DOT 8-2005(Temp), f. 11-17-05, cert. ef. 11-21-05 thru 5-19-06; DOT 3-2006, f. & cert. ef. 1-24-06; DOT 5-2007, f. & cert. ef. 11-15-07

731-035-0060

Project Selection

(1) The Commission will select Projects to be funded through either a grant or loan with moneys in the Multimodal Transportation Fund.

(2) Prior to selecting Projects to be funded with moneys in the Multimodal Transportation Fund, the Commission shall solicit recommendations from:

- (a) The State Aviation Board for Aviation Transportation Projects.
- (b) The Freight Advisory Committee for freight Transportation Projects.
- (c) The Public Transit Advisory Committee for public transit Transportation Projects.
- (d) The Rail Advisory Committee for rail Transportation Projects.
- (e) The Economic and Community Development Department for marine transportation projects.

(3) Prior to selecting Projects to be funded with moneys in the Multimodal Transportation Fund, the Commission may solicit recommendations from transportation stakeholder and advocate entities not otherwise specified in section 2 of this rule including the Area Commissions on Transportation.

(4) On behalf of the Commission, the Department shall solicit recommendations from the committees and entities in section 2 of this rule before soliciting recommendations from entities in section 3 of this rule. The Department shall provide the recommendations from the committees and entities in section 2 of this rule to the entities in section 3 of this rule.

(5) The Director, in consultation with committees and entities in section 2 of this rule and the Area Commissions on Transportation, shall appoint a Final Review Committee that includes representatives from each of the committees and entities in section 2 and section 3 of this rule. Following the receipt of recommendations from the entities in section 3 of this rule, and prior to selecting Projects to be funded with moneys in the Multimodal Transportation Fund the Commission shall solicit a Final Recommendation Report from the Final Review Committee. The Department shall provide the Final Review Committee a list of recommendations from all committees and entities in section 2 and section 3 of this rule. The list shall include the evaluation results and recommendations from each of the committees and entities in sections 2 and 3 of this rule. The Final Review Committee shall provide the Commission its Final Recommendation Report of projects to be funded with moneys in the Multimodal Transportation Fund listing in priority order eligible Projects together with a reasonable number of alternate Projects in priority order.

(6) The Department shall determine the organizational guidance for the committees' and entities' processes and protocols.

(7) The committees and entities in sections 2, 3 and 5 of this rule shall follow the organizational guidance determined by the Department in section 6 of this rule.

(8) The Commission will consider all of the following in its determination of eligible Projects to approve for receipt of funds from the Multimodal Transportation Fund:

(a) Whether a proposed Project reduces transportation costs for Oregon businesses or improves access to jobs and sources of labor.

(b) Whether a proposed transportation project results in an economic benefit to this state.

(c) Whether a proposed Project is a critical link connecting elements of Oregon's transportation system that will measurably improve utilization and efficiency of the system.

(d) How much of the cost of a proposed Project can be borne by the Applicant for the grant or loan from any source other than the Multimodal Transportation Fund.

(e) Whether a Project is ready for construction, or if the Project does not involve construction, whether the Project is ready for implementation.

(f) Whether a Project leverages other investment and public benefits from the state, other government units, or private business.

(g) Whether the Applicant proposes to contribute more than the minimum 20 percent of the eligible grant Project costs established in OAR 731-035-0070(3).

(h) Whether the Applicant is applying for a loan rather than a grant.

(9) To award funds that become available due to an approved Project that is withdrawn or is sanctioned as prescribed in 731-035-0080(5), the

Commission shall select the highest priority Project that is appropriate for the funds available from the Final Recommendation Report created in section 5 of this rule.

Stat. Auth.: ORS 184.616, 184.619 & Ch. 816, OL 2005
Stats. Implemented: Ch. 816, OL 2005
Hist.: DOT 8-2005(Temp), f. 11-17-05, cert. ef. 11-21-05 thru 5-19-06; DOT 3-2006, f. & cert. ef. 1-24-06; DOT 5-2007, f. & cert. ef. 11-15-07

731-035-0070

Grant and Loan Awards and Match

(1) At least 10 percent of the total net proceeds of the lottery bonds will be allocated to each of the five regions as specified in Enrolled House Bill 2278 (2007 Regular Session). The regions consist of the following counties:

- (a) Region one consists of Clackamas, Columbia, Hood River, Multnomah and Washington Counties;
- (b) Region two consists of Benton, Clatsop, Lane, Lincoln, Linn, Marion, Polk, Tillamook and Yamhill Counties;
- (c) Region three consists of Coos, Curry, Douglas, Jackson and Josephine Counties;
- (d) Region four consists of Crook, Deschutes, Gilliam, Jefferson, Klamath, Lake, Sherman, Wasco and Wheeler Counties; and
- (e) Region five consists of Baker, Grant, Harney, Malheur, Morrow, Umatilla, Union and Wallowa Counties.

(2) Applicants may use a combination of grant and loan funds to finance a Project.

(3) Grants and loans will be awarded only when there are sufficient funds available in the Multimodal Transportation Fund to cover the costs of the loans and grants.

(a) Grants:

(A) Awards must not exceed 80 percent of the total eligible Project costs.

(B) Applicant matching funds must be provided by the Applicant in the form of monetary outlay for elements necessary for implementation of the Project, including land, excavation, permits, engineering, payroll, special equipment purchase or rental, and cover at least 20 percent of the eligible Project costs.

(b) Loans:

(A) Loans may be for any portion of project costs, up to the full amount of the project.

(B) With the exception of the two percent payment described in section 2, subsection 2, of Chapter 859, Oregon Laws 2007 (which also applies to grants), the Department will not charge fees for processing or administering a loan to a Recipient.

(C) Loans from the Multimodal Transportation Fund may be interest free if repaid according to the terms and conditions of the Agreement between the Department and Recipient.

(D) Prior to entering into a loan Agreement, the Department will determine if an application meets reasonable underwriting standards of credit-worthiness, including whether:

(i) The Project is feasible and a reasonable risk from practical and economic standpoints.

(ii) The loan has a reasonable prospect of repayment according to its terms.

(iii) The Applicant's fiscal, managerial and operational capacity is adequate to assure the successful completion and operation of the Project.

(iv) The Applicant will provide good and sufficient Collateral to mitigate risk to the Multimodal Transportation Fund.

Stat. Auth.: ORS 184.616, 184.619 & Ch. 816, OL 2005
Stats. Implemented: Ch. 816, OL 2005
Hist.: DOT 8-2005(Temp), f. 11-17-05, cert. ef. 11-21-05 thru 5-19-06; DOT 3-2006, f. & cert. ef. 1-24-06; DOT 5-2007, f. & cert. ef. 11-15-07

731-035-0080

Project Administration

(1) The Department will administer all non-aviation Projects.

(2) The Department and an Applicant of an Approved Project will execute an Agreement prior to the disbursement of Program Funds for an Approved Project. The Agreement is effective on the date all required signatures are obtained or at such later date as specified in the Agreement.

(3) The Agreement will contain provisions and requirements, including but not limited to:

(a) Documentation of the projected costs for an Approved Project must be submitted to the Department prior to the disbursement of Program Funds.

(b) Only Project costs incurred on or after the effective date of the Agreement are eligible for grant or loan funds.

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(c) Disbursal of Program Funds for grants and loans will be paid on a reimbursement basis and will not exceed one disbursal per month. The Director or the OTC may make exceptions to the reimbursement basis if the Department finds that the applicant would have difficulty meeting this requirement.

(d) Upon request, a Recipient must provide the Department with a copy of documents, studies, reports and materials developed during the Project, including a written report on the activities or results of the Project and any other information that may be reasonably requested by the Department.

(e) Recipients must separately account for all moneys received from the Multimodal Transportation Fund in Project accounts in accordance with Generally Accepted Accounting Principles.

(f) Any Program Funds disbursed but not used for an Approved Project must be returned to the Department.

(g) Amendments to Agreements are required to change an Approved Project's cost, scope, objectives or timeframe.

(h) Recipients must covenant, represent and agree to use Project funds in a manner that will not adversely affect the tax-exempt status of any bonds issued under the Program.

(i) Recipients shall pay two percent of the Recipient's Total Project Costs to the Department within 90 days of the Agreement effective date. The required payment of two percent of the Recipient's Total Project Costs is a reimbursable program cost.

(4) The Department may invoke sanctions against a Recipient that fails to comply with the requirements governing the Program. The Department will not impose sanctions until the Recipient has been notified in writing of such failure to comply with the Program requirements as specified in this Rule and has been given a reasonable time to respond and correct the deficiencies noted. The following circumstances may warrant sanctions:

(a) Work on the Approved Project has not been substantially initiated within six months of the effective date of the Agreement;

(b) State statutory requirements have not been met;

(c) There is a significant deviation from the terms and conditions of the Agreement; or

(d) The Department finds that significant corrective actions are necessary to protect the integrity of the Program Funds for the Approved Project, and those corrective actions are not, or will not be, made within a reasonable time.

(5) The Department may impose one or more of the following sanctions:

(a) Revoke an existing award.

(b) Withhold unexpended Program Funds.

(c) Require return of unexpended Program Funds or repayment of expended Program Funds.

(d) Bar the Applicant from applying for future assistance.

(e) Other remedies that may be incorporated into grant and loan Agreements.

(6) The remedies set forth in this rule are cumulative, are not exclusive, and are in addition to any other rights and remedies provided by law or under the agreement.

(7) The Director will consider protests of the funding and Project administration decisions for the Program. Only the Applicant or Recipient may protest. Protests must be submitted in writing to the Director within 30 days of the event or action that is being protested. The Director's decision is final. Jurisdiction for review of the Director's decision is in the circuit court for Marion County pursuant to ORS 183.484.

(8) The Director may waive non-statutory requirements of this Program if it is demonstrated such a waiver would serve to further the goals and objectives of the Program.

Stat. Auth.: ORS 184.616, 184.619 & Ch. 816, OL 2005

Stats. Implemented: Ch. 816, OL 2005

Hist.: DOT 8-2005(Temp), f. 11-17-05, cert. ef. 11-21-05 thru 5-19-06; DOT 3-2006, f. & cert. ef. 1-24-06; DOT 5-2007, f. & cert. ef. 11-15-07

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

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

Adm. Order No.: DMV 10-2007

Filed with Sec. of State: 10-17-2007

Certified to be Effective: 10-17-07

Notice Publication Date: 9-1-2007

Rules Amended: 735-034-0050

Subject: The amendment of OAR 735-034-0050 (Trip Permits) adds the term "loaded weight" to the list of vehicles that are registered in Oregon by weight and subject to registration weight trip permit requirements. This brings the rule into compliance with the statutory changes made by Chapter 50, Oregon Laws 2007. New language describes when a registration trip permit is required for a vehicle registered in another jurisdiction, but operated in multiple jurisdictions, including Oregon. Additional changes are made for purposes of clarity.

Rules Coordinator: Lauri Salsbury—(503) 986-3171

735-034-0050

Issuing Trip Permits

(1) The following procedures and requirements apply to the issuance of vehicle trip permits under ORS 803.600.

(2) Trip permits are issued and are valid for a period of consecutive days based on permit type.

(3) Except as described in subsection (e) of this section, a registration weight trip permit is required for a vehicle under the following circumstances:

(a) The vehicle is registered in Oregon by loaded weight and the weight exceeds the registration weight of the vehicle declared under ORS 803.435;

(b) The vehicle is registered in Oregon by combined weight, and the combined weight exceeds the registration weight declared under ORS 803.435; or

(c) The vehicle is a commercial vehicle registered by combined weight under ORS 826.009, 826.011 or 826.031, and the weight exceeds the registration weight declared under ORS 826.015.

(d) If the vehicle is registered by combined weight under subsection (b) or (c) of this section, a registration weight trip permit is only issued to the motor vehicle used to tow a trailer or load.

(e) Subsection (b) of this section does not apply to a vehicle registered by combined weight, if the vehicle is towing a person's own commercial fishing boat and the combined weight of the vehicle, boat and trailer is 15,000 pounds or less.

(4) A heavy motor vehicle trip permit or heavy trailer trip permit may only be issued to vehicles that are not registered in Oregon. Either permit authorizes the operation of a single, unregistered vehicle. For example, if a truck/trailer combination is not registered in Oregon, and is not operating under the authority of an interstate reciprocity agreement, then both the truck and the trailer must obtain a permit. If, however, one of the two vehicles is registered, for example, the trailer, then only the truck is required to have a permit.

(5) An applicant for a recreational vehicle trip permit must:

(a) Certify that during the preceding 12-month period they have not been issued recreational vehicle trip permits that when included with the permit being applied for would grant more than 10 days operation for the vehicle listed on the permit;

(b) Provide proof satisfactory to DMV that the applicant is the owner of the camper, travel trailer or motor home listed on the permit application. Proof DMV may consider includes a valid certificate of title, a bill of sale or other ownership document as described in OAR 735-022-0000; and

(c) If the permit is for a motor home, provide the name and policy number of the current insurance carrier and certify that the motor home is covered, and will continue to be covered by insurance as required by ORS 806.080 for as long as the permit is valid.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 803.600, 803.625, 803.635, 803.640, 803.655, Ch. 50, OL 2007

Stats. Implemented: ORS 801.420, 803.430, 803.600, 803.625, 803.635, 803.640, 803.655, 803.665, 806.080, 810.490, Ch. 50, OL 2007

Hist.: MV 52-1989, f. & cert. ef. 12-1-89; MV 13-1991, f. 9-18-91, cert. ef. 9-29-91; DMV 9-1998, f. & cert. ef. 8-20-98; DMV 8-2002, f. & cert. ef. 4-12-02; DMV 8-2007(Temp), f. & cert. ef. 5-24-07 thru 11-18-07; DMV 10-2007, f. & cert. ef. 10-17-07

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

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

Adm. Order No.: HWD 6-2007

Filed with Sec. of State: 10-17-2007

ADMINISTRATIVE RULES

Certified to be Effective: 10-17-07

Notice Publication Date: 9-1-2007

Rules Amended: 734-074-0008, 734-074-0020, 734-082-0005, 734-082-0015, 734-082-0016

Subject: The idling of motor vehicles while parked has long been identified as a wasteful use of scarce energy resources and an avoidable source of air pollution. Technology has been developed to reduce excessive truck idling by providing ways to deliver heat, air conditioning, engine warming, refrigeration or electricity to components of the vehicle by means other than operating the drive engine. These technologies include advanced truck stop electrification systems to which vehicles may connect and auxiliary power units (APU) carried on motor vehicles to provide a more efficient, less polluting source of power than the drive engine. MCTD's rule amendments increase the maximum weight and axle weight allowance for motor vehicles by the actual weight of idle reduction systems or 400 pounds, whichever is less. The rule changes also update terms and definitions relating to the legislative amendments as well as changes in federal law and rule.

Rules Coordinator: Lauri Salisbury—(503) 986-3171

734-074-0008

Definitions

As used in division 74 rules:

(1) "Auxiliary axle" is an axle that qualifies as a booster axle, flip axle or lift axle and when attached to the rear of a trailer shall be included in the measurement of the trailer.

(2) "Booster Axles(s)" means a separate vehicle bolted or pinned to another vehicle that redistributes weight from one or more axles to other axles and pivots from side to side at the connection point or has wheels that steer during turning.

(3) "Converter dolly" means those devices towed behind a vehicle and used to convert a semitrailer to function as a self-supporting trailer.

(4) "Dromedary truck-tractor" means a motor truck designed to carry a load and also pull a semitrailer by using a kingpin to fifth wheel connection. Unless specifically authorized, a dromedary truck-tractor may not tow a stinger steered trailer.

(5) "Flip axle" means an axle that is bolted or pinned to a vehicle and flips from the closed position on the trailer to a deployed position on the ground extending the length and hauling capacity of the trailer.

(6) "Gross Vehicle Weight Rating" (GVWR) means the gross vehicle weight rating as defined in ORS 801.298.

(7) "Idle Reduction System" means an auxiliary power unit or other device or technology that is used to reduce long-duration idling by allowing the main drive engine or auxiliary refrigeration engine to be shut down.

(8) "Lift Axle" means an axle(s) that can be raised from or lowered to the surface of the ground.

(9) "Log-truck" means a motor vehicle designed and used in conjunction with a pole trailer to transport one load of logs where one end of the logs rests upon the log truck and one end of the logs rests upon the pole trailer.

(10) "MCTD" means the Motor Carrier Transportation Division of the Oregon Department of Transportation.

(11) "Motor Truck" means a motor vehicle that is primarily designed or used for carrying loads other than passengers.

(12) "Pole Trailer" means a trailer attached or secured to a vehicle and ordinarily used for transportation of long or irregular loads such as logs capable of generally sustaining themselves as beams between the towing vehicle and the pole trailer.

(13) "Reasonably uniform in length" as used in ORS 818.210, means a variance of not more than eight feet from the longest to shortest self-supporting trailers or semitrailers within the authorized combination of vehicles. It does not include the length of a converter dolly when used to convert a semitrailer to a self-supporting trailer.

(14) "Tandem drive axles" means two or more axles spaced more than 40 inches but not more than 96 inches apart, neither of which can be raised from the surface of the ground, and where no one axle carries less than forty percent (40%) of the tandem axle weight. Each axle of a tandem drive axle shall have four tires or each axle may have two tires if tire width is at least 15 inches and each axle transmits motive power to the road surface. Any weight controls for the tandem axles on a power unit must be designed, installed and used such that the axles always distribute the load so no axle, tandem axle or group of axles exceeds the legal weight limits or bridge for-

mula limits. All axle assemblies of the tandem drive axles (including axles, tires, brakes) must be adequate to carry the weight loading but may not have less than a 20,000 pound rating for each axle.

(15) "Truck-Tractor" means a motor vehicle designed and used primarily for drawing (towing) other vehicles and constructed so as not to carry any load other than a part of the weight of the vehicle or load, or both, as drawn.

(16) "Variable-load suspension axle" means an axle that can vary the amount of weight being transmitted to the surface of the road by adjustments made by the driver. Examples of adjustments available to the driver include, but are not limited to, the use of tool(s), lock and key, pressure regulators with handles or knobs. The term variable load suspension axle does not include use of devices such as height control valves, axles controlled by devices that raise the axle when the vehicle moves backward or pre-set pressure regulators which are not adjustable by the driver.

Stat. Auth.: ORS 184.616, 184.619 & 818.220

Stats. Implemented: ORS 818.200 & 818.220

Hist.: HWY 3-1995, f. & cert. ef. 10-16-95; HWY 8-1997, f. & cert. ef. 8-26-97; TO 2-2001, f. & cert. ef. 6-14-01; HWD 2-2005, f. & cert. ef. 3-18-05; HWD 6-2007, f. & cert. ef. 10-17-07

734-074-0020

Maximum Allowable Weights

(1) The maximum allowable weights for single axles and tandem axles shall not exceed those specified under ORS 818.010(1) and (2).

(2) When the loaded weight of a group of axles, vehicle, or combination of vehicles is 80,000 pounds or less, the maximum allowable weight shall not exceed those specified under ORS 818.010(3).

(3) When a group of axles or gross weight is more than 80,000 pounds, the maximum allowable weights shall not exceed those set forth in Permit Weight **Table 2**, available from the MCTD Over-Dimensional Permit Unit as Form 735-8111 (February 2000). Permit Weight **Table 2**, is by reference made part of Division 74 rules. In no case may gross weight exceed the sum of the permissible axle, tandem axle or group of axle weights, whichever is less.

(4) In no case may any rim or wheel carry more weight than that specified by the manufacturer of the rim or wheel.

(5) All single axles of triple trailer combinations must have four tires except for the power unit steering axle and lift axles that may have two tires.

(6) For purposes of Division 74 rules, the axle(s) of a converter dolly or dolly are not included in determining authorized weight unless those axles carry part of the weight of the cargo being transported.

(7) In any triple trailer combination, the first two cargo carrying units, including the power unit, may not weigh more than 80,000 pounds unless equipped with tandem drive axles.

(8) The exception described in ORS 818.030(10) and 818.340(4) is limited to the actual weight of the idle reduction system, not to exceed 400 pounds. In order to qualify for the exception, the operator of the vehicle may be required to prove:

(a) By written certification the weight of the auxiliary power unit; and
(b) By demonstration or certification that the idle reduction technology is fully functional.

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

Stat. Auth.: ORS 184.616, 184.619 & 818.220

Stats. Implemented: ORS 818.200 & 818.220

Hist.: 1 OTC 6-1980, f. & ef. 3-27-80; 2HD 6-1983, f. & ef. 2-18-83; HWY 7-1992, f. & cert. ef. 3-27-92; HWY 10-1992, f. & cert. ef. 9-16-92; HWY 1-1993, f. & cert. ef. 3-16-93; HWY 3-1995, f. & cert. ef. 10-16-95; HWY 8-1997, f. & cert. ef. 8-26-97; TO 2-2001, f. & cert. ef. 6-14-01; HWD 2-2005, f. & cert. ef. 3-18-05; HWD 6-2007, f. & cert. ef. 10-17-07

734-082-0005

Definitions

As used in OAR chapter 734, division 82:

(1) "Auxiliary axle(s)" is an axle that qualifies as a booster axle, flip axle, or lift axle.

(2) "Boom dolly" means a separate vehicle designed to carry part of the weight of a boom.

(3) "Booster axle(s)" means a separate vehicle bolted or pinned to another vehicle that redistributes weight from one or more axles to other axles and pivots from side to side at the connection point or has wheels that steer during turning.

(4) "Business day" is any day Monday through Friday, except holidays as defined in section (13) of this rule.

(5) "Chief Engineer" means the Chief Engineer of the Oregon Department of Transportation or a person designated to act for the Chief Engineer.

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(6) "Daylight hours" means one-half hour before sunrise until one-half hour after sunset.

(7) "Dolly" means those devices attached to a frame, deck or load converting the frame to a trailer or semitrailer and is included in the measurement of the trailer. The dolly must bear weight when the permitted vehicle is laden.

(8) "Dromedary truck-tractor" means a motor vehicle designed to carry a load on a dromedary box, plate or deck, not exceeding 12'06" in length inclusive of load and designed to pull a semitrailer.

(9) "Equivalent Single-Axle Load" (ESAL) means the relationship between actual or requested weight and an 18,000 pound single-axle load as determined by the American Association of State Highway and Transportation Officials Road Tests reported at the Proceedings Conference of 1962.

(10) "Fire apparatus" means a vehicle or combination of vehicles designed and used exclusively for fire suppression or rescue operations. These emergency vehicles and associated loads or equipment are necessary to protect the public safety and are considered non-divisible loads.

(11) "Flip axle(s)" means an axle that is bolted or pinned to a vehicle and flips from the closed position on the trailer to a deployed position on the ground extending the length or hauling capacity of the trailer.

(12) "Gross Vehicle Weight Rating" (GVWR) means the gross vehicle weight rating as defined in ORS 801.298.

(13) "Holiday" for the purposes of these rules means New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day, and includes any other days on which the state officially observes the aforementioned holidays by the closure of State offices.

(14) "Idle Reduction System" means an auxiliary power unit or other device or technology that is used to reduce long-duration idling by allowing the main drive engine or auxiliary refrigeration engine to be shut down.

(15) "Jeep axle(s)" means a separate vehicle connected to a motor vehicle by kingpin to fifth wheel connection. A jeep axle(s) must bear all or part of the weight of the load of another vehicle and must be connected to that other vehicle either by kingpin to fifth wheel connection or a pintle hook.

(16) "Lift axle" means an axle that can be raised from or lowered to the surface of the ground.

(17) "MCTD" means the Motor Carrier Transportation Division of the Oregon Department of Transportation.

(18) "Motor truck" means a motor vehicle that is primarily designed or used for carrying loads other than passengers.

(19) "Non-divisible load" means:

(a) Any load or vehicle exceeding applicable size or weight limits that, if separated into smaller loads or vehicles, would:

(A) Compromise the intended use of the vehicle, i.e., make it unable to perform the function for which it was intended;

(B) Destroy the value of the load or vehicle, i.e., make it unusable for its intended purpose; or

(C) Require more than eight workhours to dismantle using appropriate equipment. The applicant for a non-divisible load permit has the burden of proof as to the number of workhours required to dismantle the load; or

(b) The following loads or vehicles:

(A) Emergency response vehicles, including those loaded with salt, sand, chemicals or a combination thereof, with or without a plow or blade attached in front, and being used for the purpose of spreading the material on highways that are or may become slick or icy;

(B) Casks designed for the transport of spent nuclear materials; and

(C) Military vehicles transporting marked military equipment or materiel.

(20) "Passenger vehicle" or "light vehicle" means a motor vehicle, regardless of design or intended use.

(21) "Permit Weight Table 1" is the table of legal weight found in ORS 818.010.

(22) "Permit Weight Table 2" is the Extended Weight Table used for oversize loads that cannot be reduced in size, except as specified in OAR 734-082-0051 and 734-082-0053, and having authorized divisible load weights. Permit Weight Table 2 is available from MCTD as Form 735-8111 (February 2000).

(23) "Permit Weight Table 3" is a table based on two wheelbase weight formulas. The first formula is 1,000 times (the wheelbase in feet plus 40) for groups of axles or combinations of vehicles having 18 feet or less wheelbase. The second formula is 1,200 times (the wheelbase in feet plus 40) for groups of axles, vehicles or combinations of vehicles having more than 18 feet of wheelbase. Permit Weight Table 3 is available from MCTD as Form 735-8112 (July 2006).

(24) "Permit Weight Table 4" is a table based on three wheelbase weight formulas. The first formula is 1,200 times (the wheelbase in feet plus 40) for groups of axles or combinations of vehicles having nine feet five inches or less wheelbase. The second formula is 2,200 times (the wheelbase in feet plus 20) when wheelbase is more than nine feet five inches but is not more than 30 feet. The third formula is 1,600 times (the wheelbase in feet plus 40) when wheelbase is more than 30 feet. This table limits its maximum weights to no more than 21,500 pounds per axle and 43,000 pounds per tandem axle. Permit Weight Table 4 is available from MCTD as Form 735-8113 (July 2006).

(25) "Permit Weight Table 5" is a table based on the same three formulas as Permit Weight Table 4, but describes maximum weights up to 24,000 pounds per axle and 48,000 pounds per tandem axle when the combination consists of a steering axle and four or more consecutive tandem axles. Permit Weight Table 5 is available from MCTD as Form 735-8114 (July 2006).

(26) "Primary haul" means the non-divisible load transported under OAR 734-082-0053.

(27) "Road use assessment fee" means a fee for each ESAL mile of travel as established by ORS 818.225.

(28) "Secondary haul" means the divisible load transported under OAR 734-082-0053.

(29) "Self propelled fixed load vehicle" means a vehicle with motive power designed and used primarily to support and move a permanent load in the form of equipment or appliances constructed as part of, or permanently attached to, the body of the vehicle.

(30) "Stinger steered" is as defined in ORS 801.507.

(31) "Toter" means a motor vehicle designed and used primarily for towing a mobile home.

(32) "Transport" means to tow, haul, drive, or otherwise move a vehicle or load on the State highway system.

(33) "Truck-tractor" means a motor vehicle designed and used primarily for drawing other vehicles and constructed so as not to carry any load other than a part of the weight of the vehicle or load, or both, as being drawn.

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

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

Stats. Implemented: ORS 818.220 & 818.225

Hist.: HWY 1-1990(Temp), f. & cert. ef. 1-5-90; HWY 17-1990, f. & cert. ef. 12-28-90; HWY 2-1992, f. & cert. ef. 2-18-92; HWY 5-1997, f. & cert. ef. 5-9-97; TO 7-1998, f. & cert. ef. 8-20-98; TO 3-2000, f. & cert. ef. 2-11-00; TO 8-2002, f. & cert. ef. 10-14-02; HWD 2-2005, f. & cert. ef. 3-18-05; HWD 5-2006, f. 10-19-06, cert. ef. 1-1-07; HWD 4-2007, f. & cert. ef. 7-19-07; HWD 6-2007, f. & cert. ef. 10-17-07

734-082-0015

Weight For Single Non-Divisible Loads

(1) The loaded weight of a group of axles, vehicle, or combination of vehicles shall not exceed that specified in the Permit Weight Table assigned to the permit. In no case shall the loaded weight exceed:

(a) 21,500 pounds per axle, except as described in OAR 734-082-0010(2);

(b) 43,000 pounds per tandem axle;

(c) 98,000 pounds loaded weight for continuous trip permits;

(d) The weight otherwise specified on the permit; or

(e) The sum of the permissible axle, tandem axle, or group axle weight, whichever is less.

(2) Auxiliary axle(s) shall be deployed when the axle, tandem axle or group of axles exceeds the axle weight or bridge formula limits allowed by ORS 818.010 or when listed in the number of axles specified on the permit.

(3)(a) In a combination of two vehicles other than a truck-tractor and semitrailer, the axle and tandem axle weights listed in subsections (1)(a) and (b) of this rule may be allowed by permit for the towing vehicle or the towed vehicle, but not both, if the gross weight does not exceed that authorized in ORS 818.010 except;

(b) When the combination of vehicles is a motor truck and stinger-steered balance trailer, the axle and tandem axle weights listed in subsections (1)(a) and (b) of this rule may be allowed by permit for both vehicles if the load is carried on the balance trailer, and the towing vehicle is unladen.

(4) Overweight permits will be valid only for a single non-divisible load, except a permit may be issued for a single load consisting of multiple assembled parts constituting an integral whole with detached accessories included in the load, if the accessories are detached to reduce width, height, length, or a combination of these dimensions, and an overweight permit could have been issued for the load in its assembled condition.

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(a) Single trip permits may be issued for combinations of vehicles having a steering axle followed by four or more consecutive tandem axles, provided the weight does not exceed:

- (A) 600 pounds per inch of tire width;
- (B) 24,000 pounds per axle, except as described in OAR 734-082-0010(2);
- (C) 48,000 pounds per tandem axle;
- (D) The weights listed in Permit Weight Table 5 for groups of axles;

or

(E) The sum of the permissible axle, tandem axle, or group of axle weights, whichever is less.

(b) Additional weight for axles and/or tandem axles may be allowed by permit when the combination of vehicles described in subsection (a) of this section for axles having four tires and are ten feet wide (10 percent), or for axles having eight tires and are ten feet wide (25 percent). This additional weight must be specified on the permit, and applies only to axles or tandem axles. The weight for groups of axles remains the same.

(c) Permits issued under this section are subject to special routing and analysis by the Department of Transportation.

(d) All movements shall be subject to any posted weight limitation in effect on any highway, highway section, bridge, or structure.

(5) The road use assessment fee required in OAR 734-082-0003 is based on the weight requested for the permit. The weight shown on the permit is the maximum weight permitted.

(6) The Department of Transportation may publish tables of weights that may be authorized by these rules, subject to route analysis for each trip.

(7) In no instance may the vehicle combination exceed the manufacturer's GVWR for the vehicle or the vehicle combination and load.

(8) The exception described in ORS 818.030(10) and 818.340(4) is limited to the actual weight of the idle reduction system, not to exceed 400 pounds. In order to qualify for the exception, the operator of the vehicle may be required to prove:

- (a) By written certification the weight of the auxiliary power unit; and
- (b) By demonstration or certification that the idle reduction technology is fully functional.

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

Stat. Auth.: ORS 184.616 & 184.619

Stats. Implemented: ORS 818.220 & 818.225

Hist.: HWY 1-1990(Temp), f. & cert. ef. 1-5-90; HWY 17-1990, f. & cert. ef. 12-28-90; HWY 2-1992, f. & cert. ef. 2-18-92; TO 7-1998, f. & cert. ef. 8-20-98; TO 8-2002, f. & cert. ef. 10-14-02; HWD 6-2007, f. & cert. ef. 10-17-07

734-082-0016

Weights For Multiple Non-Divisible Loads

(1) The loaded weight of a group of axles, vehicle, or combination of vehicles shall not exceed that specified in the Permit Weight Table assigned to the permit.

(2) The maximum allowable weight for single axles and tandem axles shall not exceed those specified under ORS 818.010(1) and (2).

(3) When a group of axles or gross weight is 80,000 pounds or less, the maximum allowable weight shall not exceed those specified under ORS 818.010(3).

(4) When a group of axles or gross weight is more than 80,000 pounds, the maximum allowable weight shall not exceed those set forth in Permit Weight Table 2. In no case may gross weight exceed the sum of the permissible axle, tandem axle or group of axle weights, whichever is less.

(5) The exception described in ORS 818.030(10) and 818.340(4) is limited to the actual weight of the idle reduction system, not to exceed 400 pounds. In order to qualify for the exception, the operator of the vehicle may be required to prove:

- (a) By written certification, the weight of the auxiliary power unit; and
- (b) By demonstration or certification, that the idle reduction technology is fully functional.

Stat. Auth.: ORS 184.616 & 184.619

Stats. Implemented: ORS 818.220 & 818.225

Hist.: TO 8-2002, f. & cert. ef. 10-14-02; HWD 6-2007, f. & cert. ef. 10-17-07

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

Adm. Order No.: HWD 7-2007

Filed with Sec. of State: 10-17-2007

Certified to be Effective: 10-17-07

Notice Publication Date: 9-1-2007

Rules Amended: 734-020-0070

Subject: In order to sustain the current level of service for snow removal in Sno-Parks and provide service to the recreation com-

munity, an increase in the annual permit fee was recommended by the Winter Recreation Advisory Committee. The committee was established in ORS 802.350 to advise the Department on matters relating to the Sno-Park program. The fee increase was included as a program option package approved by the 2007 Legislature as part of Department of Transportation's budget.

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

Rules Coordinator: Lauri Salisbury—(503) 986-3171

734-020-0070

Fee for Issuance of Parking Permits

(1) The fee for parking permits in winter recreation parking areas (Sno-Parks) shall be as follows:

- (a) One day — \$3;
- (b) Three consecutive days — \$7; or
- (c) Annual, beginning each November — \$20.

(2) Sno-Park permits may be issued by the Department or persons appointed by the Department as provided in ORS 811.595.

Stat. Auth.: ORS 184.616, 811.595 & 811.600

Stats. Implemented: ORS 811.600

Hist.: 1 OTC 23-1979(Temp), f. & cert. ef. 9-24-79; 1 OTC 28-1979, f. & cert. ef. 11-26-79; 2HD 4-1982, f. & cert. ef. 10-5-82; 2HD 17-1983, f. & cert. ef. 9-23-83; HWY 13-1992, f. & cert. ef. 10-20-92; HWY 7-1993, f. & cert. ef. 10-27-93; HWY 9-1997, f. & cert. ef. 9-22-97; TO 2-1999(Temp), f. & cert. ef. 9-3-99 thru 2-29-00; TO 1-2000, f. & cert. ef. 1-19-00; HWD 7-2007, f. & cert. ef. 10-17-07

Employment Department Chapter 471

Rule Caption: Pertaining to the Application for Review section of the Employment Appeals Board's rules.

Adm. Order No.: ED 5-2007(Temp)

Filed with Sec. of State: 10-16-2007

Certified to be Effective: 10-16-07 thru 4-12-08

Notice Publication Date:

Rules Amended: 471-041-0060

Subject: Removes reference to the Office of Administrative Hearings from the Employment Appeals Board's request for reopening of an Unemployment Insurance hearing and cites the statute as the authority for considering the request for reopening as opposed to the rule.

Rules Coordinator: Janet Orton—(503) 947-1724

471-041-0060

Application for Review

(1) An application for review may be filed on forms provided by OAH or the Employment Department and other similar offices in other states. Use of the form is not required, provided the party requests review of a specific hearing decision, or otherwise expresses intent to appeal a specific hearing decision.

(2) An application for review may be filed in person, by mail or by fax to EAB, or any office of the Employment Department, or any Employment Security Agency in any other state or jurisdiction where a party is claiming benefits.

(3) An application for review that does not conform to the requirements of this rule is subject to dismissal.

(4) EAB will treat an application for review by a party whose request for hearing was dismissed because that party failed to appear as a request to reopen the hearing under ORS 657.270(6)(c).

Stat. Auth.: ORS 657.610

Stats. Implemented: ORS 657.685

Hist.: EAB 1-1983(Temp), f. & cert. ef. 9-14-83; EAB 1-1984, f. & cert. ef. 3-20-84; ED 3-1993, f. & cert. ef. 10-1-93; ED 4-1993, f. & cert. ef. 11-22-93; Renumbered from 472-010-0005; ED 1-1995, f. & cert. ef. 1-9-95; ED 6-1996, f. 10-15-96, cert. ef. 10-21-96; ED 5-1999, f. 7-28-99, cert. ef. 8-1-99; ED 3-2004(Temp), f. 5-3-04, cert. ef. 5-4-04 thru 10-31-04; ED 5-2004, f. 7-30-04, cert. ef. 8-1-04; ED 8-2006, f. 7-27-06, cert. ef. 7-30-06; ED 11-2006, f. 10-26-06, cert. ef. 10-29-06; ED 5-2007(Temp), f. & cert. ef. 10-16-07 thru 4-12-08

ADMINISTRATIVE RULES

Office of Private Health Partnerships Chapter 442

Rule Caption: Clarifying FHIAP's ability to pay carriers in advance.

Adm. Order No.: OPHP 3-2007(Temp)

Filed with Sec. of State: 10-29-2007

Certified to be Effective: 10-29-07 thru 4-26-08

Notice Publication Date:

Rules Amended: 442-005-0150

Subject: FHIAP is amending 442-005-0150 to enable advance payment of premium subsidies for eligible enrollees in order to meet federal Maintenance of Effort (MOE) requirements established in the Special Terms & Conditions related to the 1115 and Health Insurance Flexibility & Accountability (HIFA) waivers. The agency's inability to meet this contractual obligation could result in default of the waiver and a requirement to repay all federal funds expended to date. This would result in reduced subsidies and potential membership disenrollment.

Rules Coordinator: Cindy Bowman—(503) 378-4674

442-005-0150

Carrier Payments — Individual Market

(1) Member payments must be received before payment to the carrier will be made except:

(a) For the first billing period.

(b) When advance payment, for a timeframe not to exceed the current subsidy eligibility determination period, is required to meet federal contractual obligations.

(2) In the event the member does not pay their portion of the first months' premiums, FHIAP will disenroll the member and apply normal overpayment collection practices for the member's portion only.

Stat. Auth.: ORS 735.734 & 735.720 - 735.740

Stats. Implemented: ORS 735.720 - 735.740

Hist.: IPGB 2-2006, f. & cert. ef. 6-1-06; OPHP 3-2007(Temp), f. & cert. ef. 10-29-07 thru 4-26-08

Oregon Department of Education Chapter 581

Rule Caption: Allows variance from standards to allow use of motor coaches by schools and school districts.

Adm. Order No.: ODE 21-2007(Temp)

Filed with Sec. of State: 10-22-2007

Certified to be Effective: 10-22-07 thru 4-18-08

Notice Publication Date:

Rules Adopted: 581-053-5556

Subject: Based on advice from the Department of Justice, the Oregon Department of Education advised schools and school districts that the use of motor coaches as school activity vehicles was not in compliance with the standards are applicable to school buses and school activity vehicles contained in statute and rule. Many schools and school districts rely on the use of motor coaches.

Rules Coordinator: Paula Merritt—(503) 947-5746

581-053-5556

Appeal for Variance for Motor Coaches

(1) As used in this rule, "motor coach" means a school activity vehicle that meets the Federal Motor Carrier Safety Regulations (FMCSR) standards for interstate transportation set forth in 49 C.F.R. 390 on October 1, 2007.

(2) A school or school district desiring to contract with a carrier for the use of one or more motor coaches as school activity vehicles that cannot meet all required minimum construction standards for school buses or school activity vehicles as applicable in Oregon must forward an "Appeal for Variance for Motor Coaches" request to the State Superintendent of Public Instruction, Salem, Oregon. This appeal must be made by the highest ranking official with the school or school district and contain at least the following information:

(a) The need for the use of a motor coach;

(b) The reason why a standard school bus or school activity vehicle will not suffice;

(c) The proposed uses of a motor coach under the contract;

(d) The name of the carrier with which the school or school district has a contract or is proposing to have a contract;

(e) The number issued to the carrier by the United States Department of Transportation;

(f) A copy of the Certificate of Insurance for the carrier;

(g) Documentation that the carrier has received a satisfactory safety rating from the United States Department of Transportation based on a safety inspection or has received an equivalent safety inspection;

(h) An assurance that the drivers used by the carrier have passed a criminal background check; and

(i) Any other information required by the Department of Education.

(3) The State Superintendent of Public Instruction may grant a variance that allows the requesting school or school district to contract for the use of motor coaches as school activity vehicles. The State Superintendent of Public Instruction may place safety-related and other conditions on the school or school district requesting the variance.

(4) The State Superintendent of Public Instruction may limit the time period for which the variance is granted.

(5) The State Superintendent of Public Instruction may delegate the duties of the superintendent under this rule to an employee of the Department of Education.

Stat. Auth.: ORS 820.100, 820.150

Stats. Implemented: ORS 820.100 - 820.190

Hist.: ODE 21-2007(Temp), f. & cert. ef. 10-22-07 thru 4-18-08

Rule Caption: Increases and clarifies staff background check requirements for registration of private alternative programs.

Adm. Order No.: ODE 22-2007

Filed with Sec. of State: 10-26-2007

Certified to be Effective: 10-26-07

Notice Publication Date: 8-1-2007

Rules Amended: 581-021-0072

Subject: The proposed amendments will clarify the requirements for criminal background checks for owner/operators of private alternative education programs/schools, as well as for other instructional staff with direct, unsupervised contact with children.

Rules Coordinator: Paula Merritt—(503) 947-5746

581-021-0072

Registration of Private Alternative Programs/Schools

(1) All Sections of this rule apply to each private alternative education program approved by a school district board on or after July 1, 2007. For the purposes of this rule, the term "program" includes "school."

(2) For the purposes of ORS 336.635(1), all private alternative education programs receiving public school funds must comply with Private Alternative Education Standards established by the Oregon State Board of Education. Before contracting with or receiving public funds from any public school district, each private alternative program must register with the Oregon Department of Education (ODE) under this rule and must have an institution identification number assigned by the Department.

(3) New registration and renewal applications must be received by March 31 each year, beginning in 2008. Annually by March 1, the Oregon Department of Education will provide registration renewal application forms to private alternative programs registered with the Department.

(4) Each private alternative education program must apply to the Department for approval of registration renewal and the application for registration or renewal of registration must include information or documentation as required by the Department that the private alternative program meets:

(a) Local and state fire, safety, health and occupancy codes and standards;

(b) Health and safety standards and rules including, but not limited to, sanitation and prevention of communicable disease;

(c) The requirements of:

(A) OAR 581-022-1420 (emergency plans and safety programs);

(B) OAR 581-022-1430 (asbestos management plans);

(C) OAR 581-022-1440 (infectious diseases);

(D) ORS 339.870 and OAR 581-021-0037 (administration of medications);

(E) OAR 437-002-1910.1030 (Oregon Occupational Safety and Health Division — blood borne pathogens);

(F) OAR 581-022-0705 (health services);

(G) ORS 337.150, 339.141, 339.147 and 339.155 (tuition and fees);

(H) ORS 181.539, 326.603, 326.607, 336.631, and 342.232 (criminal records checks) for all subject individuals as defined in OAR 581-022-

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1730, including private alternative school/program owner/operators who have direct, unsupervised contact with students;

(I) ORS 433.235 through 433.284 and OAR 333-050-0010 through 333-050-0120 (immunization records and reports); and

(J) ORS 659.850 and 659.855 (discrimination).

(5) The annual application must also include assurances and verifying documentation, as required by the Department, that the private alternative program:

(a) Has a mission statement;

(b) Maintains commercial general liability insurance with policy limits of at least \$1,000,000 and annually provides ODE with requested information or documentation showing the name of the insurance company, the number of the insurance policy, the policy limits covered by the policy, and the effective term of the policy;

(c) Identifies the grade levels to be served;

(d) Identifies which students will be served consistent with OAR 581-022-1350(4)(a)(A);

(e) Assists the contracting district in meeting its planned K-12 instructional program in compliance with OAR 581-022-1210;

(f) Provides instruction in the academic content standards adopted by the State Board of Education and that students participate in district and state assessments of achievement for the grade level(s) the program serves;

(g) Assists students in earning diploma credits consistent with OAR 581-022-1130 and 581-022-1131;

(h) Uses curriculum content, teaching practices, facilities, and management practices that do not violate constitutional prohibitions on religious entanglement;

(i) Develops, implements, and, if necessary, modifies an education plan consistent with OAR 581-022-1120(3)(a) and (b), and 581-022-1130(3), Diploma Requirements, for each student approved for placement in the program by the student's contracting district;

(j) In cooperation with each student's contracting district and parent, guardian, or other responsible adult, includes criteria in the student's education plan for determining if, how, when, and where the student may transition from the alternative education program;

(k) At least annually reports the results of each student's performance on district-wide and state-wide assessments to the student, the student's parents or legal guardians, and to the student's contracting district;

(l) Collects and reports to each contracting district and the state the student's local and state assessment, attendance, behavior, graduation, dropout, and other data required by the district and the state;

(m) If providing special education services or related services identified in any child's IEP, is approved by the ODE under OAR 581-015-0126;

(n) Maintains the confidentiality of student records consistent with the Family Educational Rights and Privacy Act, 34 CFR 99 et. seq. and maintains student records in compliance with Oregon Administrative Rules on student records;

(o) The school shall provide training for all students which is designed to prevent child abuse.

(p) The school shall include training for all school employees on the prevention and identification of child abuse and on the obligations of school employees to report child abuse based on policies adopted by the school board or governing body. This training shall be updated and presented to all employees on an annual basis.

(q) The school shall make the training detailed in section (o) of this rule available to parents and legal guardians of children who attend a school operated by the education provider. The training shall be provided separately from the training provided to school employees under section (p) of this rule.

(r) Has procedures in place regarding staff hiring and evaluation that require:

(A) checking personal and professional references for all potential employees;

(B) criminal background checks in compliance with OAR 581-022-1730 and ORS 181.539, 326.603, 326.607 and 342.232 and to comply with section (9) of this rule, for all employees;

(C) a regular schedule of staff evaluations of the competencies of all employees that work with children; and

(D) Staff licensing/registration by the Oregon Teacher Standards and Practices Commission in compliance with OAR 584-036-0015;

(s) For purposes of claiming state school funds, has policies and procedures to ensure that:

(A) Students 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 are individually placed by the school

district in the alternative education program under ORS 336.635 are accounted for in compliance with OAR 581-023-0006(7);

(B) Students enrolled in schools consistent with ORS 336.135 and students enrolled in nonpublic schools or taught by a private teacher or parent under ORS 339.035 and who are supplementing their home, private, or other instruction by attending the alternative program part-time are accounted for in compliance with OAR 581-023-0006(6)(a); and

(C) The activities claimed for state school funds by the program are one or more of those in OAR 581-023-0008 as approved by the contracting school district; and

(t) Complies with each statute, rule or school district policy specified in a contract between the school district board and the private alternative education program; and

(u) Notifies the ODE and each contracting public school district of any written complaint it receives alleging non-compliance with this private alternative program registration rule.

(6) Each annual renewal application must include a copy of the written annual evaluation of the applicant private alternative program completed by each contracting public school district for the prior school year.

(7) Each private alternative program must provide an annual statement of program expenditures to each contracting district consistent with ORS 336.635(2).

(8) The Oregon Department of Education may monitor the procedure used by the private alternative program for reporting Full Time Equivalent (FTE) student enrollment for the purposes of basic school support.

(9) The Department of Education may deny, suspend, or revoke a private alternative program registration consistent with OAR 581-021-0073.

(10) No registered private alternative school/program shall be owned by or employ an individual who is not of good moral character and reputation.

(a) Upon review by the Department, the Superintendent may find a person not to be of good moral character and reputation when the person:

(A) Has been convicted of a felony or a misdemeanor that involves the illegal use, sale or possession of a controlled substance, or that involves any sexual offense, or any violent offense;

(B) Has been convicted of an offense involving fraud or misrepresentation, or has committed fraud, misrepresentation, or deceit or has committed unfair, deceptive, or unlawful trade practices regulated by the Oregon Unlawful Trade Practices Act (ORS 646.605-646.652); or

(C) Is currently subject to suspension or revocation under OAR 581-021-0073.

(b) The Superintendent shall not make a finding that a person is not of good moral character and reputation solely for the reason that the person has been convicted of a crime, but shall consider the relationship of the facts that support the conviction and all intervening circumstances as they relate to the specific occupational standards and requirements.

(11) As of the effective date of this rule, the Private Alternative Education Standards adopted by the State Board of Education December 5, 2002, are rescinded and replaced by sections (2)-(5) of this rule.

Stat. Auth.: ORS 326.051, 327.125, 336.625

Stats. Implemented: ORS 181.539, 326.603, 326.607, 327.109, 336.615 - 336.665, 337.150

Hist.: EB 27-1990, f. & cert. ef. 5-18-90; ODE 2-1998, f. & cert. ef. 2-27-98; ODE 16-2003,

f. & cert. ef. 8-26-03; ODE 12-2007, f. & cert. ef. 4-25-07; ODE 22-2007, f. & cert. ef. 10-

26-07

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

Adm. Order No.: ODE 23-2007

Filed with Sec. of State: 10-26-2007

Certified to be Effective: 10-26-07

Notice Publication Date: 8-1-2007

Rules Adopted: 581-011-0071

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

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

Category 2 – Health Education, Grades 6-8

Category 3 – Health Education, Grades 9-12

Category 4 – Physical Education, Grades 6-8

Category 5 – Physical Education, Grades 9-12

Rules Coordinator: Paula Merritt—(503) 947-5746

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581-011-0071

Instructional Materials Adopted by the State Board of Education

The State Board of Education hereby adopts by reference basal instructional materials for health Education and Physical Education. The materials are adopted in the following subjects and categories for the adoption cycle beginning July 1, 2008, and ending June 30, 2014:

- (1) Health Education:
 - (a) Health Education — Grades K-5/6;
 - (b) Health Education — Grades 6-8;
 - (c) Health Education — Grades 9-12.
- (2) Physical Education:
 - (a) Physical Education — Grades 6-8;
 - (b) Physical Education — Grades 9-12.

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

Stat. Auth.: ORS 337

Stats. Implemented: ORS 337.050

Hist.: 1EB 1-1983, f. 2-14-83, ef. 2-15-83; 1EB 6-1983, f. 5-10-83, ef. 5-11-83; 1EB 12-1983, f. & ef. 11-3-83; 1EB 1-1984, f. & ef. 1-20-84; 1EB 9-1984, f. & ef. 4-13-84; EB 1-1989, f. & cert. ef. 1-23-89; EB 14-1989, f. & cert. ef. 4-19-89; ED 1-1990, f. & cert. ef. 1-19-90; EB 14-1994, f. & cert. ef. 10-3-94; EB 17-1994, f. & cert. ef. 12-15-94; ODE 23-2007, f. & cert. ef. 10-26-07

Rule Caption: Rule will define process for awarding school improvement grants authorized by SB 318.

Adm. Order No.: ODE 24-2007(Temp)

Filed with Sec. of State: 10-26-2007

Certified to be Effective: 10-26-07 thru 4-23-08

Notice Publication Date:

Rules Adopted: 581-023-0112

Subject: In 2007, SB 318 directed the Oregon Department of Education to award grants to school districts, education service districts, and Youth Corrections Education Program, and Juvenile Detention Education Program for school improvement activities designed

Rules Coordinator: Paula Merritt—(503) 947-5746

581-023-0112

School Improvement Fund

(1) For purposes of this rule, "School Improvement Fund" means the fund established by ORS 327.294.

(2) Each fiscal year the Department of Education shall award grants from the School Improvement Fund to school districts, education service districts, the Youth Corrections Education Program and the Juvenile Detention Education Program for activities that relate to increases in student achievement, including:

(a) Early childhood support including establishing, maintaining or expanding quality Pre-kindergarten programs and full-day kindergarten programs;

(b) Class size reduction with an emphasis on the reduction of kindergarten through grade three class sizes;

(c) Increases in instructional time including summer programs and before and after school programs;

(d) Mentoring, teacher retention and professional development;

(e) Remediation, alternative learning and student retention;

(f) Services to at-risk youth;

(g) Programs to improve a student achievement gap between student groups identified by culture, poverty, language and race and other student groups;

(h) Vocational education programs;

(i) Literacy programs; and

(j) Other research-based student improvement strategies approved by the State Board of Education.

(3) Grant applications for each school district, education service district and for the Youth Corrections Education and Juvenile Detention Education Programs shall identify the goals of the district or program for increases in student performance for the year and shall outline how the district or program plans to use the resources provided from the Fund to reach the performance goals. The Department shall evaluate the grant applications based on the following criteria:

(a) The goals set by the districts and programs for increases in student performance;

(b) The evidenced-based activities identified to meet the stated goals;

(c) Consistency with the district's Continuous Improvement Plan;

(d) The quantifiable performance measures for demonstrating progress on one or more Key Performance Measures adopted by the 2007 Legislative Assembly and identified by the Department; and

(e) The evaluation process identified in the application that will be used by the district or program to determine if the district or program is effective in the implementation of the activities for which the district or program is requesting funds.

(4) The amount of each grant for a district or program shall be determined based on ORS 327.294 and 327.297.

(5) Each district or program shall account for the grant amounts it receives separately, and shall apply these amounts to pay for activities described in the district or program's application. Districts may choose to budget these funds in the district's General Fund or a Special Revenue Fund. Programs may choose to budget these funds in a Special Revenue Fund. The Department will establish an Area of Responsibility code in the Program Budgeting and Accounting Manual for School Districts and Education Service Districts in Oregon to identify all expenditures for the School Improvement Fund. Districts and programs shall use the Area of Responsibility code to identify all expenditures for the School Improvement Fund.

(6) The State Superintendent of Public Instruction shall resolve any issues arising from the administration of the School Improvement Fund grants not specifically addressed by this rule and the Superintendent's determination shall be final.

Stat. Auth.: ORS 327

Stats. Implemented: ORS 327

Hist.: ODE 18-2001(Temp), f. & cert. ef. 8-15-01 thru 1-02-02; ODE 31-2001, f. & cert. ef. 12-20-01; ODE 24-2007(Temp), f. & cert. ef. 10-26-07 thru 4-23-08

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

Adm. Order No.: ODE 25-2007

Filed with Sec. of State: 10-26-2007

Certified to be Effective: 10-26-07

Notice Publication Date: 8-1-2007

Rules Adopted: 581-022-1371, 581-022-1372

Rules Amended: 581-022-1362, 581-022-1363, 581-022-1364, 581-022-1365, 581-022-1366, 581-022-1367, 581-022-1368, 581-022-1369, 581-022-1370

Subject: Senate Bill 23 was enacted during the 2007 Legislative Session, which modified the requirements for the Expanded Options programs that provide high school students with access to programs offered in community colleges and higher education institutions. The amendments and new rule proposed here would implement that legislative directive.

Rules Coordinator: Paula Merritt—(503) 947-5746

581-022-1362

Expanded Options – Purpose

The purpose of the program created by ORS Chapter 340 otherwise known as Expanded Options is to:

(1) Create a seamless education system for students enrolled in grades 11 and 12 to:

(a) Have additional options to continue or complete their education;

(b) Earn concurrent high school and college credits; and

(c) Gain early entry into post-secondary education.

(2) Promote and support existing accelerated college credit programs, and support the development of new programs that are unique to a community's secondary and postsecondary relationships and resources.

(3) Allow eligible students who participate in the Expanded Options Program to enroll full-time or part-time in an eligible post-secondary institution.

(4) Provide public funding to the eligible post-secondary institutions for educational services to eligible students to offset the cost of tuition, fees, textbooks, equipment and materials for students who participate in the Expanded Options Program.

Stat. Auth.: ORS 340.574

Stats. Implemented: ORS 340.574

Hist.: ODE 12-2006, f. & cert. ef. 5-24-06; ODE 25-2007, f. & cert. ef. 10-26-07

581-022-1363

Expanded Options – Definitions

Definitions to be used in carrying out the components of OAR 581-022-1362 through 581-022-1372:

(1) "Expanded Options Program" means The program created in ORS Chapter 340.

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(2) "Accelerated college credit program" means a program, agreement or plan that is intended to provide access for public high school students to a post-secondary course, including, but not limited to:

- (a) Dual credit technical preparation programs, such as two-plus-two;
- (b) Advanced placement; and
- (c) International Baccalaureate.

(3) "Adverse Financial Impact" means a decline in financial resources that would substantially impact the educational program the district offers to all students.

(4) "At-risk student" means:

(a) A student who qualifies for a free or reduced lunch program; or
(b) A student who meets state or federal thresholds for poverty as indicated by eligibility for services under any or all of the following title sections of the No Child Left Behind Act of 2001; PL 107-110:

- (A) Title IA Improving Academic Achievement of the Disadvantaged;
- (B) Title IC Education of Migratory Children;
- (C) Title ID Prevention and Intervention Programs for Children and Youth Who are Neglected, Delinquent, or At-Risk;
- (D) Title III Language Instruction of Limited English Proficient and Immigrant Students;

(E) Title X Education of Homeless Children and Youth Program.

(5) "Duplicate course" means a course with a scope that is identical to the scope of another course.

(6) "Eligible post-secondary course" means

(a) Any nonsectarian course or program offered through an eligible post-secondary institution if the course or program may lead to high school completion, a certificate, professional certification, associate degree or baccalaureate degree.

(b) "Eligible post-secondary course" does not include a duplicate course offered at the student's resident school.

(c) "Eligible post-secondary course" includes:

- (A) Academic and professional technical courses; and
- (B) Distance education courses.

(d) The provisions of Section 5 "Eligible post secondary course", subsections (a) through (c), do not apply to any post-secondary courses in which a student is enrolled in addition to being enrolled full-time in the student's resident school district. For purposes of the Expanded Options Program, a student is considered full-time if the student attends classes for credit in the secondary school for all available hours of instruction.

(7) "Eligible post-secondary institution" means:

(a) A community college;

(b) Institutions in the Oregon University System (University of Oregon, Oregon State University, Portland State University, Oregon Institute of Technology, Western Oregon University, Southern Oregon University, Eastern Oregon University); and

(c) The Oregon Health and Sciences University.

(8) "Eligible student" means

(a) A student who is enrolled in an Oregon public school and who:

(A) Is 16 years of age or older at the time of enrollment in a course under the Expanded Options Program, and;

(B) Is in grade 11 or 12, or

(i) Is not in grade 11 or 12, because the student has not completed the required number of credits, but who has been allowed by the school district to participate in the program; and

(C) Has developed an educational learning plan consistent with OAR 581-022-1130(3), Diploma Requirements; and

(D) Has not successfully completed the requirements for a high school diploma as established by ORS 329.451, the State Board of Education, and the local school district board.

(b) "Eligible student" does not include a foreign exchange student enrolled in a school under a cultural exchange program.

(9) "Good Faith Negotiations" refers to the manner in which the parties meet and carry on business at reasonable times with willingness to reach agreement through conference, discussion, and compromise.

(10) "Individualized education program" means a written statement of an educational program for a child with a disability as described in OAR 581-015-0068, Special Education — Content of IEP.

(11) "Related Services" includes transportation and such developmental, corrective and other supportive services as are required to assist a student with a disability to benefit from special education and is consistent with OAR 581-015-0005, Special Education — Definitions.

(12) "Scope" means depth and breadth of course content as evidenced through a planned course statement including content outline, applicable state content standards where appropriate, course goals and student outcomes.

(13) "Special Education" means specially designed instruction consistent with OAR 581-015-0005, Special Education — Definitions, to meet the unique needs of a student with a disability by adapting, as appropriate, the content, methodology, or delivery of instruction to address the unique needs of the student that result from the student's disability and to ensure access of the student to the general curriculum.

Stat. Auth.: ORS 340.574

Stats. Implemented: ORS 340.574

Hist.: ODE 12-2006, f. & cert. ef. 5-24-06; ODE 25-2007, f. & cert. ef. 10-26-07

581-022-1364

Expanded Options — Requirements for Oregon Public School Districts

Each school district shall:

(1) Prior to February 15 of each year, notify all high school students and the students' parents or guardians of the Expanded Options Program as described in OAR 581-022-1365, Expanded Options — Annual Notice, for the following school year.

(2) Establish a process to identify dropouts as described in OAR 581-022-1365, Expanded Options - Annual Notice.

(3) Include in the enrollment materials for all students transferring into the district from another district, and for all students returning to high school after dropping out, notification to the student and student's parent or guardian of the Expanded Options Program as described in OAR 581-022-1365, Expanded Options — Annual Notice, if said students enroll in a district school after the district has issued its annual program notice.

(4) Notify a high school student who has officially expressed an intent to participate in the Expanded Options Program, and the student's parent or guardian, of the student's eligibility status within 20 business days after the student as officially expressed intent.

(5) Negotiate in good faith a financial agreement with any eligible post-secondary institution consistent with OAR 581-022-1368 State School Fund, Expenditures, Good Faith Negotiations.

(6) Enter into an agreement with an eligible post-secondary institution that accepts a student for enrollment in an eligible post-secondary course that is a non-tuition course or noncredit course pursuant to ORS 640.030 for the payment of the actual associated instructional costs.

(7) Review with the student and the student's parent or guardian the student's current status toward meeting all state and school district graduation requirements and the applicability of the proposed eligible post-secondary course with respect to fulfilling the student's remaining graduation requirements.

(8) Establish a process adopted by the local school district board to determine duplicate course status consistent with 581-022-1363, Definitions.

(a) A school district shall notify an eligible student and the student's parent or guardian of any course the student wishes to take that the district determines is a duplicate course, within 20 business days after the student has submitted a list of intended courses.

(b) A student may appeal a duplicate course determination to the school district board based on evidence of the scope of the course.

(c) The school district board or the board's designee shall issue a decision on the appeal within 30 business days of receipt of the appeal.

(9) Prior to an eligible student's beginning an eligible post-secondary course, notify the student of the number and type of credits the student will be granted upon successful completion of the course.

(a) School district boards shall have policies and procedures to award diploma credits to eligible students for eligible post-secondary courses completed under the Expanded Options Program. Those policies and procedures shall be consistent with OAR 581-022-1131, Credit Options.

(10) Establish an appeals process adopted by the local school district board to resolve disputes by the eligible students regarding number or type of credits the school district will grant or has granted for a particular eligible post-secondary course. The appeals process adopted by the school district board shall be consistent with OAR 581-022-1940, Appeals and Complaints.

(11) Be responsible for providing any special education and related services to participating students following state and federal law, and consistent with OAR 581-015-0005, Special Education.

(a) The resident school district of an eligible student participating in the Expanded Options Program shall be responsible for providing any required special education and related services to the student.

(b) A student who requires special education and related services shall be considered, for school purposes, a resident in the school district pursuant to ORS 339.133 and 339.134.

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(12) Each school year, award no more than 330 quarter credit hours to eligible students per enrollment of 1,000 students or proportional credit hours as established in OAR 581-022-1366, Annual Credit Hour Cap; or elect to exceed this quarter hour cap following the stipulations indicated in OAR 581-022-1366, Annual Credit Hour Cap.

(13) Apply credits granted to an eligible student to be counted toward high school graduation requirements and subject area requirements of the state and local school district consistent with OAR 581-022-1130, Diploma Requirements.

(14) Include in the student's education record evidence of successful completion of each eligible post-secondary course and credits granted.

(15) Include in the student's education record that the credits were earned at an eligible post-secondary institution.

(16) Provide the following data to the Department of Education on an annual basis in the format and timeline as determined by the Department of Education:

- (a) Types of accelerated college credit programs offered;
- (b) Number of high school credits earned under the Expanded Options Program;
- (c) Number of college credits earned under the Expanded Options Program;
- (d) Estimated college tuition cost savings for participating students;
- (e) Number of students who had dropped out of high school but returned to high school to participate in the Expanded Options Program and earned a diploma;
- (f) Number of participating students categorized by ethnicity and financial status;
- (g) Number of participating talented and gifted students;
- (h) Rural school district designation;
- (i) If the individual district is classified as a small school district, the number of eligible students who wish to participate than are allowed under the respective credit hour caps established in OAR 581-022-1366, Annual Credit Hour Cap. Each school district may.

(17) Provide transportation services to eligible students who attend eligible post-secondary institutions within the boundaries of which the school district is a component school district.

(a) Any transportation costs incurred by a school district under this section shall be considered approved transportation costs for purposes of ORS 327.013(9).

(18) Appeal to the Department of Education for determination of good faith negotiations as described in 581-022-1368 State School Fund, Expenditures, Good Faith Negotiations.

(19) Request a waiver from the Department of Education of the requirements of participation in the Expanded Options Program created in ORS Chapter 340 if the school district meets the conditions as described in 581-022-1372, Request for Program Waiver.

Stat. Auth.: ORS 340.574

Stats. Implemented: ORS 340.574

Hist.: ODE 12-2006, f. & cert. ef. 5-24-06; ODE 25-2007, f. & cert. ef. 10-26-07

581-022-1365

Expanded Options – Annual Notice

(1) Prior to February 15 of each year, beginning with the 2005-06 school year, each school district must notify all high school students and the students' parents or guardians of the Expanded Options Program for the following school year. The notification process must:

(a) Ensure that all at-risk students and their parents are notified about the Expanded Options Program; and

(b) Identify high school students who have dropped out of school and provide those students with information about the Expanded Options Program by sending information about the program to the last known address of the family of the student. It shall be a priority for school districts to provide information about the Expanded Options Program to high school students who have dropped out of school.

(2) The notice must include, but is not be limited to, the following:

- (a) Definitions of "eligible student," "eligible post-secondary institution," and "eligible post-secondary course;"
- (b) Purposes of the Expanded Options Program;
- (c) Financial arrangements for tuition, textbooks, equipment and materials;
- (d) Available transportation services;
- (e) Effects of enrolling in the Expanded Options Program on the eligible student's ability to complete the required high school graduation requirements;

(f) Consequences of not maintaining satisfactory academic progress as defined by the eligible post-secondary institution, such as by failing or not completing an eligible post-secondary course;

(g) Participation in the Expanded Options Program is contingent on acceptance by an eligible post-secondary institution;

(h) School district timelines affecting student eligibility and duplicate course determinations consistent with ORS 340.015, 340.025, and 340.030.

(i) Eligible students may not enroll in eligible post-secondary courses for more than the equivalent of two academic years, and eligible students who first enroll in grade 12 may not enroll in eligible post-secondary courses for more than the equivalent of one academic year;

(j) A student who has graduated from high school may not participate in the Expanded Options Program;

(k) Notice(s) of any other program(s), agreement(s) or plan(s) in effect that provide access for public high school students to post-secondary courses;

(l) The district's responsibility for providing any required special education and related services to the student;

(m) The number of quarter credit hours that may be awarded each school year to eligible students by the resident high school;

(n) The district board's process for selecting eligible students to participate in the Expanded Options Program if the school district has not chosen to exceed the credit hour cap and has more eligible students who wish to participate than are allowed by the cap;

(o) Information about program participation priority for at-risk students;

(p) Exclusion of duplicate courses as determined by the resident school district;

(q) The process for a student to appeal the district's duplicate course determination to the local school district board, and if the local appeal is denied, to the Superintendent of Public Instruction or the Superintendent's designee;

(r) Exclusion of post-secondary courses in which a student is enrolled if the student is also enrolled full time in the resident secondary school; and

(s) Exclusion of foreign exchange students enrolled in a school under a cultural exchange program.

Stat. Auth.: ORS 340.574

Stats. Implemented: ORS 340.574

Hist.: ODE 12-2006, f. & cert. ef. 5-24-06; ODE 25-2007, f. & cert. ef. 10-26-07

581-022-1366

Expanded Options — Annual Credit Hour Cap

(1) The number of quarter credit hours that may be awarded by a high school under the Expanded Options Program is limited to an amount equal to the number of students in grades 9 through 12 enrolled in the high school multiplied by a factor of 0.33. For example, the cap for a high school with 450 students in grades 9 through 12 would be 148.5 (450 x 0.33 = 148.5).

(2) For districts with more than one high school, the caps must be established separately for each high school.

(3) School districts may choose to exceed both the individual high school level cap(s) and the aggregate district level cap established under this rule.

(4) School districts choosing not to exceed the cap(s) established under this rule are required to establish a process for selecting eligible students for participation in the program. The process must give priority for participation to students who are "at risk" as defined in OAR 581-022-1363 Expanded Options — Definitions.

Stat. Auth.: ORS 340.574

Stats. Implemented: ORS 340.574

Hist.: ODE 12-2006, f. & cert. ef. 5-24-06; ODE 25-2007, f. & cert. ef. 10-26-07

581-022-1367

Expanded Options — Responsibilities of Eligible Students

Each eligible student shall:

(1) Maintain satisfactory academic progress as defined by the eligible post-secondary institution.

(2) By May 15 of each year, notify the resident school district of intent to enroll in eligible post-secondary courses during the following school year.

(a) If a student is an incoming transfer student or returning dropout, notify the school district of interest in Expanded Options Program participation within 20 business days of enrollment.

(3) In cooperation with an advisory support team (may include the student, student's parent or guardian and a teacher or a counselor), develop an educational learning plan consistent with OAR 581-022-1130, Section

(3) Diploma Requirements, which may include:

- (a) Short-term and long-term learning goals and proposed activities,

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(b) Relationship of the eligible post-secondary courses proposed under the Expanded Options Program and the student's learning goals.

(4) Acknowledge that participation in the Expanded Options Program is contingent on acceptance by an eligible post-secondary institution.

(5) Provide the school district with authorization to obtain a copy of grades in from each post-secondary institution for each eligible post-secondary course taken for credit or non credit that may lead to high school completion, a certificate, professional certification, associate degree or baccalaureate degree under the Expanded Options Program.

(6) Acknowledge that all textbooks, fees, equipment and materials provided and paid for under Expanded Options Program are the property of the resident school district.

(7) Be ineligible for any state student financial aid under ORS 348.040 to 348.280 and 348.505 to 348.695.

(8) Not enroll for more than the equivalent of two academic years.

(a) If first enrolled in grade 12, may not enroll in post-secondary courses for more than the equivalent of one academic year.

(b) If first enrolled in the middle of the school year, the time of participation shall be reduced proportionately.

(c) If enrolled in a year-round program and begins each grade in the summer session, summer sessions are not counted against the time of participation. Each eligible student may:

(9) Apply to an eligible post-secondary institution to enroll in eligible post-secondary courses offered by the eligible post-secondary institution.

(10) Apply to the resident school district for reimbursement for any textbooks, fees, equipment or materials purchased by the student that are required for an eligible post-secondary course.

(11) Appeal to the local school board a duplicate course designation and, if said appeal is denied, appeal to the Superintendent of Public Instruction or the superintendent's designee a duplicate course designation by the resident school district.

(a) The school district board or the board's designee shall issue a decision on the appeal within 30 business days of receipt of the appeal.

(b) The superintendent or the superintendent's designee shall issue a decision on the appeal within 30 business days of receipt of the appeal.

(c) If the superintendent or the superintendent's designee fails to issue a decision within 30 days of receipt of the appeal, the course shall be deemed to not be a duplicate course.

(A) The student may then enroll in the course under the Expanded Options Program, if the course and the student meet all other eligibility requirements.

Stat. Auth.: ORS 340.574

Stats. Implemented: ORS 340.574

Hist.: ODE 12-2006, f. & cert. ef. 5-24-06; ODE 25-2007, f. & cert. ef. 10-26-07

581-022-1368

Expanded Options — State School Fund, Expenditures, Request for Waiver

(1) An eligible student enrolled in an eligible post-secondary course at an eligible post-secondary institution shall continue to be considered a resident pupil of the student's school district for purposes of calculation of the State School Fund grant under ORS 327.006 to 327.133 and 327.731.

(2) The amount of each school district's general purpose grant per extended ADMw as calculated under ORS 327.013 shall be determined each fiscal year by the Department of Education and made available to all school districts and, upon request, to any eligible post-secondary institution.

(3) A school district shall negotiate in good faith a financial agreement with any eligible post-secondary institution that accepts a student for enrollment in an eligible post-secondary course for the payment of actual instructional costs associated with the enrollment of the eligible student in eligible post-secondary courses, including tuition, fees, textbooks, equipment, and materials.

(a) As a part of the negotiated financial agreement, an eligible post-secondary institution shall provide the school district with the published refund policy for eligible students who do not complete eligible post-secondary courses in which the students enroll and do not earn credit.

(b) If after participating in good faith negotiations, a school district and an eligible post-secondary institution are unable to agree on the payment of actual instructional costs as described in Section (3), either entity may appeal to the Department of Education for a determination of whether the negotiations were conducted in good faith.

(4) The department shall develop a process and criteria to use for appeal.

(a) If the department determines that the negotiations were not conducted in good faith by either the school district or the eligible post-sec-

ondary institution, the department shall order the school district and the eligible post-secondary institution to conduct the negotiations again.

(b) If the department determines that the negotiations were conducted in good faith by the school district and the eligible post-secondary institution, the department shall grant the school district a waiver consistent with OAR 581-022-1372 Request for Program Waiver from participating in the Expanded Options Program with the eligible post-secondary institution with which the school district was negotiating.

(c) The decision of the department shall be binding on the school district and the eligible post-secondary institution.

(5) In addition to any good faith financial agreement entered into under Section (3), the resident school district of the eligible student shall enter into an agreement with an eligible post-secondary institution that accepts a student for enrollment in an eligible post-secondary course that is a non-tuition course or noncredit course for the payment of the actual instructional costs associated with the student's attending the eligible post-secondary course at the institution.

(6) Nothing in this section shall prohibit an eligible post-secondary institution from receiving additional state funding that may be available under any other law.

Stat. Auth.: ORS 340.574

Stats. Implemented: ORS 340.574

Hist.: ODE 12-2006, f. & cert. ef. 5-24-06; ODE 25-2007, f. & cert. ef. 10-26-07

581-022-1369

Expanded Options — Report to Legislative Committees and Joint Boards

The Department of Education shall annually report on the Expanded Options Program to the Joint Boards of Education and the House and Senate committees relating to education. The report shall include:

(1) Types of accelerated college credit programs offered;

(2) Number of high school credits earned under the Expanded Options Program;

(3) Number of college credits earned under the Expanded Options Program;

(4) Estimated college tuition cost savings for participating students;

(5) Number of students who had dropped out of high school but returned to high school to participate in the Expanded Options Program and earned a diploma;

(6) Number of participating students categorized by ethnicity and financial status;

(7) Number of participating talented and gifted students;

(8) The level of participation in the Expanded Options Program by rural communities;

(9) The number of students living in rural communities who participated in the Expanded Options Program;

(10) Number of appeals of students regarding duplicate course designation to the Superintendent of Public Instruction or the superintendent's designee and the disposition of the students' appeals;

(11) Number of small school districts with more eligible students who wish to participate than are allowed under the respective credit hour caps established in OAR 581-022-1366(1361), Expanded Options Annual Credit Hour Cap;

(12) Number of waivers of requirements granted under the provisions of OAR 581-022-1368, Expanded Options State School Fund, Expenditures, Request for Waiver, and the reasons for issuance of the waivers;

(13) Recommendations for changes to the Expanded Options Program to better serve students, including changes to the age limit restrictions for eligible students;

(14) Recommendations for funding changes to better serve students who wish to participate in the Expanded Options Program.

Stat. Auth.: ORS 340.574

Stats. Implemented: ORS 340.574

Hist.: ODE 12-2006, f. & cert. ef. 5-24-06; ODE 25-2007, f. & cert. ef. 10-26-07

581-022-1370

Expanded Options — Alternative Programs

(1) Notwithstanding ORS Chapter 340, any program, agreement or plan in effect on January 1, 2006, that provides access for public high school students to a post-secondary course is not affected by this chapter and may be continued or renewed at the discretion of the parties to the program, agreement or plan.

(2) Any new program, agreement or plan that is developed after January 1, 2006, and that is intended to provide access for public high school students to a post-secondary course may be initiated at the discretion of a school district and a post-secondary institution.

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Stat. Auth.: ORS 340.574
Stats. Implemented: ORS 340.574
Hist.: ODE 12-2006, f. & cert. ef. 5-24-06; ODE 25-2007, f. & cert. ef. 10-26-07

581-022-1371

Expanded Options — Charter School Participation

(1) A public charter school may elect to participate in the Expanded Options Program by amending its charter under ORS 338.065.

(2) Actual instructional costs associated with participating eligible students shall be negotiated and paid directly to the eligible post-secondary institution by the public charter school.

(3) The participating public charter school may not require funding from the sponsor of the school for payment of Expanded Options Program costs that is in addition to funding that has already been contractually established pursuant to ORS 338.155 (2)(b) or (3)(b) or 338.165(3)(b).

Stat. Auth.: ORS 326.051
Stats. Implemented: ORS 340.005 - 340.090
Hist.: ODE 25-2007, f. & cert. ef. 10-26-07

581-022-1372

Expanded Options — Request for Program Waiver

(1) A school district may request a waiver from the Department of Education of the requirements of participation in the Expanded Options Program as established in ORS Chapter 340. The department shall grant the waiver if:

(a) Compliance with the requirements of the Expanded Options Program would adversely impact the finances of the school district; or

(b) The school district offers dual credit technical preparation programs, such as two-plus-two programs, advanced placement or International Baccalaureate programs and other accelerated college credit programs.

(2) The duration of a waiver granted based on Subsection (1)(a) shall be no more than two school years.

(3) The duration of a waiver granted under Subsection (1)(b) shall be the length of the program that was the basis for the waiver.

(4) There is no limit on the number of times a school district may apply for and be granted a waiver under this section.

Stat. Auth.: ORS 326.051
Stats. Implemented: ORS 340.005 - 340.090
Hist.: ODE 25-2007, f. & cert. ef. 10-26-07

Rule Caption: Updates construction standards for school buses.

Adm. Order No.: ODE 26-2007

Filed with Sec. of State: 10-26-2007

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Notice Publication Date: 8-1-2007

Rules Amended: 581-053-0512, 581-053-0517, 581-053-0527

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

Rules Coordinator: Paula Merritt—(503) 947-5746

581-053-0512

Minimum Standards for School Bus Chassis

(1) Air Cleaner:

(a) The engine intake air cleaner shall be furnished and properly installed by the chassis manufacturer to meet engine specifications;

(b) All Type C and Type D buses equipped with diesel engines shall have an air cleaner restriction indicator properly installed by the chassis manufacturer to meet engine specifications.

(2) Axles: The front and rear axles and suspension assemblies shall have a gross weight rating at least equal to that portion of the load as would be imposed by the chassis manufacturer's maximum gross weight rating for each axle.

(3) Air System: All buses equipped with air systems for brakes shall provide and identify an appropriate air port for plumbing in air powered accessories.

(4) Air-Operated Accessories: Air-operated accessories shall be plumbed into the vehicle's air supply system in compliance with all the following:

(a) Safeguarded by a check valve or equivalent device located between the air supply system and the accessory to prevent air loss due to accessory failure. This shall include the supply line for a designated accessory air tank;

(b) Connected to the air supply system in compliance with all applicable Federal Motor Vehicle Safety Standards;

(c) Connected in the manner prescribed by the vehicle manufacturer.

(5) Brakes:

(a) Air brakes are required on all buses having a manufacturer's gross vehicle weight rating of 26,001 pounds or greater;

(b) An air or power actuated service braking system and parking brake shall be provided;

(c) Buses using air or vacuum in the operation of the brake system shall be equipped with warning signals, readily audible and visible to the driver, that will give a continuous warning when the air pressure available in the system for braking is 60 psi (pounds per square inch) or less or the vacuum in the system available for braking is 8 inches of mercury or less. An illuminated gauge shall be provided that will indicate to the driver, the air pressure in pounds per square inch or the inches of mercury vacuum available for the operation of the brake.

(A) Vacuum-assist brake systems shall have a reservoir used exclusively for brakes which shall be adequate to ensure loss in vacuum at full stroke application of not more than 30 percent with engine not running. Brake system on gas-powered chassis shall include suitable and convenient connections for the installation of separate vacuum reservoir;

(B) Any brake system dry reservoir shall be so safeguarded by a check valve or equivalent device, that in the event of failure or leakage in its connection to the source of compressed air or vacuum, the stored dry air or vacuum shall not be depleted by the leakage or failure.

(d) Buses using a hydraulic assist-booster in the operation of brake system shall be equipped with a warning signal, readily audible and visible to the driver, which will provide continuous warning in the event of a loss of fluid flow from primary source or loss of electric source powering the backup system;

(e) The brake lines and booster-assist lines shall be protected from excessive heat and vibrations and be so installed as to prevent chafing;

(f) All brake systems shall be designed to permit visual inspection of brake lining wear without removal of any chassis components except for inspection dust covers or wheels;

(g) Air brake systems shall be equipped with manual drain valves on all air tanks. A provision shall be made to operate manual drain valve(s) on first (wet) reservoir(s) from the side of the bus unless one of the following options is provided:

(A) Automatic moisture ejector on the first (wet) reservoir;

(B) An air dryer that has the drying ability to insure an adequate margin of safety under normal and adverse operating conditions;

(C) Skirt-mounted controls for manual drain valve(s) shall not extend beyond the outer side of bus skirt panel.

(6) Bumper, Front:

(a) Front bumper shall be furnished by chassis manufacturer as part of the chassis for Type A-1, A-2, B, and C buses. Type D buses shall have bumpers furnished by the body manufacturer;

(b) Front bumper shall extend beyond forward-most part of body, grille, hood and fenders and shall extend to outer edges of fenders at bumper top line;

(c) Front bumper, except breakaway bumper ends shall be of sufficient strength to permit pushing a vehicle of equal gross vehicle weight without permanent distortion to bumper, chassis or body;

(d) An energy absorbing front bumper may be used providing its design shall incorporate a self-restoring energy absorbing system of sufficient strength to:

(A) Push another vehicle of similar GVW without permanent distortion to the bumper, chassis, or body;

(B) Withstand repeated impacts without damage to the bumper, chassis, or body according to the following performance standards:

(i) 7.5 MPH fixed barrier impact (FMVSS cart and barrier test);

(ii) 4.0 MPH corner impact at 30 degrees (Part 581 CFR Title 49);

(iii) 20.0 MPH into parked passenger car (class B, C, and D buses of 18,000 pounds GVW or more).

(C) The manufacturer of the energy absorbing system shall provide evidence from an approved test facility (capable of performing the above FMVSS test(s)) that their product conforms to the above.

(7) Chains, Automatic: Automatic tire chains (traction) may be installed at drive wheels in conformance with manufacturing specifications and any applicable chassis manufacturer standards. (Note: Air-applied chain systems must comply with air-operated accessory requirement included in this rule.)

(8) Certification: Chassis manufacturer will, upon request, certify to the state agency having pupil transportation jurisdiction that their product meets minimum standards on items not covered by certification issued under requirements of National Traffic and Motor Vehicle Safety Act.

(9) Clutch:

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(a) Clutch torque capacity shall be equal to or greater than, the engine torque output;

(b) A starter interlock shall be installed to prevent actuation of the starter if the clutch is not depressed on all buses manufactured after January 1, 1999.

(10) Color: Chassis and front bumper shall be black; hood, cowl and fenders shall be in National School Bus Yellow. Hood may be painted low-luster yellow. Wheels may be painted either black or school bus yellow. (Silver lock rings are acceptable.) Type A-1, A-2, and B buses may have manufacturer standard color.

(11) Drive Shaft: Drive shafts over 24 inches in length shall be protected by metal guard or guards around circumference of drive shaft to reduce the possibility of the shaft whipping through floor or dropping to ground if broken. Guards shall be mounted around front half of each drive shaft section.

(12) Electrical System:

(a) Battery:

(A) Storage battery shall have a minimum cold cranking capacity rating equal to the cranking current required for 30-seconds at 0° Fahrenheit (-17.8c) and a minimum reserve capacity rating of 120-minutes at 25 amp. Higher capacities may be needed dependent upon optional equipment and local environmental conditions;

(B) Since all batteries are to be secured in a sliding tray in the body, the battery shall be temporarily mounted on the chassis frame by the chassis manufacturer. This includes Type A-1, A-2 buses unless the battery(ies) are mounted assessable under the hood. In this case the final location of the battery and the appropriate cable lengths provided by the chassis manufacturer shall be according to the SBMI Design Objectives Booklet, May 1990 edition.

(b) Circuits: An appropriate identifying diagram (color and number coded) for electrical circuits shall be provided to the body manufacturer for distribution to the end user for all buses purchased after September 1, 1993;

(c) Generator or Alternator:

(A) All buses shall have a generator or alternator with a minimum rating of at least 100 amperes (in accordance with Society of Automotive Engineer rating) with minimum charging of 50 percent of maximum rated output at manufacturer's recommended engine idle speed (12 volt system), and shall be ventilated and voltage-controlled and, if necessary, current-controlled;

(B) Direct-drive generator or alternator is permissible in lieu of belt drive. Belt drive shall be capable of handling the rated capacity of the generator or alternator with no detrimental effect on other drive components;

(C) Dual belt drive or equivalent shall be used on Type C and D buses with generator or alternator.

NOTE: Refer to Exhibit 1 for estimating required generator or alternator capacity.

(d) Wiring:

(A) General — All wiring shall conform to current applicable recommended practices of the Society of Automotive Engineers. All wiring shall use a standard color coding and each chassis shall be delivered with a wiring diagram that coincides with the wiring of the chassis;

(B) Chassis manufacturer shall install a readily accessible terminal strip or plug on the body side of the cowl, or at accessible location in engine compartment of vehicles designed without a cowl, which shall contain the following terminals for the body connections:

- (i) Main 100 amp body circuit;
- (ii) Tail lamps;
- (iii) Right turn signal;
- (iv) Left turn signal;
- (v) Stop lamps;
- (vi) Back up lamps;
- (vii) Instrument panel lights.

(13) Engine Compartment: Automatic/Manual Engine Fire Extinguishers: Automatic fire extinguisher systems may be installed in the engine compartment on buses. System must have a visible gauge easily read from the driver's seat and a manual activation switch clearly identified and located in the driver's compartment. The entire system must be UL (Underwriters Laboratories) Approved and assure protection from passenger compartment. Extinguisher system manual activation switch/control shall be safeguarded from accidental activation by a pull-pin or equivalent device. The extinguisher, if mounted in the passenger compartment, shall not be readily removable for use elsewhere, but dedicated for the engine compartment.

(14) Exhaust System:

(a) Exhaust pipe, muffler, and tailpipe shall be outside bus body compartment and attached to chassis;

(b) Tailpipe shall be constructed of a corrosion-resistant tubing material at least equal in strength and durability to 16 gauge steel tubing;

(c) Tailpipe shall meet one of the following options:

(A) Tailpipe may exit in the rear of the bus provided it:

(a) Does not create a hand hold.

(b) Does not create a step.

(c) Exhaust is defused away from passenger compartment.

(B) Tailpipe may extend to, but not beyond the body limits on the left side of the bus forward or rearward of the rear tires outboard of chassis centerline as described in section 14(c)(C) of this rule. If the tailpipe terminates forward of the rear tires it shall terminate not more than 24 inches or less than 6 inches forward of rear tires. No tailpipe shall terminate beneath any emergency exit or fuel fill receptacle;

(C) Type A-1, A-2, B, C, and D buses — 48.5 inches minimum from centerline of chassis

NOTE: Tailpipe may not exit on the right side of vehicle. See OAR 581-053-0517(41).

(d) Exhaust system shall be properly insulated from fuel tank and connections by securely attached metal shield at any point where it is 12 inches or less from tank or tank connections on all gasoline or alternative fueled vehicles;

(e) Muffler shall be constructed of corrosion-resistant material.

(15) Fenders, Front, Type C Vehicles:

(a) Total spread of outer edges of front fenders, measured at fender line, shall exceed total spread of front tires when front wheels are in straight-ahead position;

(b) When equipped, front fenders shall be properly braced and free from any body attachments.

(16) Frame:

(a) Frame or equivalent shall be of such design and strength characteristics as to correspond at least to standard practice, for trucks of same general load characteristics which are used for highway service;

(b) Any secondary manufacturer that modifies the original chassis frame shall guarantee the performance of workmanship and materials resulting from such modification;

(c) Any frame modification shall not be for the purpose of extending the wheelbase;

(d) Holes in top or bottom flanges of frame side rail shall not be permitted except as provided in original chassis frame. There shall be no welding to frame side rails except by chassis or body manufacturer;

(e) Frame lengths shall be provided in accordance with SBMI Design Objectives, May 1990 edition.

(17) Fuel Tank:

(a) Fuel tank shall be provided by the chassis manufacturer. Buses with a passenger capacity of 58 or less shall be equipped with a fuel tank or tanks of minimum 30 gallon capacity with at least a 25 gallon actual draw. Buses with a capacity of 58 or more shall be equipped with a minimum 60 gallon fuel tank with an actual draw of 50 gallons or more. Type A-1 and A-2 buses may be equipped with manufacturers' standard tank;

(b) No portion of the fuel system, which is located rear of the engine compartment, except the filler tube, shall extend above the top of the chassis frame rail. Fuel lines shall be mounted to obtain maximum possible protection from the chassis frame;

(c) Fuel filter with replaceable element shall be installed between fuel tank and engine;

(d) Fuel tank installation shall be in accordance with SBMI Design Objectives effective May 1990 and in compliance with all applicable Federal Motor Vehicle Safety Standards:

(A) Type A-1, A-2, B, C, and D bus fuel tanks may be mounted on left chassis frame rail or behind rear wheels. Type D buses with rear engines may have the tank mounted ahead of the rear axle between the frame rails;

(B) Tank(s) shall be mounted, filled and vented outside of body. The tank(s) location shall not permit fuel spillage to drip or drain on any portion of the exhaust system.

(c) Alternate engine fuel tank installation shall be in accordance with Oregon Department of Education specifications. Installation of liquefied Petroleum Gas (LPG) tanks shall comply with National Fire Protection Association (NFPA) 58, Liquefied Petroleum Gas code. Dual fuel systems must have approval from the Oregon Department of Education and meet EPA, and manufactures specifications.

(18) Governor:

(a) An engine governor is permissible. However, when it is desired to limit road speed, road-speed governor should be installed;

(b) When engine is remotely located from driver, governor shall be installed to limit engine speed to maximum revolutions per minute recommended by engine manufacturer.

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(19) Heating System, Provision For: The chassis engine shall have plugged openings for the purpose of supplying hot water for the bus heating system. The opening shall be suitable for attaching 3/4 inch pipe thread/hose connector. The engine shall be capable of supplying water having a temperature of at least 170° F at a flow rate of 50 pounds/minute at the return end of 30 feet of 1 inch inside diameter automotive hot water heater hose. (SBMI Standard No. 001 — Standard Code for Testing and Rating Automotive Bus Hot Water Heating and Ventilating Equipment.)

(20) Horn: Bus shall be equipped with horn or horns of standard make, each horn capable of producing complex sound in bands of audio frequencies between approximately 250 and 2,000 cycles per second and tested per SAC Standard J-377.

(21) Instruments and Instrument Panel:

(a) Chassis shall be equipped with following instruments and gauges. (Lights in lieu of gauges are not acceptable except as noted):

(A) Speedometer;

(B) Odometer, which will give accrued mileage including tenths of miles;

(C) Voltmeter: A graduated charge and discharge ammeter compatible with generating capacities is permitted in lieu of or in addition to a voltmeter;

(D) Oil-pressure gauge;

(E) Water temperature gauge;

(F) Fuel gauge;

(G) Upper beam headlight indicator;

(H) Air pressure or vacuum gauge according to brake system used: Light indicator or gauge required on vehicle equipped with hydraulic-over hydraulic brake system;

(I) Turn signal indicator;

(J) Tachometer, when engine is remotely located from driver;

(K) Glow plug indicator light, where appropriate.

(b) All instruments shall be easily accessible for maintenance and repair;

(c) Above instruments and gauges shall be mounted on instrument panel in such a manner that each is clearly visible to and lies within a 140 degree field of vision for a 95th percentile female anthropomorphic dummy while in normal seated position;

(d) Instrument panel shall have lamps of sufficient candlepower to illuminate all instruments and gauges and shift selector indicator for automatic transmission.

(22) Oil Filter: Oil filter of replaceable element or cartridge type shall be provided and shall be connected by flexible oil lines if it is not built-in or engine mounted design. Oil filter shall have a capacity of at least one quart.

(23) Openings: All openings in floorboard or firewall between chassis and passenger-carrying compartment, such as for gearshift lever and parking brake lever, shall be sealed. Access plates to cover openings shall have adequate gaskets and be fastened securely.

(24) Passenger Load:

(a) Actual gross vehicle weight (GVW) is the sum of the chassis wet weight, plus the body weight, plus the driver's weight, plus total seated pupil weight:

(A) For purposes of calculation, the driver's weight is 150 pounds;

(B) For purposes of calculation, the pupil weight is 120 pounds per pupil.

(b) Actual gross vehicle weight (GVW) shall not exceed the chassis manufacturer's gross vehicle weight rating (MGVWR) for the chassis;

(c) Manufacturer's gross vehicle weight rating and other chassis information shall be furnished by the manufacturer, the manufacturer's representative or seller to the Oregon Department of Education on forms furnished by the department.

(25) Power and Gradeability: Gross vehicle weight (GVW) shall not exceed 165 pounds per net published horsepower of the engine at the manufacturer's recommended maximum number of revolutions per minute.

(26) Retarder System: Retarder system, if installed, shall maintain the speed of the fully loaded school bus at 19.0 MPH on a seven percent grade for 3.6 miles without incurring damage to the retarder or vehicle.

(27) Shock Absorbers: Bus shall be equipped with front and rear double-acting shock absorbers compatible with manufacturer's rated axle capacity at each wheel location.

(28) Springs:

(a) Capacity of springs or suspension assemblies shall be commensurate with chassis manufacturer's gross vehicle weight rating;

(b) If rear springs are used they shall be of progressive type. Front leaf springs shall have a stationary eye at one end and shall be protected by a wrapped leaf in addition to the main leaf.

(29) Steering Gear:

(a) Steering gear shall be approved by chassis manufacturer and designed to assure safe and accurate performance when vehicle is operated with maximum load and at maximum speed;

(b) Steering mechanism that allows for external adjustment to correct for lost motion shall provide an accessible adjustment location;

(c) No changes shall be made in steering apparatus which are not approved by chassis manufacturer;

(d) There shall be clearance of at least two inches between steering wheel and cowl, instrument panel, windshield, or any other surface;

(e) Power steering of the integral type is required. Power steering shall be approved and installed by chassis manufacturer or authorized chassis representative;

(f) The steering system shall be designed to provide for means for lubrication of all wear-points, if wear points are not permanently lubricated.

(30) Throttle: The force required to operate the throttle shall not exceed 16 pounds throughout the full range of accelerator pedal travel.

(31) Tires and Rims:

(a) Tires and rims of proper size and tires with load rating commensurate with chassis manufacturer's gross vehicle weight rating shall be provided. The use of multi-piece rims and/or tube type tires shall not be permitted on any school bus ordered after January 1, 1999;

(b) Dual rear tires shall be provided. Type A vehicles may have single rear tires;

(c) All tires on new buses shall be of same size. Load range of tires shall meet or exceed the gross axle weight rating as required by FMVSS 120;

(d) If bus is equipped with spare tire and rim assembly, it shall be of the same size as those mounted on the vehicle;

(e) A spare tire, when carried, shall be suitably mounted in an accessible location outside passenger compartment. Type A-1, and A-2 buses may have spare tire securely mounted in left rear corner of passenger compartment;

(f) Recapped tires are prohibited on the front of the bus;

(g) regrooved tires are not permitted on any bus;

(h) Minimum tread depth on tires shall be:

(A) Front axle — 4/32 inch;

(B) Rear axle — 2/32 inch.

(i) Tread depth shall be measured as follows: The minimum depth in any two adjacent major grooves at three locations spaced approximately equally around the outside of the tire but not on wear indicators.

(32) Tow Hooks: Chassis manufacturer shall provide at least one front tow hook on Type C and D buses.

(33) Transmission:

(a) Transmission shall have an input torque capacity greater than maximum net torque developed by engine;

(b) When automatic or semi-automatic transmission is used, it shall provide for not less than three forward and one reverse speed. The shift selector, if applicable, shall provide a detent between each gear position when shift selector is not steering column mounted. Type C and D buses shall be equipped with a transmission temperature gauge;

(c) When manual transmission is used, second gear and higher shall be synchronized. A minimum of three forward speeds and one reverse must be provided.

(34) Turning Radius:

(a) Chassis with a wheel base of 264 inches or less shall have a right and left turning radius of not more than 42 1/2 feet, curb to curb measurement;

(b) Chassis with a wheelbase of 265 inches or more shall have a right and left turning radius of not more than 44 1/2 feet, curb to curb measurement.

(35) Undercoating: Chassis manufacturer shall coat undersides of front fenders with compound to protect surfaces and prevent rust which meets or exceeds federal specifications TT-C-520a, using modified test procedures as defined under "Undercoating" of body standards.

(36) Weight Distribution:

(a) Weight distribution of fully loaded bus on level surface shall be such as to not exceed the manufacturer's front gross axle weight rating and rear gross axle weight rating;

(b) Weight distribution of fully loaded bus on level surface shall be such that not more than 75 percent of gross vehicle weight is on rear tires

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and not more than 35 percent is on front tires. Type B and D buses with engine inside front of body and entrance door ahead of front wheels shall have not more than 75 percent of gross vehicle weight on rear tires nor more than 50 percent on front tires. If entrance door is behind front wheels, not more than 75 percent of gross vehicle weight shall be on rear tires nor more than 40 percent on front tires. With engine in rear, not more than 75 percent of gross vehicle weight shall be on rear tires nor more than 40 percent on front tires.

[ED. NOTE: Exhibits referenced are available from the agency.]
[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 327.013 & 820.100 - 820.120
Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120
Hist.: 1EB 17-1985, f. 10-29-85, ef. 11-1-85; EB 44-1988, f. 12-16-88, cert. ef. 1-1-89; EB 21-1993, f. & cert. ef. 6-2-93; ODE 11-1999, f. & cert. ef. 2-12-99; ODE 30-1999, f. 12-13-99, cert. ef. 12-14-99; ODE 15-2004, f. & cert. ef. 8-4-04; ODE 26-2007, f. & cert. ef. 10-26-07

581-053-0517

Minimum Standards for School Bus Bodies

- (1) Aisle:
- (a) Minimum clearance of all aisles shall be 12 inches;
 - (b) Aisle supports of seat backs shall be slanted away from aisle sufficiently to give aisle clearance of 15 inches at tops of seat backs.
- (2) Battery:
- (a) Battery is to be furnished by chassis manufacturer;
 - (b) When battery is mounted as described in electrical section, Battery of Chassis Standard, i.e., the body manufacturer shall securely attach battery on slide-out or swing-out tray in closed, vented compartment in body skirt whereby battery may be accessible for convenient servicing and removal from the outside. Battery compartment door or cover shall be hinged at front or top and secured by adequate and conveniently operated latch or other type fastener. This includes Type A-1, A-2 buses unless the battery(ies) are mounted assessable under the hood;
 - (c) Access to battery through body floor not permitted;
 - (d) Buses may be equipped with a battery shut-off switch. The switch is to be placed in a location not readily accessible to the driver or passengers.
- (3) Body Sizes: It is the body supplier's responsibility to determine that the completed body-on-chassis type bus will fulfill weight distribution requirements as explained in OAR 581-053-0512, Bus Chassis, section (30), Weight Distribution. Body manufacturer shall determine the vehicle's maximum designed and equipped passenger capacity and post it along with GVWR and vehicle compliance information.
- (4) Bumper (Front): See OAR 581-053-0512, Bus Chassis, section (6) Bumper, Front. Deer guards may be added to a front bumper to protect the front grill. Deer guards may not be in any portion of the driver's forward view, including use of all mirrors.
- (5) Bumper (Rear):
- (a) Rear bumper for all body on chassis units shall be of pressed steel channel or equivalent material at least 3/16-inch thick and eight inches wide (high), and of sufficient strength to permit pushing by another vehicle without distortion. Type A-1 and A-2 buses (not body on chassis) may be manufacturers' standard;
 - (b) Bumper for all body on chassis units shall wrap around back corners of bus. It shall extend forward at least 12 inches, measured from rear-most point of body at floor line. Type A-1 and A-2 buses (not body on chassis) may be manufacturers' standard;
 - (c) Bumper shall be attached to chassis frame in such manner that it may be easily removed, shall be so braced as to develop full strength of bumper section from rear or side impact, and shall be so attached as to prevent the insertion of small fingers between the body and bumper;
 - (d) Bumper shall extend beyond rear-most part of body surface at least one inch, measured at floor line;
 - (e) An energy absorbing rear bumper may be used providing a self-restoring energy absorbing bumper system so attached as to prevent the hitching of rides and of sufficient strength to:
 - (A) Permit pushing by another vehicle without permanent distortion to the bumper, chassis, or body;
 - (B) Withstand repeated impacts without damage to the bumper, chassis, or body according to the following performance standards:
 - (i) 2.0 MPH fixed barrier impact (FMVSS cart and barrier test);
 - (ii) 4.0 MPH corner impact at 30 degrees (Part 581 CFR Title 49);
 - (iii) 5.0 MPH buses (Part 581 CFR Title 49).
 - (C) The manufacturer of the energy absorbing system shall provide evidence from an approved test facility (capable of performing the above FMVSS tests) that their product conforms to the above.

(6) Ceiling: See section (19) of this rule, Insulation, and section (20), of this rule, Interior.

(7) Color:

(a) The school bus body shall be painted a uniform National School Bus Yellow. The body exterior paint trim, bumper, lamp hoods, and emergency door lettering shall be black. The roof of the bus may be painted white. The white color may extend across the roof down to the drip rails or within 6 inches above the passenger windows on the sides of the bus except that front and rear caps shall remain National School Bus Yellow. Retroreflective material may be used as trim on rear bumper. Beltline lettering may be yellow;

(b) Retroreflective material approved by the Department of Education shall be installed as a background for the required school bus lettering both on the front and rear of the body of buses purchased after September 1, 1993. Maximum dimensions: 12" x 36", unless equipped with approved lighted school bus signs. Retroreflective material shall have reflective values equal or greater than 3M Scotchlite Diamond Grade and retain at least 50 percent of those values for a minimum of six years;

(c) Additional retroreflective material, if used, shall be automotive engineering grade or better, meeting initial reflectance values in FHWA FP-85 and retaining at least 50 percent of those values for a minimum of six years. Retroreflective materials and markings, if used, may include any or all of the following:

(A) Front and rear bumper: may be marked diagonally 45 degrees down to centerline of pavement with two-inch wide strips of noncontrasting reflective material;

(B) Rear of the bus body may be marked with a strip of retroreflective National School Bus Yellow matching material no greater than two inches wide to be applied to the back of the bus, extending from the left lower corner of the "SCHOOL BUS" lettering, across to the left side of the bus; then vertically down to the top of the bumper; across the bus on a line immediately above the bumper to the right side, then vertically up to a point even with the strip placement on the left side, and concluding with a horizontal strip terminating at the right lower corner of the "SCHOOL BUS" letter;

(C) Sides of bus body: may be marked with retroreflective National School Bus Yellow matching material comprising background for letters at least six inches but no more than twelve inches in width, extending the length of the bus body and located (vertically) as close as practicable to the beltline. Two-inch wide reflective material having high intensity reflectance values (3M Scotchlite Diamond Grade or equivalent) may be substituted for the six inch to twelve-inch wide materials;

(D) See appendix for diagram defining locations of marking referred to above.

(8) Construction:

(a) Construction shall be of prime commercial quality steel, or other metal, or other material with strength at least equivalent to all-steel as certified by bus body manufacturer;

(b) Construction shall provide a water-tight and reasonably dustproof unit;

(c) Must meet or exceed applicable federal motor vehicle safety standards for construction, effective April 1, 1977.

(9) Crossing Arm: A crossing arm may be mounted on the front of a school bus in accordance with the following specifications:

(a) Installed on the front bumper as close as practicable to the right (curb) side, opening left to right and providing an extension of the curbside of bus;

(b) Arm shall be located at least 18 inches but not more than 24 inches above ground level and in the closed position; arm shall not cover numbers on license plate;

(c) Installed in a manner to limit the outward deployment to 90 degrees from the front bumper;

(d) Arm shall extend 70 inches from the front bumper in its extended position;

(e) Arm shall be activated through the existing bus safety light system assuring the driver is required to take no additional action to either deploy or retract the arm. No outward movement of the arm may occur before red flashing sequence begins;

(f) Override switches are prohibited;

(g) Crossing arm must be safeguarded from damage due to pushing or pulling by hand through the use of a clutch-like device or equivalent, double spring hinges are not acceptable;

(h) The arm may be equipped with an amber flashing light that functions only when the arm is in the fully extended position;

(i) Entire unit shall have no sharp edges or other projections that could injure children or others due to casual contact;

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(j) Unit shall provide secure mounting opportunities to prevent misalignment or failure due to extreme weather conditions;

(k) Shall meet or exceed all requirements in SAE Standard J1133;

(l) Shall be either air, vacuum, or electrically operated and in conformance to section (39)(g) of this rule;

(m) Crossing arm color shall either appear in an unpainted state or comply with trim requirements listed in section (7)(a) of this rule;

(n) All components and connections shall be weatherproofed.

(10) Defrosters:

(a) Defrosting and defogging equipment shall direct a sufficient flow of heated air onto the windshield, the window to the left of the driver and the glass in the viewing area directly to the right of the driver to reduce the amount of frost, fog and snow;

(b) The defroster units shall have separate blower motors, in addition to the heater motors. Type A-1 and A-2 buses may have manufacturers' standard defrosters;

(c) A right front windshield and door defrosting unit with a separate hot water core and separate blower motors shall be provided on Type C buses;

(d) The defrosting system shall conform to SAE performance standards J-381 and 382;

(e) The defroster and defogging system shall be capable of furnishing heated outside ambient air, except that part of the system furnishing additional air to the windshield, entrance door and stepwell may be of the recirculation air type;

(f) Auxiliary fans are not to be considered as a defrosting and defogging system:

(A) Auxiliary fans, if used, must be mounted above the windshield, so as not to interfere with the driver's vision of the roadway, mirrors or students outside the bus;

(B) The fan blades shall be covered with a protective cage.

(11) Doors: Service Door:

(a) Service door shall be under control of driver, and so designed as to afford easy release and provide a positive latching device for manual operating door so as to afford easy release and prevent accidental opening. When hand lever is used, no part shall come together so as to shear or crush fingers;

(b) Service door shall be located on right side of bus opposite driver and within direct view;

(c) Service door shall have minimum horizontal opening of 24 inches and minimum vertical opening of 68 inches. Type A-1 and A-2 buses shall have a minimum opening of 1,200 square inches;

(d) Service door shall be of split type, (sedan type) or jack-knife type. (Split type door includes any sectioned door, which divides and opens inward or outward.) If one section of split type door opens inward and other opens outward, front section shall open outward. Manual door controls shall not require more than 25 pounds of force to operate at any point throughout the range of operation;

(e) If power operated, pressure shall be controlled by a regulator valve or switch and provision shall be made for opening the door manually in the event of driver disability or mechanical failure. Emergency release valve or switch for power operated doors shall be located in an accessible place, in plain view, as near the service door as practicable. Valve or switch shall be properly identified and "open" and "closed" position plainly marked;

(f) Lower as well as upper panels shall be of approved safety glass. Bottom of lower glass panel shall not be more than ten inches from top surface of bottom step. Top of upper glass panel shall not be more than six inches from top of door. Type A-1 and A-2 buses shall have a minimum 350 square inch upper glass panel;

(g) Vertical closing edges shall be equipped with flexible material to protect children's fingers. Type A-1 and A-2 buses may be equipped with chassis manufacturers' standard entrance door;

(h) There shall be no door to left of driver. (This shall not be interpreted to conflict with emergency doors or windows.) Type A-1 and A-2 and B buses may be equipped with manufacturers' left side driver's door;

(i) All doors shall be equipped with an energy absorbing pad at the top edge of each door opening. Pad shall be at least 3 inches wide and 1 inch thick and extend the full width of the door opening. Pad not required on Type A-1 and A-2 and B buses, left side driver's door.

(12) Emergency Exits:

(a) All buses purchased after January 1, 1999 shall be equipped with required emergency exits and identification listed in 49 CFR Part 571 FMVSS 217 as it has been adopted by National Highway Traffic Safety Administration for June 9, 1995 implementation plus all applicable stan-

dards specified in this rule: These rule changes apply to buses ordered after July 1, 2004

(b) For buses equipped with a rear emergency door additional exits as listed below:

(A) Buses designed or equipped with a passenger capacity of 1-22 shall provide [one of] the following:

(i) 2 swing-out windows, one on each side of the bus approximately mid-point of the passenger compartment and One FMVSS 217 complying roof hatch; or

(ii) Side windows with a 12 inch vertical drop and One FMVSS 217 complying roof hatch.

(B) Buses designed or equipped with a passenger capacity of 23 to 45 shall provide:

(i) One FMVSS 217 complying left side emergency door and One FMVSS 217 complying roof hatch; or

(ii) Two FMVSS 217 complying swing-out windows one on each side of the bus approximately mid-point of the passenger compartment and One FMVSS 217 complying roof hatch.

(C) Buses designed or equipped with a passenger capacity of 46 to 62 shall provide:

(i) One FMVSS 217 complying left side emergency door and One FMVSS 217 complying roof hatch; or

(ii) Four FMVSS 217 complying swing-out windows; two on each side of the bus approximately mid-point of the passenger compartment, but not immediately adjacent to each other and one FMVSS 217 complying roof hatch.

(D) Buses designed or equipped with a passenger capacity of 63 and above shall provide:

(I) One FMVSS 217 complying left side emergency door and One FMVSS 217 complying roof hatch; or

(iii) Four FMVSS 217 complying swing-out windows; two on each side of the bus approximately mid-point of the passenger compartment, but not immediately adjacent to each other and One FMVSS 217 complying roof hatch.

(c) For buses equipped with a rear push-out window, a left side emergency door shall be provided and the following additional exits as listed below:

(A) Buses designed or equipped with a passenger capacity of 1-22 shall provide one of the following:

(i) Two FMVSS 217 swing-out windows, one on each side of the bus approximately mid-point of the passenger compartment; or

(ii) Side windows with a 12 inch vertical drop and One FMVSS 217 complying roof hatch.

(B) Buses designed or equipped with a passenger capacity of 23-45 shall provide:

(I) Two FMVSS 217 complying swing-out windows and One FMVSS 217 complying roof hatch.

(C) Buses designed or equipped with a passenger capacity of 46-57 shall provide:

(i) One FMVSS 217 complying right side door and One FMVSS 217 complying roof hatch; or

(ii) Four FMVSS 217 complying swing-out windows and One FMVSS 217 complying roof hatch.

(D) Buses designed or equipped with a passenger capacity of 58 and above shall provide:

(i) One FMVSS 217 complying right side door and One FMVSS 217 complying roof hatch; or

(ii) Four FMVSS 217 complying swing-out windows; and One FMVSS 217 complying roof hatch

(d) Selection of the added exits (if any) necessary to comply with the "additional emergency exit area" requirements of FMVSS 217 shall be made by the vehicle purchaser in conformance to applicable rules;

(e) Manufacturer shall identify all emergency exits used for calculations relating to FMVSS 217 compliance and list the daylight (clear) opening for each exit;

(f) A document identifying the following shall be provided by the vehicle seller to the Oregon Department of Education and bus purchaser prior to the bus being introduced into a bus system for the first time:

(A) Bus manufacturer;

(B) Bus identification number;

(C) Bus designed and equipped passenger capacity;

(D) Bus purchaser and district(s) served;

(E) All emergency exits used for FMVSS 217 compliance; and

(F) Total square inches/square cm clear opening for each emergency exit provided in the bus.

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(g) Swing out windows shall provide a minimum clear opening of 18" x 24". If side emergency swing-out windows can be opened from outside the bus the words "Emergency Exit" shall be placed directly above the window in letters at least two inches high on the exterior of the bus. If the words "Emergency Exit" are placed on the exterior of the bus above swing-out windows inoperable from outside, the label must include the following statement in letters approximately one inch high "Operates From Inside Only."

(h) Rear emergency door exits:

(A) Type A-1 and A-2 buses with double rear emergency doors shall be hinged on the outside and have a three point fastening device;

(B) Upper portion of emergency door shall be equipped with approved safety glazing, exposed area of not less than 400 square inches;

(C) Lower portion of rear emergency door shall be equipped with approved safety glass and shall have an exposed area of not less than 350 square inches of approved safety glazing. Type A-1 and A-2 buses are not required to have lower rear emergency door glazing;

(D) There shall be no steps leading to emergency door;

(E) Clearance between outside emergency door handle and the emergency door shall not exceed 1/4-inch when handle is in closed position. Handle shall not provide a firm handhold to someone trying to "hitch" a ride. Handles shall be positioned to prevent snagging of clothing or pinching of fingers;

(F) Emergency door hinge shall not provide an opening for insertion of fingers when door is closed;

(G) If emergency door is lockable, provision must be made to prevent the bus from starting while the door is locked. An audible warning that does not affect engine operation shall be provided to alert the driver should the door be locked while the bus is in operation;

(H) An adequately padded head bumper shall be placed on the interior directly above any emergency exit door opening. The pad shall extend the full width of the door opening and shall be at least three inches wide and one inch thick.

(i) Approximately one inch/three centimeter retroreflective exterior perimeter marking shall be yellow in color, of automotive engineering grade material, and in compliance with both the retroreflective requirement of FMVSS and durability specifications listed in National Minimum Standards for reflective material;

(j) Roof emergency exit:

(A) Roof emergency exit, when required, shall be installed in a school bus body in accordance with FMVSS 217;

(B) A roof exit shall be waterproof and provide a minimum clear opening of 16" x 16"; and have an audible warning signal able to be heard at the driver's area. These rule changes apply to buses ordered after July 1, 2004

(C) Roof exit may also serve as a roof ventilator; however, this may not be used in place of the required static vent.

(13) Emergency Equipment:

(a) Belt cutter: Each bus equipped with passenger seat belts or webbed restraining devices shall have a belt cutter mounted in the driver's compartment, readily accessible and in plain view of the driver. Device shall be of a design offering protected cutting edges to prevent accidental or intentional injury to drivers or passengers;

(b) Emergency road reflectors:

(A) Each bus shall be equipped with at least three DOT triangle reflectorized disabled vehicle warning devices;

(B) Reflectors must be in a container securely mounted with nut-and-bolt fasteners enhanced with large flat (fender) washers or held in place by a nut-and-bolt mounted metal bracket that also protects and secures the container lid. Both shall be located in an accessible location. Reflectors shall not be mounted in any engine compartment;

(C) If not mounted in plain view of the driver, the location shall be clearly designated.

(c) Body fluid cleanup kit: Buses purchased after September 1, 1993 shall have a removable moisture proof and dust proof body fluid cleanup kit, mounted in an accessible place within the driver's compartment. This place shall be marked to identify its location. Contents shall include at least the following items:

(A) Two pair rubber/latex gloves;

(B) Two four-ounce packages of stabilized chlorine absorbent deodorant (or equivalent) capable of stabilizing at least 1 litre/36 fl. oz. of body fluids;

(C) One spatula for pick up of congealed fluid;

(D) One plastic bag in which to place congealed fluid;

(E) One red plastic bag with tie, identified for infectious waste and as a bio-hazard;

(F) One two-ounce bottle of germicidal detergent to apply to a contaminated area;

(G) Four paper towels to wipe up contaminated area;

(H) One one-ounce antiseptic alcohol hand rinse (or equivalent);

(I) One placard of step by step use instructions;

(J) Germicidal detergents, stabilized chlorine absorbent deodorant, alcohol hand rinse, or their equivalents shall provide documentation of EPA approval regarding their microbiological efficacy for at least the following:

(i) Staphylococcus aureus;

(ii) Pseudomonas aeruginosa;

(iii) Salmonella choleraesuis;

(iv) Streptococcus species;

(v) Herpes simplex Type II;

(vi) HIV (Associated with AIDS);

(vii) Fungi (athlete's foot);

(viii) Poliovirus; and

(ix) Tuberculosis.

(K) Documentation of efficacy for Hepatitis B may be hospital or test studies. The certified effective shelf life of these products shall be a minimum of 12 months. Product expiration date shall be clearly displayed on all time-sensitive products.

(d) Fire extinguishers:

(A) Each bus shall be equipped with at least one pressurized, dry, chemical type fire extinguisher, mounted in a bracket and located in the driver's compartment, readily accessible and in plain view of the driver. A pressure gauge shall be mounted on the extinguisher so as to be readily read without removing the extinguisher from its mounted position;

(B) The fire extinguisher shall be of a type approved by the Underwriters Laboratories, Inc., with a rating of not less than 2 A-10 BC. The extinguisher shall have a minimum five pound capacity and equipped with a hose and nozzle;

(C) The operating mechanism shall be sealed with a type of seal that will not interfere with the use of the fire extinguisher;

(D) Extinguishers with plastic heads are not permitted.

(e) First aid kit:

(A) Each bus shall have a readily removable, moisture proof and dust-proof first-aid kit container mounted in an accessible place within driver's compartment. If not mounted in plain view of the driver, the location shall be clearly designated;

(B) The first aid kit contains a minimum of 24 units that shall include the following:

(i) One 1" adhesive compress — 16 per unit;

(ii) Two 2" bandage compress — 4 per unit;

(iii) Two 3" bandage compress — 2 per unit;

(iv) Two 4" bandage compress — 1 per unit;

(v) Two 3" x 3" plain gauze pads — 4 per unit;

(vi) Two 2" x 6 yards gauze roller bandage — 1 per unit;

(vii) Three 1/2 square yard gauze;

(viii) Three 24" x 72" gauze;

(ix) Four Triangular bandage;

(x) One 1/2 x 5 yard adhesive tape-one per unit;

(xi) One round nose scissors and tweezers. Latex gloves-one pair; and

(xii) One microshield for mouth to mouth airway (to lay on top of other contents).

(C) Specific local requirements may be substituted in lieu of 2 units of 1/2 square yard gauze.

(14) Floor:

(a) Floor in underseat area, including tops of wheelhousing, driver's compartment and toeboard, shall be covered with rubber floor covering or equivalent having minimum overall thickness of .125 inch:

(A) Floor covering in aisle shall be of aisle-type fire-resistant rubber or equivalent, wear-resistant and ribbed or equivalent non-slip material. Minimum overall thickness shall be .1875 inch measured from tops of ribs;

(B) Floor covering must be permanently bonded to floor and must not crack when subjected to sudden changes in temperature. Bonding or adhesive material shall be waterproof and shall be of type recommended by manufacturer of floor-covering material. All seams must be sealed with waterproof sealer.

(b) Edge of floor at stepwell shall be treated as a step edge and shall be protected as required in section (37)(c) of this rule;

(c) A vapor and liquid proof inspection plate provided for access to the fuel tank sending unit is permissible;

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(d) A subfloor of 5-ply plywood, at least 5/8 inch nominal thickness or equivalent, may be installed over the standard school bus floor. Plywood shall equal or exceed properties of exterior-type softwood plywood, C-D grade as specified in standards issued by the Department of United States Commerce. Floor shall be level from front to back and from side to side except for wheelhousing, toeboard and driver's seat platform areas;

(e) For Type A-1 and A-(1)2 buses that are not constructed with a standard school bus floor, the existing metal floor in the passenger area shall be covered with not less than 1/2-inch nominal thickness exterior C-D grade plywood. All plywood seams shall extend from side to side (laterally), longitudinal seams not permitted.

(15) Heaters:

(a) At least one heater of hot water type is required in all buses;

(b) If only one heater is used, it shall be of fresh-air or combination fresh-air and recirculation type;

(c) If more than one heater is used, additional heaters may be of recirculation air type;

(d) The heating system shall be capable of maintaining throughout the bus a temperature of not less than 50 degree Fahrenheit at average minimum January temperature as established by the U.S. Department of Commerce, Weather Bureau, for the area in which the vehicle is to be operated;

(e) All heaters installed by body manufacturers shall bear a name plate which shall indicate the heater rating in accordance with SBMI Standard No. 001, said plate to be affixed by the heater manufacturer which shall constitute certification that the heater performance is as shown on the plate;

(f) Heater hoses shall be adequately supported to guard against excessive wear due to vibration. The hoses shall not dangle or rub against the chassis or sharp edges, and shall not interfere with or restrict the operation of any engine function. Heater hose shall conform to SAE J20c. Heater hoses on the interior of the bus shall be shielded to prevent scalding of the driver or passengers;

(g) Each hot water heater system installed by a body manufacturer shall include a shutoff valve installed in the pressure and return lines near the engine in an accessible location. There shall be a water flow regulating valve or airflow regulating door for the front heater installed for convenient operation by the driver while seated;

(h) Return heater lines on body company installed heaters shall be equipped with bleeder valves in an accessible location to allow for removal of heater line air;

(i) Combustion type heaters may be installed and shall comply with all the following:

(A) The combustion type heater must be installed outside the passenger compartment;

(B) Exhaust exit from the heater must meet the same location requirements as for engine exhaust;

(C) The heater must have been tested by a qualified laboratory and certified as complying with the following regulations:

(i) Code of Federal Regulations, CFR 300-399, Transportation Heaters, 393.77 and CFR 49: Part 571, Transportation: Motor Vehicle Safety Standard 301; Fuel System Integrity;

(ii) American Institute of Electrical and Electronic Engineers, IEEE1: Temperature Limits in Rating Electrical Equipment;

(iii) UL 307A: Liquid Fuel-Burning Heating Appliances, UL 756C: Polymeric Materials — Use in Electrical Equipment, and UL 796: Printed Wiring Boards;

(iv) TE-12: Impact Testing of Vehicular Components.

(D) Provide isolation valves at the heater for both the coolant feeder and return lines;

(E) Heater must be equipped with a pressure relief valve preset to release any internal system pressure over 50 psi;

(F) An impact switch for the heater's electric fuel pump that will stop the pump with special inertial mechanics.

(j) Portable heaters may not be used.

(16) Identification:

(a) School bus bodies shall bear the words "School Bus" in black letters at least eight inches high and of proportionate width on both front and rear of body. Lettering shall be placed as high as possible without impairment of its visibility;

(b) A warning sign, calling attention to the school bus stop law shall be installed on the rear of all school buses. It shall be centered on the back of the bus and occupy the space, belt high, directly beneath the upper window in the rear door. Signs on transit type buses shall occupy approximately the same area. Signs on Type A buses with double rear door having obstructions such as door handles and recessed license plate holders that

prevent sign centering shall be placed completely on the right side (rear) door in a manner that all reflective letters are located on that door and as high on the lower portion of the door as practicable in relationship to the door handle, but the top of the sign may be no more than four inches below handle shaft. Sign shall conform to the following:

(A) Decals with white reflectorized letters conforming to retroreflective requirements listed in section (7)(c) of this rule mounted on a flat black background;

(B) Decal shall have (be 9 inches by 30 inches with) lettering as shown below:

UNLAWFUL TO PASS (3 inches in height)

WHEN (1 inches in height)

RED LIGHTS FLASH (3 inches in height)

(C) Electronic Motorist alert sign may be installed on the rear of school buses. This sign shall illuminate and flash a message with a minimum of three inputs: (1) when the hazard warning lights are activated, illuminate and flash an amber caution alert message and or (2) when the amber School Bus Safety Lights are activated, illuminate and flash an amber caution alert message or (3) when the red School Bus Safety Lights are activated, illuminate and flash a red warning message to motorist. Assembly must be sealed weather tight construction approximately 23 1/2" X 8 3/4" X 1 3/8" in size. The minimum viewing angle from the rear of the bus shall be 30 degrees (15 degrees on each side of perpendicular axis). Hazard warning light display message shall be amber "CAUTION STOPPING"; School Bus Safety amber light display message shall be alternating amber "CAUTION" then "STOPPING"; School Bus Safety red light display message shall be alternating red "STOP" (within an octagon outline) then "DO NOT PASS". Frequency of standard alternating message flash and or alternating different message flash may be controlled by hazard warning and School Bus Safety Light flashers. Illumination intensity and quantity of L.E.D. lights shall be sufficient to result in a clear legible message.

(i) Mounting on front engine buses, device shall be located in the most attainable vertical center of rear emergency door, between upper and lower windows in the lowest possible mounting position.

(ii) Mounting on rear engine buses, device shall be vertically centered and horizontally adjacent to the left and right upper brakes lights as possible.

(iii) Electronic Motorist alert sign may also be installed on the front of busses if they are mounted and used on the rear of buses. This sign must be wired and activated in same manner as the sign on the rear of buses. Sign shall be mounted on the front of the bus, below the windshield, vertically and horizontally centered as possible.

(D) It is prohibited for any school bus to display a warning sign, which does not meet B or C in this section;

(c) The name of the school district IE: (and contractor company name if applicable) contractor company name shall be placed on the side of each bus. Such signs shall appear in the area directly below the side windows and the letters and figures in such signs shall not be less than four inches nor more than six inches in height and of proportionate width;

(d) School team name or contractor's insignia may be placed above the side windows on the front portion of the bus body. All such lettering must be approved by the Pupil Transportation Section of the Oregon Department of Education;

(e) At least one bus identification number at least four inches in height shall be placed on a flat vertical surface on each side and on the front and rear of the bus. At least one complete unit number shall be visible from any point 50 feet from the bus. Symbols may be used in lieu of numbers. Type A-1 and A-2 bus numbers may be three inches in height. Bus identification numbers are not required if the school has only one route bus;

(f) Only signs and lettering approved by state law or by the regulations of the Department of Education shall appear on the inside or outside of a school bus.

(17) Inside Height: Clear inside body height shall be 72 inches or more measured at any point on the longitudinal center line from front vertical bow to rear vertical bow. Type A bus height shall be not less than 62 inches.

(18) Instruments, Gauges, Indicators: Body manufacturer shall in no manner obstruct the driver's visibility of required instruments, gauges or indicators provided by the chassis manufacturer. Body instrument panel lights shall be controlled by an independent rheostat switch.

(19) Insulation:

(a) Ceiling and walls in all new buses purchased after September 1, 1985, shall be insulated with proper material to deaden sound and to reduce vibration to a minimum. Thermal insulation of fire-resistant and non-water absorbing material approved by Underwriters Laboratories, Inc., is required in body ceiling and walls;

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(b) If floor insulation is desired it must be 5-ply, at 5/8-inch thick plywood as specified in section (14) of this rule.

(20) Interior:

(a) Interior of bus shall be free of all unnecessary projections likely to cause injury including luggage/book racks on buses purchased after September 1, 1993 or retrofitting occurring after that date. This standard requires inner lining on ceilings and walls. If ceiling is constructed so as to contain lapped joints, forward panel shall be lapped by rear panel and exposed edges shall be beaded, hemmed, flanged or otherwise treated to minimize sharp edges;

(b) Ceiling of bus shall be free of all projections that can cause injury in the event of a collision or rollover (see section (30) of this rule.);

(c) All materials used in the interior of a school bus body shall meet the requirements of Federal Motor Vehicle Safety Standard No. 302, Flammability of Interior Materials;

(d) Construction of buses manufactured after September 1, 1993 shall assure noise level taken at the ear of the occupant nearest to the primary vehicle noise source shall not exceed 85 DBA when tested according to the procedure found in the Appendix (Noise Test Procedure).

(21) Lamps and Signals:

(a) All lamps on exterior of bus shall conform with and be installed as required by Oregon Motor Vehicle law and the Federal Motor Vehicle Safety Standard No. 108, effective January 1985;

(b) Headlamps, when furnished by body manufacturer, shall be of proper intensity and adjustment as specified by Oregon Motor Vehicle law;

(c) Stop-tail lamps: Buses shall be equipped with four combination red stop-tail lamps. Two combination lamps with a minimum 38 square inches of illuminated area shall be mounted on the rear of the bus on the beltline or immediately below. Two combination lamps with a minimum 12 square inches of illuminated area shall be placed on the rear of the body between the beltline and the floor line. Rear license plate lamp may be combined with one lower tail lamp. Stop lamps shall be activated by the service brakes and shall emit a steady light when illuminated. Type A-1 and A-2 buses with bodies supplied by chassis manufacturer may have manufacturer's standard stop and tail lamps;

(d) Clearance and identification lights: Each bus shall be equipped with clearance and identification lights as required by Oregon Motor Vehicle law and Federal Motor Vehicle Safety Standard No. 108;

(e) Reflectors: Each bus shall be equipped with reflectors as required by Oregon Motor Vehicle law and Federal Motor Vehicle Safety Standard No. 108;

(f) Directional signals: Each bus shall be equipped with front and rear turn signal lamps that conform to requirements of the Oregon Motor Vehicle law. Lamps shall have a minimum illuminated area of 38 square inches. Lamps shall be amber in color whether mounted at the front or rear. Type A-1 and A-2 buses may be equipped with manufacturer's standard front turn signals. Signal lamps shall be independent units and connected to chassis-supplied turn signal switch and four-way hazard warning switch to cause simultaneous flashing of turn signal lamps when needed as vehicular traffic hazard warning. A turn signal lamp with a minimum of 4 candlepower shall be mounted on each body side at approximately seat level height, located to the rear of the entrance door on the right side of the body and approximately the same location on the left side. These are to be connected to and function with the regular turn signal lamps. Type B buses may have the right side body turn signal forward of the entrance door;

(g) Back-up lamps: Two back-up lamps shall be provided in accordance with Federal Motor Vehicle Safety Standard 108;

(h) Back-up warning alarm: An automatic audible alarm shall be installed on the rear of all buses purchased after November 1, 1985, that complies with the Society of Automotive Engineers (SAE 994 Backup Alarm Standard specifying 974db(A) minimum;

(i) Interior dome lamps: Interior lamps shall be provided which will adequately illuminate interior aisles. There shall be at least one interior lamp for every two rows of passenger seats. One or two rear dome lamp(s) shall be wired through a separate switch. Separate circuit for rear dome lamp(s) is not required on buses with less than five rows of seats;

(j) Stepwell lamp: A stepwell lamp shall be provided which will adequately illuminate the entire stepwell. The lamp circuit shall be wired through the headlamp or clearance lamp system and shall be activated only when the door is opened;

(k) School Bus Safety Lights:

(A) Each school bus shall be equipped with a system meeting FMVSS 108 consisting of four red signal lamps designed to conform to SAE Standard J887, "School Bus Red Signal Lamps," July 1964, and four amber signal lamps designed to that standard, except for color, and except that

their candle power shall be at least 2-1/2 times that specified for red signal lamps. Lamps shall have minimum of 17.25 square inches and shall be clearly visible in direct sunlight from a distance of 500 feet along axis of vehicle;

(B) The system shall be wired so that the system is activated by a manually operated spring-loaded switch clearly labeled and distinguishable from other switches. A circuit master switch is permitted if the manually operated activating switch and the master switch are together in one switch;

(C) For buses equipped with power-controlled entrance doors, an additional spring loaded switch that will activate the red school bus safety lights prior to opening entrance door is permissible;

(D) The flashing mechanism shall be capable of carrying the full current load of the signal system;

(E) Right and left signal lamps shall flash alternately. Each signal lamp shall flash not less than 60 or more than 120 flashes per minute. The "on" period shall be long enough to permit bulb filament to come up to full brightness;

(F) Pilot lamps/monitors:

(i) Each bus shall be equipped with two, 3/8-inch illuminated pilot lamps — one amber and one red — to indicate when the respective amber or red system is actuated. Pilot lamps shall be placed within a 140° field of vision for a 95th percentile female anthropomorphic test dummy seated in a normal driving position. Pilot lamps shall also provide an unmistakable indication that the flasher system is operating and an unmistakable indication if any circuit is broken, any lamp is not operating or the system is not otherwise functioning normally unless a separate monitoring system performs all those functions; or

(ii) Each bus shall be equipped with a monitor system utilizing 3/8-inch illuminated red and amber lamps to indicate when the respective amber or red system is actuated. Monitor shall be placed within a 140° field of vision for a 50th percentile anthropomorphic test dummy seated in a normal driving position. Monitor shall also provide an unmistakable indication that the flasher system is operating and an unmistakable indication if any circuit is broken, any lamp is not operating or the system is not functioning normally.

(G) School Bus Safety Light system shall operate as follows:

(i) With entrance door closed, depress activation switch. Amber pilot light and amber bus safety lights shall go on;

(ii) Open entrance door; amber bus safety lights shall go off, and red pilot light and red bus safety lights shall go on;

(iii) Close entrance door; pilot and bus safety lights shall go off;

(iv) Reopen entrance door without depressing hand switch; no bus safety lights shall go on. Depress hand switch, red pilot light and red bus safety lights shall go on.

(H) There shall be a canceling switch that will deactivate the amber bus safety lights and flasher sequence if they are accidentally activated or if the driver discovers there is no need to make a stop after activating the switch;

(I) Installation requirements:

(i) Both red and amber signal lamps shall be installed in accordance with SAE Standard J887, except that each amber signal lamp shall be located near each red signal lamp, at the same level, but closer to the vertical centerline of the bus. Each signal lamp shall be mounted with its axis substantially parallel to the longitudinal axis of the vehicle;

(ii) Front and rear alternately flashing bus safety lights shall be spaced as far apart laterally as practicable;

(iii) Alternately flashing bus safety lights shall be mounted at the front above the windshield and at the rear so that the lower edge of the lens is not lower than the top line of the side windows;

(iv) Vertical and lateral vision of the front and rear alternately flashing warning bus safety lights shall not be obstructed by any part of the body or lamphouse insofar as standard bus body construction will permit;

(v) Where practicable, the area around lens of each alternately flashing warning bus safety light and extending outward at least 3 inches or more shall be painted black;

(vi) Front amber school bus safety lights shall be visible (directly or indirectly) from the driver's area inside the bus;

(vii) A separate fuse or circuit breaker, adequate to prevent damage to the system in the event of a short circuit, shall be provided between the power source and flasher system.

(J) Strobe Lamp:

(i) A white flashing lamp, approved by the Oregon Department of Education, may be installed on the longitudinal center of the roof on rear half of the bus but no closer than one foot from the rear of the bus body. The lamp shall have a single clear lens emitting light 360 degrees around

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its vertical axis and may not extend above the roof more than 6-1/2 inches or maximum legal vehicle height;

(ii) The lamp shall have a separate switch and be wired through the vehicle hazard lamp system. A pilot lamp to indicate when the light is in operation is required.

(22) Metal Treatment:

(a) All metal used in construction of bus body shall be zinc- or aluminum-coated or treated by equivalent process before bus is constructed. Included are such items as structural members, inside and outside panels and floor sills; excluded are such items as door handles, grab handles, interior decorative parts and other interior plated parts;

(b) All metal parts that will be painted shall be (in addition to above requirements) chemically cleaned, etched, zinc-phosphate coated and zinc-chromate or epoxy primed or conditioned by equivalent process;

(c) In providing for these requirements, particular attention shall be given lapped surfaces, welded connections of structural members, cut edges, punched or drilled hole areas in sheet metal, closed or box sections, unvented or undrained areas and surfaces subjected to abrasion during vehicle operation;

(d) As evidence that above requirements have been met, samples of materials and sections used in construction of bus body, when subjected to 1000-hour salt spray test as provided for in latest revision of ASTM designation, B-117 "Standard Method of Salt Spray (Fog) Testing," shall not lose more than 10 percent of material by weight.

(23) Mirrors:

(a) Exterior Mirror Systems:

(A) All buses purchased after September 1, 1993 shall be equipped with mirror systems complying with 49 CFR Part 571, FMVSS 111 as adopted by the National Highway Traffic Safety Administration for December 3, 1993 implementation, plus all applicable standards specified in this rule;

(B) Manufacturer shall certify compliance with mirror and direct/indirect visibility standards listed in the aforementioned FMVSS 111 and provide copy to bus purchaser for all buses manufactured prior to January 1, 1994.

(b) Interior Mirror:

(A) Interior mirror shall be either clear view laminated glass or clear view glass bonded to a backing which retains the glass in the event of breakage[s]. Mirror shall be a minimum of 6" x 30". Mirror shall have rounded corners and protected edges;

(B) Type A buses shall be equipped with a mirror providing at least 96 square inches of flat mirror surface;

(C) Bus seller shall certify compliance with mirror and direct/indirect visibility standards listed in the aforementioned FMVSS 111 and provide a copy to used bus purchasers when certification is not available from manufacturer for all buses manufactured prior to January 1, 1994.

(24) Mounting:

(a) Chassis frame shall support rear body cross member. Bus body shall be attached to chassis frame at each main floor sill, except where chassis components interfere, in such a manner as to prevent shifting or separation of body from chassis under severe operating conditions;

(b) Body front shall be attached and sealed to chassis in such manner as to prevent entry of water, dust or fumes through joint between chassis cowl and body;

(c) When floor is provided by bus body manufacturer, adequate insulating padding shall be placed at all contact points between body and chassis frame. Insulating material shall be approximately 1/4-inch thick and shall be so attached as to prevent movement under severe operating conditions.

(25) Mud Flaps:

(a) Mud flaps or splash aprons are required for rear wheels on all school buses and shall be provided by the body manufacturer;

(b) Flaps shall be of heavy-duty rubberized material or equivalent and shall extend at least the full width of tires from a point above the center of the tires to a point not more than ten inches above the surface of the highway when such vehicle is empty.

(26) Overall Length: Maximum length for school buses shall be limited to 40 feet (see OAR 581-053-0512, Bus Chassis, section (33), Turning Radius: ORS 818.080).

(27) Overall Width: Overall width of bus shall not exceed the maximum permitted by Oregon Motor Vehicle laws.

(28) Overhang: Body shall be so mounted as to comply with requirements described in chassis weight distribution standard. Body length extending beyond the rear axle shall not exceed three-fourths the length of the vehicle's wheel base per Oregon Vehicle Code.

(29) Racks: The installation of any kind of exterior luggage rack outside the bus is prohibited. This does not prohibit enclosed luggage compartments.

(30) Radios and Public Address Systems:

(a) Interior speakers mounted in the ceiling panels or side panels shall be either flush mounted or may protrude not more than 1-1/2 inches if the speaker housing is free of any corners or projections which can cause injury by striking with the head or in the event of a collision or rollover. Speakers protruding more than 1-1/2 inches may be mounted in the vertical end panels above the windshield or back windows as long as speakers are free of corners or projections that could cause injury;

(b) Speakers shall not be placed above any aisle;

(c) Buses purchased after November 1, 1985, shall be equipped with a public address system having interior and exterior speakers and a switch to separate from inside and outside.

(31) Rub Rails:

(a) There shall be one rub rail located on each side of bus approximately at seat level which shall extend from rear side of entrance door completely around bus body (except for emergency door and access panel(s)) to point of curvature near outside cowl on left side;

(b) There shall be one rub rail located approximately at floor line which shall cover same longitudinal area as upper rub rail, except at wheel-housing, and shall extend only to radii of right and left rear corners;

(c) Both rub rails shall be attached at each body post and all other upright structural members;

(d) Both rub rails shall be four inches or more in width, shall be of 16-gauge steel, suitable material of equivalent strength, and shall be constructed in corrugated or ribbed fashion;

(e) Both rub rails shall be applied to the outside body or outside body posts. Pressed-in or snap-on rub rails do not satisfy this requirement. For Type A-1 and A-2 buses using chassis manufacturer's body, or Type B, C and D buses using rear luggage or engine compartment, rub rails need not extend around rear corners.

(32) Sanders: Where used, sanders shall:

(a) Be of hopper cartridge-valve type;

(b) Have metal hopper with all interior surfaces treated to prevent condensation of moisture;

(c) Be of at least 100 pound (grit) capacity;

(d) Have cover on filler opening of hopper, which screws into place, sealing unit airtight;

(e) Have discharge tubes extending to front of each rear wheel under fender;

(f) Have no-clogging discharge tubes with slush-proof, nonfreezing rubber nozzles;

(g) Be operated by electric switch with telltale light mounted on instrument panel;

(h) Be exclusively driver-controlled.

(33) Seat Belt:

(a) A Type 2 lap belt/shoulder harness seat belt shall be provided for the driver, a driver's seat with an integrated Type 2 lap/shoulder belt may be substituted. Each belt section shall be booted to keep belt and the button or buckle type latch off floor when not in use. Shoulder belt assemblies on Type B, C, and D buses shall provide for a height adjustment of at least four inches at its upper point of attachment to the bus. Belt shall be anchored or guided in a manner at the seat frame to prevent the driver from sliding sideways when belt is in use. Locking retractors may be either an ELR (Emergency Locking Retractor) or an ALR (Automatic Locking Retractor). All ALR equipped buses received after July 1, 1989, must include an approved anti-cinching device;

(b) Seat belts for passengers: Passenger seat belts may be installed in school buses with a GVWR of more than 10,000 pounds. The attachments, belts and installation shall meet the requirements of Federal Motor Vehicle Safety Standard Nos. 208, 209 and 210 as they apply to school buses with a GVWR of 10,000 pounds or less.

(34) Seats and Crash Barriers:

(a) Seats and barriers shall meet requirements of Federal Motor Vehicle Safety Standard No. 222;

(b) All seats shall have minimum depth of 15 inches;

(c) In determining seating capacity of bus, the minimum allowable rump width shall be 13 inches;

(d) Seat, seat back cushion and crash barrier shall be covered with a material having a minimum 42-ounce finished weight, 54-inch width and finished vinyl coating of 1.06 broken twill, or other material with equal tensile strength, tear strength, seam strength, adhesion strength, resistance to abrasion, resistance to cold, and flex separation. Material shall meet or

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exceed the criteria contained in the School Bus Seat Upholstery Fire Block Test for all buses purchased after September 1, 1993 (see Appendix);

(e) All seats shall be forward facing and shall be securely fastened to that part(s) of bus that support them with a nut-and-bolt type of fastener. Each seat leg shall be secured to the floor by a minimum of two nut-and-bolt type fasteners of at least grade 5 SAE strength. Sheet metal screw-type fasteners without a nut are not acceptable, except in areas where it is not possible to install a nut-and-bolt type fastener. Type A-1 and A-2 bus seat fasteners shall meet the requirements of Federal Motor Vehicle Safety Standards 209 and 210;

(f) No bus shall be equipped with jump seats or portable seats. Flip-up seats at side emergency exit doors are allowed;

(g) Seat spacing shall not be less than 24 inches between the front of the back of each seat and the rear of the back of the seat immediately ahead. This shall be measured at cushion height on a plane parallel to the center line of the bus;

(h) Driver's seat shall be so located in relationship to the steering wheel that the driver may assume a natural position while driving, have a clear view of the road, and sufficient leg room to operate safely and effectively the brake and clutch pedals and accelerator without cramping or interference. Minimum distance between steering wheel and back rest of driver's seat shall be 11 inches. Driver's seat shall have a fore-and-aft adjustment of not less than four inches and shall on Type B, C, and D buses be capable of being raised and lowered at least three inches and shall be strongly attached to comply with acceptable installation procedures:

(A) Driver's seat supplied by the body company shall be a high back (suspension) seat with a minimum seat back adjustment of 15 degrees, not requiring the use of tools, and with a head restraint to accommodate a 95th percentile female anthropomorphic dummy as defined in FMVSS 208. The driver's seat shall be secured with nuts, bolts, and washers or flanged-headed nuts;

(B) Driver's seat positioning and range of adjustment shall be designed to accommodate comfortable actuation of the foot control pedal by 95 percent of the adult female population.

(i) Each passenger seat and driver's seat shall have a positive type retention system to prevent the seat cushion from disengaging from the seat frame at the front and rear in the event of an accident or rollover.

(35) Steering Wheel: (See OAR 581-053-0512(29), Steering Gear, also.) Steering wheel outside circumference shall have at least two inches of clearance at all points.

(36) Steps:

(a) Service door entrance may be equipped with two-step or three-step stepwell. Risers in each case shall be approximately equal and shall not exceed 10 inches in height. When plywood floor is used on steel, differential may be increased by thickness of plywood used:

(A) First step at service door shall be not less than 10 inches and not more than 14 inches from ground, based on standard chassis specifications;

(B) Type D buses shall be equipped with a three-step stepwell. First step at service door shall not be less than 12 inches and not more than 16 inches from the ground based on standard chassis specifications.

(b) Steps shall be enclosed to prevent accumulation of ice and snow;

(c) Steps shall not protrude beyond side body line;

(d) Steps (if any) on Type A-1 and A-2 buses not manufactured originally as school buses may be chassis manufacturer's standard;

(e) At least one grab handle not less than 20 inches in length shall be provided to assist passengers during entry or egress in unobstructed locations inside doorway. Grab handle shall be designed, installed and maintained to minimize the opportunity for entanglement of passenger clothing and belongings.

(37) Step Treads:

(a) All steps, including floor line platform area, shall be covered with 3/16-inch rubber floor covering or other materials equal in wear resistance and abrasion resistance to top grade rubber;

(b) Metal back of tread, minimum 24-gauge cold roll steel, shall be permanently bonded to ribbed rubber;

(c) 3/16-inch ribbed step tread shall have a 1-1/2-inch white nosing as integral piece without any joint;

(d) Rubber portion of step treads shall have the following characteristics:

(A) Special compounding for good abrasion resistance and high coefficient of friction;

(B) Flexibility so that it can be bent around a 1/2-inch mandrel both at 130 degrees F and 20 degrees F without breaking, cracking or crazing;

(C) Show a durometer hardness 85 to 95.

(38) Steps, Windshield Access: There shall be at least one folding step or recessed foothold and suitably located handles on each side of the front of the body for easy accessibility for cleaning the windshield and lamps except when windshield and lamps are easily accessible from the ground. Standard does not apply to chassis not originally manufactured as school buses.

(39) Stop Signal Arms: All buses purchased after September 1, 1993 and all buses in service after August 1, 1995 shall be equipped with stop signal arms mounted in accordance with the following requirements:

(a) Shall meet all applicable requirements of the Federal Motor Vehicle Safety Standard 49 CFR 571.131;

(b) Shall be installed on the left side of the bus; the vertical center of the stop blade shall be at least seven inches but not more than 14 inches below the window line, on the first body post to the rear of the driver or as close as practicable;

(c) Shall be a octagon shaped sign 18 inches wide and 18 inches long exclusive of the mounting bracket. A windguard shall be provided. All sheet metal parts shall be 16 gauge metal or heavier;

(d) Shall have the word "STOP" on both sides in white letters six inches high and of proportionate width on a red background. The outer edge shall have a white border one-half inch wide. All other parts of the assembly shall be painted black;

(e) Shall be equipped with two, four-inch, double faced alternating flashing red lamps to be mounted near the perimeter of the sign with a minimum of 12 inches spacing between lamp centers. The stop arm and lamps shall be wired to the circuit of the flashing red warning lamps mounted on the front and rear of the bus and shall operate simultaneously with the red bus safety lamps. Lamps shall be LED or strobe ORS 820.105;

(f) May be reflectorized:

(A) Reflectorized material shall be of automotive engineering grade or better;

(B) Reflectorized material may be retroreflective or reflective.

(g) Shall be either air, vacuum, or electrically operated:

(A) Air operated stop arms:

(i) Air may be supplied from an air accessory tank or from the first (wet) tank;

(ii) If source is from the first (wet) tank a pressure protection valve shall be installed to prevent the tank air supply from falling below 60 pounds;

(iii) Stop arm system must have a pressure regulating valve;

(iv) All fittings shall be brass.

(B) Vacuum operated stop arms:

(i) Vacuum shall be supplied from a separate accessory tank. Tank shall be protected by a check valve;

(ii) All fittings shall be brass.

(40) Sun Visor: Interior adjustable sun visor, not less than 6 by 30 inches in size, shall be installed above windshield in position convenient for use by driver. If transparent visor is used, it shall be of such material so as not to prevent distinguishing between the colors of red and green traffic signals. Vehicles not originally manufactured as school buses may be equipped with manufacturer's standard visor. Buses purchased after November 1, 1985, shall have visors with protected edges.

(41) Tail Pipe: (See OAR 581-053-0512, Bus Chassis, section (14).

(42) Tool Compartment: A metal container of adequate strength and capacity for storage of tire chains, tow chains and such tools as may be necessary, may be provided. Container may be located inside or outside of passenger compartment. If inside, it shall have a cover and positive type latch to prevent opening in event of a severe impact or bus rollover, and shall be attached to the floor with a nut and bolt fastener, or may be securely attached to a seat frame under a seat.

(43) Tow Hooks:

(a) Type C buses shall be equipped with two rear tow hooks, or one center tow hook tied to both frame rails, that have sufficient strength to pull or be pulled by another vehicle of the same GVWR. Tow hooks shall be installed in order that no permanent distortion to the body or chassis will result if the bus must be towed. (See also OAR 581-053-0512, Bus Chassis, section (31), Tow Hooks);

(b) Type D vehicles shall be equipped with two rear tow hooks or tow eyes, and at least one front tow hook or eye, mounted or capable of immediate mounting. Hooks or eyes shall have sufficient strength to pull or be pulled by another vehicle of the same GVWR.

(44) Under carriage luggage compartments: Luggage compartments may be installed on the outside of the bus mounted below the floor level or in the rear of the bus. Access to compartments must be from the outside only. Compartment doors must have a positive retention to hold the doors

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open. Compartment doors must be lockable. These rule changes apply to buses ordered after July 1, 2004

(45) Undercoating:

(a) Entire underside of bus body, including floor sections, cross member and below floor line side panels, shall be coated with rust-proofing compound for which compound manufacturer has issued notarized certification of compliance to bus body builder that compound meets or exceeds all performance and qualitative requirements of paragraph 3.4 of Federal Specification TT-C-520b using modified test procedures* for following requirements:

(A) Salt spray resistance — pass test modified to five percent salt and 1,000 hours;

(B) Abrasion resistance — pass;

(C) Fire resistance — pass.

(b) Undercoating compound shall be applied with suitable airless or conventional spray equipment to recommended film thickness and shall show no evidence of voids in cured film. *Test panels are to be prepared in accordance with paragraph 4 6.12 of TT-C-520a with modified procedure requiring that tests be made on a 48-hour air cured film at thickness recommended by compound manufacturer.

(46) Ventilation:

(a) Body shall be equipped with suitable, controlled ventilating system of sufficient capacity to maintain proper quantity of air under operating conditions without opening of windows except in extremely warm weather;

(b) Static-type nonclosable exhaust ventilation shall be installed in low-pressure area of roof.

(47) Video surveillance cameras may be mounted inside or on either the forward or rear bulkhead, or to the ceiling in compliance with the following requirements:

(a) Surface mounted camera/camera housing/recording devices shall be mounted as far forward (if forward mounted) or as far rearward (if rear mounted) as possible and directly above the center of the windshield/rear window, and shall not:

(A) Extend into the passenger compartment more than 9 inches;

(B) Extend(s) down from the ceiling more than five inches;

(C) Be more than five inches wide;

(D) Interfere with the rear view mirror or sun visor.

(b) Recording devices or their housings shall not be mounted overhead in the passenger compartment;

(c) Video cameras/housings (not recorders) may be mounted overhead in the passenger compartment, provided they are over the seating area, but not over any part of the aisle, all edges must be rounded and/or protected with enclosure of shatterproof construction;

(d) Flush mounted cameras/housings may be mounted in any position in the front or rear bulkhead or ceiling provided that any modification to the body, in order to achieve flush mounting does not compromise the structural integrity of the body panels;

(e) All video related devices mounted to the interior bus body shall be securely fastened in a manner to prevent separation from the bus body in the event of collision or mishap;

(f) Recording devices/housings must allow ready access for camera and video recording medium removal with out the use of tools;

(g) All electrical connections shall be made with UL approved wiring and terminals, and protected by grommets any place it passes through metal panels. Any electrical load added to the vehicles electrical system shall be protected with appropriate over current device (fuse).

(48) Weight Distribution:

(a) Weight distribution of fully loaded bus on level surface shall be such as to not exceed the manufacturer's front Gross Axle Weight Rating (GAWR) and rear Gross Axle Weight Rating;

(b) Weight distribution of fully loaded bus on level surface shall be such that not more than 75 percent of gross vehicle weight is on rear tires and not more than 35 percent is on front tires. Type B and D buses with engine inside front of body and entrance door ahead of front wheels shall have not more than 75 percent of gross vehicle weight on rear tires or more than 50 percent on front tires. If entrance door is behind front wheels, not more than 75 percent of gross vehicle weight shall be on rear tires not more than 40 percent on front tires. With engine in rear, not more than 75 percent of gross vehicle weight shall be on rear tires or more than 40 percent on front tires.

(49) Wheelhousing:

(a) The wheelhousing opening shall allow for easy tire removal and service;

(b) Wheelhousing shall be attached to floor sheets in such a manner as to prevent any dust, water or fumes from entering the body. Wheelhousing shall be constructed of 16-gauge steel, or other material of equal strength;

(c) The inside height of the wheelhousing above the floor line shall not exceed 12 inches;

(d) The wheelhousing shall provide clearance for installation and use of tire chains on single and dual (if so equipped) power-driving wheels;

(e) No part of a raised wheelhousing shall extend into the emergency door opening.

(50) Windshield and Windows:

(a) All glass in windshield, windows and doors shall be of approved safety glass so mounted that its identification mark is visible and of a quality to prevent distortion in any direction. All glazing materials shall be on the approved list of the Oregon Department of Motor Vehicles;

(b) Windshield shall be of safety plate glass AS-1 grade as specified by American National Standards Institute Safety Code Z26.1-1966;

(c) Windshield glass may be heat absorbing and may have a horizontal gradient band starting slightly above the line of the operator's vision and gradually decreasing in light transmission to 20 percent or less at the top of the windshield in compliance with Federal Motor Vehicle Safety Standard 205;

(d) Glass in all side windows, doors and rear windows shall be AS-2 or better grade, as specified in Z26.1-1966, or AS-4 coated abrasion resistant rigid plastic meeting requirements of Federal Motor Vehicle Safety Standard 205. Rigid plastic cannot be used for windshields or windows immediately to the left or right of the driver;

(e) Side windows shall conform to the following:

(A) Buses shall provide full drop or split sash windows which provide an unobstructed opening of at least 12 inches and not more than 14 inches in height, obtained by lowering the sash, and at least 22 inches in width. Type A-1 and A-2 buses may have a full drop or split sash windows which provide an unobstructed opening of at least 9 inches and not more than 13 inches in height, obtained by lowering the sash, and at least 22 inches in width, provided the bus has 2 swing-out windows.

(B) One window on each side of the bus may be less than 22 inches in width.

(51) Windshield Washers: Bus shall be equipped with electric or air operated windshield washers.

(52) Windshield Wipers: Bus shall be equipped with two windshield wipers of air or electric type that meets FMVSS 104 powered by motor or motors of at least two speeds and with sufficient power to operate wipers under severe weather conditions. Type A-1 and A-2 bus manufacturer's standard is permitted.

(53) Wind deflectors may be installed according to manufacturer's standards on the rear roof to deflect snow, dust and dirt from the rear window.

(54) Wiring:

(a) All wiring shall conform to current standards of Society of Automotive Engineers;

(b) Circuits:

(A) Wiring shall be arranged in circuits, as required, with a circuit protection system. A system of color or number coding shall be used for all buses purchased after September 1, 1993 and an appropriate identifying diagram shall be provided the end user along with the wiring diagram provided by the chassis manufacturer. The following interconnecting circuits shall be color coded as noted:

(i) Left rear directional light — yellow;

(ii) Right rear directional light — dark green;

(iii) Stop lights — red;

(iv) Back-up lights — blue;

(v) Tail lights — brown;

(vi) Ground — white;

(vii) Ignition feed, primary feed — black;

(viii) The color of cables shall correspond to SAE J1128.

(B) Wiring shall be arranged in at least seven regular circuits, as follows:

(i) Head, tail, stop (brake) and instrument panel lamps;

(ii) Clearance and stepwell lamps (stepwell lamp shall be activated when service door is opened);

(iii) Dome lamp;

(iv) Ignition and emergency door signal;

(v) Turn signal lamps;

(vi) School Bus Safety Lights;

(vii) Heaters and defrosters.

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(C) Any of above combination circuits may be subdivided into additional independent circuits;

(D) Whenever possible, all other electrical functions (such as sanders and electric-type windshield wipers) shall be provided with independent and properly protected circuits.

(c) The entire electrical system of the body shall be designed for the same voltage as the chassis on which the body is mounted;

(d) All wiring shall have an amperage capacity equal to or exceeding the designed load. All wiring splices are to be done at an accessible location and noted as splices on wiring schematic;

(e) Each body circuit shall be coded by number or letter on a diagram of easily readable size and be furnished with each bus body or affixed in an area convenient to the electrical accessory control panel;

(f) Body power wire is to be attached to special terminal on the chassis;

(g) All wires passing through metal openings shall be protected by a grommet;

(h) Wires not enclosed within body shall be fastened securely at intervals of not more than 18 inches. All joints shall be soldered or joined by equally effective connectors and shall be moisture and corrosion resistant.

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

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: IEB 17-1985, f. 10-29-85, ef. 11-1-85; EB 16-1987(Temp), f. 7-30-87, ef. 9-27-87; EB 30-1987, f. & ef. 12-9-87; EB 44-1988, f. 12-16-88, cert. ef. 1-1-89; EB 21-1993, f. & cert. ef. 6-2-93; ODE 11-1999, f. & cert. ef. 2-12-99; ODE 30-1999, f. 12-13-99, cert. ef. 12-14-99; ODE 16-2004, f. & cert. ef. 8-4-04; ODE 10-2005, f. & cert. ef. 11-15-05; ODE 26-2007, f. & cert. ef. 10-26-07

581-053-0527

Minimum Standards for School Buses Designed to Transport Children with Disabilities

(1) Vehicles used for the transportation of children with disabilities shall meet all minimum standards for Oregon school buses, except for alterations and equipment necessary to accommodate special needs:

(a) No modification or alteration of a school bus shall be performed if such modification or alteration would cause the vehicle to be constructed or equipped in violation with any Federal Motor Vehicle Safety Standard effective at the time of original chassis manufacture;

(b) Design of special equipment not covered in the minimum standards is subject to approval by the Oregon Department of Education;

(c) With respect to vehicles constructed or modified for transportation of children with disabilities, this rule presents the standards for special equipment, and exceptions in minimum standards for school buses:

(A) For determining standard requirements, the passenger and gross vehicle weight rating classification for any vehicle to transport exceptional children will be determined as if the vehicle were equipped with a standard seating arrangement prior to modification;

(B) Any school bus that is used specifically for the transportation of children who use wheelchairs and/or other mechanical restraining devices prohibiting use of the regular service entrance, shall be equipped with a power lift. Type A buses may be equipped with ramps. See section (10) of this rule.

(2) Aisles: Aisles leading to emergency door(s) from wheelchair area shall be at least 30 inches wide to permit passage of a wheelchair. Special lift doors are not considered emergency doors unless in compliance with all right side emergency door requirements.

(3) Child Safety Seats/Systems:

(a) Child safety seats/systems used for transporting infants, toddlers, or others requiring added support shall conform to specific strength and performance standards or dynamic test standards identified in Federal Motor Vehicle Safety Standard 213 for protection of a child up to 50 pounds;

(b) Child safety seats/systems shall bear a label specifying compliance with all applicable Federal Motor Vehicle Safety Standards at the time of their manufacture;

(c) Child safety seats/systems shall be secured to the school bus seat by either seat belts or special restraining devices as defined in section (13) of this rule.

(4) Fuel Tank: Fuel tanks may be relocated when necessary, but must maintain full compliance with Federal Motor Vehicle Safety Standard 301.

(5) Glazing: All windows may be tinted.

(6) Guard Panel: Guard panel shall be installed at both rear and front edges of lift door opening extending into bus. Enclosure walls of equal or greater strength installed front and rear of the lift are an acceptable alternative. If elevator-type lift (body floor section serving as a lift platform) is used, a covered chain shall be installed extending across platform opening.

The chain shall be positively attached at the rear point of attachment and a hook and eye at the front of the lift mechanism.

(7) Identification: Buses designed and used for transporting children with disabilities may display universal handicapped symbols located near service entrance door and at the rear of the vehicle below the window line. Such emblems shall be white on blue, shall not exceed 12 inches square in size, and may be reflectorized.

(8) Lights:

(a) Dome Lights: There shall be the equivalent of at least one dome light for every two full body sections (approximately every 54 inches) behind the regular service entrance door;

(b) An interior light shall be placed over lift area and activated by a door switch. Circuit may be wired through stepwell light circuit.

(9) Oxygen (personal):

(a) Tank(s) of compressed oxygen being transported may not have a capacity greater than 22 cubic feet:

(A) Tank(s) shall be Department of Transportation approved and shall have certification label affixed;

(B) Tank(s) valve(s) and regulators shall be protected from breakage;

(C) Tank(s) shall be securely attached to the bus in a manner to avoid being a hazard for students and away from intense heat.

(b) Container(s) of liquid oxygen being transported may not have a capacity greater than 23 cubic feet:

(A) Container(s) shall be Department of Transportation approved and shall have certification label affixed;

(B) Container(s) shall be securely attached to the bus in a manner to avoid being a hazard for students and to prevent damage and exposure to intense heat.

(10) Power Lift:

(a) General: Vehicle lifts and installations shall comply with the requirements set forth in FMVSS 403, Platform Lift Systems for Motor Vehicles, and FMVSS 404, Platform Lift Installations in Motor Vehicles. This rule change applies to buses ordered after December 27, 2004.

(b) Lifting mechanism shall be located on the right side of the bus and be capable of lifting a minimum load of 800 pounds;

(c) When the platform is in the fully up position, it shall be locked in position mechanically by means other than a support, or lug in the door;

(d) Controls shall be provided that enable the operator to activate the lift mechanism from either inside or outside of the bus. There shall be a means of preventing the lift platform from falling while in operation due to a power failure. If equipped with a control switch flex cord, the cord shall be installed to minimize entanglement with lift mechanism;

(e) Power lifts shall be so equipped that they may be manually raised and lowered in the event of power failure of the power lift mechanism;

(f) Lift travel shall allow the lift platform to rest securely on the ground;

(g) All edges of the platform shall be designed to restrain wheelchair and operator's feet from being entangled during the raising and lowering process;

(h) Lift platform shall have a minimum usable area of 30 inches by 48 inches;

(i) Platform shall be fitted on both sides with full width barriers which extend above the floor line of the lift platform;

(j) A restraining device shall be affixed to the outer edge (curb end) of the platform that will prohibit the wheelchair from rolling off the platform when the lift is in any position other than fully extended to ground or desired platform level. Minimum height of device/barrier shall be four inches;

(k) A self-adjusting, skid resistant plate shall be installed on the outer edge of the platform to minimize the incline from the lift platform to the ground level. This plate, if so designed, may also suffice as the restraining device described in subsection (h) of this section. The lift platform must be skid resistant;

(l) A circuit breaker or fuse shall be installed between power source and lift motor if electrical power is used;

(m) The lift mechanism shall be equipped with adjustable limit switches or bypass valves to prevent excessive pressure from building in the hydraulic system when the platform reaches the full up position or full down position;

(n) Sharp corners or projections of the lift which are likely to cause injury to passengers in the event of a collision or rollover shall be padded with impact absorbing material;

(o) There shall be no exposed areas on lift mechanism or adjacent to lift that could cause injury to children while lift is in motion;

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(p) Power unit for lift shall be located so as not to restrict or impair center aisle space or foot and leg room between seats;

(q) If body floor section serves as a portion of the lift platform, the adjacent under-floor areas on three sides shall be closed off with shields when platform is in the lowered position;

(r) Platform shall be confined within the perimeter of the school bus body when not extended, in no way attached to the exterior sides of the bus.

(s) Platform shall provide at least one handrail in compliance with requirements specified in Public Law 101-376.

(11) Ramps: In lieu of a power lift, a ramp device may be installed on Type A buses:

(a) Ramp shall be of sufficient strength and rigidity to support wheelchair, occupant and attendant. It shall be equipped with protective flange on each longitudinal side to keep wheelchair on ramp;

(b) Floor of ramp shall be covered with nonskid material;

(c) Ramp shall be of weight, and equipped with handle(s), to permit one person to put ramp in place and return it to storage place;

(d) Provisions shall be made to secure ramp to side of bus use without danger of detachment, and ramp shall be connected to bus at floor level in such manner as to permit easy access of wheels on wheelchair to floor of bus;

(e) Ramp shall be at least 80 inches in length, and width of the ramp shall be adequate to accommodate wheelchairs up to 30 inches wide. Ramp shall be of one piece, or two 40-inch sections hinged to allow for storage;

(f) Dustproof and waterproof enclosed container shall be provided if ramp is stored under floor.

(12) Ramp Door:

(a) Special ramp door opening shall be located on right side of bus and be not less than 30 inches in width;

(b) Doors must meet the standards specified for "special service entrance doors" or be standard hinged cargo doors supplied and installed at the factory;

(c) Side cargo-type sliding doors are acceptable on production line vans providing that the doors slide outside and along the body wall and lock in the closed position at two points opposite each other.

(13) Special Restraining Devices:

(a) Webbed straps/belts not less than 1.8 inches wide and having a breaking strength when tested under procedures listed in 49 CFR 571.209 S5.1(b) of not less than 6,000 pounds or 2,720 kilograms. Webbing shall comply with requirements listed in 49 CFR 571.209 for elongation, resistance to abrasion, light, and micro-organisms as well as colorfastness;

(b) Hardware, including buckles, retractor, bolts, and attachment devices shall comply with all applicable standards listed in 49 CFR 571.209 S4.3;

(c) Belts/straps shall be secured to the vehicle either at points designated by the manufacturer for the attachment of seat belts in compliance with 49 CFR 571.210 S4.3.1 and S5 or through nut-and-bolt fasteners attached through the floor, each capable of withstanding a pulled force of at least 5,000 pounds;

(d) Belts/straps shall be clearly identified with labels or other permanent markings as: "Special Restraining Devices."

(14) Special Service Entrance:

(a) Bus bodies may have a special service entrance constructed in the body to accommodate a wheelchair lift for the loading and unloading of passengers;

(b) The opening, to accommodate the special service entrance, shall be at any convenient point on the right (curb side) of the bus and far enough to the rear to prevent the door(s), when open, from obstructing the right front regular service door;

(c) The opening may extend below the floor through the bottom of the body skirt. If such an opening is used, reinforcements shall be installed at the front and rear of the floor opening to support the floor and give the same strength as other floor openings;

(d) Entrance shall be of sufficient width and depth to accommodate various mechanical lifts and related accessories as well as the lifting platform. The minimum clear opening width shall be adequate to accommodate the minimum platform defined in section (10) of this rule;

(e) Door posts and headers from entrance shall be reinforced sufficiently to provide support and strength equivalent to the areas of the side of the bus not used for service doors;

(f) A drip moulding shall be installed above the opening to effectively divert water from entrance;

(g) A soft energy absorbing cushion not less than three inches wide and one inch thick shall be located inside the bus at the lowest point possi-

ble of the upper door sill. The cushion shall be at least as wide as the lift platform.

(15) Special Service Entrance Doors:

(a) A single door or double door may be used for special service entrance;

(b) A single door shall be hinged to the forward side of the entrance. If double doors are used, the system shall be designed to prevent the door(s) from being blown open by the aerodynamic forces created by the forward motion of the bus, and/or shall incorporate a safety mechanism to provide secondary protection should the primary latching mechanism(s) fail;

(c) All doors shall open outwardly;

(d) All doors shall have positive non-hitchable fastening devices to hold doors in the open position;

(e) All doors shall be weather sealed and on buses with double doors, they shall be so constructed that a flange on the forward door overlaps the edge of the rear door when closed;

(f) When manually operated dual doors are provided the rear door leaf shall have at least a one-point fastening device to the header. The forward mounted door shall have at least three-point fastening devices. One shall be to the header, one to the floor line of the body, and the other shall be into the rear door. These locking devices shall afford maximum safety when the doors are in the closed position. The door and hinge mechanism shall be of a strength that will provide for the same type of use as that of a standard entrance door;

(g) If optional power doors are installed the design shall permit manual release of the doors for opening and closing by the attendant from the platform inside the bus;

(h) Door materials, panels, and structural strength shall be equivalent to the conventional service and emergency doors. Color, rub rail extensions, lettering and other exterior features shall match adjacent sections of the body;

(i) Each door shall have windows set in a waterproof manner that are visually similar in size and location to adjacent non-door windows. Glazing shall be of the same type and tinting (if applicable) as standard fixed glass in other body locations;

(j) Door(s) shall be equipped with a device that will activate a green flashing signal located in the driver's compartment when door(s) is not securely closed and ignition is in "on" position;

(k) A switch shall be installed so that the lifting mechanism will not operate when the lift platform door(s) is closed;

(l) Buses equipped with special service entrance doors not currently in use for service to students with disabilities or power lift equipped, must assure: Doors must be in compliance with all requirements for right side emergency door, or all of the following:

(A) Be sealed and inoperable;

(B) Have no handles; and

(C) Have the words NOT AN EXIT placed in letters at least two inches high above the door on both the interior and exterior of the bus.

(16) Seating Arrangements:

(a) Flexibility in seat placement and spacing to accommodate special needs or devices may be permitted due to change of passenger requirements;

(b) Rear-facing seats may be installed if necessary for exit access or student monitoring. If rear-facing seats are installed they shall comply with all applicable elements of *Federal Motor Vehicle Safety Standard 222* and be equipped with a lap belt meeting requirements listed in FMVSS 208, 209, and 210.

(17) Steps: Vehicles equipped with power lifts shall provide service door steps extending the full width of the stepwell.

(18) Student Securement Systems:

(a) All child securement systems provided in the bus shall be used in compliance with all applicable standards and rules, including those addressing mobile seating devices;

(b) Any exemption from student securement system requirements shall be acceptable only when provided by a doctor on a form consistent with ORS 811.220.

(19) Wheeled Mobility Device — Fastening Devices:

(a) Adjustable and accessible positive fastening devices shall be provided, attached to floor or walls or both, that will securely hold wheelchairs or other type of ambulatory mobility devices in the event the vehicle is overturned and to prevent the wheels from leaving the floor in case of a sudden movement. All floor-mounted attachment devices shall be affixed with nut and bolt fasteners, except in areas where it is not practicable. Buses purchased after September 1, 1993, equipped to transport mobile seating devices or buses retrofitted for that purpose after that date, shall

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provide mobility-device securement straps and hardware in compliance with FMVSS 222 adopted by National Highway Traffic Safety Administration for January 17, 1994, implementation;

(b) Wheelchairs or other devices designed solely for use by handi-capped or convalescent passengers may be positioned in a direction other than forward-facing only at the specific direction of the student's IEP when forward-facing positions are available;

(c) Buses equipped to transport mobile seating devices purchased after September 1, 1993, or buses retrofitted after that date to transport mobile seating devices shall have a Federal Motor Vehicle Safety Standard complying barrier placed forward (front of bus) of each mobile seating device placed in a position other than forward facing. Barriers shall be located as close as practicable to the forward side of the mobile seating device.

(d) No fastening device shall be attached to any door;

(e) Additional fastening devices may be installed to restrain the student due to the many different configurations of chairs and exceptionalities;

(f) Three-wheeled mobile seating devices shall not be occupied during transport.

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

Stat. Auth.: ORS 327.013, 485 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: 1EB 17-1985, f. 10-29-85, ef. 11-1-85; EB 44-1988, f. 12-16-88, cert. ef. 1-1-89; EB 21-1993, f. & cert. ef. 6-2-93; ODE 26-2007, f. & cert. ef. 10-26-07

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

Adm. Order No.: ODE 27-2007

Filed with Sec. of State: 10-26-2007

Certified to be Effective: 10-26-07

Notice Publication Date: 8-1-2007

Rules Amended: 581-053-0002

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

Rules Coordinator: Paula Merritt—(503) 947-5746

581-053-0002

Administration of Pupil Transportation

(1) Definitions of terms used in OAR 581-053-0002 through 581-053-0550 shall be as follows:

(a) A school bus shall be as defined in ORS 801.460;

(b) A school activity vehicle shall be as defined in ORS 801.455;

(c) For purposes of OAR 581-053-0006, a diabetic is a person who takes insulin.

(d) Pupil transporting vehicles shall include all school buses as well as other vehicles that are owned or under contract with the school districts, private or parochial schools and are used to transport pupils to or from school or an authorized school activity or function.

(2) School districts shall provide transportation in compliance with all applicable laws and administrative rules.

(3) School districts or other employers shall not require or knowingly permit any person to operate a school bus or other pupil transporting vehicle in violation of any applicable rules of the Oregon Department of Education or Oregon laws.

(4) School boards shall adopt and implement written policies that insure that transportation officials receive notification of students having special medical or behavioral protocols identified in student records and that drivers receive appropriate training related to specified protocols, including requirements of confidentiality.

(5) School districts shall adopt and implement written transportation policy, including provisions regarding student suspensions and expulsions from district-provided transportation:

(a) Written transportation suspension and expulsion policy shall include at least the following:

(A) Definitions for the terms "suspension" and "expulsion" from district-provided transportation services and identify the specific applicable time limits; and

(B) Identification of criteria used for student suspension and expulsion from district-provided pupil transportation services; and

(C) Special provisions for the application of the policy to students receiving services under the Individuals with Disabilities Education Act; ORS 339.250, and 343.363; or

(b) An adoption as local board policy all elements listed below:

(A) Students may be suspended from district-provided pupil transportation services when such suspensions are executed within the provisions contained in OAR 581-021-0065(1) through (3) and all applicable procedures are consistent with OAR 581-053-0002(9), 581-053-0010, and the Individuals with Disabilities Education Act;

(B) The school district board shall limit the term of a suspension for a specific incident to a specific number of days. The maximum shall not exceed 10 school days when transportation is provided;

(C) Upon the occurrence within one school year of a subsequent incident or any occurrence of a severe disciplinary problem constituting a demonstrable safety hazard for the pupil-transporting vehicle or persons inside/outside the vehicle, the student may be expelled from district-provided transportation services for a period not to exceed one school year. Parent notification and procedural rules for yearlong length expulsions must be included in local board-approved transportation policy and must comply with those set forth for student expulsion in OAR 581-021-0070. An expulsion may extend into a second term or semester if the current term or semester ends within such a short period of time that the expulsion would be too short to be effective;

(D) Suspensions and expulsions shall be ordered by the school board, the executive officer of the school district or his or her designated representative. The district school board shall have the right of final review if the school board itself does not take the action. The school board may affirm, amend, modify, or rescind any suspension or expulsion order.

(6) School buses and all other pupil transporting vehicles shall be maintained in safe operating condition and shall meet or exceed the minimum standards in effect at the time of purchase, plus any subsequent rules applicable to the vehicle.

(7) Any additions of vehicle equipment or alterations in the vehicle construction not provided for in the applicable minimum standards for Oregon school buses or school activity vehicles are prohibited without prior approval from the Oregon Department of Education.

(8) All school buses and school activity vehicles that will be transporting students for the first time in a school system in Oregon must conform, or be made to conform within thirty days of notice of nonconformity, to the minimum standards for Oregon school buses or school activity vehicles currently in force as they apply to each vehicle. Written notification must be sent to the Superintendent of Public Instruction when relocating school or activity buses for a period exceeding 10 days. School and activity buses with a manufacture date prior to September 1, 1993 shall not be relocated. After August 1, 2008 school buses with a manufacture date prior to April 1, 1977 may not be used for pupil transportation. Type 21 activity vehicles may not be entered into the fleet for the first time with a manufacture date prior to September 1, 1993. Oregon Department of Education personnel may give a written order that a vehicle is unsafe and shall not be used to transport students when there is reason to believe that a deficiency is such that continued operation of the vehicle may jeopardize the safety of students or the public. The vehicle owner shall notify the Oregon Department of Education that the deficiency is corrected before transporting students.

(9) Vehicle maintenance records shall be kept for each vehicle used to transport students. These records shall be available to Department of Education personnel upon request. The following minimum information shall be kept for each vehicle by date and mileage at the time of service, adjustment or repair:

(a) Chassis lubrications;

(b) Engine oil and filter changes;

(c) Major engine tune-ups and repairs;

(d) All adjustment, service and repair of brake system;

(e) All adjustment, service and repair of steering mechanism and other related parts;

(f) Tires; and

(g) Drive train components.

(10) A seat that fully supports the passenger shall be provided for every passenger on all pupil-transporting vehicles. Seating is not permitted on any portion of the vehicle not designed for that purpose. Passengers shall not be permitted to stand while vehicle is in motion.

(11) Safety instruction:

(a) All regularly transported pupils in schools which provide pupil transportation shall receive the following instruction at least once within the first six (6) weeks of the first half and once within the first six (6) weeks of the second half of each school year:

(A) Safe school bus riding procedures, including but not limited to loading, unloading, crossing, etc.;

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(B) Use of emergency exits; and

(C) Planned and orderly evacuation of the school bus in case of emergency, including participation in actual evacuation drills.

(b) All pupils in schools where pupil transportation is provided who are not regularly transported shall receive the following instruction at least once in the first half of each school year:

(A) Safe school bus riding procedures; and

(B) Use of emergency exits.

(c) Records listing safety instruction course content and dates of training shall be maintained locally.

(12) All school buses manufactured prior to September 1, 1979 shall be equipped to meet all requirements of the applicable minimum standards for Oregon school buses in effect on that date.

(13) School systems shall provide for the required training, examination, and testing of their school bus and school activity vehicle drivers to comply with Oregon Department of Education rules. Appropriate specialized training designed for special needs transportation shall be provided prior to allowing drivers to transport students with disabilities. Records to document training and testing shall be maintained by school districts. Such records shall be made part of each driver's driver-training record file. Records shall be made available to Oregon Department of Education personnel or the driver upon request.

(14) School districts or contractors employing school bus drivers or Type 10 or Type 20 school activity vehicle drivers shall immediately notify the Department of Education if they have reason to believe any change in the driver(s)' criminal or driving record has occurred which could affect their ability to:

(a) Maintain a school bus driver permit or certificate under the provisions of OAR 581-053-0006(8); or

(b) Meet the requirements listed in OAR 581-053-0545 and 581-053-0550 for activity vehicle drivers.

(15) Schools or contractors selling a used school bus shall be responsible for removing all markings that would identify it as a school bus including the school bus safety lights. Exception: If the school bus is sold for the purpose of transporting school children to and from school, the school bus identification and school bus safety lights need not be removed. If sold for the purpose of transporting workers, the school bus safety lights need not be removed.

(16) Schools or contractors planning to rebuild a school bus shall first secure approval from the Pupil Transportation Section, Oregon Department of Education. (This does not apply to repair of damage.) All rebuilt school buses must meet current Oregon Minimum Standards for School Buses and applicable Federal Department of Transportation regulations.

(17) Special vehicles used for transportation of students with disabilities or for specific educational purposes that do not meet all current Oregon Minimum Standards for School Buses must be approved by the Pupil Transportation Section, Oregon Department of Education.

(18) Appeal for Variance:

(a) A school or contractor desiring to purchase a school bus or school activity vehicle which cannot meet all required minimum construction standards for school buses or school activity vehicles as applicable in Oregon must forward an "Appeal for Variance" request to the State Superintendent of Public Instruction, Salem, Oregon. This appeal must be made by the highest ranking official with the local operation and contain at least the following information:

(A) The need for such a vehicle;

(B) Why a standard school bus or school activity vehicle will not suffice;

(C) List of items, which will not meet applicable standards; and

(D) Passenger capacity of vehicle.

(b) This variance provision is designed for unique changes or alterations necessary to accommodate special equipment or conditions.

(19) In case of an accident involving serious injury or death, the Oregon Department of Education shall be notified immediately.

(20) A school district or contractor shall notify the Department of Education in writing within 30 days of notification of school bus driver who:

(a) No longer meet the physical requirements for school bus drivers in OAR 581-053-0006(7);

(b) Have received a conviction for a driving violation or criminal offenses specified in OAR 581-053-0006(8);

(c) Have had their driving privileges revoked, restricted or suspended;

(d) Fail to comply with testing or screening requirements established by the Federal Highway Administration for commercial drivers.

(21) School district shall report to the Department of Education statistics related to pupil transportation: Information required shall be related to mileage, numbers and types of school buses, and numbers of students.

(22) Any person performing the annual school bus inspections required under OAR 581-053-0008 must be qualified to perform such inspections as defined under the provisions of that rule.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: 1EB 13-1978, f. 4-3-78, ef. 9-1-78; 1EB 5-1979, f. & ef. 3-30-79; EB 3-1987, f. & ef. 2-18-87; EB 43-1988, f. 12-16-88, cert. ef. 1-1-89; EB 5-1992, f. & cert. ef. 2-21-92; EB 21-1993, f. & cert. ef. 6-2-93; ODE 11-1999, f. & cert. ef. 2-12-99; ODE 30-1999, f. 12-13-99, cert. ef. 12-14-99; ODE 7-2002, f. & cert. ef. 3-11-02; ODE 1-2003(Temp), f. & cert. ef. 3-4-03 thru 8-1-03; ODE 11-2003, f. & cert. ef. 6-13-03; ODE 11-2004, f. & cert. ef. 8-4-04; ODE 16-2007, f. & cert. ef. 7-6-07; ODE 27-2007, f. & cert. ef. 10-26-07

Oregon Health Licensing Agency,

Board of Cosmetology

Chapter 817

Rule Caption: Adopt rules, previously filed and adopted February 2004, that reverted to original language during a subsequent February 2006 rulemaking.

Adm. Order No.: BOC 1-2007

Filed with Sec. of State: 10-31-2007

Certified to be Effective: 11-1-07

Notice Publication Date: 2-1-2006

Rules Amended: 817-090-0080

Subject: Correct rule which repealed OAR 817-090-0005 and 817-090-0015 in 2004. In 2006 OAR 817-090-0005 and 817-090-0015 was inadvertently amended back into the rule. The agency's overarching authority is reflected in OAR 331-020-0060.

Rules Coordinator: Patricia C. Allbritton—(503) 373-2088

817-090-0080

Schedule of Fines for Dispensing of Cosmetic Preparations Violations

(1) The Agency has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violations of the following safety and infection control rules. The following schedule shall apply except as the agency otherwise determines in consideration of the factors referred to in OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of OAR 331-020-0060 will apply.

(2) Failing to properly dispense powders, liquids, wave solutions, creams, semi-solid substances or other materials which come in contact with a client is a violation of OAR 817-010-0055 and shall incur the following penalties:

(a) For 1st offense: \$100;

(b) For 2nd offense: \$300;

(c) For 3rd offense: \$500.

Stat. Auth.: ORS 690.165, 690.205 & 690.995

Stats. Implemented: ORS 690.165, 690.205 & 690.995

Hist.: BH 1-1985, f. & ef. 3-28-85; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; Renumbered from 817-090-0030; BBH 1-1998, f. 6-24-98, cert. ef. 6-30-98; BOC 2-2001, f. 2-16-01, cert. ef. 3-1-01; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06; BOC 1-2007, f. 10-31-07, cert. ef. 11-1-07

Oregon Housing and Community Services

Chapter 813

Rule Caption: Changes provisions relating to preservation and manufactured dwelling parks; removes 80% income limitation for parks.

Adm. Order No.: OHCS 14-2007(Temp)

Filed with Sec. of State: 10-16-2007

Certified to be Effective: 10-16-07 thru 4-12-08

Notice Publication Date:

Rules Adopted: 813-110-0013

Rules Amended: 813-110-0005, 813-110-0010, 813-110-0015, 813-110-0020, 813-110-0021, 813-110-0022, 813-110-0025, 813-110-0030, 813-110-0035

ADMINISTRATIVE RULES

Subject: 813-110-0005 Adds that the provisions of the rules were established by 1995 Legislation and subsequent legislation.

813-110-0010 Updates and clarifies the common definitions and terms found within the rules.

813-110-0013 Establishes the loan requirements for eligibility for tax credits.

813-110-0015 Adds language that the 80 percent income level limitation does not apply to manufactured dwelling parks.

813-110-0020 Updates language to reflect that the Application review will be consistent with the timelines outlined in Department application materials. Adds language that the 80 percent income level limitation does not apply to manufactured dwelling parks or preservation projects awarded after September 27, 2007.

813-110-0021 Requires the Department to be notified of changes in Lending Institutions.

813-110-0022 Allows the Department to set aside a portion of the Cap to meet Department identified goals and removes the requirement that the Department publicize the intent to establish a set-aside prior to initializing the set-aside.

813-110-0025 Adds language that the 80 percent income level limitation does not apply to manufactured dwelling parks.

813-110-0030 Adds that the report provided by the Lending Institution must contain the average annual balance for each loan.

813-110-0035 Administrative changes.

Rules Coordinator: Sandy McDonnell—(503) 986-2012

813-110-0005

Purpose and Objectives

The rules of OAR chapter 813, division 110, are established to define and carry out the provisions of ORS 317.097 as amended by 1995 Legislation (the Act) and subsequent changes, as they pertain to the Department. The Department certifies Projects sponsored by government entities, nonprofit corporations and certain persons as identified in ORS 317.097 to allow a lending institution to claim a tax credit against Oregon taxes as provided in the Act. The Department also certifies that balances of loans to qualifying projects fall within the cap on outstanding loans identified in ORS 317.097(6), and designates the period, not to exceed 20 years, for which the credit will be allowed. The purpose of the program is to encourage the provision of housing for lower-income Oregonians.

Stat. Auth.: ORS 317.097 & 456.515 - 456.720

Stats. Implemented: ORS 317.097

Hist.: HSG 1-1990(Temp), f. & cert. ef. 1-5-90; HSG 3-1990(Temp), f. & cert. ef. 3-1-90; HSG 9-1990, f. & cert. ef. 5-11-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 6-1991(Temp), f. & cert. ef. 11-5-91; HSG 3-1992, f. & cert. ef. 2-4-92; HSG 2-1994(Temp), f. & cert. ef. 3-25-94; HSG 7-1994, f. & cert. ef. 9-9-94; HSG 2-1995, f. & cert. ef. 9-25-95; OHCS 7-2006, f. & cert. ef. 5-17-06; OHCS 14-2007(Temp), f. & cert. ef. 10-16-07 thru 4-12-08

813-110-0010

Definitions

All terms are used in OAR 813, division 110, as defined in the Act, as provided in OAR 813-005-0005 and herein. As used in these rules, unless the context indicates otherwise:

(1) "Application" means a request signed by a Sponsor for Certification of a Project.

(2) "Cap" means the maximum amount of tax credits as set by the Legislature in ORS 317.097(6).

(3) "Certification" means the written verification by the Department to a Lender that a Project is a qualified Project for which the Lending Institution may claim a tax credit under the provisions of the Act.

(4) "Department" means the Oregon Housing and Community Services Department.

(5) "Firm Commitment of Financing" means the Lending Institution's agreement to make a loan to a specific borrower on a specific property and which will contain all of the terms and conditions that the borrower has to satisfy before said loan can be funded. Payment of a commitment charge by the borrower to the Lending Institution may be required as a condition precedent to issuance of such an agreement.

(6) "Housing Payments" as used in the Act means rent or purchase price for a sponsored Project.

(7) "Consolidated Plan" means the plan approved by the US Department of Housing and Urban Development (HUD) which describes the needs, resources, priorities and proposed activities to be undertaken with respect to HUD programs.

(8) "Lending Institution" means any bank, mortgage banking company, federal savings bank, savings bank, stock savings bank, savings and loan association, national bank, credit union or federal savings and loan association maintaining an office in this state. "Lending Institution" also includes any community development corporation, as defined in ORS 708.444(4), that is organized under the Oregon Nonprofit Corporation Law, and that meets the conditions described in ORS 708.444(2)(a) and (e).

(9) "Letter of Intent" means a proposal for financing by a Lending Institution subject to the borrower's compliance with certain terms stipulated by the Lending Institution.

(10) "Manufactured Dwelling Park" has the meaning given that term in ORS 446.003. It is any place where four or more manufactured dwellings are located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent or lease space or keep space for rent or lease to any person for a charge or fee paid or to be paid for the rental or lease or use of facilities or to offer space free in connection with securing the trade or patronage of such person. "Manufactured Dwelling Park" does not include a lot or lots located within a subdivision being rented or leased for occupancy by no more than one manufactured dwelling per lot if the subdivision was approved by the local government unit having jurisdiction under an ordinance adopted pursuant to ORS 92.010 to 92.190.

(11) "Median Income" shall be the area median family income, adjusted for family size, as published from time to time by HUD.

(12) "Nonprofit Corporation" means a corporation that is exempt from income taxes under section 501(c)(3) or (4) of the Internal Revenue Code as amended and in effect on December 31, 2006.

(13) "Preservation Project" means housing that was previously developed as affordable housing with a contract for rental assistance from the United States Department of Housing and Urban Development or the United States Department of Agriculture and that is being acquired by a sponsoring entity. The contract for project-based rental assistance must cover at least 25 percent of all units in the project.

(14) "Project," except as defined under "Manufactured Dwelling Park" or "Preservation Project," means one or more units of housing, that has been acquired, constructed, developed, or rehabilitated, including refinanced housing, which will be rented to or owned by households whose incomes are less than 80 percent of Median Income. The use of a Project for eligible occupants shall be maintained for the term of the credit, in accordance with the Act, unless terminated at the discretion of the Department. If there is a foreclosure, deed-in-lieu, or an involuntary transfer where title transfers to the Lending Institution, that Lending Institution may dispose of the property at its sole discretion.

(15) "Qualified Borrower" means any borrower that is a sponsoring entity that has a controlling interest in the real property that is financed by the loan. Such a controlling interest includes, but is not limited to, a controlling interest in the general partner of a limited partnership that owns the real property.

(16) "Rents Charged at the Market Interest Rate" means the rents that would be required, if the lender charged the market interest rate, in order to make the project financially feasible.

(17) "Rent Reduction" means the amount rents are reduced from the Rents Charged at the Market Interest Rate as a result of the OAHTC subsidy.

(18) "Rent Pass Through" means the amount of Rent Reduction made available to the tenants because of the reduced interest rate attributable to the OAHTC subsidy.

(19) "Sponsor" and "Sponsoring Entity" is a nonprofit corporation, nonprofit cooperative, state governmental entity, local unit of government as defined in ORS 466.706, housing authority or any other person, provided that the person has agreed to restrictive covenants imposed by a nonprofit corporation, nonprofit cooperative, state governmental entity, local unit of government or housing authority.

(20) "Tenant" means a renter who occupies or will occupy a unit in a Project, or a homeowner who is the borrower in an owner-occupied community rehabilitation program.

Stat. Auth.: ORS 317.097 & 456.515 - 456.720

Stats. Implemented: ORS 317.097

Hist.: HSG 1-1990(Temp), f. & cert. ef. 1-5-90; HSG 3-1990(Temp), f. & cert. ef. 3-1-90; HSG 9-1990, f. & cert. ef. 5-11-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 6-1991(Temp), f. & cert. ef. 11-5-91; HSG 3-1992, f. & cert. ef. 2-4-92; HSG 2-1994(Temp), f. & cert. ef. 3-25-94; HSG 7-1994, f. & cert. ef. 9-9-94; HSG 2-1995, f. & cert. ef. 9-25-95; OHCS 7-2006, f. & cert. ef. 5-17-06; OHCS 11-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07; OHCS 9-2007, f. & cert. ef. 1-11-07; OHCS 14-2007(Temp), f. & cert. ef. 10-16-07 thru 4-12-08

ADMINISTRATIVE RULES

813-110-0013

Loan Requirements

In order to be eligible for the tax credit, the loan shall be:

(1) Made to an individual or individuals who own the dwelling;

(a) Who participate in an owner-occupied community rehabilitation program; and,

(b) Are certified by the local government or its designated agent as having an income level at the time the loan is made of less than 80 percent of the area median income.

(2) Made to a qualified borrower;

(a) Used to finance construction, development, acquisition, or rehabilitation of housing; and,

(b) Accompanied by a written certification by the Housing and Community Services Department that the:

(A) The housing created by the loan is or will be occupied by households earning less than 80 percent of the area median income; and,

(B) Full amount of the savings will, from the reduced interest rate provided by the lending institution, is or will be passed on to the tenants in the form of reduced housing payments, regardless of other subsidies provided to the housing project.

(3) Made to a qualified borrower;

(a) Used to finance construction, development, acquisition, or acquisition and rehabilitation of housing consisting of a manufactured dwelling park;

(b) The housing created by the loan is or will be occupied by a significant number of households, defined as more than 30% of all households, earning less than 80 percent of the area median income; and,

(c) Accompanied by a written certification by the Housing and Community Services Department that the housing will continue to be operated as a manufactured dwelling park during the period for which the tax credit is allowed.

(4) Made to a qualified borrower;

(a) Used to finance acquisition, or acquisition and rehabilitation, of housing consisting of a preservation project; and,

(b) Accompanied by a written certification by the Housing and Community Services Department that the housing preserved by the loan:

(A) Is or will be occupied by households earning less than 80 percent of the area median income; and

(B) Has a rent assistance contract with the United States Department of Housing and Urban Development or the United States Department of Agriculture that will be maintained by the qualified borrower. The contract must provide rental assistance to households in at least 25% of the project.

Stat. Auth.: ORS 317.097 & 456.515 - 456.720

Stats. Implemented: ORS 317.097

Hist.: OHCS 14-2007(Temp), f. & cert. ef. 10-16-07 thru 4-12-08

813-110-0015

Application Requirements

(1) The Department may provide tax credits from the OAHTC Program subject to availability of credits in the Program through a process which may include, but is not limited to, a first-come first-reviewed or competitive review process. At the time credits are made available, the Sponsor shall submit a written Application for Certification to the Department. The Application shall provide information that includes, but is not limited to:

(a) Name, address and telephone number of the Sponsor;

(b) Proof of eligible nonprofit corporation or governmental organizational status, if applicable;

(c) Background and experience of Sponsor and management agent with housing for low-income persons, if applicable;

(d) A firm Commitment of Financing including an estimated comparable market interest rate for the proposed loan, the estimated reduced interest rate, and the estimated amount of savings;

(e) Name, address and contact person of the eligible Lending Institution making the loan;

(f) A description of the Project, including the type of housing or program involved; number and type of housing units to be provided, including the number of bedrooms; the address where the Project is or will be located; and the federal, state and local agencies or organizations involved in financing or managing the Project;

(g) A Certification that includes, at a minimum, the statement that all information in the Application is true, complete and accurately describes the Project; and,

(h) Sponsor shall agree to execute restrictive covenants to be recorded at the time of loan closing. The OAHTC Certificate and Declaration of Restrictive Covenants may be processed concurrently at closing.

(2) Except for Manufactured Dwelling Parks, demonstration that units will be occupied by households earning less than 80 percent of area median income at the time of initial occupancy. In the case of Preservation Projects and Manufactured Dwelling Parks awarded after September 27, 2007, no pass-through is required for certifications produced on or after September 27, 2007. For all other projects the Sponsor shall demonstrate in writing that at the time the Project is initially rented or purchased, and thereafter for the term of the credit, the Sponsor will pass the benefits of the Project's reduced loan interest rate to Tenant households whose earning are less than 80 percent of Median Income at the time of initial occupancy.

(a) The Program must be used to lower rents after all other subsidies have been applied. A Project utilizing other department programs must meet the minimum requirements of those programs before the tax credits will be considered. For example, if an applicant applies for LHTC and indicates they are targeting 60% median income rents, the application must show the Project is feasible at the targeted 60% median rents without the tax credit subsidy. The tax credit subsidy is applied to reduce rents below the 60% level. This subsidy, which in effect is the savings generated by the lower interest rate, must be passed through directly to the tenants in its entirety. However, such pass-through need not be distributed evenly among the units. Some units may receive more of a reduction than others, subsequently driving those rents down to even deeper levels.

(b) Rental units covered by Section 8 Project Based Assistance (PBA) are not eligible to be used to demonstrate pass-through savings for the Program. The rent reductions are not passed onto the tenants in the form of a rent reduction from what the tenant would otherwise pay, and therefore, would not achieve pass-through savings. Projects that are partially covered with PBA may choose to use Program tax credits on the remaining units to meet pass-through of interest savings as rent reductions to the tenants.

Stat. Auth.: ORS 317.097 & 456.515 - 456.720

Stats. Implemented: ORS 317.097

Hist.: HSG 1-1990(Temp), f. & cert. ef. 1-5-90; HSG 3-1990(Temp), f. & cert. ef. 3-1-90; HSG 9-1990, f. & cert. ef. 5-11-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 6-1991(Temp), f. & cert. ef. 11-5-91; HSG 3-1992, f. & cert. ef. 2-4-92; HSG 2-1994(Temp), f. & cert. ef. 3-25-94; HSG 7-1994, f. & cert. ef. 9-9-94; HSG 2-1995, f. & cert. ef. 9-25-95; OHCS 7-2006, f. & cert. ef. 5-17-06; OHCS 11-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07; OHCS 9-2007, f. & cert. ef. 1-11-07; OHCS 14-2007(Temp), f. & cert. ef. 10-16-07 thru 4-12-08

813-110-0020

Application Review

(1) The Department shall review the Application and decline or certify the Project, request additional information, or reserve tax credits by timelines outlined in the various Department application materials.

(2) In reviewing Applications for Certification, the Department, as appropriate, may consider, but is not limited to, the following:

(a) Sponsor, property management agent and other involved Person's experience in providing low-income housing;

(b) Estimated Rents Charged at the Market Interest Rate or purchase price at market interest rate for the type and location of housing to be provided;

(c) Dollar amount of estimated savings from the Rent Reduction;

(d) Estimated Rent Reduction or purchase price;

(e) How long the tax credits are needed to meet the Sponsor's goals of long term affordable housing;

(f) Except for Manufactured Dwelling Park or Preservation Projects awarded after September 27, 2007, the Sponsor's statement that proposed Rent Reduction or reduced purchase price will be maintained for or offered to households whose annual incomes are less than 80 percent of Median Income;

(g) Restrictive covenants which provide for, but are not limited to, affordability, income and rent restrictions; and

(h) Certifying statement from the agent for the Lending Institution of a local owner-occupied community rehabilitation program, if applicable.

Stat. Auth.: ORS 317.097 & 456.515 - 456.720

Stats. Implemented: ORS 317.097

Hist.: HSG 1-1990(Temp), f. & cert. ef. 1-5-90; HSG 3-1990(Temp), f. & cert. ef. 3-1-90; HSG 9-1990, f. & cert. ef. 5-11-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 6-1991(Temp), f. & cert. ef. 11-5-91; HSG 3-1992, f. & cert. ef. 2-4-92; HSG 7-1994, f. & cert. ef. 9-9-94; HSG 2-1995, f. & cert. ef. 9-25-95; OHCS 7-2006, f. & cert. ef. 5-17-06; OHCS 14-2007(Temp), f. & cert. ef. 10-16-07 thru 4-12-08

813-110-0021

Reservation in Lieu of Certification

(1) In place of a Firm Commitment of Financing, the applicant may submit a Letter of Intent to lend.

(2) An Application acceptable under OAR 813-110-0015 substituting a Letter of Intent for a Firm Commitment of Financing which passes the

ADMINISTRATIVE RULES

Department review under OAR 813-110-0020 may, subject to the availability under the Cap, receive a reservation of tax credits.

(3) A reservation shall be valid for 180 days.

(4) If a Firm Commitment of Financing is received by the Department prior to the expiration of a reservation, a Certification may be issued. Once the reservation is issued, it is a confirmed reservation unless the Lending Institution modifies the original Letter of Intent. The Department must be notified of the changes in Lending Institutions.

(5) A reservation may be extended by the Department at its sole discretion.

(6) A reservation may be made for a local government entity providing a community rehabilitation program or rental project for the period of proposed financing with extensions granted at the discretion of the Department.

Stat. Auth.: ORS 317.097 & 456.515 - 456.720

Stats. Implemented: ORS 317.097

Hist.: HSG 6-1991(Temp), f. & cert. ef. 11-5-91; HSG 3-1992, f. & cert. ef. 2-4-92; HSG 7-1994, f. & cert. ef. 9-9-94; HSG 2-1995, f. & cert. ef. 9-25-95; OHCS 7-2006, f. & cert. ef. 5-17-06; OHCS 14-2007(Temp), f. & cert. ef. 10-16-07 thru 4-12-08

813-110-0022

Set-Aside

(1) The Department may set aside a portion of the Cap for projects that meet department identified goals.

(2) The Department, if directed by the State Housing Council, shall establish other set-asides to meet housing needs in various economic or geographic regions of the state from time to time.

(3) The Department may request input from Sponsors of projects not meeting priority standards to show cause for prioritizing tax credits, including criteria similar to that used in the needs assessment of Oregon's Consolidated Plan.

Stat. Auth.: ORS 317.097 & 456.515 - 456.720

Stats. Implemented: ORS 317.097

Hist.: HSG 6-1991(Temp), f. & cert. ef. 11-5-91; HSG 3-1992, f. & cert. ef. 2-4-92; HSG 7-1994, f. & cert. ef. 9-9-94; HSG 2-1995, f. & cert. ef. 9-25-95; OHCS 7-2006, f. & cert. ef. 5-17-06; OHCS 14-2007(Temp), f. & cert. ef. 10-16-07 thru 4-12-08

813-110-0025

Certification of Eligible Projects

(1) When the requirements of OAR 813-110-0015 are met and the total outstanding tax credits do not exceed the Cap, the Department shall provide Certification to a Lending Institution that:

(a) The proposed borrower is an eligible Sponsor;

(b) The proposed borrower has met the requirements of the Act and these rules to demonstrate the required benefits will be passed on to households earning less than 80 percent of Median Income, except for Manufactured Dwelling Park projects;

(c) The length of the period eligible for tax credits; and

(d) The loan does not exceed the maximum limitation for total loan balances.

(2) Such Certification shall be based on the information provided by the Sponsor in the Application and accumulated from lender's annual reports as required by OAR 813-110-0030. The Certification shall be valid only if such information, other than estimates based on interest rates and other changes made with the approval of the Department, is unchanged at the time of loan closing for the Project and documentation that OAHTC restrictive covenants have been recorded.

(3) To establish the use of a certificate for a fixed rate term loan, a lender shall complete the loan closing information section of the certificate and send the original to the Department along with evidence that OAHTC restrictive covenants have been recorded against the Project property.

(4) If OAHTC is approved for a construction loan, a lender shall complete the loan closing information section of the certificate and send the original to the Department, and may record OAHTC restrictive covenants.

Stat. Auth.: ORS 317.097 & 456.515 - 456.720

Stats. Implemented: ORS 317.097

Hist.: HSG 1-1990(Temp), f. & cert. ef. 1-5-90; HSG 3-1990(Temp), f. & cert. ef. 3-1-90; HSG 9-1990, f. & cert. ef. 5-11-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 6-1991(Temp), f. & cert. ef. 11-5-91; HSG 3-1992, f. & cert. ef. 2-4-92; HSG 7-1994, f. & cert. ef. 9-9-94; HSG 2-1995, f. & cert. ef. 9-25-95; OHCS 7-2006, f. & cert. ef. 5-17-06; OHCS 14-2007(Temp), f. & cert. ef. 10-16-07 thru 4-12-08

813-110-0030

Reporting Requirements

Lending Institutions claiming the state tax credit shall be sent a report form by the Department annually to assist the lending institution in notifying the Department by May 1 that the Lending Institution has met all requirements imposed by law to qualify for tax credits under the Act. Such notification shall not include any representation as to performance by the Sponsor. Such report shall be signed by an officer of the Lending

Institution, and shall include, at a minimum, the name and address of the institution, name and phone number of a contact person, the number of loans for which tax credits will be claimed, the amount of credit claimed, the annual charge payment, the dates the loans were closed, the location of the Projects financed by those loans, the amount loaned for each Project, the outstanding balances of all loans and the average annual balance for each loan.

Stat. Auth.: ORS 317.097 & 456.515 - 456.720

Stats. Implemented: ORS 317.097

Hist.: HSG 1-1990(Temp), f. & cert. ef. 1-5-90; HSG 3-1990(Temp), f. & cert. ef. 3-1-90; HSG 9-1990, f. & cert. ef. 5-11-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 6-1991(Temp), f. & cert. ef. 11-5-91; HSG 3-1992, f. & cert. ef. 2-4-92; HSG 7-1994, f. & cert. ef. 9-9-94; HSG 2-1995, f. & cert. ef. 9-25-95; OHCS 7-2006, f. & cert. ef. 5-17-06; OHCS 11-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07; OHCS 9-2007, f. & cert. ef. 1-11-07; OHCS 14-2007(Temp), f. & cert. ef. 10-16-07 thru 4-12-08

813-110-0035

Community Rehabilitation Project Certification

(1) OAR 813-110 does not establish requirements for certifications to households participating in a community rehabilitation program as provided in ORS 317.097(4)(b). The Department does not establish rules for local governments or their designated agents for certifying participants in a community rehabilitation program under their jurisdiction.

(2) A participant in a community rehabilitation program includes both individuals and nonprofit corporations or units of local government which reloan proceeds to individuals participating in a community rehabilitation program. When a local government or its designated agent certifies a participant in a community rehabilitation program, a copy shall be sent to the Department certifying that the loans included in a loan certification fall within the Cap.

(3) The local government entity shall certify to the Department that the local community rehabilitation standards will be met for all loans that will be included in the certified loan.

(4) A separate Application is required to be submitted for each lender certification form requested.

(5) Charges as outlined in Section 813-110-0033 will apply for each such Application accompanied by the designated agent's Certification and preferred listing for multiple lenders, if applicable.

Stat. Auth.: ORS 317.097 & 456.515 - 456.720

Stats. Implemented: ORS 317.097

Hist.: HSG 9-1990, f. & cert. ef. 5-11-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 6-1991(Temp), f. & cert. ef. 11-5-91; HSG 3-1992, f. & cert. ef. 2-4-92; OHCS 7-2006, f. & cert. ef. 5-17-06; OHCS 11-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07; OHCS 9-2007, f. & cert. ef. 1-11-07; OHCS 14-2007(Temp), f. & cert. ef. 10-16-07 thru 4-12-08

Oregon Liquor Control Commission Chapter 845

Rule Caption: Amend and repeal rules updating labeling regulations and standards of identity for Oregon wines.

Adm. Order No.: OLCC 22-2007

Filed with Sec. of State: 10-24-2007

Certified to be Effective: 11-1-07

Notice Publication Date: 7-1-2007

Rules Amended: 845-010-0280, 845-010-0290, 845-010-0905, 845-010-0910, 845-010-0915, 845-010-0920, 845-010-0930

Rules Repealed: 845-010-0925, 845-010-0935, 845-010-0940

Subject: These rules regulate wine labeling and standards of identity for Oregon wines. The Oregon Winegrowers' Association (OWA) petitioned the agency requesting the amendment of Division 10 rules. The rule changes include the amendment of 7 rules and the repeal of 3 rules regarding wine labeling and standards of identity for Oregon wines. The proposal includes amending the regulations regarding minimum percentages required for both varietal and appellation of origin labeling. The proposal also includes repealing the Oregon rules regarding estate bottling, the "champagne method", and the use of water and sweetening agents in wine so that Oregon labeling practices would be governed by the Alcohol & Tobacco Tax & Trade Bureau (TTB) federal regulations. Additionally, the OWA proposed using the federally approved list of grape varietal names instead of maintaining our own list in rule.

Rules Coordinator: Jennifer Huntsman—(503) 872-5004

ADMINISTRATIVE RULES

845-010-0280

Standards of Identity and Prohibited Practices Concerning Wine

The regulations of the Alcohol and Tobacco Tax and Trade Bureau (TTB) of the United States Department of Treasury apply to all wine sold in Oregon by a Commission licensee. In any case where OAR 845-010-0905 through 845-010-0930 impose requirements beyond those in these federal regulations, or disallow any practice the federal regulations allow, OAR 845-010-0905 through 845-010-0930 prevail.

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

Stat. Auth.: ORS 471, including 471.030, 471.730(1) & (5)

Stats. Implemented: ORS 471.442, 471.445, 471.446

Hist.: LCC 26, f. 5-12-60; LCC 27, f. 9-15-60; LCC 28, f. 12-19-60; LCC 29, f. 5-21-64; LCC 34, f. 1-23-70, ef. 2-26-70; OLCC 7-1987, f. 3-13-87, ef. 4-1-87; OLCC 22-2007, f. 10-24-07, cert. ef. 11-1-07

845-010-0290

Labeling Requirements for Wine

(1) "Label" means all information-bearing material attached to or a part of a wine container, including all closures.

(2) All wine labels must comply with the requirements of the Commission's advertising rules (OAR chapter 845, division 007), 845-010-0280 (federal standards for wine identity), 845-010-0206 (Private Labels) and 845-010-0905 through 845-010-0930 (Oregon standards for wine identity) when applicable, and must be approved by the Alcohol and Tobacco Tax and Trade Bureau (TTB). If a manufacturer or wholesaler sells a wine in Oregon that does not comply with the labeling requirements, the Commission may, in addition to any other sanction, require the licensee to stop selling and recall the wine.

(3) No person, except wine producers, may alter or remove a label on wine produced, bottled or for sale in Oregon, except to add labeling to comply with federal or state laws.

(4) Violation of this rule is a Category IV violation.

Stat. Auth.: ORS 471, including 471.030, 471.730(1) & (5)

Stats. Implemented: ORS 471.340, 471.345 & 471.445

Hist.: LCC 26, f. 5-12-60; LCC 27, f. 9-15-60; LCC 28, f. 12-19-60; LCC 29, f. 5-21-64; OLCC 16-1987, f. 4-6-87, ef. 7-1-87; OLCC 11-1995, f. 12-4-95, cert. ef. 1-1-96; OLCC 22-2007, f. 10-24-07, cert. ef. 11-1-07

845-010-0905

Definitions

As used in OAR 845-010-0905 through 845-010-0930:

(1) "Wine" means grape wine.

(2) "Vitis Vinifera" is a species of grapes from which most European wines and a majority of Oregon wines are produced. Some examples of this species are "Pinot noir," "Chardonnay" and "White Riesling."

(3) "Wine Label" means all information-bearing material attached to or part of a package in which a wine is sold. Some examples of wine labels are printed paper glued to a wine bottle or bag-in-box carton, screen-printing or etching on a wine bottle, information molded into a bottle, and a printed bottle closure or cork.

(4) "Brand Label" means a label carrying the brand name of a wine, its class or type designation and its appellation of origin.

(5) "Class Designation" is a standard of identity of a wine. Some examples are "grape wine," "table wine," "dessert wine," "sparkling wine" and "carbonated grape."

(6) "Type Designation" is an alternative standard of identity used in place of a class designation. Examples are a "grape variety name" or "varietal name" and a "semi-generic designation of geographic significance."

(7) "Semi-Generic Designation of Geographic Significance" is a name that identifies both the traditional source of wine produced in a certain region and the name Federal regulations have permitted to designate a type of wine produced anywhere. Some examples specified in Federal regulations are "Anjelica," "Burgundy," "Chablis," "Champagne," "Chianti," "Claret," "Madeira," "Malaga," "Marsala," "Moselle," "Port," "Rhine Wine" or "Hock," "Sauterne," "Haut Sauterne," "Sherry" and "Tokay."

(8) "Appellation of Origin" is the name of the geographic area in which the grapes used to make a wine were grown. Appellations of origin are limited to the names of a country, state, or county or American Viticultural Area. Some examples are "American," "Oregon," "Yamhill County," and "Umpqua Valley."

(9) "American Viticultural Area" is a delimited grape-growing region that is distinguishable by geographic features and whose boundaries the Alcohol and Tobacco Tax and Trade Bureau (TTB) has defined.

Stat. Auth.: ORS 471, including 471.030 & 471.730(1) & (5)

Stats. Implemented: ORS 471.340, 471.345 & 471.445

Hist.: LCC 59, f. 2-18-77, ef. 3-1-77; LCC 17-1978, f. 12-26-78, ef. 1-1-79; OLCC 26-1987, f. 12-30-87, cert. ef. 1-1-88, Renumbered from 845-010-0292; OLCC 14-2004, f. 11-18-04 cert. ef. 12-1-04; OLCC 22-2007, f. 10-24-07, cert. ef. 11-1-07

845-010-0910

Purpose and Applicability

(1) The Commission sets rigorous labeling standards for grape wine produced or bottled in Oregon to:

(a) Ensure accurate presentation of the product; and

(b) Encourage Oregon's wine industry by enhancing the quality, image and marketability of Oregon wine.

(2) OAR 845-010-0905 through 845-010-0930 apply to all grape wines produced or bottled in Oregon from *vitis vinifera* or its hybrid grapes, including restored or unrestored concentrated must of those grapes. They also apply to all grape wines on which "Oregon" or an appellation of origin wholly within Oregon appears as the appellation of origin, regardless of where the wine was produced or bottled. These rules prevail in any conflict between these rules and other rules in chapter 845, division 010.

(3) OAR 845-010-0905 through 845-010-0930 apply to grape wines labeled after November 1, 2007.

Stat. Auth.: ORS 471, including 471.030, 471.730(1) & (5)

Stats. Implemented: ORS 471.340, 471.345 & 471.445

Hist.: LCC 59, f. 2-18-77, ef. 3-1-77; LCC 17-1978, f. 12-26-78, ef. 1-1-79; OLCC 26-1987, f. 12-30-87, cert. ef. 1-1-88, Renumbered from 845-010-0292; OLCC 22-2007, f. 10-24-07, cert. ef. 11-1-07

845-010-0915

Grape Variety Names

(1) A person may use a single grape variety name as a type designation on a wine brand label only if the wine derives at least 90 percent of its volume from that grape variety.

(2) As an exception to section (1) of this rule, a person may use any of the following type designations for a wine that derives at least 75 percent of its volume from grapes of the named variety:

(a) Cabernet franc;

(b) Cabernet Sauvignon;

(c) Carmenère;

(d) Durif (Petite Sirah);

(e) Grenache (Garnacha);

(f) Malbec;

(g) Marsanne;

(h) Merlot;

(i) Mourvèdre;

(j) Petit Verdot;

(k) Roussanne;

(l) Sangiovese;

(m) Sauvignon blanc (Fumé blanc);

(n) Sémillon;

(o) Syrah;

(p) Tannat;

(q) Tempranillo;

(r) Zinfandel.

(3) The Commission may revise the list in section (2) of this rule.

(4) A person may not use in any manner on a wine label a name that might be mistaken for a grape variety name, such as those listed in the Code of Federal Regulations, 27 CFR 4.91.

Stat. Auth.: ORS 471.030, 471.730(1) & (5)

Stats. Implemented: ORS 471.442, 471.445 & 471.446

Hist.: LCC 59, f. 2-18-77, ef. 3-1-77; LCC 17-1978, f. 12-26-78, ef. 1-1-79; OLCC 26-1987, f. 12-30-87, cert. ef. 1-1-88, Renumbered from 845-010-0292; OLCC 2-1995, f. & cert. ef. 4-4-95; OLCC 8-1995, f. 11-24-95, cert. ef. 12-1-95; OLCC 5-1999, f. 3-18-99, cert. ef. 4-1-99; OLCC 8-2003, f. 5-20-03, cert. ef. 6-1-03; OLCC 14-2004, f. 11-18-04 cert. ef. 12-1-04; OLCC 11-2006, f. 8-21-06, cert. ef. 9-1-06; OLCC 22-2007, f. 10-24-07, cert. ef. 11-1-07

845-010-0920

Appellation of Origin

(1) An appellation of origin must appear on every wine brand label in direct conjunction with, and in lettering as conspicuous as, the wine's class or type designation.

(2) If the appellation of origin claimed or implied anywhere on a wine label is "Oregon," the name of one or more of its counties, or the name of an American Viticultural Area wholly within Oregon, then all grapes used in the production of the wine must have been grown in Oregon, and 95 percent of the grapes used in the production of the wine must have been grown within the defined boundaries of that appellation of origin.

(3) If the appellation of origin claimed or implied anywhere on a wine label is the name of an American Viticultural Area located in both Oregon and an adjoining state, then all grapes used in the production of the wine must have been grown in Oregon and/or that adjoining state, and the percentage of grapes grown within the federally defined boundaries of that American Viticultural Area must satisfy the least restrictive of:

(a) the 95 percent minimum described in section (2) of this rule; or

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(b) the minimum percentage of grapes required by the adjoining state for the use of that American Viticultural Area as an appellation of origin.

Stat. Auth.: ORS 471, including 471.030, 471.730(1) & (5)

Stats. Implemented: ORS 471.442, 471.445 & 471.446

Hist.: LCC 59, f. 2-18-77, ef. 3-1-77; LCC 17-1978, f. 12-26-78, ef. 1-1-79; OLCC 26-1987, f. 12-30-87, cert. ef. 1-1-88, Renumbered from 845-010-0292; OLCC 10-2004, f. 10-15-04 cert. ef. 11-1-04; OLCC 22-2007, f. 10-24-07, cert. ef. 11-1-07

845-010-0930

Semi-Generic Designation of Geographic Significance

(1) No person may use a semi-generic designation of geographic significance or a name that implies a semi-generic designation as a class or type designation on a wine label.

(2) As an exception to section (1) of this rule, a person may use the type designation "Claret" on a wine brand label only if:

(a) The wine derives 100% of its volume from a blend of two or more of the following grape varieties: Cabernet franc, Cabernet Sauvignon, Carmenère, Malbec, Merlot, or Petit Verdot; and

(b) A federal certificate of label approval (COLA) for a "Claret" wine was issued for the same brand name on or after December 1, 2004 and prior to March 10, 2006.

Stat. Auth.: ORS 471, including 471.030, 471.730(1) & (5)

Stats. Implemented: ORS 471.340, 471.345 & 471.445

Hist.: LCC 59, f. 2-18-77, ef. 3-1-77; LCC 17-1978, f. 12-26-78, ef. 1-1-79; OLCC 26-1987, f. 12-30-87, cert. ef. 1-1-88, Renumbered from 845-010-0292; OLCC 22-2007, f. 10-24-07, cert. ef. 11-1-07

Oregon Patient Safety Commission

Chapter 325

Rule Caption: Re-establishes a Notice Rule for the Oregon Patient Safety Commission.

Adm. Order No.: PSC 5-2007(Temp)

Filed with Sec. of State: 10-19-2007

Certified to be Effective: 10-19-07 thru 4-11-08

Notice Publication Date:

Rules Adopted: 325-001-0001

Subject: Retroactively adopts a rule that was previously submitted to the Secretary of State's office. That rule, submitted September 26, 2005, established a procedure to give interested parties a reasonable opportunity to be notified of the Patient Safety Commission's intention to adopt, amend or repeal a rule.

This temporary rule is needed to correct a filing error. With the exception of effective date, this rule is identical to the one filed in 2005.

Rules Coordinator: Jim Dameron—(503) 224-9226

325-001-0001

Notice Rule

Before adopting, amending, or repealing any permanent rule, the Patient Safety Commission will give notice of its intended action:

(1) In the Secretary of State's Bulletin referred to in ORS 183.360 at least 21 days before the effective date of the rule;

(2) By providing a copy of the notice to persons on the Patient Safety Commission's distribution list established pursuant to ORS 183.335(8) at least 28 days before the effective date of the rule;

(3) By providing a copy of the notice to legislators specified in ORS 183.335(15) at least 49 days before the effective date of the rule; and

(4) By providing a copy of the notice to:

(a) The Oregon Association of Hospitals and Health Systems;

(b) The Oregon Health Care Association;

(c) Oregon State Pharmacy Association;

(d) Oregon Health Care Purchasers Coalition;

(e) Oregon Medical Association;

(f) The Oregon Board of Pharmacy;

(g) Oregon Nurses Association;

(h) Affected health care facilities and pharmacies;

(i) Capitol Press Room.

Stat. Auth.: ORS 442.820 & Sec. 9 Ch. 686 OL 2003

Stats. Implemented: ORS 183.341(4)

Hist.: PSC 3-2005, f. & cert. ef. 9-26-05; PSC 5-2007(Temp), f. & cert. ef. 10-19-07 thru 4-11-08

Oregon State Library Chapter 543

Rule Caption: Ready to Read Grant Program.

Adm. Order No.: OSL 1-2007

Filed with Sec. of State: 10-19-2007

Certified to be Effective: 10-26-07

Notice Publication Date: 9-1-2007

Rules Amended: 543-040-0010, 543-040-0015

Subject: This This rule provides a framework for awarding grants to public libraries to establish, develop or improve public library services to children. This amendment implements HB 2116, passed by the 2007 Legislative Assembly, which narrows the focus of authorized activities to early literacy services for children birth to five years of age and to the statewide summer reading program for children from birth to 14 years of age. It also provides a definition of "statewide summer reading program" as required by HB2116.

Rules Coordinator: James B. Scheppke—(503) 378-4367, ext. 243

543-040-0010

Definitions

The following definitions apply to the terms used in this division:

(1) "Board": Has the meaning given to "Board" in OAR 543-010-0003(1).

(2) "Fiscal Year": Means the period of one year commencing on July 1 and closing on June 30.

(3) "Per Child": Means for each child from birth to 14 years of age, residing in a geographic area.

(4) "Public Library": Has the meaning given to "public library" in ORS 357.400(3).

(5) "Statewide summer reading program": Means the Collaborative Summer Library Program Annual Summer Reading Program funded by the State Library for Oregon public libraries.

Stat. Auth.: ORS 357.015(2) & 357.760

Stats. Implemented: ORS 357.740 - 357.780

Hist.: OSL 1-1980, f. & ef. 9-29-80; OSL 1-1989, f. 4-18-89, cert. ef. 4-17-89; OSL 1-1993, f. & cert. ef. 11-10-93; OSL 1-2007, f. 10-19-07, cert. ef. 10-26-07

543-040-0015

Authorized Activities

Ready to Read Grants made under the provisions of this division shall be used only to establish, develop, or improve public library early literacy services for children from birth to 5 years of age, and to provide the statewide summer reading program for children from birth to 14 years of age. The grants may not be used to replace funds already appropriated by local governments from local sources.

Stat. Auth.: ORS 357.015(2) & 357.760

Stats. Implemented: ORS 357.740 & 357.750

Hist.: OSL 1-1980, f. & ef. 9-29-80; OSL 1-1989, f. 4-18-89, cert. ef. 4-17-89; OSL 1-1993, f. & cert. ef. 11-10-93; OSL 1-1996, f. & cert. ef. 10-23-96; OSL 1-2007, f. 10-19-07, cert. ef. 10-26-07

Oregon State Lottery Chapter 177

Rule Caption: Amends Scratch-it(SM) ticket game rules to allow for multi-page Scratch-it(SM) tickets.

Adm. Order No.: LOTT 4-2007(Temp)

Filed with Sec. of State: 11-8-2007

Certified to be Effective: 11-12-07 thru 5-9-08

Notice Publication Date:

Rules Amended: 177-046-0110, 177-046-0170, 177-050-0002, 177-050-0020, 177-050-0024, 177-050-0025, 177-050-0027, 177-050-0037, 177-050-0070

Subject: The Lottery plans to introduce a multi-page Scratch-it(SM) ticket. The current rules are specific to single page Scratch-it(SM) tickets. The amendments address the differences between single page and multi-page Scratch-it(SM) tickets. Other changes include updating trade and service mark references, and clarifying the Director's authority to pay prizes on Scratch-it(SM) tickets.

Rules Coordinator: Mark W. Hohlt—(503) 540-1417

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177-046-0110

Payment of Prizes

(1) **General:** All winning Lottery tickets or shares may be presented to the Oregon State Lottery for payment. Winning tickets or shares for prizes of \$600 or less may also be presented for payment to the appropriate Lottery retailer specified in the applicable game rule.

(2) **Mailing Address:** Winners who mail a winning Lottery ticket or share to the Lottery must sign the Lottery ticket or share in the designated area on the ticket or share, write the claimant's mailing address in the place indicated on the ticket or share, and mail it to the Oregon State Lottery, P.O. Box 14515, Salem, Oregon 97309. Registered mail is recommended.

(3) **Headquarter's Address:** Winners who present a claim in person at the Lottery may do so by bringing the winning Lottery ticket or share to the Oregon State Lottery, Player Services, 500 Airport Road SE, Salem, Oregon 97301 during Lottery business hours.

(4) **Retailer Validation and Payment of Prizes of \$600 or Less:** To determine whether a Lottery ticket or share presented for payment entitles the holder to a prize, a retailer must validate the claim with the Lottery by scanning the bar code or manually entering the bar code number printed on each Lottery ticket or share into equipment provided by the Lottery, and, if authorized by the Lottery, pay the player the prize amount due.

(a) **Retailer Payment:** A retailer is authorized to pay a prize of \$600 or less and shall pay that prize in cash or check, or any combination thereof.

(b) **Lottery Payment:** If a retailer's prize payment check is dishonored, the player may seek payment from the Lottery by presenting a copy of the dishonored check to the Oregon State Lottery, Player Services Office, 500 Airport Road SE, Salem, Oregon during Lottery business hours, or by mailing a copy of the dishonored check with a winner claim form to the Oregon State Lottery, P.O. Box 14515, Salem, Oregon 97309. If the Lottery determines that payment of the prize is authorized, the retailer has not paid the prize, and it is unlikely that the retailer will pay the prize, the Lottery may then issue a check to the player in the amount of the prize due less any applicable tax withholding.

(c) **Retailer Sanction:** A retailer that pays a prize with a check that is dishonored may be subject to termination of the Lottery Retailer Contract.

(5) **Lottery Validation and Prize Payment:** Upon validation of a winning Lottery ticket or share presented to the Lottery for payment, the Director may pay the amount of the prize to the player less any applicable tax withholding. If the ticket or share is determined to be invalid, or a non-winning ticket or share, or the claim is invalid, the Director shall deny the claim and inform the player.

(a) **Lottery Prize Payment of \$600 or Less:** Payment may be made by check or in cash, or any combination thereof. Cash prize payments are limited to \$50 per person per day. Payment may be made in person or by mail, except that the Lottery will not mail cash.

(b) **Lottery High Tier Prize Payments:** For prize payments valued greater than \$600, the Lottery will pay a winning ticket or share by check, or subject to OAR 177-010-0050, may pay the prize in merchandise if the prize is merchandise.

(6) **Claiming Lottery Tickets or Shares Jointly:** If more than one name appears in the designated area on a Lottery ticket or share, or if a Lottery ticket or share is owned by two or more persons, the prize must be claimed in accordance with the following:

(a) **General:** All persons claiming ownership of the winning Lottery ticket or share must complete and sign the Lottery's request and release form. Each of the persons signing the form must indicate each person's proportionate share of the prize. Each person must receive at least \$1.00. At least one of the persons claiming ownership of the ticket or share must sign the ticket or share. That person's signature must also appear on the request and release form. If a winning ticket or share is mailed to the Lottery with multiple signatures on it, the Director will mail the request and release form to the claimants.

(b) **Deceased Signatories:** A deceased signatory who dies before signing the request and release form will be presumed to have an ownership interest equal to that of the other signatories. In the event there is a deceased signatory, the Director may place a hold on payment for 60 days from the date of validation to allow co-owners the opportunity to seek a declaratory ruling.

(c) **Relinquishment of Interest:** When a person who has signed a Lottery ticket or share wishes to relinquish the person's ownership interest in the Lottery ticket or share, that person must sign the Lottery's release of ownership form relinquishing the person's ownership interest. In no event will a person be permitted to relinquish ownership interest once it is determined that the person owes money for child support or other legal attach-

ment has taken place. Once the Lottery receives the release of ownership form, it is irrevocable.

(d) **Issuance of Prize Checks to Multiple Owners:** If a validated winning Lottery ticket or share is claimed by multiple owners who are sharing a single prize, the Director will issue to each person claiming a share of the prize amount, a check for the portion of the prize amount claimed by each multiple owner, the total not to exceed the total prize amount. No cash payments will be made to multiple owners. However, the Director reserves the right to issue a single prize check to an individual whose name appears on the ticket or share instead of multiple prize checks to the owners of the ticket or share if the value of each individual prize check would be less than \$50 or if the number of persons claiming a share of the prize exceeds 100 people. The Lottery shall pay multiple winners of a Lottery prize only at the Lottery Headquarters in Salem. Lottery retailers are not authorized to pay multiple winners who share a single prize.

(e) **Conflicting Information or Discrepancies:** If there is conflicting information or discrepancies between the names on a winning Lottery ticket or share and the names on a claim form, the Lottery may hold payment until the winners resolve the conflicting information. Discrepancies include, but are not limited to: Names or addresses scratched out or erased, or unreadable or altered names or addresses.

(f) **Investigations:** At the discretion of the Director, the Lottery may conduct an investigation to aid in the determination of the rightful owners prior to payment of any prize.

(g) **Determinations:** The Director's decisions regarding the determination of a winning Lottery ticket or share, or the determination of the rightful owner or owners of a prize, or of any other dispute or matter arising from payment or awarding of prizes are final and binding on all parties.

(7) **Payment of Prizes Donated Anonymously to a Charitable Institution and Others:**

(a) **General:** The Director may pay a prize according to written anonymous instructions received with a winning Lottery ticket or share. The recipient must be a natural person or a charitable institution as defined by Section 501(c)(3), Internal Revenue Code.

(b) **Adult Recipient:** If the intended recipient is a natural person of majority, the Director will contact the person and make payment to the person in accordance with the anonymous written instructions.

(c) **Minor Recipient:** If the intended donation benefits a natural person who is a minor, the Director will make payment in accordance with the Oregon Uniform Transfers to Minors Act, Oregon Revised Statutes Chapter 126.

(d) **Charitable Institution as Recipient:** If the intended recipient is a charitable institution as defined by Section 501(c)(3), Internal Revenue Code, the Director will make payment only as follows:

(A) **Identification of Recipient:** The Director will attempt to identify and contact the intended recipient. The intended recipient shall designate in writing an agent, (a natural person) to act on its behalf and to receive the prize payment on behalf of the recipient. The Director shall confirm both the written authorization and the agent. An intended recipient is encouraged to select a bonded agent.

(B) **Appearance:** The agent shall appear in person at the Lottery Headquarters in Salem to claim the prize payment on behalf of the intended recipient. The Director may confirm to the Director's satisfaction that the agent is authorized to accept the donation in the agent's own name on behalf of the intended recipient.

(C) **Signature and Payment:** Subsequent to receipt of acceptable identification, along with a completed claim form from the agent, and the Director's review and approval, the agent shall sign the agent's own name on the winning Lottery ticket or share in the place indicated on the ticket or share in the presence of a duly authorized Lottery official and immediately return it to the Lottery. The Director shall then make payment to the agent less any applicable taxes.

(D) **Identification of Donor:** If the Director can reasonably identify the donor, the Director shall not make payment as specified above, but shall instead contact the donor and notify the donor to retrieve the Lottery ticket or share upon presenting acceptable proof of identification. The donor may retrieve the winning ticket or share in person at the Lottery's Headquarters in Salem upon the presentation of acceptable proof of identification.

(e) **Win for Life Prize:** If the winning Lottery ticket received is a Win for Life top prize of \$1,000 a week for life, the prize paid will be the lump sum guaranteed five year payment under the Win for Life game rules.

(f) **Forfeiture of Unclaimed Prize:** In the event that the Director is unable to locate the intended recipient or the anonymous donor, the winning Lottery ticket or share shall be retained until the end of the prize claim period. After the end of the prize claim period, the ticket or share shall con-

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stitute an unclaimed prize as described in OAR 177-010-0085 and shall be forfeited to the public purpose.

(g) **Discharge of Lottery from Liability:** The State of Oregon, its agents, officers, employees, and representatives, including but not limited to, the Oregon Lottery, its Director, agents, officers, employees, and representatives, are discharged of all liability upon payment of an anonymously donated prize in accordance with this rule and any applicable game rules to the extent that they do not conflict with this rule. The Lottery is not responsible in any way for the fulfillment or completion of the agreement between the intended recipient and the agent. The Lottery's decisions regarding the determination of a winning Lottery ticket or share donated anonymously or any question or dispute arising from the payment of such a prize are final and binding on all parties. In the event a question or issue arises regarding payment of a prize donated anonymously, the Director may hold payment until the controversy is resolved, or the Lottery, or the intended recipient, or the agent for the intended recipient may petition a court of competent jurisdiction for instructions and a resolution of the matter.

(8) **Social Security Numbers:** Each United States resident who is to receive a payment of winnings greater than \$600 shall furnish to the Lottery the information required on the Internal Revenue Service Form W-2G (or any other form required by the IRS,) including but not limited to the winner's name, address, and social security number. This disclosure is mandatory and the authority for such disclosure is 42 USC 405(c)(2)(C), 26 CFR 31.3402(q)-1(e), and ORS 461.715(1)(a). A winner's social security number will be used for the purpose of identifying child support obligors and submitting required documents to state and federal tax authorities.

(9) **Payment Decisions:** The Director shall make the final decision on whether any prize is paid. All prizes shall be paid within a reasonable time after they are validated. For any prize requiring annual payments, all payments after the first payment shall be made on the anniversary date of the first payment in accordance with the type of prize awarded. The Director may, at any time, delay any payment in order to review a change of circumstances relative to the prize awarded, the payee, the claim, or any other relevant matter that may have come to the Director's attention. All delayed payments will be brought up to date immediately upon the Director's authorization and continue to be paid on each original anniversary date thereafter.

Stat. Auth.: ORS 461 & OR Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461.020, 461.210, 461.220, 461.230, 461.240, 461.250 & 461.260
Hist.: LOTT 12-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 23-2002, f. & cert. ef. 11-25-02; LOTT 10-2005(Temp), f. & cert. ef. 11-2-05 thru 4-28-06; LOTT 18-2005, f. 12-21-05, cert. ef. 12-31-05; LOTT 4-2007(Temp), f. 11-8-07, cert. ef. 11-12-07 thru 5-9-08

177-046-0170

Governing Law

(1) **General:** All players or persons purchasing or possessing any Lottery ticket or share must comply with and are bound by all applicable laws, rules, and procedures and any additional terms and conditions found on the ticket or share itself. In the event of a conflict between the additional terms and conditions found on a Lottery ticket or share with the Lottery's rules, the rules control.

(2) **Lottery Materials:** All materials distributed by the Lottery for playing Lottery games must be used solely for playing the game described by these rules. Any use or reproduction of the materials for purposes other than those permitted by these rules may constitute a violation of the gambling laws of the State of Oregon.

(3) **Director's Decisions:** All decisions of the Director regarding Lottery games are final.

Stat. Auth.: ORS 461 & OR Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461.020, 461.210, 461.220, 461.230, 461.240, 461.250 & 461.260
Hist.: LOTT 12-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 23-2002, f. & cert. ef. 11-25-02; LOTT 4-2007(Temp), f. 11-8-07, cert. ef. 11-12-07 thru 5-9-08

177-050-0002

Definitions

For the purposes of Division 50, the following definitions apply except as otherwise specifically provided in OAR chapter 177 or unless the context requires otherwise:

(1) **"Pack"** means a book of shrink-wrapped Scratch-itSM game tickets which may or may not be attached to each other by perforations.

(2) **"Pack-Ticket Number"** means the uncovered number printed on a Scratch-itSM ticket which consists of a game number, a unique pack identification number, and a ticket number.

(3) **"Play Symbols"** mean the figures printed under each of the rub-off spots on the playing surface of a Scratch-itSM ticket.

(4) **"Play Symbol Caption"** means the material printed below each play symbol on a Scratch-itSM ticket which repeats or explains the play symbol. Only one play symbol caption is printed under each play symbol.

(5) **"Retailer Validation Code"** means the small letters found under the removable rub-off latex that covers the play symbols on the playing surface of a Scratch-itSM ticket. The letters appear in varying locations beneath the removable rub-off latex and among the play symbols.

(6) **"Scratch-itSM"** means a game in which winning tickets are produced at the time of manufacture with the aid of equipment, and the winning tickets are identified after purchase by scanning the bar code or manually entering the bar code number printed on each ticket with equipment provided by the Lottery. A Scratch-itSM game ticket offers a player the opportunity to remove a latex covering on the playing surface of a ticket and play the Scratch-itSM ticket for entertainment purposes.

(7) **"Ticket Validation Number"** means the unique number covered by latex on the playing surface of a Scratch-itSM ticket.

(8) **"Void if Removed Number"** (VIRN) means the series of digits on a Scratch-itSM ticket covered with latex which is used in the validation process.

Stat. Auth.: ORS 461 & OR Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461.010

Hist.: LC 7-1987, f. & ef. 4-29-87; LC 13-1987(Temp), f. & ef. 7-27-87; LC 15-1987, f. 8-24-87, ef. 9-1-87; LC 4-1988, f. & cert. ef. 1-26-88; LC 6-1993, f. & cert. ef. 7-2-93; LOTT 15-2001, f. & cert. ef. 12-3-01; LOTT 13-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 24-2002, f. & cert. ef. 11-25-02; LOTT 4-2007(Temp), f. 11-8-07, cert. ef. 11-12-07 thru 5-9-08

177-050-0020

Scratch-It Ticket Price

The price of a Scratch-itSM ticket shall be at least \$1, except to the extent of any discounts authorized by the Commission.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461.240

Hist.: SLC 4-1985(Temp), f. & ef. 1-29-85; SLC 8-1985, f. & ef. 6-21-85; LC 7-1987, f. & ef. 4-29-87; LC 4-1990, f. & cert. ef. 4-3-90; LC 6-1993, f. & cert. ef. 7-2-93; LOTT 15-2001, f. & cert. ef. 12-3-01; LOTT 13-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 24-2002, f. & cert. ef. 11-25-02; LOTT 4-2007(Temp), f. 11-8-07, cert. ef. 11-12-07 thru 5-9-08

177-050-0024

Method of Determining Winners

(1) **General:** Winning tickets in a Scratch-itSM game are determined at the time of manufacture when winning tickets are produced at random with the aid of equipment in accordance with the payout percentage and prize structure established for the game.

(2) **Determination of a Winning Ticket:** To determine a winning ticket, the official bar code or bar code number printed on the ticket must be scanned or manually entered either at the Lottery's Headquarters in Salem or at a retail site by a Lottery retailer into equipment connected to the Lottery's central computer system. If the ticket is a winner, Lottery's computer system will identify it as such based upon the official bar code or bar code number. Removing the latex covering on the playing surface of the ticket does not identify a winning ticket. The latex covering feature is offered for entertainment purposes only. The ticket holder must notify the Lottery or a retailer of the apparent winning ticket and submit it for validation as specified in these rules in order to claim a prize. The ticket must be validated in accordance with Lottery's administrative rules as may be amended from time to time before a prize may be paid.

(3) **Highest Prize:** Only the highest prize amount will be paid on a given Scratch-itSM ticket, except for games which are designed to offer multiple prizes. In all events, the determination of prize winners is subject to the general ticket validation requirements set forth in OAR 177-050-0027 and any additional requirements set forth on each Scratch-itSM ticket. If the terms on a ticket conflict with the Lottery's administrative rules, then the rules are the controlling authority.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461.230

Hist.: LC 7-1987, f. & ef. 4-29-87; LC 4-1990, f. & cert. ef. 4-3-90; LC 8-1990(Temp), f. & cert. ef. 6-26-90; LC 11-1990, f. & cert. ef. 8-21-90; LC 6-1993, f. & cert. ef. 7-1-93; LOTT 15-2001, f. & cert. ef. 12-3-01; LOTT 4-2007(Temp), f. 11-8-07, cert. ef. 11-12-07 thru 5-9-08

177-050-0025

Payment of Prizes

(1) **Prizes of \$600 or Less:** Scratch-itSM ticket prizes of \$600 or less shall be claimed by one of the following methods:

(a) **Retailer Prize Payment:** The player may present the Scratch-itSM ticket to a Lottery retailer. The retailer shall determine whether a ticket entitles the holder to a prize, validate the claim with the Lottery by scanning the bar code or manually entering the bar code number printed on the ticket into equipment provided by the Lottery, and, if authorized by the Lottery, pay the player the prize amount due. A retailer that is authorized to

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pay a prize of \$600 or less shall pay that prize in cash or by check, or any combination thereof.

(b) **Lottery Prize Payment:** The player may submit a winning ticket in person to the Oregon State Lottery, Player Services Office, 500 Airport Road SE, Salem, Oregon. A winning ticket may be submitted to the Lottery by mail. If mailed, the player must sign the ticket in the designated area on the ticket, write the player's mailing address on the ticket, and mail it to the Oregon State Lottery, P.O. Box 14515, Salem, Oregon 97309. Registered mail is recommended. Upon validation of a winning ticket under OAR 177-050-0027, the Lottery will pay the amount of the prize to the player, less any applicable tax withholding. Payment may be made by check or in cash, or a combination thereof. Cash prize payments are limited to \$50 per person per day. Payment may be made in person or by mail, except that the Lottery will not mail cash. If the ticket is determined to be invalid or a non-winning ticket or the claim is invalid, the claim shall be denied and the player notified.

(2) **Prizes Greater than \$600:** A player must claim a Scratch-itSM ticket prize of more than \$600 by:

(a) **Claiming in Person:** Bringing the ticket to the Oregon State Lottery, Player Services Office, 500 Airport Road SE, Salem, Oregon during Lottery business hours and presenting the ticket to the Lottery; or

(b) **Claiming by Mail:** Signing the ticket in the designated area on the ticket, writing the player's mailing address on the ticket in the place indicated on the ticket, completing a winner claim form, and mailing it together with the winning ticket to the Oregon State Lottery, P.O. Box 14515, Salem, Oregon 97309. Registered mail is recommended. The winner claim form may be obtained from any Lottery retailer offering traditional games or from the Lottery at the addresses listed above.

(c) **Lottery Prize Payment:** Upon validation of a winning ticket under OAR 177-050-0027, the Lottery will pay by check the amount of the prize to the player, less any applicable tax withholding. If the ticket is determined to be invalid or a non-winning ticket, or the claim is invalid, the claim shall be denied and the player notified.

(3) **Validation and Payment of Lost, Damaged, or Destroyed Tickets for Prizes Greater than \$600:** If a player of a Scratch-itSM prize of more than \$600 cannot submit an intact winning ticket because a Scratch-itSM game retailer lost, damaged, or destroyed the ticket while attempting to perform validation procedures on the game ticket, a prize claim based on the lost, damaged, or destroyed ticket may still be validated provided the claim is made before the end of the one year claim period after the end of the game as described in OAR 177-046-0150(1).

(a) **Player Form and Affidavit:** To claim a prize based on a lost, damaged, or destroyed ticket, the player must obtain, complete, and sign a winner claim form and a claim affidavit furnished by the Lottery. The player shall submit the two completed forms along with any other evidence of the validation attempt that is in the player's possession (including, but not limited to, the "This is not a Ticket" slip produced by the terminal at the time of the validation attempt) to the Lottery at the addresses listed in section (1)(b) of this rule, either by mail (registered mail recommended) or in person at the Lottery's Headquarters in Salem during Lottery business hours.

(b) **Evidence:** The evidence submitted by the player must corroborate the validation attempt including, but not limited to, identification of the Lottery game retailer or clerk who attempted to validate the prize, the time and date of the validation attempt, the ticket validation number, the terminal number, and the prize amount.

(c) **Investigation:** The Assistant Director for Security will conduct an investigation to determine if the claim and winning game ticket are valid.

(d) **Retailer Affidavit:** A retailer who is the subject of an investigation conducted under this section must complete and provide to the Lottery a retailer affidavit form explaining the events in question.

(e) **Director's Determination:** Based upon all the facts and information available, the Director shall make a determination whether prize payment is warranted and authorized.

(f) **Payment of Prize:** Upon the Director's determination that the ticket submitted under this section is a valid, winning ticket, and that the player is the proper person to whom a prize is payable, the Lottery shall present or mail a check to the player in payment of the appropriate prize amount less any applicable tax withholding.

(g) **Restriction of Payment:** Payments of claims submitted under this section are restricted to the prize amount.

(h) **Retailer Sanctions:** The Director may sanction a Lottery game retailer for the loss, damage, or destruction of a winning Scratch-itSM game ticket including, but not limited to, imposing a requirement for training for the retailer or the retailer's employees, and any other actions that the

Lottery may take in response to a retailer's failure to perform contract duties or requirements as described in the Lottery retailer contract.

(i) **Notification of Denial:** If the ticket is determined to be invalid or a non-winning ticket, or the claim is invalid, the claim shall be denied and the player notified.

(4) **Time Limit:** A prize claim must be made under this rule within the time limit specified in OAR 177-046-0150(1).

(5) **Invalid Tickets:** Any ticket not passing all applicable validation checks is invalid and void for claims made under OAR 177-050-0025(3). A player submitting an invalid or void ticket is ineligible for any prize and no prize shall be paid for such a ticket.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461.250

Hist.: SLC 4-1985(Temp), f. & ef. 1-29-85; SLC 8-1985, f. & ef. 6-21-85; SLC 4-1986, f. & ef. 2-25-86; SLC 27-1986, f. & ef. 11-24-86; LC 7-1987, f. & ef. 4-29-87; LC 4-1990, f. & cert. ef. 4-3-90; LC 8-1993, f. 9-22-93, cert. ef. 10-18-93; LOTT 15-2001, f. & cert. ef. 12-3-01; LOTT 13-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 24-2002, f. & cert. ef. 11-25-02; LOTT 10-2005(Temp), f. & cert. ef. 11-2-05 thru 4-28-06; LOTT 18-2005, f. 12-21-05, cert. ef. 12-31-05; LOTT 4-2007(Temp), f. 11-8-07, cert. ef. 11-12-07 thru 5-9-08

177-050-0027

Ticket Validation Requirements

(1) **General:** Besides meeting all of the other requirements in OAR Chapter 177 and as may be printed on each ticket, the following validation requirements apply to Scratch-itSM game tickets.

(2) **Requirements:** Except as provided in section (3) of this rule and OAR 177-050-0025(3), to be a valid Scratch-itSM game ticket, all of the following requirements must be met:

(a) **Play Symbols:** Where applicable, each of the play symbols must have a play symbol caption underneath, and each play symbol must agree with its play symbol caption.

(b) **Legibility:** Where applicable, each of the play symbols and play symbol captions must be present in its entirety and be legible.

(c) **Specifications:** Each of the play symbols and its play symbol caption must be printed according to game specifications.

(d) **Completeness of Information:** The game number, pack number, ticket number, bar code, bar code number, and VIRN number must be present and all information must correspond with the Lottery's computer records.

(e) **Printing Order:** The play symbols, play symbol captions, game number, pack-ticket number, and VIRN number must be right-side-up and not reversed in any manner.

(f) **Pack-Ticket Number:** The ticket must have exactly one pack-ticket number.

(g) **VIRN:** The VIRN number of an apparent high-tier winning ticket must appear on the Lottery's official record of winning ticket VIRN numbers, and a ticket with that VIRN number must not have been paid previously.

(h) **Artwork:** Each of the following must correspond to the artwork on file at the Lottery: Play symbols on the ticket, play symbol captions, pack-ticket numbers, display printing, game numbers, retailer validation code, and ticket VIRN number.

(i) **Multi-Page Tickets:** In the case of Scratch-itSM tickets consisting of multiple pages designed to remain intact, the individual pages must not be detached from each other. Such separated multi-page tickets will be considered damaged tickets.

(3) **Lost, Damaged, or Destroyed Tickets for Prizes Greater than \$600:** If a player of a Scratch-itSM prize of more than \$600 cannot submit an intact winning ticket because a Scratch-itSM game retailer lost, damaged, or destroyed the ticket while attempting to perform validation procedures on the game ticket, a prize claim based on the lost, damaged, or destroyed ticket may still be validated as set forth in OAR 177-050-0025(3), provided the claim is made before the end of the one year claim period after the end of the game as described in OAR 177-046-0150(1).

(a) **Payment Process:** When a prize payment is authorized by the Director under this section, the prize payment shall be validated as set forth in OAR 177-050-0025(3).

(b) **Payment Restriction:** Payments of claims submitted under this section are restricted to the prize amount.

(4) **Damaged Tickets:** Notwithstanding OAR 177-046-0090 and section (2) of this rule, the Director may pay the prize on a winning Scratch-itSM ticket that is inadvertently or accidentally damaged so that it cannot be validated either through the Lottery's central computer system or because it is missing information required under section (2) of this rule, if the ticket is readable and is validated as a winning ticket by the Lottery's Security Section. For purposes of this rule, a Scratch-itSM ticket is unread-

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able if there is insufficient information remaining on the ticket for the Lottery's Security Section to reconstruct and validate the ticket.

(a) **Validation Process:** When a prize payment is authorized by the Director under this section, the prize payment shall be validated as follows:

(A) **Evidence:** The player shall obtain, complete, and sign a winner claim form and a claim affidavit furnished by the Lottery. The player shall submit the two completed forms along with the damaged ticket, (including, but not limited to, all pages of a game book in the player's possession) to the Lottery at the addresses listed in section OAR 177-050-0025(1)(b), either by mail (registered mail recommended) or in person at the Lottery's Headquarters in Salem during Lottery business hours.

(B) **Investigation:** The Assistant Director for Security will conduct an investigation to determine if the claim and winning game ticket are valid.

(C) **Director's Determination:** Based upon all the facts and information available, the Director shall make a determination whether prize payment is warranted and authorized. The Director may require that such determination occur on the last day of the one year claim period after the end of the game as described in OAR 177-046-0150(1). If the prize claim period expires on a weekend or on a holiday when the Lottery is closed, the claim period will be extended to end at the close of the next Lottery business day. Following validation, the Lottery shall issue the prize payment in the usual course of Lottery business.

(D) **Payment of Prize:** Upon the Director's determination that the ticket submitted under this section is a valid, winning ticket, and that the player is the proper person to whom a prize is payable, the Lottery shall present or mail a check to the player in payment of the appropriate prize amount less any applicable tax withholding.

(E) **Notification of Denial:** If the ticket is determined to be invalid or a non-winning ticket or the claim is invalid, the claim shall be denied and the player notified.

(b) **Payment Restriction:** Payments of claims submitted under this section are restricted to the prize amount.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461.250

Hist.: LC 7-1987, f. & cert. 4-29-87; LC 4-1988, f. & cert. ef. 1-26-88; LC 4-1990, f. & cert. ef. 4-3-90; LC 6-1993, f. & cert. ef. 7-2-93; LC 7-1995, f. & cert. ef. 7-7-95; LC 6-1996, f. 5-30-96, cert. ef. 6-1-96; LC 1-1997, f. 1-31-97, cert. ef. 2-1-97; LOTT 15-2001, f. & cert. ef. 12-3-01; LOTT 13-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 24-2002, f. & cert. ef. 11-25-02; LOTT 13-2004(Temp), f. & cert. ef. 11-29-04 thru 5-27-05; LOTT 3-2005, f. 4-27-05, cert. ef. 4-28-05; LOTT 10-2005(Temp), f. & cert. ef. 11-2-05 thru 4-28-06; LOTT 18-2005, f. 12-21-05, cert. ef. 12-31-05; LOTT 4-2007(Temp), f. 11-8-07, cert. ef. 11-12-07 thru 5-9-08

177-050-0037

Stolen, Destroyed, and Damaged ScratchIt Tickets

(1) **Defective, Damaged, or Destroyed Tickets:** A Lottery retailer will not be billed for non-activated Scratch-itSM tickets that are defective, damaged, or destroyed, or the Lottery may credit a retailer's EFT account for activated Scratch-itSM tickets that are defective, damaged, or destroyed, under the following conditions:

(a) **Manufacturing Defect:** The defect is a result of a manufacturing error or damage during shipment; or

(b) **Reasonable Control:** The damage or destruction is due to circumstances beyond the retailer's reasonable control, such as a structure fire, flood, or other natural disaster; and

(c) **Time Limitation:** Damaged or defective Scratch-itSM tickets are returned to the Lottery within 30 days of discovering the damage or defect. When the Scratch-itSM tickets cannot be returned because they are completely destroyed or damaged beyond recognition, within 30 days the retailer must submit, on a form provided by the Lottery, a signed and notarized affidavit which describes the circumstances of how the Scratch-itSM tickets were destroyed or damaged. The Lottery's Finance and Accounting department will review inventory and sales records and confirm the value of the destroyed or damaged Scratch-itSM tickets.

(d) **Director's Approval:** Credit for defective, damaged, or destroyed Scratch-itSM tickets may be given only upon approval of the Director.

(2) **Theft of Activated Tickets:** The Lottery may credit a retailer's EFT account for one-half of the uninsured loss of activated Scratch-itSM tickets that are stolen from the retailer's premises subject to the following:

(a) **Loss Amount:** The theft results in a loss of \$200 or more of activated Scratch-itSM tickets.

(b) **Security Measures:** The retailer has in place and was using at the time of the theft, reasonable security measures to prevent the theft of Scratch-itSM tickets. The Director will, in the Director's sole discretion, determine if a retailer was using reasonable security measures at the time of the theft. For purposes of this rule, "reasonable security measures" means that at a minimum, the retailer:

(A) **Approved Dispensers:** Keeps Lottery Scratch-itSM tickets in Lottery approved dispensers, ITVMs, or stored in a locked container inaccessible to customers and unauthorized employees if the tickets are not yet being offered for sale;

(B) **Inventory Control Process:** Has an inventory control process in place, including adequate record keeping, Scratch-itSM ticket access controls, and ticket activation controls; and

(C) **Accounting Procedures:** Uses accounting or bookkeeping procedures that alert the retailer to the theft of activated Scratch-itSM tickets within seven business days of the theft.

(c) **Reporting Requirements:** The retailer must:

(A) Report the theft to a local law enforcement agency and to the Lottery within 48 hours of discovering the theft. The report must include the game, pack, and Scratch-itSM ticket numbers of the stolen tickets; and

(B) Submit to the Lottery a copy of a police report showing the theft was reported to the local law enforcement agency.

(d) **Retailer Affidavit:** The retailer must submit to the Lottery, on an affidavit form provided by the Lottery, a signed and notarized statement:

(A) Describing the circumstances of the theft, the game, pack, and Scratch-ItSM ticket numbers of the stolen tickets, the total loss claimed, and a statement whether the retailer is self-insured or is covered by third-party insurance; and

(B) The retailer must attach to the statement a copy of any documents substantiating the theft or loss, including, but not limited to, any inventory control records related to the stolen tickets and any financial records showing the monetary loss.

(e) **Third Party Insurance:** If the loss is fully covered by third-party insurance, the retailer is not eligible to receive a credit for the stolen tickets. If the loss is not entirely covered by third-party insurance, then the retailer may receive a credit for one-half of the balance of the loss if the retailer provides a letter from the insurance company setting forth the amount of loss claimed by the retailer and the amount paid to the retailer by the insurance company. The retailer must provide any other information needed by the Lottery to determine the amount of insurance coverage and the amount paid to the retailer for the loss.

(f) **Cooperation:** The retailer must fully cooperate with the Lottery and provide any documents or information requested. The retailer must cooperate fully in the prosecution of any criminal case resulting from the theft of the tickets or in any civil lawsuit for recovery of the amount of the loss paid to the retailer by the Lottery under this rule.

(g) **Restitution from Criminal Prosecution of Judgment in Civil**

Action: The Director will not credit the retailer's EFT account for any amount of the loss that a court orders repaid as restitution or that is awarded to the retailer in a civil judgment or settlement. The Director may delay crediting the retailer for the loss claimed until criminal proceedings related to the theft of the tickets are concluded. The Lottery may recover from the retailer any amount ordered as restitution in a criminal case or received by the retailer pursuant to a civil judgment or settlement agreement.

(h) **Employee Theft:** In no event will the Director authorize credit to a retailer when the retailer is the victim of employee theft.

(i) **Time Limitation:** Notwithstanding the 48-hour reporting requirement of subsection (c) of this section, the Director may authorize a credit upon a showing that the failure to timely report was beyond the retailer's reasonable control. In no event will a retailer receive a credit for a theft that occurred more than 30 days prior to the date that the retailer reported the theft to the Lottery and the local law enforcement agency as set forth in subsection (b) of this section.

(j) **Limit on Credit Amount:** In no event may a retailer receive credit for a loss resulting from theft in an amount greater than \$2500 during the term of the retailer contract.

(3) **Theft of Non-Activated Tickets:** The Lottery will not bill a retailer for Scratch-itSM tickets received but not activated that are stolen from the retailer's premise if the theft results in the loss of \$200 or more of non-active Scratch-itSM tickets and the retailer complies with the requirements of subsections (2)(b) through (2)(h) of this rule. The limitations set forth in subsections (2)(g) through (2)(j) of this rule apply to the theft of non-activated Scratch-itSM tickets.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461.210

Hist.: LC 2-1991, f. & cert. ef. 7-24-91; LC 6-1993, f. & cert. ef. 7-2-93; LC 4-1995, f. 4-27-95, cert. ef. 5-1-95; LC 13-1996, f. & cert. ef. 12-27-96; LOTT 15-2001, f. & cert. ef. 12-3-01; LOTT 13-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 24-2002, f. & cert. ef. 11-25-02; LOTT 19-2005, f. 12-21-05, cert. ef. 12-31-05; LOTT 4-2007(Temp), f. 11-8-07, cert. ef. 11-12-07 thru 5-9-08

ADMINISTRATIVE RULES

177-050-0070

Confidentiality of Scratch-It Tickets

Except when playing a ticket that the retailer or its employees or agents have purchased as a consumer, no retailer or its employees or agents shall attempt to ascertain the numbers or symbols appearing in the designated areas under the removable latex coverings or otherwise attempt to identify winning Scratch-itSM tickets.

Stat. Auth.: ORS 461

Stats. Implemented: ORS 461.210

Hist.: SLC 4-1985(Temp), f. & ef. 1-29-85; SLC 8-1985, f. & ef. 6-21-85; LOTT 15-2001, f. & cert. ef. 12-3-01; LOTT 4-2007(Temp), f. 11-8-07, cert. ef. 11-12-07 thru 5-9-08

Oregon Student Assistance Commission Chapter 575

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

Adm. Order No.: OSAC 5-2007

Filed with Sec. of State: 11-7-2007

Certified to be Effective: 11-7-07

Notice Publication Date: 9-1-2007

Rules Adopted: 575-031-0022, 575-031-0023

Rules Amended: 575-001-0015, 575-030-0005, 575-031-0010, 575-031-0025, 575-031-0030, 575-031-0045

Subject: These rules implement various statutory changes to the Oregon Opportunity Grant program established by the enactment of Senate Bill 334 by the 2007 Legislative Assembly. The bill's provisions change the methodology for determining an eligible student's award amount in the Oregon Opportunity Grant program, starting with calculation of grant awards for the 2008-09 academic year. The bill also provides for grandfathering of award amounts for students enrolled in an eligible institution in 2007-08 who continue to be enrolled at the same institution in 2008-09, 2009-10, and 2010-11. Students eligible for grandfathering will receive the greater of award amounts calculated under the current methodology or the new methodology.

Rules Coordinator: Susanne D. Ney—(541) 687-7394

575-001-0015

Right of Appeal

A student who is denied participation in any student assistance program administered by the Oregon Student Assistance Commission may appeal the denial to the Commission. The appeal shall be submitted in writing a minimum of ten days before the meeting at which the appeal is to be considered.

Stat. Auth.: ORS 348

Stats. Implemented: HB 2249 and the Higher Education Act of 1965 as amended

Hist.: SSC 17, f. & ef. 8-1-77; SSC 2-1986, f. & ef. 2-25-86; OSAC 1-1999, f. & cert. ef. 12-8-99; OSAC 1-2005(Temp), f. & cert. ef. 4-4-05 thru 10-1-05; OSAC 2-2005, f. 9-27-05, cert. ef. 10-1-05; OSAC 5-2007, f. & cert. ef. 11-7-07

575-030-0005

Definitions

(1) "Resident of Oregon". Residency is established by virtue of the student (in the case of independent students) or the student's parent (in the case of dependent students) having been in continuous residency in this state for the 12 months preceding enrollment. Residency is immediate in the case of a dependent student whose parents have moved to this state for a reason other than the student's enrollment. The residency period may be reduced to the preceding six months in the case of an independent student who moved to this state for a purpose other than education:

(a) A dependent resident student whose Oregon domiciled parent(s) move out-of-state shall retain resident classification as long as the student is continuously enrolled at an Oregon high school or Oregon postsecondary institution. Continuous enrollment is defined as completion of an academic year within any 12-month period;

(b) An independent resident student shall retain resident classification as long as the student is continuously enrolled at an Oregon postsecondary institution. Continuous enrollment is defined as completion of an academic year within any 12-month period;

(c) A dependent student whose parent(s) are serving on active duty in the U. S. Armed Forces outside the State of Oregon shall have residency status determined by the parents' declared "home of record". An independent student who is serving on active duty in the U. S. Armed Forces outside the State of Oregon shall have residency status determined by the student's declared "home of record";

(d) A student from a state other than Oregon, or from the Federated States of Micronesia, who is receiving or is eligible to receive financial assistance through the government of that state or the Federated States, shall not be considered a resident of Oregon;

(e) Eligibility for certain scholarships administered by the Commission does not necessarily qualify a student as an Oregon resident for the purposes of state-funded student financial aid programs administered by the Commission.

(f) Residence Classification of Members of Oregon Tribes

(A) Students who are enrolled members of federally recognized tribes of Oregon or who are enrolled members of a federally recognized Native American tribe which had traditional and customary tribal boundaries that included parts of the state of Oregon or which had ceded or reserved lands within the state of Oregon shall be deemed eligible for programs administered by the Oregon Student Assistance Commission that are limited to Oregon residents, regardless of their state of residence.

(B) For purposes of this rule, the federally recognized tribes of Oregon are those recommended by the Oregon University System in OAR 580-010-0037 for purposes of assessing resident tuition:

(i) Burns Paiute Tribe;

(ii) Confederated Tribes of Coos, Lower Umpqua and Siuslaw;

(iii) Confederated Tribes of Grand Ronde Community of Oregon;

(iv) Confederated Tribes of Siletz Indians of Oregon;

(v) Confederated Tribes of the Umatilla Indian Reservation;

(vi) Confederated Tribes of the Warm Springs Indian Reservation;

(vii) Coquille Indian Tribe;

(viii) Cow Creek Band of Umpqua Indians;

(ix) Klamath Tribes.

(C) For purposes of this rule, the federally recognized Native American tribes which had traditional and customary tribal boundaries that included parts of the state of Oregon or which had ceded or reserved lands within the state of Oregon are:

(i) CALIFORNIA:

(I) Benton Paiute Tribe;

(II) Big Bend Rancheria;

(III) Big Lagoon Rancheria;

(IV) Blue Lake Rancheria;

(V) Bridgeport Indian Colony;

(VI) Cedarville Rancheria;

(VII) Fort Bidwell Indian Tribe;

(VIII) Hoopa Valley Tribe;

(IX) Karuk Tribe of California;

(X) Likely Rancheria;

(XI) Lookout Rancheria;

(XII) Lytton Rancheria;

(XIII) Melochundum Band of Tolowa Indians;

(XIV) Montgomery Creek Rancheria;

(XV) Pit River Tribe;

(XVI) Quartz Valley Indian Community;

(XVII) Redding Rancheria;

(XVIII) Roaring Creek Rancheria;

(XIX) Smith River Rancheria;

(XX) Susanville Rancheria;

(XXI) Tolowa-Tututni Tribe;

(XXII) Winnemucca Colony;

(XXIII) XL Ranch;

(XXIV) Yurok Tribe.

(ii) IDAHO:

(I) Nez Perce Tribe of Idaho;

(II) Shoshoni-Bannock Tribes.

(iii) NEVADA:

(I) Duck Valley Shoshone-Paiute Tribes;

(II) Fallon Paiute-Shoshone Tribe;

(III) Fort McDermitt Paiute-Shoshone Tribe;

(IV) Lovelock Paiute Tribe;

(V) Pyramid Lake Paiute Tribe;

(VI) Reno-Sparks Indian Colony;

(VII) Summit Lake Paiute Tribe;

(VIII) Walker River Paiute Tribe;

(IX) Winnemucca Indian Colony;

(X) Yerington Paiute Tribe.

(iv) OKLAHOMA: Modoc Tribe of Oklahoma.

(v) WASHINGTON:

(I) Chehalis Community Council;

(II) Colville Confederated Tribes;

ADMINISTRATIVE RULES

- (III) Quinalt Indian Nation;
- (IV) Shoalwater Bay Tribe;
- (V) Yakama Indian Nation.

(D) A student seeking to be deemed eligible under the provisions of this rule shall submit, following procedures prescribed by the Oregon Student Assistance Commission, a photocopy of a tribal enrollment card or other acceptable documentation from a tribe which documents tribal membership.

(2) "Undergraduate Student" is a regularly enrolled student who:

(a) Has not obtained a baccalaureate or higher degree from any accredited institution; or

(b) Has not been classified as a "graduate student" by the institution disbursing funds.

(3) "Dependent/Independent Student". The definition of independent/dependent student shall be the definition used for the student aid programs under Title IV of the Higher Education Act of 1965 as amended.

(4) "Financial Need". The difference between the family contribution, derived from a system of need analysis annually approved by the Commission, and the cost of education, as specified by program rules.

(5)(a) "Cost of Education". Generally, the sum of tuition for 15 credit-hours per academic term; standard fees charged to all students; room and board (where applicable); and estimates of books, supplies, modest personal expenses, transportation, and other allowable costs identified by the U.S. Department of Education.

(b) The standard cost of education is based upon full-time enrollment for an independent student or for a dependent student not living at home.

(6) "Full-Time Enrollment". Registration and payment of required fees as a full-time student, at an eligible institution or combination of eligible institutions, based on a minimum of 12 credit-hours per academic term. Students attending more than one eligible institution must meet the definition of concurrently enrolled as defined in OAR 575-030-0005(8) to be considered full-time.

(7) "Half-Time Enrollment". Registration and payment of required fees as a half-time student, at an eligible institution or combination of eligible institutions, based on 6 to 11 credit-hours per academic term.

(8) "Concurrently Enrolled" A student who attends more than one eligible institution under a written consortium agreement or concurrent enrollment program. The student's "home" institution determines the student's eligibility for federal and state financial aid, disburses funds to the student, and is responsible for reporting enrollment and disbursement information to the Commission.

(9) "Oregon-based". Having an educational institution that is both located and headquartered in Oregon.

Stat. Auth.: ORS 348

Stats. Implemented: ORS 348.230 - 348.260

Hist: SSC 12, f. & ef. 12-15-76; SSC 18, f. & ef. 10-19-77; SSC 1-1978(Temp), f. & ef. 1-4-78; SSC 3-1978, f. & ef. 2-16-78; SSC 1-1979, f. & ef. 1-17-79; SSC 2-1980, f. 1-31-80, ef. 4-1-80; SSC 4-1980, f. & ef. 10-22-80; SSC 1-1981, f. & ef. 9-3-81; SSC 2-1986, f. & ef. 2-25-86; SSC 5-1987, f. & ef. 10-23-87; SSC 1-1998, f. & cert. ef. 3-18-98; OSAC 5-2002, f. & cert. ef. 3-12-02; OSAC 1-2004, f. & cert. ef. 2-12-04; OSAC 3-2005, f. 9-27-05, cert. ef. 10-1-05; OSAC 5-2007, f. & cert. ef. 11-7-07

575-031-0010

Financial Need

(1) A student must have financial need as determined by the Commission as set forth in OAR 575-030-0005(4).

(2) A student shall meet eligibility criteria for a Federal Pell Grant prior to being deemed eligible for an Oregon Opportunity Grant.

(3) Effective starting with the 2008-09 academic year, eligibility for a Federal Pell Grant shall no longer be required for a student to be deemed eligible for an Oregon Opportunity Grant.

(4) Effective starting with the 2008-09 academic year, a student's financial need for purposes of determining eligibility for an Oregon Opportunity Grant shall be based upon provisions of the Shared Responsibility Model as set forth in OAR 575-031-0022 and 0023.

Stat. Auth.: ORS 348

Stats. Implemented: ORS 348

Hist.: SSC 12, f. & ef. 12-15-76; SSC 18, f. & ef. 10-19-77; SSC 1-1978(Temp), f. & ef. 1-4-78; SSC 3-1978, f. & ef. 2-16-78; OSAC 6-2002, f. & cert. ef. 3-12-02; OSAC 1-2005(Temp), f. & cert. ef. 4-4-05 thru 10-1-05; OSAC 2-2005, f. 9-27-05, cert. ef. 10-1-05; OSAC 5-2007, f. & cert. ef. 11-7-07

575-031-0022

Definitions for the Shared Responsibility Model

(1) Cost of Education. For purposes of calculating Oregon Opportunity Grant awards under the Shared Responsibility Model, the standard cost of education is based on the definition of cost of education in OAR 575-030-0005.

(a) The standard cost of education for each institutional segment is based on the average of the standard costs for all participating institutions within an institutional segment.

(b) For purposes of calculating Oregon Opportunity Grant awards under the Shared Responsibility Model, the standard cost of education for all public and private independent 4-year institutions is the average of the standard costs for public 4-year institutions. The standard cost of education for all public 2-year institutions is the average of the standard costs for all institutions in that segment.

(2) "Student share". The student share is a fixed amount based upon a reasonable amount of paid work and, in some cases, a modest amount of borrowing, depending upon the type of institution the student attends. The Commission adjusts the student share annually according to changes in the Oregon minimum wage and what the Commission determines to be a manageable debt burden for a student. The student's share can consist of any combination of financial resources from the student's work, loans, scholarships, savings, or assets.

(a) For a student attending a public 2-year Oregon-based postsecondary institution, the student share is based on income from work. The Commission will annually determine the income from work amount, based on a minimum number of hours per week at minimum wage.

(b) For a student attending a public or not-for-profit 4-year Oregon-based postsecondary institution, the student share is based on income from work plus a modest loan amount. The Commission will annually determine the work component, based on a minimum number of hours per week at minimum wage, and the loan amount.

(c) For a student enrolled between 6 and 11 credit-hours, the component of the student share represented by income from work may be higher than for students enrolled full time. The Commission will determine this amount annually.

(d) "Manageable debt burden". The Commission will annually determine a manageable debt burden based on average entry-level salaries for public service occupations in Oregon.

(3) "Family Share". The family share is based on the financial resources of the student's family, as reported in the Free Application for Federal Student Aid (FAFSA).

(a) For a dependent student, the family share is equal to the portion of the federally calculated expected family contribution that is based upon the financial resources (income from work and other sources, savings, and/or assets) of the student's parents.

(b) For a married independent student (with or without dependents), the family share is equal to the student's federally calculated expected family contribution.

(c) For a single independent student (with or without dependents) whose federal expected family contribution is less than the standard student share for a student attending a public 2-year postsecondary institution, the family share is \$0.

(d) For a single independent student (with or without dependents) whose federal expected family contribution is greater than the standard student share for a student attending a public 2-year postsecondary institution, the family share is equal to the federal expected family contribution minus the student share for a student attending a public 2-year postsecondary institution.

(4) "Federal Share". The federal share is based on how much the student or the student's family is expected to receive from the federal government in the form of Federal Pell Grants plus assumed federal higher education tax credits, as determined by the Commission. The federal share excludes Academic Competitiveness Grants, National SMART Grants, Federal SEOG awards, and other federal funds such as Robert C. Byrd Honors Scholarships.

(5) "State Share". The state share is equal to the standard cost of education minus the sum of the student share, the family share, and the federal share. The state share is the maximum amount that a student may receive as an Opportunity Grant. If the amount of the state share is less than the minimum award amount, as determined by the Commission, the student will receive no award. If total state funding is not sufficient to cover full awards for all eligible students, the state share may be reduced proportionally utilizing a method determined by the Commission.

Stat. Auth.: ORS 348

Stats. Implemented: ORS 348

Hist.: OSAC 5-2007, f. & cert. ef. 11-7-07

575-031-0023

Implementation of Shared Responsibility Model

Effective starting with the 2008-09 academic year, the Shared Responsibility Model shall be the method for determining a student's eligi-

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bility for the Opportunity Grant and the student's annual award amounts. Under this methodology, a qualified student's cost of education is shared with the student, the student's family, the federal government, and the state. The amount of a student's grant is equal the state's share of the student's cost of education, as determined by the Commission.

Stat. Auth.: ORS 348
Stats. Implemented: ORS 348
Hist.: OSAC 5-2007, f. & cert. ef. 11-7-07

575-031-0025

Opportunity Grant Amount

(1)(a) For students attending a public 2- or 4-year Oregon-based postsecondary institution, award amounts for the 2007-08 academic year are based upon a fixed percentage of the average tuition and standard fees plus the weighted average of nontuition costs across all institutional segments.

(b) For students attending a private nonprofit 4-year Oregon-based postsecondary institution, award amounts for the 2007-08 academic year are based upon a fixed percentage of the average tuition and standard fees at each institution plus the weighted average of nontuition costs across all institutional segments.

(c) An Opportunity Grant may vary in amount from \$100 to an amount that shall not exceed 50 percent of the student's financial need, as determined by the Commission. This provision expires upon full implementation of the Shared Responsibility Model.

(d) Effective starting with the 2008-09 academic year, an Opportunity Grant is based upon the state share, as calculated under provisions of the Shared Responsibility Model.

(2) Within the funds available, an Opportunity Grant for a student who is taking between 6 and 11 credit hours in a term or semester shall be 50 percent of the award made to a full-time student enrolled at the same institution. This section is effective starting with the 2006-07 academic year and expires at the end of the 2007-08 academic year.

(3) For concurrently enrolled students, the amount of the Opportunity Grant will be based on the school disbursing funds, unless otherwise approved by the Commission.

(4) In the event that the Commission determines that the total amount available to award as the state share to all qualified students is not sufficient to cover the total state share amount scheduled to be awarded to all students, the Commission will implement one or more of the following strategies to limit awards. Examples of such strategies may include, but are not limited to, the following:

(a) The Commission may limit awards to only students who are enrolled full time;

(b) The Commission may implement reductions of all awards using progressive prorata reductions based on a percentage of the student's expected family contribution;

(c) The Commission may prescribe a specific date by which a student must apply to the Commission to qualify for a grant.

(5) Grandfathered awards for academic years 2008-09, 2009-10, and 2010-2011. Notwithstanding paragraph (1)(d) above, a qualified student who attended an eligible postsecondary institution at least half time during the 2007-08 academic year and remains continuously enrolled at least half time at the same institution is eligible for grandfathered awards for the 2008-09, 2009-10, and 2010-2011 academic years. A qualified student who attended more than one eligible postsecondary institutions as at least a half-time student during the 2007-08 academic year and remains continuously enrolled at least half time at one or more of the same institutions is also eligible for grandfathered awards for the 2008-09, 2009-10, and 2010-2011 academic years. For grandfathering-eligible students, awards are calculated using both the method in place during the 2007-08 academic year and the method for the Shared Responsibility Model, and students shall receive annual awards based on whichever of the two methods for calculating awards grants the student the greater amount of student assistance. Grandfathering of awards expires after the end of the 2010-11 academic year. Continuous enrollment is defined as completion of an academic year within any 12-month period.

Stat. Auth.: ORS 348
Stats. Implemented: ORS 348
Hist.: SSC 12, f. & ef. 12-15-76; SSC 18, f. & ef. 10-19-77; SSC 1-1978(Temp), f. & ef. 1-4-78; SSC 3-1978, f. & ef. 2-16-78; SSC 2-1979, f. 7-24-79, ef. 8-1-79; SSC 2-1985, f. & ef. 4-17-85; SSC 5-1987, f. & ef. 10-23-87; SSC 1-1993(Temp), f. & cert. ef. 9-20-93; SSC 3-1994, f. & cert. ef. 1-25-94; SSC 2-1995, f. & cert. ef. 12-6-95; SSC 1-1998, f. & cert. ef. 3-18-98; OSAC 6-2002, f. & cert. ef. 3-12-02; OSAC 4-2005, f. 9-27-05, cert. ef. 10-1-05; OSAC 5-2007, f. & cert. ef. 11-7-07

575-031-0030

Conditions of Award

(1) Except for subsection (2) below, the maximum period of Opportunity Grant eligibility shall not exceed the equivalent of 12 quarters or 8 semesters of full-time enrollment.

(2) Students whose statutory rights provide for a legitimate need to extend the maximum period beyond a period equal to 12 quarters or 8 semesters of full-time enrollment remain eligible to receive an Opportunity Grant until completion of their undergraduate program.

(3) The Commission may deny renewal of an award to any student failing to make satisfactory academic progress.

(4) No Opportunity Grant shall be made to any student enrolled in a course of study required for and leading to a degree in theology, divinity, or religious education.

(5) No Opportunity Grant shall be made to any student in default on any federal Title IV loan or owing a refund on federal Title IV funds previously disbursed, unless the institution disbursing funds determines that the student has made satisfactory arrangements to repay and has regained federal eligibility.

(6) An Opportunity Grant recipient shall sign a statement of Selective Service Registration Compliance in conformity with the requirements of Title IV student aid programs.

(7) An Opportunity Grant recipient must be enrolled in an eligible program as defined in 575-031-0016.

(8) An Opportunity Grant recipient must be an undergraduate student, as defined by the institution disbursing funds.

Stat. Auth.: ORS 348
Stats. Implemented: ORS 348
Hist.: SSC 12, f. & ef. 12-15-76; SSC 18, f. & ef. 10-19-77; SSC 4-1980, f. & ef. 10-22-80; SSC 1-1981, f. & ef. 9-3-81; SSC 4-1983, f. & ef. 11-29-83; SSC 2-1985, f. & ef. 4-17-85; SSC 5-1986, f. & ef. 6-12-86; SSC 5-1987, f. & ef. 10-23-87; SSC 3-1988, f. & cert. ef. 8-9-88; OSAC 6-2002, f. & cert. ef. 3-12-02; OSAC 5-2007, f. & cert. ef. 11-7-07

575-031-0045

Disbursements

(1) Institutions shall disburse grants to students identified by the Commission from funds provided by the Commission on an academic term basis.

(2) Institutions shall not disburse grants to students who cease to meet conditions of award identified by the Commission.

(3) If, as a result of an institutional error, grants are disbursed to ineligible students, to students in ineligible programs, or to students for an inappropriate number of terms, the institution shall reimburse the State of Oregon the full amount of monies erroneously disbursed.

(4) Institutions shall disburse grants to eligible students within a time schedule established annually by the Commission.

(5) Institutions shall submit regular reports to the Commission regarding disbursements made to eligible students on a schedule determined by the Commission.

(6) Institutions shall refund unused grant funds to the Commission within a time schedule established annually by the Commission.

(7) Generally, a disbursement may not be made to a student who is no longer eligible. An otherwise eligible student becomes ineligible for an Opportunity Grant on the date that the student is no longer enrolled at the institution for the award year. With Commission approval, institutions may make late disbursements of retroactive awards for prior academic terms up to 60 days after the close of the year-end account reconciliation process or up to 60 days after the end of the student's period of enrollment, whichever is earlier.

Stat. Auth.: ORS 348
Stats. Implemented: ORS 348
Hist.: SSC 4-1980, f. & ef. 10-22-80; SSC 1-1981, f. & ef. 9-3-81; SSC 5-1986, f. & ef. 12-8-86; OSAC 6-2002, f. & cert. ef. 3-12-02; OSAC 5-2007, f. & cert. ef. 11-7-07

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**Oregon University System,
Western Oregon University
Chapter 574**

Rule Caption: Revision of University Residences annual contract fee.

Adm. Order No.: WOU 4-2007

Filed with Sec. of State: 11-1-2007

Certified to be Effective: 11-1-07

Notice Publication Date: 10-1-2007

Rules Amended: 574-050-0005

ADMINISTRATIVE RULES

Subject: Amendments will allow for increases, additions, and revisions of special course fees and general services fees and revision of University Residences annual contract fee.

Rules Coordinator: Debra L. Charlton—(503) 838-8175

574-050-0005

Special Fees for Selected Courses and Some General Services

The Schedule of Fees for Selected Courses and General Services for Western Oregon University are hereby adopted by reference.

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

Stat. Auth.: ORS 351.070 & 351.072

Stats. Implemented: ORS 351.070 & 351.072

Hist.: OCE 1, f. & ef. 7-12-76; OCE 1-1978, f. & ef. 10-27-78; OCE 2-1980, f. & ef. 11-5-80; OCE 1-1981, f. & ef. 1-7-81; OCE 3-1981, f. & ef. 8-7-81; OCE 4-1981, f. & ef. 11-2-81; WOSC 2-1982, f. & ef. 9-17-82; WOSC 1-1983, f. & ef. 10-11-83; WOSC 1-1985, f. & ef. 10-4-85; WOSC 1-1986, f. & ef. 10-15-86; WOSC 1-1987, f. 4-1-87, ef. 9-23-87; WOSC 2-1988, f. & cert. ef. 9-19-88; WOSC 1-1989, f. & cert. ef. 4-18-89; WOSC 2-1989, f. 9-5-89, cert. ef. 9-17-89; WOSC 5-1989, f. & cert. ef. 9-7-89; WOSC 1-1990, f. & cert. ef. 4-18-90; WOSC 2-1990, f. & cert. ef. 9-24-90; WOSC 1-1991, f. & cert. ef. 1-30-91; WOSC 2-1991, f. & cert. ef. 3-22-91; WOSC 4-1991, f. & cert. ef. 5-21-91; WOSC 7-1991, f. & cert. ef. 7-22-91; WOSC 2-1992, f. & cert. ef. 6-16-92; WOSC 3-1992, f. & cert. ef. 8-14-92; WOSC 1-1993, f. & cert. ef. 1-15-93; WOSC 2-1993, f. & cert. ef. 6-18-93; WOSC 3-1993, f. & cert. ef. 7-16-93; WOSC 5-1993, f. & cert. ef. 10-21-93; WOSC 1-1994, f. & cert. ef. 8-12-94; WOSC 1-1995, f. & cert. ef. 8-11-95; WOSC 1-1996, f. & cert. ef. 10-16-96; WOSC 1-1997, f. & cert. ef. 2-27-97; WOU 3-1997, f. & cert. ef. 10-7-97; WOU 1-1998, f. & cert. ef. 1-26-98; WOU 2-1998, f. & cert. ef. 7-24-98; WOU 1-1999, f. & cert. ef. 2-25-99; WOU 2-1999, f. & cert. ef. 7-27-99; WOU 1-2000, f. & cert. ef. 3-16-00; WOU 2-2000, f. & cert. ef. 6-28-00; WOU 1-2001, f. & cert. ef. 3-5-01; WOU 2-2001, f. & cert. ef. 7-30-01; WOU 1-2002, f. 3-12-02, cert. ef. 3-15-02; WOU 2-2002, f. 8-2-02, cert. ef. 8-15-02; WOU 3-2002, f. 10-7-02, cert. ef. 10-15-02; WOU 1-2003, f. & cert. ef. 4-2-03; WOU 2-2003, f. & cert. ef. 8-1-03; WOU 1-2004, f. & cert. ef. 3-24-04; WOU 2-2004, f. & cert. ef. 8-4-04; WOU 1-2005, f. & cert. ef. 3-8-05; WOU 2-2005, f. & cert. ef. 8-4-05; WOU 3-2005, f. & cert. ef. 8-12-05; WOU 1-2006, f. & cert. ef. 3-2-06; WOU 2-2006, f. & cert. ef. 8-7-06; WOU 1-2007, f. & cert. ef. 3-5-07; WOU 2-2007, f. & cert. ef. 7-31-07; WOU 4-2007, f. & cert. ef. 11-1-07

Public Utility Commission Chapter 860

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

Adm. Order No.: PUC 12-2007

Filed with Sec. of State: 10-31-2007

Certified to be Effective: 10-31-07

Notice Publication Date: 9-1-2007

Rules Amended: 860-027-0005

Subject: This amendment eliminated the requirement that large telecommunications utilities file annual budgets of expenditures with the Public Utility Commission. ORS 759.100 requiring large telecommunications utilities to file annual budgets of expenditures was repealed during the 2005 legislative session.

Rules Coordinator: Diane Davis—(503) 378-4372

860-027-0005

Utilities Required to File Reports

Each energy utility operating within Oregon and having gross operating revenues of \$50,000 or more per annum is required to file with the Commission on or before the first day of November of each year, a copy of its proposed Budget of Expenditures, on forms approved by the Commission.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.105, 757.105

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 9-1998, f. & cert. ef. 4-28-98; PUC 16-2001, f. & cert. ef. 6-21-01; PUC 12-2007, f. & cert. ef. 10-31-07

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
101-010-0005	12-14-2006	Amend(T)	1-1-2007	105-040-0065	5-1-2007	Adopt	6-1-2007
101-010-0005	6-11-2007	Amend(T)	7-1-2007	105-050-0020	5-1-2007	Repeal	6-1-2007
101-010-0005	10-1-2007	Amend	11-1-2007	111-001-0000	7-23-2007	Adopt(T)	9-1-2007
101-015-0005	10-1-2007	Amend	11-1-2007	111-001-0005	7-23-2007	Adopt(T)	9-1-2007
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101-030-0005	10-1-2007	Amend	11-1-2007	111-050-0001	9-24-2007	Adopt(T)	11-1-2007
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101-040-0030	10-1-2007	Repeal	11-1-2007	115-040-0005	7-1-2007	Amend(T)	8-1-2007
101-040-0035	10-1-2007	Repeal	11-1-2007	115-070-0000	7-1-2007	Amend(T)	8-1-2007
101-040-0040	10-1-2007	Repeal	11-1-2007	115-070-0035	7-1-2007	Amend(T)	8-1-2007
101-040-0045	10-1-2007	Repeal	11-1-2007	122-001-0035	6-29-2007	Adopt(T)	8-1-2007
101-040-0050	10-1-2007	Am. & Ren.	11-1-2007	122-070-0060	10-8-2007	Amend(T)	11-1-2007
101-040-0055	10-1-2007	Am. & Ren.	11-1-2007	123-011-0030	9-4-2007	Amend(T)	10-1-2007
101-040-0080	11-28-2006	Amend	1-1-2007	123-011-0035	9-4-2007	Amend(T)	10-1-2007
101-040-0080	10-1-2007	Am. & Ren.	11-1-2007	123-011-0036	9-4-2007	Adopt(T)	10-1-2007
101-050-0005	10-1-2007	Amend	11-1-2007	123-011-0040	9-4-2007	Amend(T)	10-1-2007
101-050-0010	10-1-2007	Amend	11-1-2007	123-011-0045	9-4-2007	Amend(T)	10-1-2007
101-050-0015	10-1-2007	Amend	11-1-2007	123-017-0008	8-29-2007	Amend(T)	10-1-2007
101-050-0020	10-1-2007	Amend	11-1-2007	123-017-0010	8-29-2007	Amend(T)	10-1-2007
101-050-0025	10-1-2007	Amend	11-1-2007	123-017-0015	8-29-2007	Amend(T)	10-1-2007
101-050-0030	10-1-2007	Repeal	11-1-2007	123-017-0020	8-29-2007	Amend(T)	10-1-2007
101-060-0005	10-1-2007	Amend	11-1-2007	123-017-0025	8-29-2007	Amend(T)	10-1-2007
101-060-0010	10-1-2007	Amend	11-1-2007	123-017-0030	8-29-2007	Amend(T)	10-1-2007
105-040-0015	9-5-2007	Adopt(T)	10-1-2007	123-017-0035	8-29-2007	Amend(T)	10-1-2007
105-040-0020	5-1-2007	Amend	6-1-2007	123-017-0055	8-29-2007	Amend(T)	10-1-2007
105-040-0060	5-1-2007	Amend	6-1-2007	123-018-0010	9-4-2007	Amend(T)	10-1-2007

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123-018-0040	9-4-2007	Amend(T)	10-1-2007	123-065-0100	1-8-2007	Amend(T)	2-1-2007
123-018-0060	9-4-2007	Amend(T)	10-1-2007	123-065-0100	7-1-2007	Amend	7-1-2007
123-018-0085	9-4-2007	Amend(T)	10-1-2007	123-065-0140	1-8-2007	Amend(T)	2-1-2007
123-018-0100	9-4-2007	Amend(T)	10-1-2007	123-065-0140	7-1-2007	Amend	7-1-2007
123-018-0160	9-4-2007	Amend(T)	10-1-2007	123-065-0200	1-8-2007	Amend(T)	2-1-2007
123-019-0020	8-28-2007	Amend(T)	10-1-2007	123-065-0200	7-1-2007	Amend	7-1-2007
123-019-0040	8-28-2007	Amend(T)	10-1-2007	123-065-0210	1-8-2007	Amend(T)	2-1-2007
123-021-0010	8-28-2007	Amend(T)	10-1-2007	123-065-0210	7-1-2007	Amend	7-1-2007
123-021-0030	8-28-2007	Suspend	10-1-2007	123-065-0240	1-8-2007	Amend(T)	2-1-2007
123-021-0050	8-28-2007	Amend(T)	10-1-2007	123-065-0240	7-1-2007	Amend	7-1-2007
123-024-0001	9-21-2007	Amend(T)	11-1-2007	123-065-0310	1-8-2007	Amend(T)	2-1-2007
123-024-0011	9-21-2007	Amend(T)	11-1-2007	123-065-0310	7-1-2007	Amend	7-1-2007
123-024-0031	9-21-2007	Amend(T)	11-1-2007	123-065-0320	1-8-2007	Amend(T)	2-1-2007
123-024-0041	9-21-2007	Suspend	11-1-2007	123-065-0320	7-1-2007	Amend	7-1-2007
123-055-0100	9-5-2007	Amend(T)	10-1-2007	123-065-0330	1-8-2007	Amend(T)	2-1-2007
123-055-0120	9-5-2007	Amend(T)	10-1-2007	123-065-0330	7-1-2007	Amend	7-1-2007
123-055-0200	9-5-2007	Amend(T)	10-1-2007	123-065-0350	1-8-2007	Amend(T)	2-1-2007
123-055-0220	9-5-2007	Amend(T)	10-1-2007	123-065-0350	7-1-2007	Amend	7-1-2007
123-055-0240	9-5-2007	Amend(T)	10-1-2007	123-065-1050	1-8-2007	Amend(T)	2-1-2007
123-055-0300	9-5-2007	Amend(T)	10-1-2007	123-065-1050	7-1-2007	Amend	7-1-2007
123-055-0340	9-5-2007	Amend(T)	10-1-2007	123-065-1060	1-8-2007	Adopt(T)	2-1-2007
123-055-0400	9-5-2007	Amend(T)	10-1-2007	123-065-1070	1-8-2007	Adopt(T)	2-1-2007
123-055-0420	9-5-2007	Amend(T)	10-1-2007	123-065-1080	1-8-2007	Adopt(T)	2-1-2007
123-055-0440	9-5-2007	Amend(T)	10-1-2007	123-065-1500	1-8-2007	Amend(T)	2-1-2007
123-055-0460	9-5-2007	Amend(T)	10-1-2007	123-065-1500	7-1-2007	Amend	7-1-2007
123-055-0525	9-5-2007	Amend(T)	10-1-2007	123-065-1520	1-8-2007	Amend(T)	2-1-2007
123-055-0620	9-5-2007	Amend(T)	10-1-2007	123-065-1520	7-1-2007	Amend	7-1-2007
123-055-0900	9-5-2007	Amend(T)	10-1-2007	123-065-1530	1-8-2007	Amend(T)	2-1-2007
123-057-0110	9-5-2007	Amend(T)	10-1-2007	123-065-1530	7-1-2007	Amend	7-1-2007
123-057-0130	9-5-2007	Amend(T)	10-1-2007	123-065-1540	1-8-2007	Amend(T)	2-1-2007
123-057-0150	9-5-2007	Amend(T)	10-1-2007	123-065-1540	7-1-2007	Amend	7-1-2007
123-057-0190	9-5-2007	Amend(T)	10-1-2007	123-065-1553	1-8-2007	Amend(T)	2-1-2007
123-057-0210	9-5-2007	Amend(T)	10-1-2007	123-065-1553	7-1-2007	Amend	7-1-2007
123-057-0230	9-5-2007	Amend(T)	10-1-2007	123-065-1590	1-8-2007	Amend(T)	2-1-2007
123-057-0310	9-5-2007	Suspend	10-1-2007	123-065-1590	7-1-2007	Amend	7-1-2007
123-057-0330	9-5-2007	Amend(T)	10-1-2007	123-065-1600	1-8-2007	Amend(T)	2-1-2007
123-057-0350	9-5-2007	Amend(T)	10-1-2007	123-065-1600	7-1-2007	Amend	7-1-2007
123-057-0410	9-5-2007	Amend(T)	10-1-2007	123-065-1620	1-8-2007	Amend(T)	2-1-2007
123-057-0430	9-5-2007	Amend(T)	10-1-2007	123-065-1620	7-1-2007	Amend	7-1-2007
123-057-0450	9-5-2007	Amend(T)	10-1-2007	123-065-1710	1-8-2007	Amend(T)	2-1-2007
123-057-0470	9-5-2007	Amend(T)	10-1-2007	123-065-1710	7-1-2007	Amend	7-1-2007
123-057-0510	9-5-2007	Amend(T)	10-1-2007	123-065-1720	1-8-2007	Amend(T)	2-1-2007
123-057-0530	9-5-2007	Amend(T)	10-1-2007	123-065-1720	7-1-2007	Amend	7-1-2007
123-057-0710	9-5-2007	Amend(T)	10-1-2007	123-065-1740	1-8-2007	Amend(T)	2-1-2007
123-065-0000	1-8-2007	Amend(T)	2-1-2007	123-065-1740	7-1-2007	Amend	7-1-2007
123-065-0000	7-1-2007	Amend	7-1-2007	123-065-2520	1-8-2007	Amend(T)	2-1-2007
123-065-0010	1-8-2007	Amend(T)	2-1-2007	123-065-2520	7-1-2007	Amend	7-1-2007
123-065-0010	7-1-2007	Amend	7-1-2007	123-065-2530	1-8-2007	Amend(T)	2-1-2007
123-065-0049	1-8-2007	Suspend	2-1-2007	123-065-2530	7-1-2007	Amend	7-1-2007
123-065-0057	1-8-2007	Adopt(T)	2-1-2007	123-065-2550	1-8-2007	Amend(T)	2-1-2007
123-065-0057	7-1-2007	Repeal	7-1-2007	123-065-2550	7-1-2007	Amend	7-1-2007
123-065-0059	7-1-2007	Am. & Ren.	7-1-2007	123-065-3000	1-8-2007	Amend(T)	2-1-2007
123-065-0080	1-8-2007	Amend(T)	2-1-2007	123-065-3000	7-1-2007	Amend	7-1-2007
123-065-0080	7-1-2007	Amend	7-1-2007	123-065-3030	1-8-2007	Amend(T)	2-1-2007
123-065-0090	1-8-2007	Amend(T)	2-1-2007	123-065-3030	7-1-2007	Amend	7-1-2007
123-065-0090	7-1-2007	Amend	7-1-2007	123-065-3130	1-8-2007	Amend(T)	2-1-2007

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OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
123-065-3130	7-1-2007	Amend	7-1-2007	123-065-8400	7-1-2007	Amend	7-1-2007
123-065-3200	1-8-2007	Amend(T)	2-1-2007	123-065-1060	7-1-2007	Adopt	7-1-2007
123-065-3200	7-1-2007	Amend	7-1-2007	123-065-1070	7-1-2007	Adopt	7-1-2007
123-065-3230	1-8-2007	Amend(T)	2-1-2007	123-065-1080	7-1-2007	Adopt	7-1-2007
123-065-3230	7-1-2007	Amend	7-1-2007	123-090-0050	8-30-2007	Amend	10-1-2007
123-065-3300	1-8-2007	Amend(T)	2-1-2007	123-135-0020	8-10-2007	Amend(T)	9-1-2007
123-065-3300	7-1-2007	Amend	7-1-2007	123-135-0070	8-10-2007	Amend(T)	9-1-2007
123-065-3330	1-8-2007	Amend(T)	2-1-2007	125-007-0200	12-28-2006	Amend	2-1-2007
123-065-3330	7-1-2007	Amend	7-1-2007	125-007-0200(T)	12-28-2006	Repeal	2-1-2007
123-065-3400	1-8-2007	Amend(T)	2-1-2007	125-007-0210	12-28-2006	Amend	2-1-2007
123-065-3400	7-1-2007	Amend	7-1-2007	125-007-0210(T)	12-28-2006	Repeal	2-1-2007
123-065-3480	1-8-2007	Amend(T)	2-1-2007	125-007-0220	12-28-2006	Amend	2-1-2007
123-065-3480	7-1-2007	Amend	7-1-2007	125-007-0220(T)	12-28-2006	Repeal	2-1-2007
123-065-3850	1-8-2007	Amend(T)	2-1-2007	125-007-0230	12-28-2006	Amend	2-1-2007
123-065-3850	7-1-2007	Amend	7-1-2007	125-007-0230(T)	12-28-2006	Repeal	2-1-2007
123-065-4020	1-8-2007	Amend(T)	2-1-2007	125-007-0240	12-28-2006	Amend	2-1-2007
123-065-4020	7-1-2007	Amend	7-1-2007	125-007-0240(T)	12-28-2006	Repeal	2-1-2007
123-065-4260	1-8-2007	Amend(T)	2-1-2007	125-007-0250	12-28-2006	Amend	2-1-2007
123-065-4260	7-1-2007	Amend	7-1-2007	125-007-0250(T)	12-28-2006	Repeal	2-1-2007
123-065-4310	1-8-2007	Amend(T)	2-1-2007	125-007-0260	12-28-2006	Amend	2-1-2007
123-065-4310	7-1-2007	Amend	7-1-2007	125-007-0260(T)	12-28-2006	Repeal	2-1-2007
123-065-4323	1-8-2007	Amend(T)	2-1-2007	125-007-0270	12-28-2006	Amend	2-1-2007
123-065-4323	7-1-2007	Amend	7-1-2007	125-007-0270(T)	12-28-2006	Repeal	2-1-2007
123-065-4328	1-8-2007	Amend(T)	2-1-2007	125-007-0280	12-28-2006	Amend	2-1-2007
123-065-4328	7-1-2007	Amend	7-1-2007	125-007-0280(T)	12-28-2006	Repeal	2-1-2007
123-065-4380	1-8-2007	Amend(T)	2-1-2007	125-007-0290	12-28-2006	Amend	2-1-2007
123-065-4380	7-1-2007	Amend	7-1-2007	125-007-0290(T)	12-28-2006	Repeal	2-1-2007
123-065-4440	1-8-2007	Amend(T)	2-1-2007	125-007-0300	12-28-2006	Amend	2-1-2007
123-065-4440	7-1-2007	Amend	7-1-2007	125-007-0300(T)	12-28-2006	Repeal	2-1-2007
123-065-4450	1-8-2007	Amend(T)	2-1-2007	125-007-0310	12-28-2006	Amend	2-1-2007
123-065-4450	7-1-2007	Amend	7-1-2007	125-007-0310(T)	12-28-2006	Repeal	2-1-2007
123-065-4470	1-8-2007	Amend(T)	2-1-2007	125-007-0320	12-28-2006	Amend	2-1-2007
123-065-4470	7-1-2007	Amend	7-1-2007	125-007-0320(T)	12-28-2006	Repeal	2-1-2007
123-065-4550	1-8-2007	Amend(T)	2-1-2007	125-007-0330	12-28-2006	Amend	2-1-2007
123-065-4550	7-1-2007	Amend	7-1-2007	125-007-0330(T)	12-28-2006	Repeal	2-1-2007
123-065-4610	1-8-2007	Amend(T)	2-1-2007	125-022-0050	1-10-2007	Repeal	9-1-2007
123-065-4610	7-1-2007	Amend	7-1-2007	125-022-0100	1-10-2007	Repeal	9-1-2007
123-065-4970	1-8-2007	Amend(T)	2-1-2007	125-022-0200	1-10-2007	Repeal	9-1-2007
123-065-4970	7-1-2007	Amend	7-1-2007	125-022-0300	1-10-2007	Repeal	9-1-2007
123-065-4980	1-8-2007	Amend(T)	2-1-2007	125-045-0100	6-8-2007	Amend(T)	7-1-2007
123-065-4980	7-1-2007	Amend	7-1-2007	125-145-0020	12-6-2006	Amend(T)	1-1-2007
123-065-4990	1-8-2007	Amend(T)	2-1-2007	125-145-0020	6-5-2007	Amend	7-1-2007
123-065-4990	7-1-2007	Amend	7-1-2007	125-145-0040	12-6-2006	Amend(T)	1-1-2007
123-065-7200	1-8-2007	Amend(T)	2-1-2007	125-145-0040	6-5-2007	Amend	7-1-2007
123-065-7200	7-1-2007	Amend	7-1-2007	125-145-0080	6-8-2007	Amend(T)	7-1-2007
123-065-7300	1-8-2007	Amend(T)	2-1-2007	125-800-0005	12-28-2006	Adopt	2-1-2007
123-065-7300	7-1-2007	Amend	7-1-2007	125-800-0010	12-28-2006	Adopt	2-1-2007
123-065-7400	1-8-2007	Amend(T)	2-1-2007	125-800-0020	12-28-2006	Adopt	2-1-2007
123-065-7400	7-1-2007	Amend	7-1-2007	137-001-0011	1-1-2008	Amend	11-1-2007
123-065-7500	1-8-2007	Amend(T)	2-1-2007	137-001-0018	1-1-2008	Amend	11-1-2007
123-065-7500	7-1-2007	Amend	7-1-2007	137-001-0030	1-1-2008	Amend	11-1-2007
123-065-8200	1-8-2007	Amend(T)	2-1-2007	137-001-0080	1-1-2008	Amend	11-1-2007
123-065-8200	7-1-2007	Amend	7-1-2007	137-001-0100	1-1-2008	Amend	11-1-2007
123-065-8300	1-8-2007	Amend(T)	2-1-2007	137-003-0001	1-1-2008	Amend	11-1-2007
123-065-8300	7-1-2007	Amend	7-1-2007	137-003-0002	1-1-2008	Amend	11-1-2007
123-065-8400	1-8-2007	Amend(T)	2-1-2007	137-003-0070	1-1-2008	Amend	11-1-2007

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137-003-0075	1-1-2008	Amend	11-1-2007	137-055-1100	1-2-2007	Amend	2-1-2007
137-003-0501	1-1-2008	Amend	11-1-2007	137-055-1120	1-2-2007	Amend	2-1-2007
137-003-0505	1-1-2008	Amend	11-1-2007	137-055-1140	10-1-2007	Amend	11-1-2007
137-003-0510	1-1-2008	Amend	11-1-2007	137-055-1160	1-2-2007	Amend	2-1-2007
137-003-0520	1-1-2008	Amend	11-1-2007	137-055-1160	7-2-2007	Amend	8-1-2007
137-003-0525	1-1-2008	Amend	11-1-2007	137-055-1200	10-1-2007	Amend	11-1-2007
137-003-0595	1-1-2008	Amend	11-1-2007	137-055-1320	1-2-2007	Amend	2-1-2007
137-003-0630	1-1-2008	Amend	11-1-2007	137-055-1500	10-1-2007	Amend	11-1-2007
137-003-0635	11-2-2007	Amend	12-1-2007	137-055-1800	10-1-2007	Adopt	11-1-2007
137-003-0665	1-1-2008	Amend	11-1-2007	137-055-2045	10-1-2007	Amend	11-1-2007
137-003-0670	1-1-2008	Amend	11-1-2007	137-055-2320	10-1-2007	Amend	11-1-2007
137-003-0672	1-1-2008	Amend	11-1-2007	137-055-2340	10-1-2007	Amend	11-1-2007
137-005-0040	1-1-2008	Amend	11-1-2007	137-055-2360	10-1-2007	Amend	11-1-2007
137-007-0200	9-5-2007	Adopt	10-1-2007	137-055-2380	10-1-2007	Amend	11-1-2007
137-007-0210	9-5-2007	Adopt	10-1-2007	137-055-3240	7-2-2007	Amend	8-1-2007
137-007-0220	9-5-2007	Adopt	10-1-2007	137-055-3340	10-1-2007	Amend	11-1-2007
137-007-0230	9-5-2007	Adopt	10-1-2007	137-055-3410	10-1-2007	Amend	11-1-2007
137-007-0240	9-5-2007	Adopt	10-1-2007	137-055-3420	10-1-2007	Amend	11-1-2007
137-007-0250	9-5-2007	Adopt	10-1-2007	137-055-3430	10-1-2007	Amend	11-1-2007
137-007-0260	9-5-2007	Adopt	10-1-2007	137-055-4060	10-1-2007	Amend	11-1-2007
137-007-0270	9-5-2007	Adopt	10-1-2007	137-055-4130	10-1-2007	Amend	11-1-2007
137-007-0280	9-5-2007	Adopt	10-1-2007	137-055-4320	1-2-2007	Amend	2-1-2007
137-007-0300	9-5-2007	Adopt	10-1-2007	137-055-4320	10-1-2007	Amend	11-1-2007
137-007-0310	9-5-2007	Adopt	10-1-2007	137-055-4340	10-1-2007	Amend	11-1-2007
137-007-0320	9-5-2007	Adopt	10-1-2007	137-055-4360	10-1-2007	Amend	11-1-2007
137-007-0330	9-5-2007	Adopt	10-1-2007	137-055-4520	10-1-2007	Amend	11-1-2007
137-025-0060	1-1-2007	Amend	1-1-2007	137-055-4620	10-1-2007	Amend	11-1-2007
137-025-0090	1-1-2007	Amend	1-1-2007	137-055-4620	10-1-2007	Amend(T)	11-1-2007
137-025-0150	1-1-2007	Amend	1-1-2007	137-055-4640	10-1-2007	Amend	11-1-2007
137-025-0210	1-1-2007	Amend	1-1-2007	137-055-5035	4-2-2007	Adopt	5-1-2007
137-025-0280	1-1-2007	Amend	1-1-2007	137-055-5045	10-1-2007	Amend	11-1-2007
137-025-0410	1-1-2007	Amend	1-1-2007	137-055-5110	10-1-2007	Amend	11-1-2007
137-025-0415	1-1-2007	Amend	1-1-2007	137-055-5510	1-2-2007	Amend	2-1-2007
137-025-0480	1-1-2007	Amend	1-1-2007	137-055-6010	1-2-2007	Adopt	2-1-2007
137-025-0530	1-1-2007	Amend	1-1-2007	137-055-6010	10-1-2007	Amend	11-1-2007
137-050-0320	10-1-2007	Amend	11-1-2007	137-055-6020	1-2-2007	Amend	2-1-2007
137-050-0330	10-1-2007	Amend	11-1-2007	137-055-6021	1-2-2007	Amend	2-1-2007
137-050-0333	10-1-2007	Amend	11-1-2007	137-055-6021	10-1-2007	Amend	11-1-2007
137-050-0335	10-1-2007	Amend	11-1-2007	137-055-6022	1-2-2007	Amend	2-1-2007
137-050-0340	10-1-2007	Amend	11-1-2007	137-055-6022	10-1-2007	Amend	11-1-2007
137-050-0350	10-1-2007	Amend	11-1-2007	137-055-6023	10-1-2007	Amend	11-1-2007
137-050-0400	10-1-2007	Amend	11-1-2007	137-055-6024	1-2-2007	Amend	2-1-2007
137-050-0410	10-1-2007	Amend	11-1-2007	137-055-6024	10-1-2007	Amend	11-1-2007
137-050-0420	10-1-2007	Amend	11-1-2007	137-055-6025	1-2-2007	Amend	2-1-2007
137-050-0430	10-1-2007	Amend	11-1-2007	137-055-6025	10-1-2007	Amend	11-1-2007
137-050-0450	10-1-2007	Amend	11-1-2007	137-055-6120	1-2-2007	Amend	2-1-2007
137-050-0455	10-1-2007	Amend	11-1-2007	137-055-6200	10-1-2007	Amend	11-1-2007
137-050-0465	10-1-2007	Amend	11-1-2007	137-055-6210	1-2-2007	Amend	2-1-2007
137-050-0475	10-1-2007	Amend	11-1-2007	137-079-0110	4-16-2007	Adopt	5-1-2007
137-050-0490	10-1-2007	Amend	11-1-2007	137-079-0120	4-16-2007	Adopt	5-1-2007
137-055-1020	1-2-2007	Amend	2-1-2007	137-079-0130	4-16-2007	Adopt	5-1-2007
137-055-1020	7-2-2007	Amend	8-1-2007	137-079-0140	4-16-2007	Adopt	5-1-2007
137-055-1020	10-1-2007	Amend	11-1-2007	137-079-0150	4-16-2007	Adopt	5-1-2007
137-055-1060	10-1-2007	Amend	11-1-2007	137-079-0170	4-16-2007	Adopt	5-1-2007
137-055-1070	10-1-2007	Amend	11-1-2007	137-079-0180	4-16-2007	Adopt	5-1-2007
137-055-1080	10-1-2007	Amend	11-1-2007	137-079-0190	4-16-2007	Adopt	5-1-2007

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137-079-0210	4-16-2007	Adopt	5-1-2007	150-314.415	1-1-2007	Am. & Ren.	2-1-2007
137-084-0500	3-16-2007	Adopt	5-1-2007	150-314.415(1)(a)	1-1-2007	Repeal	2-1-2007
137-097-0160	4-16-2007	Adopt	5-1-2007	150-314.415(5)(a)	1-1-2007	Amend	2-1-2007
141-085-0064	8-1-2007	Amend(T)	9-1-2007	150-314.665(2)-(A)	7-31-2007	Amend	9-1-2007
141-085-0421	3-20-2007	Amend(T)	5-1-2007	150-314.665(2)-(C)	7-31-2007	Adopt	9-1-2007
141-085-0421	10-12-2007	Amend	11-1-2007	150-314.665(3)	1-1-2007	Adopt	2-1-2007
141-089-0450	3-26-2007	Adopt(T)	5-1-2007	150-314.665(4)	1-1-2007	Amend	2-1-2007
141-089-0455	3-26-2007	Adopt(T)	5-1-2007	150-314.724(3)	7-31-2007	Amend	9-1-2007
141-089-0460	3-26-2007	Adopt(T)	5-1-2007	150-315.068	1-1-2007	Amend	2-1-2007
141-089-0465	3-26-2007	Adopt(T)	5-1-2007	150-315.156	1-1-2007	Amend	2-1-2007
141-089-0470	3-26-2007	Adopt(T)	5-1-2007	150-315.511(6)	1-1-2007	Repeal	2-1-2007
141-089-0475	3-26-2007	Adopt(T)	5-1-2007	150-315.521	9-21-2007	Adopt(T)	11-1-2007
141-089-0480	3-26-2007	Adopt(T)	5-1-2007	150-316.007-(B)	1-1-2007	Amend	2-1-2007
141-140-0010	12-1-2007	Adopt	11-1-2007	150-316.153	1-1-2007	Adopt	2-1-2007
141-140-0020	12-1-2007	Adopt	11-1-2007	150-316.162(2)(j)	2-1-2007	Amend	3-1-2007
141-140-0030	12-1-2007	Adopt	11-1-2007	150-316.212	1-1-2007	Amend	2-1-2007
141-140-0040	12-1-2007	Adopt	11-1-2007	150-316.992	7-31-2007	Adopt	9-1-2007
141-140-0050	12-1-2007	Adopt	11-1-2007	150-317.090	11-21-2006	Amend(T)	1-1-2007
141-140-0060	12-1-2007	Adopt	11-1-2007	150-317.090	1-1-2007	Amend	2-1-2007
141-140-0070	12-1-2007	Adopt	11-1-2007	150-317.705(3)(a)	1-1-2007	Amend	2-1-2007
141-140-0080	12-1-2007	Adopt	11-1-2007	150-318.020(2)	1-1-2007	Amend	2-1-2007
141-140-0090	12-1-2007	Adopt	11-1-2007	150-318.060	1-1-2007	Adopt	2-1-2007
141-140-0100	12-1-2007	Adopt	11-1-2007	150-323.160(1)	3-21-2007	Amend(T)	5-1-2007
141-140-0110	12-1-2007	Adopt	11-1-2007	150-323.160(1)	7-31-2007	Amend	9-1-2007
141-140-0120	12-1-2007	Adopt	11-1-2007	150-323.160(2)	7-31-2007	Amend	9-1-2007
141-140-0130	12-1-2007	Adopt	11-1-2007	150-330-123	7-31-2007	Repeal	9-1-2007
150-293.250(2)	10-5-2007	Amend(T)	11-1-2007	150-334.400	1-1-2007	Repeal	2-1-2007
150-294.181	4-5-2007	Adopt(T)	5-1-2007	150-401.794	1-1-2007	Am. & Ren.	2-1-2007
150-294.181	7-31-2007	Adopt	9-1-2007	150-457.450	1-1-2007	Amend	2-1-2007
150-294.181(T)	7-31-2007	Repeal	9-1-2007	150-570.562	7-31-2007	Repeal	9-1-2007
150-305.145	7-31-2007	Amend	9-1-2007	150-670.600	2-1-2007	Adopt	3-1-2007
150-305.145(4)	7-31-2007	Adopt	9-1-2007	150-820.560(9)	7-31-2007	Repeal	9-1-2007
150-305.145(4)(a)	7-31-2007	Repeal	9-1-2007	150-Chapter 00004,	10-5-2007	Adopt(T)	11-1-2007
150-305.145(4)(b)	7-31-2007	Repeal	9-1-2007	Oregon Laws 2007			
150-305.145(4)(c)	7-31-2007	Repeal	9-1-2007	160-100-0010	3-1-2007	Amend	3-1-2007
150-305.217	7-31-2007	Amend	9-1-2007	161-002-0000	1-1-2008	Amend(T)	12-1-2007
150-305.220(1)	1-1-2007	Amend	2-1-2007	161-003-0020	2-9-2007	Amend	3-1-2007
150-305.220(2)	1-1-2007	Amend	2-1-2007	161-003-0020	1-1-2008	Amend	12-1-2007
150-305.230	1-1-2007	Amend	2-1-2007	161-006-0025	7-1-2007	Amend(T)	7-1-2007
150-305.265(1)-(B)	7-31-2007	Amend	9-1-2007	161-006-0025	11-1-2007	Amend	12-1-2007
150-305.265(15)	7-31-2007	Amend	9-1-2007	161-010-0020	2-9-2007	Amend	3-1-2007
150-307.080	1-1-2007	Adopt	2-1-2007	161-010-0025	2-9-2007	Amend	3-1-2007
150-307.475	7-31-2007	Amend	9-1-2007	161-010-0055	1-1-2008	Amend	12-1-2007
150-308.709	7-31-2007	Amend	9-1-2007	161-010-0080	2-9-2007	Amend	3-1-2007
150-308.875-(A)	1-1-2007	Amend	2-1-2007	161-010-0085	2-9-2007	Amend	3-1-2007
150-308A.253	1-1-2007	Amend	2-1-2007	161-010-0085	1-1-2008	Amend	12-1-2007
150-309.024	1-1-2007	Amend	2-1-2007	161-015-0010	2-9-2007	Amend	3-1-2007
150-309.026(2)-(A)	1-1-2007	Amend	2-1-2007	161-015-0030	2-9-2007	Amend	3-1-2007
150-309.067(1)(b)	1-1-2007	Amend	2-1-2007	161-015-0030	1-1-2008	Amend	12-1-2007
150-309.100(2)-(B)	1-1-2007	Amend	2-1-2007	161-020-0110	2-9-2007	Amend	3-1-2007
150-309.100(3)-(C)	1-1-2007	Amend	2-1-2007	161-025-0025	2-9-2007	Amend	3-1-2007
150-311.672(1)(a)	1-1-2007	Amend	2-1-2007	161-025-0025	1-1-2008	Amend	12-1-2007
150-311.708	1-1-2007	Amend	2-1-2007	161-025-0030	2-9-2007	Amend	3-1-2007
150-314.385(1)-(B)	1-1-2007	Amend	2-1-2007	161-025-0040	2-9-2007	Amend	3-1-2007
150-314.385(3)	1-1-2007	Amend	2-1-2007	161-025-0060	1-1-2008	Amend(T)	12-1-2007

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161-050-0000	2-9-2007	Amend	3-1-2007	165-012-0050	12-29-2006	Amend	2-1-2007
161-050-0040	2-9-2007	Amend	3-1-2007	165-012-0230	1-1-2007	Repeal	2-1-2007
162-010-0000	6-30-2007	Amend	7-1-2007	165-012-0240	8-27-2007	Amend	10-1-2007
162-010-0010	6-30-2007	Amend	7-1-2007	165-013-0010	12-29-2006	Amend	2-1-2007
162-010-0020	6-30-2007	Amend	7-1-2007	165-014-0005	5-14-2007	Amend(T)	6-1-2007
162-010-0030	6-30-2007	Amend	7-1-2007	166-150-0065	12-15-2006	Amend	1-1-2007
162-010-0050	6-30-2007	Amend	7-1-2007	166-200-0085	5-8-2007	Amend	6-1-2007
162-010-0115	6-30-2007	Adopt	7-1-2007	166-500-0000	7-31-2007	Amend	9-1-2007
162-010-0140	6-30-2007	Amend	7-1-2007	166-500-0010	7-31-2007	Amend	9-1-2007
162-010-0150	6-30-2007	Amend	7-1-2007	166-500-0015	7-31-2007	Amend	9-1-2007
162-010-0170	6-30-2007	Amend	7-1-2007	166-500-0015	10-1-2007	Amend(T)	11-1-2007
162-010-0180	6-30-2007	Repeal	7-1-2007	166-500-0020	7-31-2007	Amend	9-1-2007
162-010-0190	6-30-2007	Amend	7-1-2007	166-500-0025	7-31-2007	Amend	9-1-2007
162-010-0230	6-30-2007	Amend	7-1-2007	166-500-0030	7-31-2007	Amend	9-1-2007
162-010-0240	6-30-2007	Amend	7-1-2007	166-500-0040	7-31-2007	Amend	9-1-2007
162-010-0260	6-30-2007	Amend	7-1-2007	166-500-0045	7-31-2007	Repeal	9-1-2007
162-010-0280	6-30-2007	Amend	7-1-2007	166-500-0050	7-31-2007	Amend	9-1-2007
162-010-0295	6-30-2007	Amend	7-1-2007	166-500-0055	7-31-2007	Amend	9-1-2007
162-010-0330	6-30-2007	Amend	7-1-2007	170-061-0010	4-27-2007	Repeal	6-1-2007
162-040-0000	6-30-2007	Amend	7-1-2007	177-040-0000	1-1-2007	Amend	2-1-2007
162-040-0005	6-30-2007	Amend	7-1-2007	177-040-0010	3-4-2007	Amend	4-1-2007
162-040-0010	6-30-2007	Amend	7-1-2007	177-040-0017	2-4-2007	Amend	3-1-2007
162-040-0015	6-30-2007	Amend	7-1-2007	177-040-0028	10-14-2007	Amend	11-1-2007
162-040-0020	6-30-2007	Amend	7-1-2007	177-040-0029	10-14-2007	Amend	11-1-2007
162-040-0025	6-30-2007	Repeal	7-1-2007	177-040-0061	2-4-2007	Amend	3-1-2007
162-040-0030	6-30-2007	Repeal	7-1-2007	177-046-0110	11-12-2007	Amend(T)	12-1-2007
162-040-0035	6-30-2007	Repeal	7-1-2007	177-046-0170	11-12-2007	Amend(T)	12-1-2007
162-040-0040	6-30-2007	Repeal	7-1-2007	177-050-0002	11-12-2007	Amend(T)	12-1-2007
162-040-0045	6-30-2007	Repeal	7-1-2007	177-050-0020	11-12-2007	Amend(T)	12-1-2007
162-040-0054	6-30-2007	Adopt	7-1-2007	177-050-0024	11-12-2007	Amend(T)	12-1-2007
162-040-0055	6-30-2007	Amend	7-1-2007	177-050-0025	11-12-2007	Amend(T)	12-1-2007
162-040-0060	6-30-2007	Amend	7-1-2007	177-050-0027	11-12-2007	Amend(T)	12-1-2007
162-040-0065	6-30-2007	Amend	7-1-2007	177-050-0037	11-12-2007	Amend(T)	12-1-2007
162-040-0070	6-30-2007	Amend	7-1-2007	177-050-0070	11-12-2007	Amend(T)	12-1-2007
162-040-0075	6-30-2007	Amend	7-1-2007	213-001-0010	10-15-2007	Adopt(T)	11-1-2007
162-040-0080	6-30-2007	Repeal	7-1-2007	213-004-0001	4-25-2007	Amend	6-1-2007
162-040-0085	6-30-2007	Amend	7-1-2007	250-010-0055	7-2-2007	Amend	8-1-2007
162-040-0090	6-30-2007	Amend	7-1-2007	250-010-0300	7-2-2007	Amend	8-1-2007
162-040-0095	6-30-2007	Amend	7-1-2007	250-010-0320	7-2-2007	Amend	8-1-2007
162-040-0110	6-30-2007	Amend	7-1-2007	250-014-0001	7-1-2007	Amend	1-1-2007
162-040-0115	6-30-2007	Amend	7-1-2007	250-014-0002	7-1-2007	Amend	1-1-2007
162-040-0120	6-30-2007	Amend	7-1-2007	250-014-0003	7-1-2007	Amend	1-1-2007
162-040-0125	6-30-2007	Amend	7-1-2007	250-014-0004	7-1-2007	Amend	1-1-2007
162-040-0130	6-30-2007	Amend	7-1-2007	250-014-0005	7-1-2007	Amend	1-1-2007
162-040-0135	6-30-2007	Amend	7-1-2007	250-014-0010	7-1-2007	Amend	1-1-2007
162-040-0140	6-30-2007	Amend	7-1-2007	250-014-0020	7-1-2007	Amend	1-1-2007
162-040-0146	6-30-2007	Amend	7-1-2007	250-014-0030	7-1-2007	Amend	1-1-2007
162-040-0148	6-30-2007	Amend	7-1-2007	250-014-0040	7-1-2007	Amend	1-1-2007
162-040-0155	6-30-2007	Amend	7-1-2007	250-014-0041	7-1-2007	Amend	1-1-2007
162-040-0160	6-30-2007	Amend	7-1-2007	250-014-0080	7-1-2007	Amend	1-1-2007
165-005-0130	1-1-2007	Amend	2-1-2007	250-015-0006	3-21-2007	Adopt	5-1-2007
165-007-0130	12-29-2006	Amend	2-1-2007	250-015-0023	10-1-2007	Amend	11-1-2007
165-007-2007	7-16-2007	Adopt(T)	9-1-2007	250-015-0027	10-1-2007	Amend	11-1-2007
165-012-0005	1-5-2007	Amend	2-1-2007	250-015-0033	7-2-2007	Amend	8-1-2007
165-012-0005	5-2-2007	Amend(T)	6-1-2007	250-016-0014	7-2-2007	Adopt	8-1-2007
165-012-0005	7-16-2007	Amend(T)	9-1-2007	250-016-0015	10-1-2007	Adopt	11-1-2007

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250-018-0010	3-21-2007	Amend	5-1-2007	257-030-0110(T)	11-22-2006	Repeal	1-1-2007
250-018-0010(T)	3-21-2007	Repeal	5-1-2007	257-030-0120	11-22-2006	Adopt	1-1-2007
250-018-0020	1-9-2007	Amend(T)	2-1-2007	257-030-0120(T)	11-22-2006	Repeal	1-1-2007
250-018-0020	3-21-2007	Amend	5-1-2007	257-030-0130	11-22-2006	Adopt	1-1-2007
250-018-0020(T)	3-21-2007	Repeal	5-1-2007	257-030-0130(T)	11-22-2006	Repeal	1-1-2007
250-018-0040	1-9-2007	Amend(T)	2-1-2007	257-030-0140	11-22-2006	Adopt	1-1-2007
250-018-0040	3-21-2007	Amend	5-1-2007	257-030-0140(T)	11-22-2006	Repeal	1-1-2007
250-018-0040(T)	3-21-2007	Repeal	5-1-2007	257-030-0150	11-22-2006	Adopt	1-1-2007
250-018-0050	1-9-2007	Amend(T)	2-1-2007	257-030-0150(T)	11-22-2006	Repeal	1-1-2007
250-018-0050	3-21-2007	Amend	5-1-2007	257-030-0160	11-22-2006	Adopt	1-1-2007
250-018-0050(T)	3-21-2007	Repeal	5-1-2007	257-030-0160(T)	11-22-2006	Repeal	1-1-2007
250-018-0060	1-9-2007	Amend(T)	2-1-2007	257-030-0170	11-22-2006	Adopt	1-1-2007
250-018-0060	3-21-2007	Amend	5-1-2007	257-030-0170(T)	11-22-2006	Repeal	1-1-2007
250-018-0060(T)	3-21-2007	Repeal	5-1-2007	259-008-0005	1-12-2007	Amend	2-1-2007
250-018-0080	1-9-2007	Amend(T)	2-1-2007	259-008-0010	10-15-2007	Amend	11-1-2007
250-018-0080	3-21-2007	Amend	5-1-2007	259-008-0010	11-1-2007	Amend(T)	12-1-2007
250-018-0080(T)	3-21-2007	Repeal	5-1-2007	259-008-0011	1-12-2007	Amend	2-1-2007
250-018-0090	1-9-2007	Amend(T)	2-1-2007	259-008-0011	10-15-2007	Amend	11-1-2007
250-018-0090	3-21-2007	Amend	5-1-2007	259-008-0025	1-12-2007	Amend	2-1-2007
250-018-0090(T)	3-21-2007	Repeal	5-1-2007	259-008-0064	1-12-2007	Amend	2-1-2007
250-018-0110	1-9-2007	Adopt(T)	2-1-2007	259-008-0065	1-12-2007	Amend	2-1-2007
250-018-0110	3-21-2007	Adopt	5-1-2007	259-008-0065(T)	1-12-2007	Repeal	2-1-2007
250-018-0110(T)	3-21-2007	Repeal	5-1-2007	259-008-0075	8-15-2007	Amend	9-1-2007
250-020-0032	6-18-2007	Amend(T)	8-1-2007	259-008-0076	8-15-2007	Amend	9-1-2007
250-020-0102	7-2-2007	Amend	8-1-2007	259-008-0085	1-12-2007	Amend	2-1-2007
250-020-0161	9-4-2007	Amend(T)	10-1-2007	259-008-0090	10-15-2007	Amend	11-1-2007
250-020-0161	10-1-2007	Amend	11-1-2007	259-008-0100	10-15-2007	Amend	11-1-2007
250-020-0161(T)	10-1-2007	Repeal	11-1-2007	259-009-0005	1-12-2007	Amend	2-1-2007
250-020-0261	5-2-2007	Amend(T)	6-1-2007	259-009-0062	11-20-2006	Amend	1-1-2007
250-020-0290	5-2-2007	Suspend	6-1-2007	259-009-0062	1-12-2007	Amend	2-1-2007
255-032-0022	2-1-2007	Adopt(T)	3-1-2007	259-009-0067	3-14-2007	Amend	4-1-2007
255-032-0022	7-30-2007	Adopt	9-1-2007	259-012-0005	11-20-2006	Amend	1-1-2007
255-032-0025	2-1-2007	Amend(T)	3-1-2007	259-012-0005(T)	11-20-2006	Repeal	1-1-2007
255-032-0025	7-30-2007	Amend	9-1-2007	259-012-0010	11-20-2006	Amend	1-1-2007
255-032-0026	7-30-2007	Adopt	9-1-2007	259-012-0010(T)	11-20-2006	Repeal	1-1-2007
255-032-0027	2-1-2007	Adopt(T)	3-1-2007	259-012-0015	11-20-2006	Repeal	1-1-2007
255-032-0027	7-30-2007	Adopt	9-1-2007	259-012-0020	11-20-2006	Repeal	1-1-2007
255-032-0029	2-1-2007	Adopt(T)	3-1-2007	259-012-0025	11-20-2006	Repeal	1-1-2007
255-032-0029	7-30-2007	Adopt	9-1-2007	259-012-0030	11-20-2006	Repeal	1-1-2007
255-032-0030	2-1-2007	Adopt(T)	3-1-2007	259-012-0035	11-20-2006	Amend	1-1-2007
255-032-0030	7-30-2007	Adopt	9-1-2007	259-012-0035	2-15-2007	Amend(T)	3-1-2007
255-032-0031	2-1-2007	Adopt(T)	3-1-2007	259-012-0035	7-30-2007	Amend	9-1-2007
255-032-0031	7-30-2007	Adopt	9-1-2007	259-012-0035(T)	11-20-2006	Repeal	1-1-2007
255-032-0032	2-1-2007	Adopt(T)	3-1-2007	259-012-0035(T)	7-30-2007	Repeal	9-1-2007
255-032-0032	7-30-2007	Adopt	9-1-2007	259-025-0000	10-15-2007	Amend	11-1-2007
255-060-0016	7-17-2007	Amend	9-1-2007	259-060-0010	2-15-2007	Amend	3-1-2007
255-070-0003	2-1-2007	Amend	3-1-2007	259-060-0010	10-15-2007	Amend	11-1-2007
255-075-0073	7-17-2007	Amend	9-1-2007	259-060-0060	2-15-2007	Amend	3-1-2007
257-030-0060	11-22-2006	Amend	1-1-2007	259-060-0065	2-15-2007	Amend	3-1-2007
257-030-0060(T)	11-22-2006	Repeal	1-1-2007	259-060-0075	2-15-2007	Amend	3-1-2007
257-030-0070	11-22-2006	Amend	1-1-2007	259-060-0080	2-15-2007	Amend	3-1-2007
257-030-0070(T)	11-22-2006	Repeal	1-1-2007	259-060-0090	10-15-2007	Amend	11-1-2007
257-030-0075	11-22-2006	Repeal	1-1-2007	259-060-0092	2-15-2007	Adopt	3-1-2007
257-030-0105	11-22-2006	Adopt	1-1-2007	259-060-0120	2-15-2007	Amend	3-1-2007
257-030-0105(T)	11-22-2006	Repeal	1-1-2007	259-060-0135	2-15-2007	Amend	3-1-2007

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OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
259-060-0150	10-15-2007	Amend	11-1-2007	291-062-0150	10-9-2007	Amend	11-1-2007
259-060-0450	10-15-2007	Amend	11-1-2007	291-100-0008	2-1-2007	Amend	3-1-2007
259-061-0260	5-15-2007	Amend	6-1-2007	291-100-0130	2-1-2007	Amend	3-1-2007
259-070-0010	1-12-2007	Amend	2-1-2007	291-131-0010	8-1-2007	Amend(T)	9-1-2007
274-010-0100	9-28-2007	Amend	11-1-2007	291-131-0015	8-1-2007	Amend(T)	9-1-2007
274-010-0145	9-24-2007	Amend	11-1-2007	291-131-0020	8-1-2007	Amend(T)	9-1-2007
274-010-0170	9-28-2007	Amend	11-1-2007	291-131-0025	8-1-2007	Amend(T)	9-1-2007
274-012-0100	9-28-2007	Amend	11-1-2007	291-143-0010	12-18-2006	Amend(T)	2-1-2007
274-020-0340	9-28-2007	Amend	11-1-2007	291-143-0010	8-17-2007	Amend	10-1-2007
274-020-0355	9-28-2007	Amend	11-1-2007	291-143-0130	12-18-2006	Amend(T)	2-1-2007
274-020-0380	9-28-2007	Amend	11-1-2007	291-143-0130	8-17-2007	Amend	10-1-2007
274-020-0430	9-28-2007	Amend	11-1-2007	291-143-0140	12-18-2006	Amend(T)	2-1-2007
274-020-0440	9-28-2007	Amend	11-1-2007	291-143-0140	8-17-2007	Amend	10-1-2007
274-020-0445	9-28-2007	Amend	11-1-2007	309-012-0065	5-25-2007	Repeal	7-1-2007
274-021-0010	9-28-2007	Amend	11-1-2007	309-012-0070	5-25-2007	Amend	7-1-2007
274-021-0020	9-28-2007	Amend	11-1-2007	309-012-0080	5-25-2007	Repeal	7-1-2007
274-025-0010	9-28-2007	Amend	11-1-2007	309-012-0085	5-25-2007	Repeal	7-1-2007
274-025-0020	9-28-2007	Amend	11-1-2007	309-012-0090	5-25-2007	Repeal	7-1-2007
274-028-0001	9-28-2007	Amend	11-1-2007	309-019-0000	5-11-2007	Repeal	6-1-2007
274-030-0500	7-25-2007	Amend(T)	9-1-2007	309-019-0010	5-11-2007	Repeal	6-1-2007
274-030-0505	7-25-2007	Amend(T)	9-1-2007	309-019-0020	5-11-2007	Repeal	6-1-2007
274-030-0506	7-25-2007	Amend(T)	9-1-2007	309-019-0030	5-11-2007	Repeal	6-1-2007
274-030-0510	7-25-2007	Amend(T)	9-1-2007	309-031-0005	5-11-2007	Repeal	6-1-2007
274-030-0520	7-25-2007	Amend(T)	9-1-2007	309-031-0225	6-27-2007	Repeal	8-1-2007
274-030-0545	7-25-2007	Amend(T)	9-1-2007	309-031-0230	6-27-2007	Repeal	8-1-2007
274-030-0550	7-25-2007	Amend(T)	9-1-2007	309-031-0235	6-27-2007	Repeal	8-1-2007
274-030-0555	7-25-2007	Amend(T)	9-1-2007	309-031-0240	6-27-2007	Repeal	8-1-2007
274-030-0560	7-25-2007	Amend(T)	9-1-2007	309-031-0245	6-27-2007	Repeal	8-1-2007
274-030-0565	7-25-2007	Amend(T)	9-1-2007	309-032-0450	4-24-2007	Repeal	6-1-2007
274-030-0570	7-25-2007	Amend(T)	9-1-2007	309-032-0455	4-24-2007	Amend	6-1-2007
274-030-0575	7-25-2007	Amend(T)	9-1-2007	309-032-0455	8-31-2007	Amend(T)	10-1-2007
274-030-0600	7-25-2007	Amend(T)	9-1-2007	309-032-0455(T)	4-24-2007	Repeal	6-1-2007
274-030-0602	7-25-2007	Adopt(T)	9-1-2007	309-032-0460	4-24-2007	Amend	6-1-2007
274-030-0605	7-25-2007	Suspend	9-1-2007	309-032-0465	4-24-2007	Amend	6-1-2007
274-030-0610	7-25-2007	Amend(T)	9-1-2007	309-032-0470	4-24-2007	Amend	6-1-2007
274-030-0620	7-25-2007	Amend(T)	9-1-2007	309-032-0475	4-24-2007	Amend	6-1-2007
274-030-0630	7-25-2007	Amend(T)	9-1-2007	309-032-0475(T)	4-24-2007	Repeal	6-1-2007
274-030-0640	7-25-2007	Amend(T)	9-1-2007	309-032-0480	4-24-2007	Amend	6-1-2007
274-045-0001	9-28-2007	Amend	11-1-2007	309-032-0480(T)	4-24-2007	Repeal	6-1-2007
274-045-0110	9-28-2007	Amend	11-1-2007	309-032-0485	4-24-2007	Amend	6-1-2007
274-045-0120	9-28-2007	Amend	11-1-2007	309-032-0490	4-24-2007	Amend	6-1-2007
291-001-0020	7-20-2007	Amend	9-1-2007	309-032-0490(T)	4-24-2007	Repeal	6-1-2007
291-001-0025	7-20-2007	Amend	9-1-2007	309-032-0495	4-24-2007	Amend	6-1-2007
291-001-0110	7-20-2007	Adopt	9-1-2007	309-032-0495(T)	4-24-2007	Repeal	6-1-2007
291-017-0005	1-31-2007	Repeal	3-1-2007	309-032-0500	4-24-2007	Amend	6-1-2007
291-017-0010	1-31-2007	Repeal	3-1-2007	309-032-0500(T)	4-24-2007	Repeal	6-1-2007
291-017-0015	1-31-2007	Repeal	3-1-2007	309-032-0505	4-24-2007	Amend	6-1-2007
291-017-0017	1-31-2007	Repeal	3-1-2007	309-032-0505(T)	4-24-2007	Repeal	6-1-2007
291-017-0020	1-31-2007	Repeal	3-1-2007	309-032-0510	4-24-2007	Amend	6-1-2007
291-017-0025	1-31-2007	Repeal	3-1-2007	309-032-0510(T)	4-24-2007	Repeal	6-1-2007
291-039-0025	4-16-2007	Amend	6-1-2007	309-032-0515	4-24-2007	Amend	6-1-2007
291-039-0026	4-16-2007	Repeal	6-1-2007	309-032-0515(T)	4-24-2007	Repeal	6-1-2007
291-039-0035	4-16-2007	Repeal	6-1-2007	309-033-0435	5-25-2007	Amend	7-1-2007
291-062-0110	10-9-2007	Amend	11-1-2007	309-033-0625	5-25-2007	Adopt	7-1-2007
291-062-0130	10-9-2007	Amend	11-1-2007	309-034-0005	6-27-2007	Repeal	8-1-2007
291-062-0140	10-9-2007	Amend	11-1-2007	309-034-0060	7-27-2007	Repeal	9-1-2007

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OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
309-034-0070	7-27-2007	Repeal	9-1-2007	325-010-0000	4-10-2007	Adopt	5-1-2007
309-034-0080	7-27-2007	Repeal	9-1-2007	325-010-0001	4-10-2007	Amend	5-1-2007
309-034-0090	7-27-2007	Repeal	9-1-2007	325-010-0005	4-10-2007	Amend	5-1-2007
309-034-0100	7-27-2007	Repeal	9-1-2007	325-010-0010	4-10-2007	Amend	5-1-2007
309-034-0110	7-27-2007	Repeal	9-1-2007	325-010-0015	4-10-2007	Amend	5-1-2007
309-034-0120	7-27-2007	Repeal	9-1-2007	325-010-0020	4-10-2007	Amend	5-1-2007
309-034-0130	7-27-2007	Repeal	9-1-2007	325-010-0025	4-10-2007	Amend	5-1-2007
309-034-0140	7-27-2007	Repeal	9-1-2007	325-010-0030	4-10-2007	Amend	5-1-2007
309-035-0105	5-25-2007	Amend(T)	7-1-2007	325-010-0035	4-10-2007	Amend	5-1-2007
309-035-0105	8-31-2007	Amend	10-1-2007	325-010-0040	4-10-2007	Amend	5-1-2007
309-035-0105(T)	8-31-2007	Repeal	10-1-2007	325-010-0045	4-10-2007	Amend	5-1-2007
309-035-0260	5-25-2007	Amend(T)	7-1-2007	325-010-0050	4-10-2007	Amend	5-1-2007
309-035-0260	8-31-2007	Amend	10-1-2007	325-010-0055	4-10-2007	Amend	5-1-2007
309-035-0260(T)	8-31-2007	Repeal	10-1-2007	325-010-0060	4-10-2007	Amend	5-1-2007
309-040-0305	5-25-2007	Amend(T)	7-1-2007	325-015-0001	1-1-2007	Adopt	2-1-2007
309-040-0305	8-31-2007	Amend	10-1-2007	325-015-0005	1-1-2007	Adopt	2-1-2007
309-040-0305(T)	8-31-2007	Repeal	10-1-2007	325-015-0010	1-1-2007	Adopt	2-1-2007
309-040-0350	5-4-2007	Adopt(T)	6-1-2007	325-015-0015	1-1-2007	Adopt	2-1-2007
309-040-0350	8-31-2007	Amend	10-1-2007	325-015-0020	1-1-2007	Adopt	2-1-2007
309-040-0350(T)	8-31-2007	Repeal	10-1-2007	325-015-0025	1-1-2007	Adopt	2-1-2007
309-041-0015	7-1-2007	Repeal	8-1-2007	325-015-0030	1-1-2007	Adopt	2-1-2007
309-041-0016	7-1-2007	Repeal	8-1-2007	325-015-0035	1-1-2007	Adopt	2-1-2007
309-041-0017	7-1-2007	Repeal	8-1-2007	325-015-0040	1-1-2007	Adopt	2-1-2007
309-041-0018	7-1-2007	Repeal	8-1-2007	325-015-0045	1-1-2007	Adopt	2-1-2007
309-041-0019	7-1-2007	Repeal	8-1-2007	325-015-0050	1-1-2007	Adopt	2-1-2007
309-041-0020	7-1-2007	Repeal	8-1-2007	325-015-0055	1-1-2007	Adopt	2-1-2007
309-041-0021	7-1-2007	Repeal	8-1-2007	325-015-0060	1-1-2007	Adopt	2-1-2007
309-041-0022	7-1-2007	Repeal	8-1-2007	325-020-0001	3-9-2007	Adopt	4-1-2007
309-041-0023	7-1-2007	Repeal	8-1-2007	325-020-0005	3-9-2007	Adopt	4-1-2007
309-041-0024	7-1-2007	Repeal	8-1-2007	325-020-0010	3-9-2007	Adopt	4-1-2007
309-041-1500	8-20-2007	Renumber	10-1-2007	325-020-0015	3-9-2007	Adopt	4-1-2007
309-041-1510	8-20-2007	Renumber	10-1-2007	325-020-0020	3-9-2007	Adopt	4-1-2007
309-041-1520	8-20-2007	Renumber	10-1-2007	325-020-0025	3-9-2007	Adopt	4-1-2007
309-041-1530	8-20-2007	Renumber	10-1-2007	325-020-0030	3-9-2007	Adopt	4-1-2007
309-041-1540	8-20-2007	Renumber	10-1-2007	325-020-0035	3-9-2007	Adopt	4-1-2007
309-041-1550	8-20-2007	Renumber	10-1-2007	325-020-0040	3-9-2007	Adopt	4-1-2007
309-041-1560	8-20-2007	Renumber	10-1-2007	325-020-0045	3-9-2007	Adopt	4-1-2007
309-041-1570	8-20-2007	Renumber	10-1-2007	325-020-0050	3-9-2007	Adopt	4-1-2007
309-041-1580	8-20-2007	Renumber	10-1-2007	325-020-0055	3-9-2007	Adopt	4-1-2007
309-041-1590	8-20-2007	Renumber	10-1-2007	325-025-0001	5-4-2007	Adopt	6-1-2007
309-041-1600	8-20-2007	Renumber	10-1-2007	325-025-0005	5-4-2007	Adopt	6-1-2007
309-041-1610	8-20-2007	Renumber	10-1-2007	325-025-0010	5-4-2007	Adopt	6-1-2007
309-045-0100	10-7-2007	Renumber	11-1-2007	325-025-0015	5-4-2007	Adopt	6-1-2007
309-045-0110	10-7-2007	Renumber	11-1-2007	325-025-0020	5-4-2007	Adopt	6-1-2007
309-045-0120	10-7-2007	Renumber	11-1-2007	325-025-0025	5-4-2007	Adopt	6-1-2007
309-045-0130	10-7-2007	Renumber	11-1-2007	325-025-0030	5-4-2007	Adopt	6-1-2007
309-045-0140	10-7-2007	Renumber	11-1-2007	325-025-0035	5-4-2007	Adopt	6-1-2007
309-045-0150	10-7-2007	Renumber	11-1-2007	325-025-0040	5-4-2007	Adopt	6-1-2007
309-045-0160	10-7-2007	Renumber	11-1-2007	325-025-0045	5-4-2007	Adopt	6-1-2007
309-045-0170	10-7-2007	Renumber	11-1-2007	325-025-0050	5-4-2007	Adopt	6-1-2007
309-045-0180	10-7-2007	Renumber	11-1-2007	325-025-0055	5-4-2007	Adopt	6-1-2007
309-045-0190	10-7-2007	Renumber	11-1-2007	325-025-0060	5-4-2007	Adopt	6-1-2007
309-045-0200	10-7-2007	Renumber	11-1-2007	330-060-0005	9-1-2007	Amend	10-1-2007
309-045-0210	10-7-2007	Renumber	11-1-2007	330-060-0010	9-1-2007	Amend	10-1-2007
325-001-0001	10-19-2007	Adopt(T)	12-1-2007	330-060-0015	9-1-2007	Amend	10-1-2007
325-005-0015	7-2-2007	Amend	8-1-2007	330-060-0020	9-1-2007	Amend	10-1-2007

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OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
330-060-0040	9-1-2007	Amend	10-1-2007	333-002-0070	11-16-2006	Amend	1-1-2007
330-060-0060	9-1-2007	Amend	10-1-2007	333-002-0080	11-16-2006	Amend	1-1-2007
330-060-0070	9-1-2007	Amend	10-1-2007	333-002-0090	11-16-2006	Amend	1-1-2007
330-060-0075	9-1-2007	Amend	10-1-2007	333-002-0100	11-16-2006	Amend	1-1-2007
330-060-0090	9-1-2007	Repeal	10-1-2007	333-002-0110	11-16-2006	Amend	1-1-2007
330-060-0095	9-1-2007	Amend	10-1-2007	333-002-0120	11-16-2006	Amend	1-1-2007
330-061-0005	9-1-2007	Amend	10-1-2007	333-002-0130	11-16-2006	Amend	1-1-2007
330-061-0010	9-1-2007	Amend	10-1-2007	333-002-0140	11-16-2006	Amend	1-1-2007
330-061-0015	9-1-2007	Amend	10-1-2007	333-002-0150	11-16-2006	Amend	1-1-2007
330-061-0020	9-1-2007	Amend	10-1-2007	333-002-0160	11-16-2006	Amend	1-1-2007
330-061-0025	9-1-2007	Amend	10-1-2007	333-002-0170	11-16-2006	Amend	1-1-2007
330-061-0030	9-1-2007	Amend	10-1-2007	333-002-0210	11-16-2006	Amend	1-1-2007
330-061-0035	9-1-2007	Amend	10-1-2007	333-002-0220	11-16-2006	Amend	1-1-2007
330-061-0040	9-1-2007	Amend	10-1-2007	333-002-0230	11-16-2006	Amend	1-1-2007
330-061-0045	9-1-2007	Amend	10-1-2007	333-004-0000	4-23-2007	Amend	5-1-2007
330-070-0010	1-1-2007	Amend	2-1-2007	333-004-0010	4-1-2007	Amend(T)	4-1-2007
330-070-0013	1-1-2007	Amend	2-1-2007	333-004-0010	4-23-2007	Amend	5-1-2007
330-070-0020	1-1-2007	Amend	2-1-2007	333-004-0010(T)	4-23-2007	Repeal	5-1-2007
330-070-0026	1-1-2007	Amend	2-1-2007	333-004-0020	4-23-2007	Amend	5-1-2007
330-070-0045	1-1-2007	Amend	2-1-2007	333-004-0030	4-23-2007	Amend	5-1-2007
330-070-0059	1-1-2007	Amend	2-1-2007	333-004-0040	4-23-2007	Amend	5-1-2007
330-070-0060	1-1-2007	Amend	2-1-2007	333-004-0050	4-23-2007	Amend	5-1-2007
330-070-0064	1-1-2007	Amend	2-1-2007	333-004-0060	4-23-2007	Amend	5-1-2007
330-070-0070	1-1-2007	Amend	2-1-2007	333-004-0070	4-23-2007	Amend	5-1-2007
330-070-0073	1-1-2007	Amend	2-1-2007	333-004-0080	4-1-2007	Amend(T)	4-1-2007
330-090-0110	12-1-2007	Amend	1-1-2007	333-004-0080	4-23-2007	Amend	5-1-2007
330-120-0005	7-1-2007	Repeal	8-1-2007	333-004-0080(T)	4-23-2007	Repeal	5-1-2007
330-120-0010	7-1-2007	Repeal	8-1-2007	333-004-0090	4-23-2007	Amend	5-1-2007
330-120-0015	7-1-2007	Repeal	8-1-2007	333-004-0100	4-23-2007	Amend	5-1-2007
330-120-0020	7-1-2007	Repeal	8-1-2007	333-004-0110	4-1-2007	Amend(T)	4-1-2007
330-120-0025	7-1-2007	Repeal	8-1-2007	333-004-0110	4-23-2007	Amend	5-1-2007
330-120-0030	7-1-2007	Repeal	8-1-2007	333-004-0110(T)	4-23-2007	Repeal	5-1-2007
330-120-0035	7-1-2007	Repeal	8-1-2007	333-004-0120	4-23-2007	Amend	5-1-2007
330-120-0040	7-1-2007	Repeal	8-1-2007	333-004-0130	4-23-2007	Amend	5-1-2007
331-105-0020	12-1-2006	Amend	1-1-2007	333-004-0140	4-23-2007	Amend	5-1-2007
331-105-0030	12-1-2006	Amend	1-1-2007	333-004-0150	4-23-2007	Amend	5-1-2007
331-110-0005	12-1-2006	Amend	1-1-2007	333-004-0160	4-23-2007	Amend	5-1-2007
331-110-0010	12-1-2006	Amend	1-1-2007	333-004-0170	4-23-2007	Amend	5-1-2007
331-110-0055	12-1-2006	Amend	1-1-2007	333-004-0180	4-23-2007	Amend	5-1-2007
331-120-0000	12-1-2006	Amend	1-1-2007	333-004-0190	4-23-2007	Amend	5-1-2007
331-120-0020	12-1-2006	Amend	1-1-2007	333-010-0600	4-13-2007	Adopt	5-1-2007
331-125-0010	12-1-2006	Amend	1-1-2007	333-010-0610	4-13-2007	Adopt	5-1-2007
331-135-0000	12-1-2006	Amend	1-1-2007	333-010-0620	4-13-2007	Adopt	5-1-2007
331-505-0010	4-1-2007	Amend	5-1-2007	333-010-0630	4-13-2007	Adopt	5-1-2007
331-550-0000	4-1-2007	Amend	5-1-2007	333-010-0640	4-13-2007	Adopt	5-1-2007
331-555-0010	4-1-2007	Amend	5-1-2007	333-010-0650	4-13-2007	Adopt	5-1-2007
331-565-0030	4-1-2007	Amend	5-1-2007	333-010-0660	4-13-2007	Adopt	5-1-2007
331-565-0060	4-1-2007	Amend	5-1-2007	333-011-0200	12-1-2006	Adopt	1-1-2007
331-565-0085	4-1-2007	Adopt	5-1-2007	333-012-0270	1-16-2007	Amend	3-1-2007
331-575-0040	4-1-2007	Amend	5-1-2007	333-018-0005	1-16-2007	Amend	3-1-2007
331-715-0030	4-1-2007	Amend	5-1-2007	333-018-0015	8-22-2007	Amend(T)	10-1-2007
333-001-0010	6-1-2007	Repeal	7-1-2007	333-018-0015	11-7-2007	Amend	12-1-2007
333-002-0010	11-16-2006	Amend	1-1-2007	333-018-0015(T)	11-7-2007	Repeal	12-1-2007
333-002-0035	11-16-2006	Amend	1-1-2007	333-018-0018	12-18-2006	Amend	1-1-2007
333-002-0040	11-16-2006	Amend	1-1-2007	333-018-0030	1-16-2007	Amend	3-1-2007
333-002-0050	11-16-2006	Amend	1-1-2007	333-030-0005	7-13-2007	Amend	8-1-2007

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OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
333-030-0010	7-13-2007	Amend	8-1-2007	333-060-0105	7-13-2007	Amend	8-1-2007
333-030-0015	7-13-2007	Amend	8-1-2007	333-060-0170	7-13-2007	Amend	8-1-2007
333-030-0020	7-13-2007	Amend	8-1-2007	333-060-0206	7-13-2007	Adopt	8-1-2007
333-030-0025	7-13-2007	Amend	8-1-2007	333-060-0207	7-13-2007	Adopt	8-1-2007
333-030-0030	7-13-2007	Amend	8-1-2007	333-060-0208	7-13-2007	Adopt	8-1-2007
333-030-0035	7-13-2007	Amend	8-1-2007	333-060-0209	7-13-2007	Adopt	8-1-2007
333-030-0040	7-13-2007	Amend	8-1-2007	333-060-0210	7-13-2007	Amend	8-1-2007
333-030-0045	7-13-2007	Amend	8-1-2007	333-060-0215	7-13-2007	Amend	8-1-2007
333-030-0050	7-13-2007	Amend	8-1-2007	333-100-0001	3-1-2007	Amend	4-1-2007
333-030-0055	7-13-2007	Amend	8-1-2007	333-100-0005	3-1-2007	Amend	4-1-2007
333-030-0060	7-13-2007	Amend	8-1-2007	333-100-0010	3-1-2007	Amend	4-1-2007
333-030-0065	7-13-2007	Amend	8-1-2007	333-100-0015	3-1-2007	Amend	4-1-2007
333-030-0070	7-13-2007	Amend	8-1-2007	333-100-0020	3-1-2007	Amend	4-1-2007
333-030-0075	7-13-2007	Amend	8-1-2007	333-100-0025	3-1-2007	Amend	4-1-2007
333-030-0080	7-13-2007	Amend	8-1-2007	333-100-0030	3-1-2007	Amend	4-1-2007
333-030-0085	7-13-2007	Amend	8-1-2007	333-100-0035	3-1-2007	Amend	4-1-2007
333-030-0090	7-13-2007	Amend	8-1-2007	333-100-0040	3-1-2007	Amend	4-1-2007
333-030-0095	7-13-2007	Amend	8-1-2007	333-100-0045	3-1-2007	Amend	4-1-2007
333-030-0100	7-13-2007	Amend	8-1-2007	333-100-0050	3-1-2007	Amend	4-1-2007
333-030-0103	7-13-2007	Adopt	8-1-2007	333-100-0055	3-1-2007	Amend	4-1-2007
333-030-0105	7-13-2007	Amend	8-1-2007	333-100-0057	3-1-2007	Amend	4-1-2007
333-030-0110	7-13-2007	Amend	8-1-2007	333-100-0060	3-1-2007	Amend	4-1-2007
333-030-0115	7-13-2007	Amend	8-1-2007	333-100-0065	3-1-2007	Amend	4-1-2007
333-030-0120	7-13-2007	Amend	8-1-2007	333-100-0070	3-1-2007	Amend	4-1-2007
333-030-0125	7-13-2007	Amend	8-1-2007	333-100-0080	3-1-2007	Amend	4-1-2007
333-030-0130	7-13-2007	Amend	8-1-2007	333-102-0001	3-1-2007	Amend	4-1-2007
333-039-0015	6-20-2007	Amend	8-1-2007	333-102-0005	3-1-2007	Amend	4-1-2007
333-039-0055	6-20-2007	Amend	8-1-2007	333-102-0010	3-1-2007	Amend	4-1-2007
333-050-0010	9-27-2007	Amend	11-1-2007	333-102-0015	3-1-2007	Amend	4-1-2007
333-050-0020	9-27-2007	Amend	11-1-2007	333-102-0020	3-1-2007	Amend	4-1-2007
333-050-0030	9-27-2007	Amend	11-1-2007	333-102-0025	3-1-2007	Amend	4-1-2007
333-050-0040	9-27-2007	Amend	11-1-2007	333-102-0030	3-1-2007	Amend	4-1-2007
333-050-0050	9-27-2007	Amend	11-1-2007	333-102-0035	3-1-2007	Amend	4-1-2007
333-050-0060	9-27-2007	Amend	11-1-2007	333-102-0040	3-1-2007	Amend	4-1-2007
333-050-0070	9-27-2007	Amend	11-1-2007	333-102-0045	3-1-2007	Amend	4-1-2007
333-050-0080	9-27-2007	Amend	11-1-2007	333-102-0075	3-1-2007	Amend	4-1-2007
333-050-0090	9-27-2007	Amend	11-1-2007	333-102-0101	3-1-2007	Amend	4-1-2007
333-050-0095	9-27-2007	Amend	11-1-2007	333-102-0103	3-1-2007	Amend	4-1-2007
333-050-0100	9-27-2007	Amend	11-1-2007	333-102-0105	3-1-2007	Amend	4-1-2007
333-050-0110	9-27-2007	Amend	11-1-2007	333-102-0110	3-1-2007	Amend	4-1-2007
333-050-0115	9-27-2007	Amend	11-1-2007	333-102-0115	3-1-2007	Amend	4-1-2007
333-050-0120	9-27-2007	Amend	11-1-2007	333-102-0120	3-1-2007	Amend	4-1-2007
333-050-0130	9-27-2007	Amend	11-1-2007	333-102-0125	3-1-2007	Amend	4-1-2007
333-050-0140	9-27-2007	Amend	11-1-2007	333-102-0130	3-1-2007	Amend	4-1-2007
333-054-0000	12-27-2006	Amend	2-1-2007	333-102-0135	3-1-2007	Amend	4-1-2007
333-054-0010	12-27-2006	Amend	2-1-2007	333-102-0190	3-1-2007	Amend	4-1-2007
333-054-0020	12-27-2006	Amend	2-1-2007	333-102-0200	3-1-2007	Amend	4-1-2007
333-054-0020(T)	12-27-2006	Repeal	2-1-2007	333-102-0203	3-1-2007	Amend	4-1-2007
333-054-0025	12-27-2006	Adopt	2-1-2007	333-102-0235	3-1-2007	Amend	4-1-2007
333-054-0030	12-27-2006	Amend	2-1-2007	333-102-0245	3-1-2007	Amend	4-1-2007
333-054-0030(T)	12-27-2006	Repeal	2-1-2007	333-102-0247	3-1-2007	Amend	4-1-2007
333-054-0040	12-27-2006	Amend	2-1-2007	333-102-0250	3-1-2007	Amend	4-1-2007
333-054-0050	12-27-2006	Amend	2-1-2007	333-102-0255	3-1-2007	Amend	4-1-2007
333-054-0060	12-27-2006	Amend	2-1-2007	333-102-0260	3-1-2007	Amend	4-1-2007
333-054-0070	12-27-2006	Amend	2-1-2007	333-102-0265	3-1-2007	Amend	4-1-2007
333-060-0015	7-13-2007	Amend	8-1-2007	333-102-0270	3-1-2007	Amend	4-1-2007
333-060-0020	12-13-2006	Amend	1-1-2007	333-102-0275	3-1-2007	Amend	4-1-2007

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OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
335-070-0020	2-1-2007	Amend	3-1-2007	340-204-0030	4-12-2007	Amend	5-1-2007
335-070-0030	2-1-2007	Amend	3-1-2007	340-204-0030	6-28-2007	Amend	8-1-2007
335-070-0040	2-1-2007	Amend	3-1-2007	340-204-0040	4-12-2007	Amend	5-1-2007
335-070-0050	2-1-2007	Amend	3-1-2007	340-204-0040	6-28-2007	Amend	8-1-2007
335-070-0055	2-1-2007	Amend	3-1-2007	340-208-0010	11-8-2007	Amend	12-1-2007
335-095-0050	2-1-2007	Amend	3-1-2007	340-208-0110	11-8-2007	Amend	12-1-2007
335-095-0060	2-1-2007	Amend	3-1-2007	340-208-0500	11-8-2007	Amend	12-1-2007
337-010-0010	1-1-2007	Amend	1-1-2007	340-208-0510	11-8-2007	Amend	12-1-2007
337-010-0011	1-1-2007	Adopt	1-1-2007	340-208-0560	11-8-2007	Repeal	12-1-2007
337-010-0012	1-1-2007	Amend	1-1-2007	340-208-0630	11-8-2007	Repeal	12-1-2007
337-010-0030	1-1-2007	Amend	1-1-2007	340-209-0040	11-8-2007	Amend	12-1-2007
337-010-0031	1-1-2007	Amend	1-1-2007	340-209-0070	11-8-2007	Amend	12-1-2007
337-010-0055	1-1-2007	Amend	1-1-2007	340-209-0080	11-8-2007	Amend	12-1-2007
339-005-0000	8-1-2007	Amend	9-1-2007	340-214-0010	11-8-2007	Amend	12-1-2007
339-010-0005	8-1-2007	Amend	9-1-2007	340-214-0300	11-8-2007	Amend	12-1-2007
339-010-0040	12-28-2006	Amend	2-1-2007	340-214-0310	11-8-2007	Amend	12-1-2007
339-010-0055	12-28-2006	Amend	2-1-2007	340-214-0320	11-8-2007	Amend	12-1-2007
340-041-0002	3-15-2007	Amend	4-1-2007	340-214-0330	11-8-2007	Amend	12-1-2007
340-041-0004	3-15-2007	Amend	4-1-2007	340-214-0340	11-8-2007	Amend	12-1-2007
340-041-0007	3-15-2007	Amend	4-1-2007	340-214-0350	11-8-2007	Amend	12-1-2007
340-041-0016	3-15-2007	Amend	4-1-2007	340-214-0360	11-8-2007	Amend	12-1-2007
340-041-0021	3-15-2007	Amend	4-1-2007	340-216-0020	10-18-2007	Amend	12-1-2007
340-041-0028	3-14-2007	Amend	4-1-2007	340-216-0020	11-8-2007	Amend	12-1-2007
340-041-0028	3-15-2007	Amend	4-1-2007	340-216-0056	11-8-2007	Amend	12-1-2007
340-041-0032	3-15-2007	Amend	4-1-2007	340-216-0060	11-8-2007	Amend	12-1-2007
340-041-0046	3-15-2007	Amend	4-1-2007	340-216-0082	11-8-2007	Amend	12-1-2007
340-041-0053	3-14-2007	Amend	4-1-2007	340-218-0010	11-8-2007	Amend	12-1-2007
340-041-0053	3-15-2007	Amend	4-1-2007	340-218-0020	11-8-2007	Amend	12-1-2007
340-041-0104	3-15-2007	Amend	4-1-2007	340-218-0040	11-8-2007	Amend	12-1-2007
340-041-0121	3-15-2007	Amend	4-1-2007	340-218-0050	8-17-2007	Amend(T)	10-1-2007
340-041-0175	3-15-2007	Amend	4-1-2007	340-218-0050	11-8-2007	Amend	12-1-2007
340-041-0180	3-15-2007	Amend	4-1-2007	340-218-0120	11-8-2007	Amend	12-1-2007
340-041-0185	3-14-2007	Amend	4-1-2007	340-218-0150	11-8-2007	Amend	12-1-2007
340-041-0195	3-14-2007	Amend	4-1-2007	340-218-0180	11-8-2007	Amend	12-1-2007
340-041-0201	3-15-2007	Amend	4-1-2007	340-218-0190	11-8-2007	Amend	12-1-2007
340-041-0235	3-15-2007	Amend	4-1-2007	340-218-0250	11-8-2007	Amend	12-1-2007
340-041-0260	3-15-2007	Amend	4-1-2007	340-220-0010	8-17-2007	Amend(T)	10-1-2007
340-041-0271	3-15-2007	Amend	4-1-2007	340-220-0020	8-17-2007	Amend(T)	10-1-2007
340-041-0300	3-15-2007	Amend	4-1-2007	340-220-0030	8-17-2007	Amend(T)	10-1-2007
340-041-0315	3-15-2007	Amend	4-1-2007	340-220-0040	8-17-2007	Amend(T)	10-1-2007
340-041-0320	3-15-2007	Amend	4-1-2007	340-220-0050	8-17-2007	Amend(T)	10-1-2007
340-041-0340	3-15-2007	Amend	4-1-2007	340-220-0060	8-17-2007	Amend(T)	10-1-2007
340-041-0345	3-15-2007	Amend	4-1-2007	340-220-0070	8-17-2007	Amend(T)	10-1-2007
340-041-0350	3-15-2007	Amend	4-1-2007	340-220-0090	8-17-2007	Amend(T)	10-1-2007
340-045-0075	7-3-2007	Amend	8-1-2007	340-220-0100	8-17-2007	Amend(T)	10-1-2007
340-071-0130	7-3-2007	Amend	8-1-2007	340-220-0110	8-17-2007	Amend(T)	10-1-2007
340-200-0010	11-8-2007	Amend	12-1-2007	340-220-0120	8-17-2007	Amend(T)	10-1-2007
340-200-0020	8-17-2007	Amend(T)	10-1-2007	340-220-0150	8-17-2007	Amend(T)	10-1-2007
340-200-0020	11-8-2007	Amend	12-1-2007	340-220-0170	8-17-2007	Amend(T)	10-1-2007
340-200-0025	4-12-2007	Amend	5-1-2007	340-224-0050	4-12-2007	Amend	5-1-2007
340-200-0025	11-8-2007	Amend	12-1-2007	340-224-0060	4-12-2007	Amend	5-1-2007
340-200-0040	4-12-2007	Amend	5-1-2007	340-225-0090	4-12-2007	Amend	5-1-2007
340-200-0040	6-28-2007	Amend	8-1-2007	340-228-0020	11-8-2007	Amend	12-1-2007
340-200-0040	11-8-2007	Amend	12-1-2007	340-228-0200	11-8-2007	Amend	12-1-2007
340-202-0090	4-12-2007	Amend	5-1-2007	340-228-0210	11-8-2007	Amend	12-1-2007
340-204-0010	4-12-2007	Amend	5-1-2007	340-228-0300	12-22-2006	Amend	2-1-2007

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OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
340-228-0600	12-22-2006	Adopt	2-1-2007	340-230-0220	11-8-2007	Amend	12-1-2007
340-228-0602	12-22-2006	Adopt	2-1-2007	340-230-0230	11-8-2007	Amend	12-1-2007
340-228-0603	12-22-2006	Adopt	2-1-2007	340-232-0010	4-12-2007	Amend	5-1-2007
340-228-0604	12-22-2006	Adopt	2-1-2007	340-232-0010	11-8-2007	Amend	12-1-2007
340-228-0605	12-22-2006	Adopt	2-1-2007	340-232-0020	4-12-2007	Amend	5-1-2007
340-228-0606	12-22-2006	Adopt	2-1-2007	340-234-0010	11-8-2007	Amend	12-1-2007
340-228-0608	12-22-2006	Adopt	2-1-2007	340-234-0100	11-8-2007	Amend	12-1-2007
340-228-0610	12-22-2006	Adopt	2-1-2007	340-234-0110	11-8-2007	Repeal	12-1-2007
340-228-0612	12-22-2006	Adopt	2-1-2007	340-234-0120	11-8-2007	Repeal	12-1-2007
340-228-0614	12-22-2006	Adopt	2-1-2007	340-234-0130	11-8-2007	Repeal	12-1-2007
340-228-0616	12-22-2006	Adopt	2-1-2007	340-234-0140	11-8-2007	Amend	12-1-2007
340-228-0618	12-22-2006	Adopt	2-1-2007	340-234-0210	11-8-2007	Amend	12-1-2007
340-228-0620	12-22-2006	Adopt	2-1-2007	340-234-0220	11-8-2007	Amend	12-1-2007
340-228-0622	12-22-2006	Adopt	2-1-2007	340-234-0230	11-8-2007	Repeal	12-1-2007
340-228-0624	12-22-2006	Adopt	2-1-2007	340-234-0240	11-8-2007	Amend	12-1-2007
340-228-0626	12-22-2006	Adopt	2-1-2007	340-234-0250	11-8-2007	Amend	12-1-2007
340-228-0628	12-22-2006	Adopt	2-1-2007	340-234-0260	11-8-2007	Repeal	12-1-2007
340-228-0630	12-22-2006	Adopt	2-1-2007	340-234-0500	11-8-2007	Amend	12-1-2007
340-228-0632	12-22-2006	Adopt	2-1-2007	340-234-0510	11-8-2007	Amend	12-1-2007
340-228-0634	12-22-2006	Adopt	2-1-2007	340-234-0520	11-8-2007	Amend	12-1-2007
340-228-0636	12-22-2006	Adopt	2-1-2007	340-234-0530	11-8-2007	Amend	12-1-2007
340-228-0638	12-22-2006	Adopt	2-1-2007	340-236-0010	11-8-2007	Amend	12-1-2007
340-228-0640	12-22-2006	Adopt	2-1-2007	340-236-0410	11-8-2007	Amend	12-1-2007
340-228-0642	12-22-2006	Adopt	2-1-2007	340-238-0040	12-22-2006	Amend	2-1-2007
340-228-0644	12-22-2006	Adopt	2-1-2007	340-238-0060	12-22-2006	Amend	2-1-2007
340-228-0646	12-22-2006	Adopt	2-1-2007	340-242-0010	4-12-2007	Amend	5-1-2007
340-228-0648	12-22-2006	Adopt	2-1-2007	340-242-0020	4-12-2007	Amend	5-1-2007
340-228-0650	12-22-2006	Adopt	2-1-2007	340-242-0030	4-12-2007	Amend	5-1-2007
340-228-0652	12-22-2006	Adopt	2-1-2007	340-242-0040	4-12-2007	Amend	5-1-2007
340-228-0654	12-22-2006	Adopt	2-1-2007	340-242-0050	4-12-2007	Amend	5-1-2007
340-228-0656	12-22-2006	Adopt	2-1-2007	340-242-0070	4-12-2007	Amend	5-1-2007
340-228-0658	12-22-2006	Adopt	2-1-2007	340-242-0080	4-12-2007	Amend	5-1-2007
340-228-0660	12-22-2006	Adopt	2-1-2007	340-242-0090	4-12-2007	Amend	5-1-2007
340-228-0662	12-22-2006	Adopt	2-1-2007	340-242-0100	4-12-2007	Repeal	5-1-2007
340-228-0664	12-22-2006	Adopt	2-1-2007	340-242-0110	4-12-2007	Amend	5-1-2007
340-228-0666	12-22-2006	Adopt	2-1-2007	340-242-0120	4-12-2007	Amend	5-1-2007
340-228-0668	12-22-2006	Adopt	2-1-2007	340-242-0130	4-12-2007	Repeal	5-1-2007
340-228-0670	12-22-2006	Adopt	2-1-2007	340-242-0160	4-12-2007	Amend	5-1-2007
340-228-0671	12-22-2006	Adopt	2-1-2007	340-242-0180	4-12-2007	Amend	5-1-2007
340-228-0672	12-22-2006	Adopt	2-1-2007	340-242-0190	4-12-2007	Amend	5-1-2007
340-228-0672	11-8-2007	Amend	12-1-2007	340-242-0200	4-12-2007	Amend	5-1-2007
340-228-0673	12-22-2006	Adopt	2-1-2007	340-242-0210	4-12-2007	Amend	5-1-2007
340-228-0673	11-8-2007	Amend	12-1-2007	340-242-0220	4-12-2007	Amend	5-1-2007
340-228-0674	12-22-2006	Adopt	2-1-2007	340-242-0240	4-12-2007	Amend	5-1-2007
340-228-0674	11-8-2007	Amend	12-1-2007	340-242-0260	4-12-2007	Amend	5-1-2007
340-228-0676	12-22-2006	Adopt	2-1-2007	340-242-0270	4-12-2007	Amend	5-1-2007
340-228-0676	11-8-2007	Amend	12-1-2007	340-242-0280	4-12-2007	Amend	5-1-2007
340-228-0678	12-22-2006	Adopt	2-1-2007	340-242-0290	4-12-2007	Amend	5-1-2007
340-228-0678	11-8-2007	Amend	12-1-2007	340-242-0400	4-12-2007	Amend	5-1-2007
340-230-0020	11-8-2007	Amend	12-1-2007	340-242-0410	4-12-2007	Amend	5-1-2007
340-230-0030	11-8-2007	Amend	12-1-2007	340-242-0420	4-12-2007	Amend	5-1-2007
340-230-0100	11-8-2007	Amend	12-1-2007	340-242-0430	4-12-2007	Amend	5-1-2007
340-230-0110	11-8-2007	Amend	12-1-2007	340-242-0440	4-12-2007	Amend	5-1-2007
340-230-0150	11-8-2007	Amend	12-1-2007	340-244-0030	12-22-2006	Amend	2-1-2007
340-230-0200	11-8-2007	Amend	12-1-2007	340-244-0040	12-22-2006	Amend	2-1-2007
340-230-0210	11-8-2007	Amend	12-1-2007	345-001-0000	5-15-2007	Amend	6-1-2007

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OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
345-001-0005	5-15-2007	Amend	6-1-2007	345-022-0000	5-15-2007	Amend	6-1-2007
345-001-0010	5-15-2007	Amend	6-1-2007	345-022-0020	5-15-2007	Amend	6-1-2007
345-001-0020	5-15-2007	Amend	6-1-2007	345-022-0022	5-15-2007	Amend	6-1-2007
345-001-0040	5-15-2007	Repeal	6-1-2007	345-022-0040	5-15-2007	Amend	6-1-2007
345-001-0050	5-15-2007	Amend	6-1-2007	345-022-0060	5-15-2007	Amend	6-1-2007
345-001-0060	5-15-2007	Amend	6-1-2007	345-022-0070	5-15-2007	Amend	6-1-2007
345-001-0090	5-15-2007	Repeal	6-1-2007	345-022-0080	5-15-2007	Amend	6-1-2007
345-011-0005	5-15-2007	Amend	6-1-2007	345-022-0090	5-15-2007	Amend	6-1-2007
345-011-0010	5-15-2007	Amend	6-1-2007	345-022-0120	5-15-2007	Amend	6-1-2007
345-011-0015	5-15-2007	Amend	6-1-2007	345-023-0005	5-15-2007	Amend	6-1-2007
345-011-0020	5-15-2007	Amend	6-1-2007	345-023-0020	5-15-2007	Amend	6-1-2007
345-011-0025	5-15-2007	Amend	6-1-2007	345-024-0010	5-15-2007	Amend	6-1-2007
345-011-0035	5-15-2007	Amend	6-1-2007	345-024-0015	5-15-2007	Amend	6-1-2007
345-011-0045	5-15-2007	Amend	6-1-2007	345-024-0030	5-15-2007	Amend	6-1-2007
345-011-0050	5-15-2007	Amend	6-1-2007	345-024-0090	5-15-2007	Amend	6-1-2007
345-011-0055	5-15-2007	Amend	6-1-2007	345-024-0550	5-15-2007	Amend	6-1-2007
345-015-0001	5-15-2007	Amend	6-1-2007	345-024-0580	5-15-2007	Amend	6-1-2007
345-015-0014	5-15-2007	Amend	6-1-2007	345-024-0590	5-15-2007	Amend	6-1-2007
345-015-0016	5-15-2007	Amend	6-1-2007	345-024-0600	5-15-2007	Amend	6-1-2007
345-015-0023	5-15-2007	Amend	6-1-2007	345-024-0620	5-15-2007	Amend	6-1-2007
345-015-0046	5-15-2007	Amend	6-1-2007	345-024-0630	5-15-2007	Amend	6-1-2007
345-015-0051	5-15-2007	Amend	6-1-2007	345-024-0650	5-15-2007	Repeal	6-1-2007
345-015-0080	5-15-2007	Amend	6-1-2007	345-024-0680	5-15-2007	Amend	6-1-2007
345-015-0083	5-15-2007	Amend	6-1-2007	345-024-0720	5-15-2007	Amend	6-1-2007
345-015-0085	5-15-2007	Amend	6-1-2007	345-026-0005	5-15-2007	Amend	6-1-2007
345-015-0110	5-15-2007	Amend	6-1-2007	345-026-0010	5-15-2007	Amend	6-1-2007
345-015-0120	5-15-2007	Amend	6-1-2007	345-026-0048	5-15-2007	Amend	6-1-2007
345-015-0130	5-15-2007	Amend	6-1-2007	345-026-0050	5-15-2007	Amend	6-1-2007
345-015-0140	5-15-2007	Amend	6-1-2007	345-026-0080	5-15-2007	Amend	6-1-2007
345-015-0160	5-15-2007	Amend	6-1-2007	345-026-0100	5-15-2007	Repeal	6-1-2007
345-015-0180	5-15-2007	Amend	6-1-2007	345-026-0105	5-15-2007	Amend	6-1-2007
345-015-0190	5-15-2007	Amend	6-1-2007	345-026-0200	5-15-2007	Repeal	6-1-2007
345-015-0200	5-15-2007	Amend	6-1-2007	345-026-0390	5-15-2007	Amend	6-1-2007
345-015-0210	5-15-2007	Amend	6-1-2007	345-027-0000	5-15-2007	Amend	6-1-2007
345-015-0220	5-15-2007	Amend	6-1-2007	345-027-0020	5-15-2007	Amend	6-1-2007
345-015-0230	5-15-2007	Amend	6-1-2007	345-027-0023	5-15-2007	Amend	6-1-2007
345-015-0240	5-15-2007	Amend	6-1-2007	345-027-0028	5-15-2007	Amend	6-1-2007
345-015-0300	5-15-2007	Amend	6-1-2007	345-027-0030	5-15-2007	Amend	6-1-2007
345-015-0310	5-15-2007	Amend	6-1-2007	345-027-0050	5-15-2007	Amend	6-1-2007
345-015-0320	5-15-2007	Amend	6-1-2007	345-027-0060	5-15-2007	Amend	6-1-2007
345-015-0350	5-15-2007	Amend	6-1-2007	345-027-0070	5-15-2007	Amend	6-1-2007
345-015-0360	5-15-2007	Amend	6-1-2007	345-027-0080	5-15-2007	Amend	6-1-2007
345-015-0370	5-15-2007	Amend	6-1-2007	345-027-0090	5-15-2007	Amend	6-1-2007
345-015-0380	5-15-2007	Amend	6-1-2007	345-027-0095	5-15-2007	Repeal	6-1-2007
345-020-0006	5-15-2007	Amend	6-1-2007	345-027-0100	5-15-2007	Amend	6-1-2007
345-020-0011	5-15-2007	Amend	6-1-2007	345-027-0110	5-15-2007	Amend	6-1-2007
345-020-0016	5-15-2007	Amend	6-1-2007	345-027-0210	5-15-2007	Amend	6-1-2007
345-020-0040	5-15-2007	Amend	6-1-2007	345-027-0220	5-15-2007	Amend	6-1-2007
345-020-0060	5-15-2007	Amend	6-1-2007	345-027-0230	5-15-2007	Amend	6-1-2007
345-021-0000	5-15-2007	Amend	6-1-2007	345-027-0240	5-15-2007	Amend	6-1-2007
345-021-0010	5-15-2007	Amend	6-1-2007	345-029-0000	5-15-2007	Amend	6-1-2007
345-021-0050	5-15-2007	Amend	6-1-2007	345-029-0005	5-15-2007	Amend	6-1-2007
345-021-0055	5-15-2007	Amend	6-1-2007	345-029-0010	5-15-2007	Amend	6-1-2007
345-021-0080	5-15-2007	Amend	6-1-2007	345-029-0020	5-15-2007	Amend	6-1-2007
345-021-0090	5-15-2007	Amend	6-1-2007	345-029-0030	5-15-2007	Amend	6-1-2007
345-021-0100	5-15-2007	Amend	6-1-2007	345-029-0050	5-15-2007	Amend	6-1-2007

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OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
345-029-0060	5-15-2007	Amend	6-1-2007	345-092-0100	5-15-2007	Repeal	6-1-2007
345-029-0070	5-15-2007	Amend	6-1-2007	345-092-0110	5-15-2007	Amend	6-1-2007
345-029-0100	5-15-2007	Amend	6-1-2007	345-095-0005	5-15-2007	Amend	6-1-2007
345-030-0005	5-15-2007	Amend	6-1-2007	345-095-0010	5-15-2007	Repeal	6-1-2007
345-030-0010	5-15-2007	Amend	6-1-2007	345-095-0015	5-15-2007	Amend	6-1-2007
345-050-0010	5-15-2007	Amend	6-1-2007	345-095-0017	5-15-2007	Repeal	6-1-2007
345-050-0030	5-15-2007	Amend	6-1-2007	345-095-0020	5-15-2007	Amend	6-1-2007
345-050-0035	5-15-2007	Amend	6-1-2007	345-095-0025	5-15-2007	Repeal	6-1-2007
345-050-0036	5-15-2007	Amend	6-1-2007	345-095-0040	5-15-2007	Amend	6-1-2007
345-050-0038	5-15-2007	Adopt	6-1-2007	345-095-0045	5-15-2007	Amend	6-1-2007
345-050-0050	5-15-2007	Amend	6-1-2007	345-095-0060	5-15-2007	Amend	6-1-2007
345-050-0070	5-15-2007	Amend	6-1-2007	345-095-0070	5-15-2007	Amend	6-1-2007
345-050-0120	5-15-2007	Amend	6-1-2007	345-095-0080	5-15-2007	Amend	6-1-2007
345-060-0001	5-15-2007	Amend	6-1-2007	345-095-0090	5-15-2007	Amend	6-1-2007
345-060-0003	5-15-2007	Amend	6-1-2007	345-095-0100	5-15-2007	Amend	6-1-2007
345-060-0004	5-15-2007	Amend	6-1-2007	345-095-0105	5-15-2007	Repeal	6-1-2007
345-060-0005	5-15-2007	Amend	6-1-2007	345-095-0110	5-15-2007	Repeal	6-1-2007
345-060-0006	5-15-2007	Amend	6-1-2007	345-095-0115	5-15-2007	Amend	6-1-2007
345-060-0007	5-15-2007	Amend	6-1-2007	345-095-0117	5-15-2007	Amend	6-1-2007
345-060-0045	5-15-2007	Amend	6-1-2007	345-095-0118	5-15-2007	Amend	6-1-2007
345-060-0055	5-15-2007	Amend	6-1-2007	345-095-0120	5-15-2007	Amend	6-1-2007
345-070-0005	5-15-2007	Amend	6-1-2007	345-095-0150	5-15-2007	Amend	6-1-2007
345-070-0010	5-15-2007	Amend	6-1-2007	345-095-0160	5-15-2007	Amend	6-1-2007
345-070-0015	5-15-2007	Amend	6-1-2007	350-081-0020	1-1-2008	Amend	12-1-2007
345-070-0020	5-15-2007	Amend	6-1-2007	350-081-0032	1-1-2008	Amend	12-1-2007
345-070-0025	5-15-2007	Amend	6-1-2007	350-081-0042	1-1-2008	Amend	12-1-2007
345-070-0030	5-15-2007	Amend	6-1-2007	350-081-0050	1-1-2008	Amend	12-1-2007
345-075-0015	5-15-2007	Repeal	6-1-2007	350-081-0052	1-1-2008	Amend	12-1-2007
345-075-0020	5-15-2007	Repeal	6-1-2007	350-081-0060	1-1-2008	Amend	12-1-2007
345-075-0025	5-15-2007	Repeal	6-1-2007	350-081-0074	1-1-2008	Amend	12-1-2007
345-076-0010	5-15-2007	Amend	6-1-2007	350-081-0082	1-1-2008	Amend	12-1-2007
345-076-0012	5-15-2007	Amend	6-1-2007	350-081-0108	1-1-2008	Amend	12-1-2007
345-076-0015	5-15-2007	Repeal	6-1-2007	350-081-0112	1-1-2008	Amend	12-1-2007
345-076-0020	5-15-2007	Amend	6-1-2007	350-081-0126	1-1-2008	Amend	12-1-2007
345-076-0025	5-15-2007	Repeal	6-1-2007	350-081-0190	1-1-2008	Amend	12-1-2007
345-076-0026	5-15-2007	Repeal	6-1-2007	350-081-0200	1-1-2008	Amend	12-1-2007
345-076-0027	5-15-2007	Repeal	6-1-2007	350-081-0231	1-1-2008	Adopt	12-1-2007
345-076-0029	5-15-2007	Repeal	6-1-2007	350-081-0232	1-1-2008	Amend	12-1-2007
345-076-0030	5-15-2007	Repeal	6-1-2007	350-081-0270	1-1-2008	Amend	12-1-2007
345-076-0032	5-15-2007	Repeal	6-1-2007	350-081-0280	1-1-2008	Amend	12-1-2007
345-076-0035	5-15-2007	Repeal	6-1-2007	350-081-0340	1-1-2008	Amend	12-1-2007
345-076-0040	5-15-2007	Repeal	6-1-2007	350-081-0370	1-1-2008	Amend	12-1-2007
345-076-0045	5-15-2007	Repeal	6-1-2007	350-081-0380	1-1-2008	Amend	12-1-2007
345-076-0050	5-15-2007	Adopt	6-1-2007	350-081-0420	1-1-2008	Amend	12-1-2007
345-092-0010	5-15-2007	Amend	6-1-2007	350-081-0490	1-1-2008	Amend	12-1-2007
345-092-0012	5-15-2007	Amend	6-1-2007	350-081-0520	1-1-2008	Amend	12-1-2007
345-092-0014	5-15-2007	Amend	6-1-2007	350-081-0530	1-1-2008	Amend	12-1-2007
345-092-0025	5-15-2007	Amend	6-1-2007	350-081-0540	1-1-2008	Amend	12-1-2007
345-092-0031	5-15-2007	Amend	6-1-2007	350-081-0550	1-1-2008	Amend	12-1-2007
345-092-0040	5-15-2007	Amend	6-1-2007	350-081-0560	1-1-2008	Amend	12-1-2007
345-092-0050	5-15-2007	Amend	6-1-2007	350-081-0580	1-1-2008	Amend	12-1-2007
345-092-0060	5-15-2007	Repeal	6-1-2007	350-081-0590	1-1-2008	Amend	12-1-2007
345-092-0070	5-15-2007	Repeal	6-1-2007	350-081-0600	1-1-2008	Amend	12-1-2007
345-092-0071	5-15-2007	Repeal	6-1-2007	350-081-0630	1-1-2008	Amend	12-1-2007
345-092-0080	5-15-2007	Repeal	6-1-2007	407-003-0000	2-15-2007	Adopt	3-1-2007
345-092-0090	5-15-2007	Repeal	6-1-2007	407-003-0010	2-15-2007	Adopt	3-1-2007

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OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
407-005-0100	9-1-2007	Adopt	10-1-2007	410-007-0240	9-1-2007	Am. & Ren.	10-1-2007
407-005-0105	9-1-2007	Adopt	10-1-2007	410-007-0250	9-1-2007	Am. & Ren.	10-1-2007
407-005-0110	9-1-2007	Adopt	10-1-2007	410-007-0260	9-1-2007	Am. & Ren.	10-1-2007
407-005-0115	9-1-2007	Adopt	10-1-2007	410-007-0270	9-1-2007	Am. & Ren.	10-1-2007
407-005-0120	9-1-2007	Adopt	10-1-2007	410-007-0280	9-1-2007	Renumber	10-1-2007
407-020-0000	2-1-2007	Adopt	3-1-2007	410-007-0290	9-1-2007	Am. & Ren.	10-1-2007
407-020-0005	2-1-2007	Adopt	3-1-2007	410-007-0300	9-1-2007	Am. & Ren.	10-1-2007
407-020-0010	2-1-2007	Adopt	3-1-2007	410-007-0310	9-1-2007	Am. & Ren.	10-1-2007
407-020-0015	2-1-2007	Adopt	3-1-2007	410-007-0320	9-1-2007	Am. & Ren.	10-1-2007
407-030-0010	3-1-2007	Am. & Ren.	4-1-2007	410-007-0330	9-1-2007	Am. & Ren.	10-1-2007
407-030-0020	3-1-2007	Am. & Ren.	4-1-2007	410-007-0340	9-1-2007	Am. & Ren.	10-1-2007
407-030-0030	3-1-2007	Am. & Ren.	4-1-2007	410-007-0350	9-1-2007	Renumber	10-1-2007
407-030-0040	3-1-2007	Am. & Ren.	4-1-2007	410-007-0360	9-1-2007	Renumber	10-1-2007
409-021-0010	2-1-2007	Amend	3-1-2007	410-007-0370	9-1-2007	Renumber	10-1-2007
409-021-0115	2-1-2007	Am. & Ren.	3-1-2007	410-007-0380	9-1-2007	Renumber	10-1-2007
409-021-0120	2-1-2007	Am. & Ren.	3-1-2007	410-008-0000	5-25-2007	Renumber	7-1-2007
409-021-0130	2-1-2007	Am. & Ren.	3-1-2007	410-008-0005	5-25-2007	Renumber	7-1-2007
409-021-0140	2-1-2007	Am. & Ren.	3-1-2007	410-008-0010	5-25-2007	Renumber	7-1-2007
409-021-0150	2-1-2007	Adopt	3-1-2007	410-008-0015	5-25-2007	Renumber	7-1-2007
409-022-0010	1-1-2007	Adopt	1-1-2007	410-008-0020	5-25-2007	Renumber	7-1-2007
409-022-0020	1-1-2007	Adopt	1-1-2007	410-008-0025	5-25-2007	Renumber	7-1-2007
409-022-0030	1-1-2007	Adopt	1-1-2007	410-008-0030	5-25-2007	Renumber	7-1-2007
409-022-0040	1-1-2007	Adopt	1-1-2007	410-008-0035	5-25-2007	Renumber	7-1-2007
409-022-0050	1-1-2007	Adopt	1-1-2007	410-009-0050	7-1-2007	Renumber	8-1-2007
409-022-0060	1-1-2007	Adopt	1-1-2007	410-009-0060	7-1-2007	Renumber	8-1-2007
409-022-0070	1-1-2007	Adopt	1-1-2007	410-009-0070	7-1-2007	Renumber	8-1-2007
409-022-0080	1-1-2007	Adopt	1-1-2007	410-009-0080	7-1-2007	Renumber	8-1-2007
409-030-0000	11-28-2006	Amend(T)	1-1-2007	410-009-0090	7-1-2007	Renumber	8-1-2007
409-030-0000	5-16-2007	Amend(T)	7-1-2007	410-009-0100	7-1-2007	Renumber	8-1-2007
409-030-0000	9-1-2007	Amend	9-1-2007	410-009-0110	7-1-2007	Renumber	8-1-2007
409-030-0005	11-28-2006	Amend(T)	1-1-2007	410-009-0120	7-1-2007	Renumber	8-1-2007
409-030-0005	9-1-2007	Amend	9-1-2007	410-009-0130	7-1-2007	Renumber	8-1-2007
409-030-0010	5-16-2007	Amend(T)	7-1-2007	410-009-0140	7-1-2007	Renumber	8-1-2007
409-030-0010	9-1-2007	Amend	9-1-2007	410-009-0150	7-1-2007	Renumber	8-1-2007
409-030-0020	11-28-2006	Amend(T)	1-1-2007	410-009-0160	7-1-2007	Renumber	8-1-2007
409-030-0020	5-16-2007	Amend(T)	7-1-2007	410-010-0000	8-1-2007	Repeal	9-1-2007
409-030-0020	9-1-2007	Amend	9-1-2007	410-010-0010	8-1-2007	Repeal	9-1-2007
409-030-0040	5-16-2007	Amend(T)	7-1-2007	410-010-0020	8-1-2007	Repeal	9-1-2007
409-030-0040	9-1-2007	Amend	9-1-2007	410-010-0030	8-1-2007	Repeal	9-1-2007
409-030-0050	11-28-2006	Amend(T)	1-1-2007	410-010-0040	8-1-2007	Repeal	9-1-2007
409-030-0050	5-16-2007	Amend(T)	7-1-2007	410-010-0050	8-1-2007	Repeal	9-1-2007
409-030-0050	9-1-2007	Amend	9-1-2007	410-010-0060	8-1-2007	Repeal	9-1-2007
409-030-0065	9-1-2007	Adopt	9-1-2007	410-010-0070	8-1-2007	Repeal	9-1-2007
410-004-0001	5-25-2007	Renumber	7-1-2007	410-010-0080	8-1-2007	Repeal	9-1-2007
410-005-0080	5-25-2007	Renumber	7-1-2007	410-010-0090	8-1-2007	Repeal	9-1-2007
410-005-0085	5-25-2007	Renumber	7-1-2007	410-010-0100	8-1-2007	Repeal	9-1-2007
410-005-0090	5-25-2007	Renumber	7-1-2007	410-010-0110	8-1-2007	Repeal	9-1-2007
410-005-0095	5-25-2007	Renumber	7-1-2007	410-010-0120	8-1-2007	Repeal	9-1-2007
410-005-0100	5-25-2007	Renumber	7-1-2007	410-010-0130	8-1-2007	Repeal	9-1-2007
410-005-0105	5-25-2007	Renumber	7-1-2007	410-010-0140	8-1-2007	Repeal	9-1-2007
410-006-0011	7-1-2007	Renumber	8-1-2007	410-010-0150	8-1-2007	Repeal	9-1-2007
410-006-0021	7-1-2007	Renumber	8-1-2007	410-010-0160	8-1-2007	Repeal	9-1-2007
410-007-0200	9-1-2007	Renumber	10-1-2007	410-010-0170	8-1-2007	Repeal	9-1-2007
410-007-0210	9-1-2007	Am. & Ren.	10-1-2007	410-011-0000	7-1-2007	Renumber	8-1-2007
410-007-0220	9-1-2007	Am. & Ren.	10-1-2007	410-011-0010	7-1-2007	Renumber	8-1-2007
410-007-0230	9-1-2007	Am. & Ren.	10-1-2007	410-011-0020	7-1-2007	Renumber	8-1-2007

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410-011-0030	7-1-2007	Renumber	8-1-2007	410-122-0210	1-1-2007	Amend	1-1-2007
410-011-0040	7-1-2007	Renumber	8-1-2007	410-122-0240	1-1-2007	Amend	1-1-2007
410-011-0050	7-1-2007	Renumber	8-1-2007	410-122-0280	1-1-2007	Amend	1-1-2007
410-011-0060	7-1-2007	Renumber	8-1-2007	410-122-0320	1-1-2007	Amend	1-1-2007
410-011-0070	7-1-2007	Renumber	8-1-2007	410-122-0320	7-1-2007	Amend	8-1-2007
410-011-0080	7-1-2007	Renumber	8-1-2007	410-122-0325	1-1-2007	Amend	1-1-2007
410-011-0090	7-1-2007	Renumber	8-1-2007	410-122-0330	7-1-2007	Amend	8-1-2007
410-011-0100	7-1-2007	Renumber	8-1-2007	410-122-0340	1-1-2007	Amend	1-1-2007
410-011-0110	7-1-2007	Renumber	8-1-2007	410-122-0340	7-1-2007	Amend	8-1-2007
410-011-0120	7-1-2007	Renumber	8-1-2007	410-122-0360	1-1-2007	Amend	1-1-2007
410-020-0000	3-30-2007	Repeal	5-1-2007	410-122-0365	1-1-2007	Amend	1-1-2007
410-020-0010	3-30-2007	Repeal	5-1-2007	410-122-0375	1-1-2007	Amend	1-1-2007
410-020-0020	3-30-2007	Repeal	5-1-2007	410-122-0380	1-1-2007	Amend	1-1-2007
410-020-0030	3-30-2007	Repeal	5-1-2007	410-122-0400	1-1-2007	Amend	1-1-2007
410-020-0040	3-30-2007	Repeal	5-1-2007	410-122-0420	1-1-2007	Amend	1-1-2007
410-020-0050	3-30-2007	Repeal	5-1-2007	410-122-0470	7-1-2007	Repeal	8-1-2007
410-120-0000	1-1-2007	Amend	1-1-2007	410-122-0500	1-1-2007	Amend	1-1-2007
410-120-1280	1-1-2007	Amend	1-1-2007	410-122-0510	1-1-2007	Amend	1-1-2007
410-120-1295	1-1-2007	Amend(T)	1-1-2007	410-122-0520	7-1-2007	Amend	8-1-2007
410-120-1295	4-5-2007	Amend	5-1-2007	410-122-0530	1-1-2007	Repeal	1-1-2007
410-120-1295(T)	4-5-2007	Repeal	5-1-2007	410-122-0540	7-1-2007	Amend	8-1-2007
410-120-1340	1-1-2007	Amend	1-1-2007	410-122-0560	7-1-2007	Amend	8-1-2007
410-120-1380	1-1-2007	Amend	1-1-2007	410-122-0580	1-1-2007	Amend	1-1-2007
410-120-1390	1-1-2007	Amend	1-1-2007	410-122-0590	7-1-2007	Amend	8-1-2007
410-120-1960	1-1-2007	Amend	1-1-2007	410-122-0600	1-1-2007	Amend	1-1-2007
410-120-1980	6-1-2007	Amend	7-1-2007	410-122-0600	7-1-2007	Amend	8-1-2007
410-121-0030	1-1-2007	Amend	2-1-2007	410-122-0620	1-1-2007	Amend	1-1-2007
410-121-0030	7-1-2007	Amend	7-1-2007	410-122-0620	7-1-2007	Amend	8-1-2007
410-121-0040	1-1-2007	Amend	1-1-2007	410-122-0625	7-1-2007	Amend	8-1-2007
410-121-0040	7-1-2007	Amend	7-1-2007	410-122-0655	7-1-2007	Am. & Ren.	8-1-2007
410-121-0145	7-1-2007	Amend	7-1-2007	410-122-0660	1-1-2007	Amend	1-1-2007
410-121-0149	1-1-2007	Amend	1-1-2007	410-122-0678	1-1-2007	Amend	1-1-2007
410-121-0150	7-1-2007	Amend	7-1-2007	410-122-0700	1-1-2007	Amend	1-1-2007
410-121-0157	1-1-2007	Amend	2-1-2007	410-122-0720	1-1-2007	Amend	1-1-2007
410-121-0300	1-1-2007	Amend	2-1-2007	410-122-0720	7-1-2007	Amend	8-1-2007
410-121-0320	1-1-2007	Amend	2-1-2007	410-125-0146	1-1-2007	Amend	1-1-2007
410-122-0000	1-1-2007	Repeal	2-1-2007	410-125-0195	1-1-2007	Amend	1-1-2007
410-122-0020	1-1-2007	Amend	1-1-2007	410-127-0000	1-1-2007	Repeal	2-1-2007
410-122-0055	1-1-2007	Amend	1-1-2007	410-127-0065	1-1-2007	Adopt	1-1-2007
410-122-0055	7-1-2007	Amend	8-1-2007	410-129-0010	1-1-2007	Repeal	2-1-2007
410-122-0080	1-1-2007	Amend	1-1-2007	410-129-0060	7-1-2007	Amend	7-1-2007
410-122-0080	7-1-2007	Amend	8-1-2007	410-129-0080	1-1-2007	Amend	1-1-2007
410-122-0085	1-1-2007	Repeal	1-1-2007	410-130-0180	7-1-2007	Amend	7-1-2007
410-122-0182	1-1-2007	Amend	1-1-2007	410-130-0200	7-1-2007	Amend	7-1-2007
410-122-0184	1-1-2007	Amend	1-1-2007	410-130-0220	7-1-2007	Amend	7-1-2007
410-122-0186	1-1-2007	Amend	1-1-2007	410-130-0255	7-1-2007	Amend	7-1-2007
410-122-0186	7-1-2007	Amend	8-1-2007	410-130-0368	7-1-2007	Amend	7-1-2007
410-122-0190	1-1-2007	Repeal	1-1-2007	410-130-0580	7-1-2007	Amend	7-1-2007
410-122-0202	1-1-2007	Amend	1-1-2007	410-130-0595	7-1-2007	Amend	7-1-2007
410-122-0203	1-1-2007	Amend	1-1-2007	410-131-0020	1-1-2007	Repeal	2-1-2007
410-122-0204	1-1-2007	Amend	1-1-2007	410-131-0080	1-1-2007	Amend	1-1-2007
410-122-0204	7-1-2007	Amend	8-1-2007	410-131-0280	7-1-2007	Amend	7-1-2007
410-122-0205	1-1-2007	Amend	1-1-2007	410-132-0000	1-1-2007	Repeal	2-1-2007
410-122-0207	1-1-2007	Amend	1-1-2007	410-136-0020	1-1-2007	Repeal	2-1-2007
410-122-0208	1-1-2007	Amend	1-1-2007	410-136-0160	7-1-2007	Amend	7-1-2007
410-122-0209	1-1-2007	Amend	1-1-2007	410-141-0000	1-1-2007	Amend	1-1-2007

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OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
410-141-0060	1-1-2007	Amend	1-1-2007	411-034-0000	10-5-2007	Amend	11-1-2007
410-141-0070	1-1-2007	Amend	1-1-2007	411-034-0010	10-5-2007	Amend	11-1-2007
410-141-0080	1-1-2007	Amend	1-1-2007	411-034-0020	10-5-2007	Amend	11-1-2007
410-141-0220	1-1-2007	Amend	1-1-2007	411-034-0030	10-5-2007	Amend	11-1-2007
410-141-0420	1-1-2007	Amend(T)	2-1-2007	411-034-0035	10-5-2007	Amend	11-1-2007
410-141-0420	6-29-2007	Amend	7-1-2007	411-034-0040	10-5-2007	Amend	11-1-2007
410-141-0480	1-1-2007	Amend	1-1-2007	411-034-0050	10-5-2007	Amend	11-1-2007
410-141-0520	1-1-2007	Amend	1-1-2007	411-034-0055	10-5-2007	Amend	11-1-2007
410-141-0520	10-1-2007	Amend(T)	11-1-2007	411-034-0070	10-5-2007	Amend	11-1-2007
410-142-0000	1-1-2007	Repeal	2-1-2007	411-034-0090	10-5-2007	Amend	11-1-2007
410-142-0225	1-1-2007	Adopt	1-1-2007	411-050-0400	1-1-2007	Amend	2-1-2007
410-143-0000	1-1-2007	Repeal	2-1-2007	411-050-0401	1-1-2007	Amend	2-1-2007
410-147-0040	7-1-2007	Amend	7-1-2007	411-050-0405	1-1-2007	Amend	2-1-2007
410-147-0120	1-1-2007	Amend	1-1-2007	411-050-0408	1-1-2007	Amend	2-1-2007
410-147-0300	7-1-2007	Amend	7-1-2007	411-050-0410	1-1-2007	Amend	2-1-2007
410-147-0320	1-1-2007	Amend	1-1-2007	411-050-0412	1-1-2007	Amend	2-1-2007
410-147-0362	7-1-2007	Adopt	7-1-2007	411-050-0415	1-1-2007	Amend	2-1-2007
410-147-0365	1-1-2007	Amend	1-1-2007	411-050-0420	1-1-2007	Amend	2-1-2007
410-147-0460	1-1-2007	Amend	1-1-2007	411-050-0420	7-1-2007	Amend	8-1-2007
410-147-0480	1-1-2007	Amend	1-1-2007	411-050-0430	1-1-2007	Amend	2-1-2007
410-147-0500	7-1-2007	Amend	7-1-2007	411-050-0435	1-1-2007	Amend	2-1-2007
410-147-0620	1-1-2007	Amend	1-1-2007	411-050-0437	1-1-2007	Repeal	2-1-2007
410-148-0020	7-1-2007	Amend	7-1-2007	411-050-0440	1-1-2007	Amend	2-1-2007
410-148-0040	7-1-2007	Amend	7-1-2007	411-050-0441	1-1-2007	Repeal	2-1-2007
410-148-0100	7-1-2007	Amend	7-1-2007	411-050-0442	1-1-2007	Repeal	2-1-2007
410-148-0260	1-1-2007	Amend	2-1-2007	411-050-0443	1-1-2007	Amend	2-1-2007
411-005-0100	6-1-2007	Repeal	7-1-2007	411-050-0443	7-1-2007	Amend	8-1-2007
411-020-0002	12-21-2006	Amend	2-1-2007	411-050-0444	1-1-2007	Adopt	2-1-2007
411-020-0020	12-21-2006	Amend	2-1-2007	411-050-0445	1-1-2007	Amend	2-1-2007
411-020-0100	12-21-2006	Amend	2-1-2007	411-050-0445	7-1-2007	Amend	8-1-2007
411-020-0120	12-21-2006	Amend	2-1-2007	411-050-0447	1-1-2007	Amend	2-1-2007
411-026-0000	12-1-2006	Amend	1-1-2007	411-050-0450	1-1-2007	Amend	2-1-2007
411-026-0010	12-1-2006	Amend	1-1-2007	411-050-0455	1-1-2007	Amend	2-1-2007
411-026-0020	12-1-2006	Amend	1-1-2007	411-050-0460	1-1-2007	Amend	2-1-2007
411-026-0030	12-1-2006	Amend	1-1-2007	411-050-0465	1-1-2007	Amend	2-1-2007
411-026-0040	12-1-2006	Amend	1-1-2007	411-050-0480	1-1-2007	Amend	2-1-2007
411-026-0050	12-1-2006	Amend	1-1-2007	411-050-0481	1-1-2007	Amend	2-1-2007
411-026-0060	12-1-2006	Amend	1-1-2007	411-050-0483	1-1-2007	Amend	2-1-2007
411-026-0070	12-1-2006	Amend	1-1-2007	411-050-0485	1-1-2007	Amend	2-1-2007
411-026-0080	12-1-2006	Amend	1-1-2007	411-050-0487	1-1-2007	Amend	2-1-2007
411-027-0000	4-17-2007	Amend	6-1-2007	411-050-0491	1-1-2007	Adopt	2-1-2007
411-027-0000(T)	4-17-2007	Repeal	6-1-2007	411-054-0000	11-1-2007	Adopt	10-1-2007
411-030-0020	5-1-2007	Amend(T)	5-1-2007	411-054-0005	11-1-2007	Adopt	10-1-2007
411-030-0020	10-28-2007	Amend	12-1-2007	411-054-0008	11-1-2007	Adopt	10-1-2007
411-030-0020(T)	10-28-2007	Repeal	12-1-2007	411-054-0010	11-1-2007	Adopt	10-1-2007
411-030-0080	5-1-2007	Amend(T)	5-1-2007	411-054-0012	11-1-2007	Adopt	10-1-2007
411-030-0080	10-28-2007	Amend	12-1-2007	411-054-0013	11-1-2007	Adopt	10-1-2007
411-030-0080(T)	10-28-2007	Repeal	12-1-2007	411-054-0016	11-1-2007	Adopt	10-1-2007
411-030-0090	3-30-2007	Amend(T)	5-1-2007	411-054-0019	11-1-2007	Adopt	10-1-2007
411-030-0090	9-1-2007	Amend	10-1-2007	411-054-0025	11-1-2007	Adopt	10-1-2007
411-030-0090(T)	9-1-2007	Repeal	10-1-2007	411-054-0027	11-1-2007	Adopt	10-1-2007
411-031-0020	4-17-2007	Amend	5-1-2007	411-054-0028	11-1-2007	Adopt	10-1-2007
411-031-0020(T)	4-17-2007	Repeal	5-1-2007	411-054-0030	11-1-2007	Adopt	10-1-2007
411-031-0040	4-17-2007	Amend	5-1-2007	411-054-0034	11-1-2007	Adopt	10-1-2007
411-031-0040	11-1-2007	Amend(T)	12-1-2007	411-054-0036	11-1-2007	Adopt	10-1-2007
411-031-0040(T)	4-17-2007	Repeal	5-1-2007	411-054-0040	11-1-2007	Adopt	10-1-2007

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OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
411-054-0045	11-1-2007	Adopt	10-1-2007	411-056-0007	11-1-2007	Repeal	10-1-2007
411-054-0055	11-1-2007	Adopt	10-1-2007	411-056-0008	11-1-2007	Repeal	10-1-2007
411-054-0060	11-1-2007	Adopt	10-1-2007	411-056-0010	11-1-2007	Repeal	10-1-2007
411-054-0065	11-1-2007	Adopt	10-1-2007	411-056-0015	11-1-2007	Repeal	10-1-2007
411-054-0070	11-1-2007	Adopt	10-1-2007	411-056-0018	11-1-2007	Repeal	10-1-2007
411-054-0080	11-1-2007	Adopt	10-1-2007	411-056-0020	11-1-2007	Repeal	10-1-2007
411-054-0085	11-1-2007	Adopt	10-1-2007	411-056-0030	11-1-2007	Repeal	10-1-2007
411-054-0090	11-1-2007	Adopt	10-1-2007	411-056-0035	11-1-2007	Repeal	10-1-2007
411-054-0093	11-1-2007	Adopt	10-1-2007	411-056-0040	11-1-2007	Repeal	10-1-2007
411-054-0100	11-1-2007	Adopt	10-1-2007	411-056-0045	11-1-2007	Repeal	10-1-2007
411-054-0105	11-1-2007	Adopt	10-1-2007	411-056-0055	11-1-2007	Repeal	10-1-2007
411-054-0110	11-1-2007	Adopt	10-1-2007	411-056-0060	11-1-2007	Repeal	10-1-2007
411-054-0120	11-1-2007	Adopt	10-1-2007	411-056-0070	11-1-2007	Repeal	10-1-2007
411-054-0130	11-1-2007	Adopt	10-1-2007	411-056-0075	11-1-2007	Repeal	10-1-2007
411-054-0135	11-1-2007	Adopt	10-1-2007	411-056-0085	11-1-2007	Repeal	10-1-2007
411-054-0140	11-1-2007	Adopt	10-1-2007	411-056-0090	11-1-2007	Repeal	10-1-2007
411-054-0200	11-1-2007	Adopt	10-1-2007	411-056-0095	11-1-2007	Repeal	10-1-2007
411-054-0300	11-1-2007	Adopt	10-1-2007	411-066-0000	5-15-2007	Amend(T)	6-1-2007
411-055-0000	11-1-2007	Repeal	10-1-2007	411-066-0000	11-7-2007	Amend	12-1-2007
411-055-0003	11-1-2007	Repeal	10-1-2007	411-066-0000(T)	11-7-2007	Repeal	12-1-2007
411-055-0005	11-1-2007	Repeal	10-1-2007	411-066-0005	5-15-2007	Amend(T)	6-1-2007
411-055-0010	11-1-2007	Repeal	10-1-2007	411-066-0005	11-7-2007	Amend	12-1-2007
411-055-0015	11-1-2007	Repeal	10-1-2007	411-066-0005(T)	11-7-2007	Repeal	12-1-2007
411-055-0019	11-1-2007	Repeal	10-1-2007	411-066-0010	5-15-2007	Amend(T)	6-1-2007
411-055-0024	11-1-2007	Repeal	10-1-2007	411-066-0010	11-7-2007	Amend	12-1-2007
411-055-0029	11-1-2007	Repeal	10-1-2007	411-066-0010(T)	11-7-2007	Repeal	12-1-2007
411-055-0034	11-1-2007	Repeal	10-1-2007	411-066-0015	5-15-2007	Adopt(T)	6-1-2007
411-055-0039	11-1-2007	Repeal	10-1-2007	411-066-0015	11-7-2007	Adopt	12-1-2007
411-055-0045	11-1-2007	Repeal	10-1-2007	411-066-0015(T)	11-7-2007	Repeal	12-1-2007
411-055-0051	11-1-2007	Repeal	10-1-2007	411-066-0020	5-15-2007	Amend(T)	6-1-2007
411-055-0061	11-1-2007	Repeal	10-1-2007	411-066-0020	11-7-2007	Amend	12-1-2007
411-055-0081	11-1-2007	Repeal	10-1-2007	411-066-0020(T)	11-7-2007	Repeal	12-1-2007
411-055-0085	11-1-2007	Repeal	10-1-2007	411-070-0005	9-1-2007	Amend	10-1-2007
411-055-0091	11-1-2007	Repeal	10-1-2007	411-070-0005	9-10-2007	Amend(T)	10-1-2007
411-055-0101	11-1-2007	Repeal	10-1-2007	411-070-0027	9-10-2007	Amend(T)	10-1-2007
411-055-0111	11-1-2007	Repeal	10-1-2007	411-070-0035	9-10-2007	Amend(T)	10-1-2007
411-055-0115	11-1-2007	Repeal	10-1-2007	411-070-0040	9-1-2007	Amend	10-1-2007
411-055-0121	11-1-2007	Repeal	10-1-2007	411-070-0043	9-1-2007	Amend	10-1-2007
411-055-0131	11-1-2007	Repeal	10-1-2007	411-070-0085	9-10-2007	Amend(T)	10-1-2007
411-055-0141	11-1-2007	Repeal	10-1-2007	411-070-0091	9-10-2007	Amend(T)	10-1-2007
411-055-0151	11-1-2007	Repeal	10-1-2007	411-070-0095	9-10-2007	Amend(T)	10-1-2007
411-055-0161	11-1-2007	Repeal	10-1-2007	411-070-0130	3-13-2007	Amend	4-1-2007
411-055-0170	11-1-2007	Repeal	10-1-2007	411-070-0359	9-10-2007	Amend(T)	10-1-2007
411-055-0180	11-1-2007	Repeal	10-1-2007	411-070-0428	9-10-2007	Suspend	10-1-2007
411-055-0190	11-1-2007	Repeal	10-1-2007	411-070-0442	9-10-2007	Amend(T)	10-1-2007
411-055-0200	11-1-2007	Repeal	10-1-2007	411-070-0452	9-10-2007	Amend(T)	10-1-2007
411-055-0210	11-1-2007	Repeal	10-1-2007	411-070-0462	9-10-2007	Suspend	10-1-2007
411-055-0220	11-1-2007	Repeal	10-1-2007	411-070-0465	9-10-2007	Amend(T)	10-1-2007
411-055-0230	11-1-2007	Repeal	10-1-2007	411-330-0020	7-1-2007	Amend(T)	8-1-2007
411-055-0240	11-1-2007	Repeal	10-1-2007	411-330-0030	7-1-2007	Amend(T)	8-1-2007
411-055-0250	11-1-2007	Repeal	10-1-2007	411-335-0010	1-1-2007	Amend	2-1-2007
411-055-0260	11-1-2007	Repeal	10-1-2007	411-335-0020	1-1-2007	Amend	2-1-2007
411-055-0270	11-1-2007	Repeal	10-1-2007	411-335-0030	1-1-2007	Amend	2-1-2007
411-055-0280	11-1-2007	Repeal	10-1-2007	411-335-0050	1-1-2007	Amend	2-1-2007
411-056-0000	11-1-2007	Repeal	10-1-2007	411-335-0060	1-1-2007	Amend	2-1-2007
411-056-0005	11-1-2007	Repeal	10-1-2007	411-335-0070	1-1-2007	Amend	2-1-2007

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411-335-0080	1-1-2007	Amend	2-1-2007	413-015-0300	3-20-2007	Amend	5-1-2007
411-335-0090	1-1-2007	Amend	2-1-2007	413-015-0302	3-20-2007	Amend	5-1-2007
411-335-0100	1-1-2007	Amend	2-1-2007	413-015-0305	3-20-2007	Amend	5-1-2007
411-335-0110	1-1-2007	Amend	2-1-2007	413-015-0310	3-20-2007	Amend	5-1-2007
411-335-0120	1-1-2007	Amend	2-1-2007	413-015-0400	3-20-2007	Amend	5-1-2007
411-335-0130	1-1-2007	Amend	2-1-2007	413-015-0405	3-20-2007	Amend	5-1-2007
411-335-0140	1-1-2007	Amend	2-1-2007	413-015-0409	3-20-2007	Adopt	5-1-2007
411-335-0150	1-1-2007	Amend	2-1-2007	413-015-0415	3-20-2007	Adopt	5-1-2007
411-335-0160	1-1-2007	Amend	2-1-2007	413-015-0415	10-16-2007	Amend(T)	12-1-2007
411-335-0170	1-1-2007	Amend	2-1-2007	413-015-0420	3-20-2007	Adopt	5-1-2007
411-335-0190	1-1-2007	Amend	2-1-2007	413-015-0420	10-16-2007	Amend(T)	12-1-2007
411-335-0200	1-1-2007	Amend	2-1-2007	413-015-0425	3-20-2007	Adopt	5-1-2007
411-335-0210	1-1-2007	Amend	2-1-2007	413-015-0430	3-20-2007	Adopt	5-1-2007
411-335-0220	1-1-2007	Amend	2-1-2007	413-015-0435	3-20-2007	Adopt	5-1-2007
411-335-0230	1-1-2007	Amend	2-1-2007	413-015-0440	3-20-2007	Adopt	5-1-2007
411-335-0240	1-1-2007	Amend	2-1-2007	413-015-0445	3-20-2007	Adopt	5-1-2007
411-335-0270	1-1-2007	Amend	2-1-2007	413-015-0450	3-20-2007	Adopt	5-1-2007
411-335-0300	1-1-2007	Amend	2-1-2007	413-015-0455	3-20-2007	Am. & Ren.	5-1-2007
411-335-0320	1-1-2007	Amend	2-1-2007	413-015-0460	3-20-2007	Adopt	5-1-2007
411-335-0330	1-1-2007	Amend	2-1-2007	413-015-0465	3-20-2007	Adopt	5-1-2007
411-335-0340	1-1-2007	Amend	2-1-2007	413-015-0470	3-20-2007	Adopt	5-1-2007
411-335-0350	1-1-2007	Amend	2-1-2007	413-015-0475	3-20-2007	Adopt	5-1-2007
411-335-0360	1-1-2007	Amend	2-1-2007	413-015-0480	3-20-2007	Adopt	5-1-2007
411-335-0380	1-1-2007	Amend	2-1-2007	413-015-0485	3-20-2007	Renumber	5-1-2007
411-335-0390	1-1-2007	Amend	2-1-2007	413-015-0500	3-20-2007	Repeal	5-1-2007
411-346-0100	7-5-2007	Amend	8-1-2007	413-015-0505	3-20-2007	Repeal	5-1-2007
411-346-0110	7-5-2007	Amend	8-1-2007	413-015-0510	3-20-2007	Repeal	5-1-2007
411-346-0120	7-5-2007	Amend	8-1-2007	413-015-0511	3-20-2007	Repeal	5-1-2007
411-346-0130	7-5-2007	Amend	8-1-2007	413-015-0512	3-20-2007	Repeal	5-1-2007
411-346-0140	7-5-2007	Amend	8-1-2007	413-015-0513	3-20-2007	Repeal	5-1-2007
411-346-0150	7-5-2007	Amend	8-1-2007	413-015-0514	3-20-2007	Repeal	5-1-2007
411-346-0160	7-5-2007	Amend	8-1-2007	413-015-0600	3-20-2007	Repeal	5-1-2007
411-346-0165	7-5-2007	Amend	8-1-2007	413-015-0605	3-20-2007	Repeal	5-1-2007
411-346-0170	7-5-2007	Amend	8-1-2007	413-015-0610	3-20-2007	Repeal	5-1-2007
411-346-0180	7-5-2007	Amend	8-1-2007	413-015-0615	3-20-2007	Repeal	5-1-2007
411-346-0190	7-5-2007	Amend	8-1-2007	413-015-0700	3-20-2007	Repeal	5-1-2007
411-346-0200	7-5-2007	Amend	8-1-2007	413-015-0705	3-20-2007	Repeal	5-1-2007
411-346-0210	7-5-2007	Amend	8-1-2007	413-015-0710	3-20-2007	Repeal	5-1-2007
411-346-0220	7-5-2007	Amend	8-1-2007	413-015-0715	3-20-2007	Repeal	5-1-2007
411-346-0230	7-5-2007	Amend	8-1-2007	413-015-0720	3-20-2007	Repeal	5-1-2007
413-015-0100	3-20-2007	Amend	5-1-2007	413-015-0725	3-20-2007	Repeal	5-1-2007
413-015-0105	3-20-2007	Amend	5-1-2007	413-015-0730	3-20-2007	Repeal	5-1-2007
413-015-0110	3-20-2007	Amend	5-1-2007	413-015-0735	3-20-2007	Repeal	5-1-2007
413-015-0115	3-20-2007	Amend	5-1-2007	413-015-0800	3-20-2007	Repeal	5-1-2007
413-015-0115	10-16-2007	Amend(T)	12-1-2007	413-015-0900	3-20-2007	Repeal	5-1-2007
413-015-0120	3-20-2007	Repeal	5-1-2007	413-015-0905	3-20-2007	Repeal	5-1-2007
413-015-0125	3-20-2007	Amend	5-1-2007	413-015-1000	3-20-2007	Amend	5-1-2007
413-015-0200	3-20-2007	Amend	5-1-2007	413-015-1105	3-20-2007	Amend	5-1-2007
413-015-0205	3-20-2007	Amend	5-1-2007	413-015-1110	3-20-2007	Amend	5-1-2007
413-015-0210	3-20-2007	Amend	5-1-2007	413-015-1120	3-20-2007	Amend	5-1-2007
413-015-0211	3-20-2007	Amend	5-1-2007	413-015-1125	3-20-2007	Amend	5-1-2007
413-015-0212	3-20-2007	Amend	5-1-2007	413-020-0000	3-20-2007	Amend	5-1-2007
413-015-0213	3-20-2007	Amend	5-1-2007	413-020-0005	3-20-2007	Amend	5-1-2007
413-015-0215	3-20-2007	Amend	5-1-2007	413-020-0010	3-20-2007	Amend	5-1-2007
413-015-0220	3-20-2007	Amend	5-1-2007	413-020-0020	3-20-2007	Amend	5-1-2007
413-015-0225	3-20-2007	Amend	5-1-2007	413-020-0025	3-20-2007	Adopt	5-1-2007

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413-020-0040	3-20-2007	Amend	5-1-2007	413-050-0220	11-1-2007	Amend(T)	12-1-2007
413-020-0045	3-20-2007	Adopt	5-1-2007	413-050-0230	11-1-2007	Amend(T)	12-1-2007
413-020-0050	3-20-2007	Amend	5-1-2007	413-050-0235	11-1-2007	Adopt(T)	12-1-2007
413-020-0060	3-20-2007	Adopt	5-1-2007	413-050-0240	11-1-2007	Suspend	12-1-2007
413-020-0065	3-20-2007	Adopt	5-1-2007	413-050-0250	11-1-2007	Suspend	12-1-2007
413-020-0070	3-20-2007	Adopt	5-1-2007	413-050-0260	11-1-2007	Suspend	12-1-2007
413-020-0075	3-20-2007	Adopt	5-1-2007	413-050-0270	11-1-2007	Suspend	12-1-2007
413-020-0080	3-20-2007	Adopt	5-1-2007	413-050-0280	11-1-2007	Amend(T)	12-1-2007
413-020-0085	3-20-2007	Adopt	5-1-2007	413-050-0290	11-1-2007	Suspend	12-1-2007
413-020-0090	3-20-2007	Adopt	5-1-2007	413-050-0300	11-1-2007	Suspend	12-1-2007
413-020-0200	5-1-2007	Amend	6-1-2007	413-070-0300	5-1-2007	Amend	6-1-2007
413-020-0210	5-1-2007	Amend	6-1-2007	413-070-0310	5-1-2007	Amend	6-1-2007
413-020-0220	5-1-2007	Repeal	6-1-2007	413-070-0320	5-1-2007	Amend	6-1-2007
413-020-0230	5-1-2007	Amend	6-1-2007	413-070-0340	5-1-2007	Amend	6-1-2007
413-020-0233	5-1-2007	Adopt	6-1-2007	413-070-0345	5-1-2007	Am. & Ren.	6-1-2007
413-020-0236	5-1-2007	Adopt	6-1-2007	413-070-0350	5-1-2007	Amend	6-1-2007
413-020-0240	5-1-2007	Amend	6-1-2007	413-070-0360	5-1-2007	Amend	6-1-2007
413-020-0245	5-1-2007	Adopt	6-1-2007	413-070-0370	5-1-2007	Amend	6-1-2007
413-020-0250	5-1-2007	Repeal	6-1-2007	413-070-0380	5-1-2007	Amend	6-1-2007
413-020-0255	5-1-2007	Adopt	6-1-2007	413-070-0400	5-1-2007	Amend	6-1-2007
413-020-0260	5-1-2007	Repeal	6-1-2007	413-070-0410	5-1-2007	Amend	6-1-2007
413-020-0270	5-1-2007	Repeal	6-1-2007	413-070-0420	5-1-2007	Repeal	6-1-2007
413-030-0000	3-20-2007	Amend	5-1-2007	413-070-0430	5-1-2007	Amend	6-1-2007
413-030-0003	3-20-2007	Adopt	5-1-2007	413-070-0440	5-1-2007	Amend	6-1-2007
413-030-0006	3-20-2007	Am. & Ren.	5-1-2007	413-070-0450	5-1-2007	Amend	6-1-2007
413-030-0009	3-20-2007	Adopt	5-1-2007	413-070-0460	5-1-2007	Repeal	6-1-2007
413-030-0010	3-20-2007	Repeal	5-1-2007	413-070-0470	5-1-2007	Amend	6-1-2007
413-030-0013	3-20-2007	Adopt	5-1-2007	413-070-0480	5-1-2007	Amend	6-1-2007
413-030-0016	3-20-2007	Adopt	5-1-2007	413-070-0490	5-1-2007	Amend	6-1-2007
413-030-0019	3-20-2007	Adopt	5-1-2007	413-070-0600	3-20-2007	Amend	5-1-2007
413-030-0023	3-20-2007	Adopt	5-1-2007	413-070-0610	3-20-2007	Repeal	5-1-2007
413-030-0026	3-20-2007	Adopt	5-1-2007	413-070-0620	3-20-2007	Amend	5-1-2007
413-030-0030	3-20-2007	Amend	5-1-2007	413-070-0625	3-20-2007	Adopt	5-1-2007
413-040-0000	3-20-2007	Amend	5-1-2007	413-070-0630	3-20-2007	Amend	5-1-2007
413-040-0005	3-20-2007	Amend	5-1-2007	413-070-0640	3-20-2007	Amend	5-1-2007
413-040-0006	3-20-2007	Adopt	5-1-2007	413-070-0645	3-20-2007	Adopt	5-1-2007
413-040-0008	3-20-2007	Am. & Ren.	5-1-2007	413-070-0650	3-20-2007	Repeal	5-1-2007
413-040-0009	3-20-2007	Adopt	5-1-2007	413-070-0800	3-20-2007	Amend	5-1-2007
413-040-0010	3-20-2007	Amend	5-1-2007	413-070-0810	3-20-2007	Amend	5-1-2007
413-040-0011	3-20-2007	Adopt	5-1-2007	413-070-0820	3-20-2007	Repeal	5-1-2007
413-040-0013	3-20-2007	Adopt	5-1-2007	413-070-0830	3-20-2007	Amend	5-1-2007
413-040-0016	3-20-2007	Am. & Ren.	5-1-2007	413-070-0840	3-20-2007	Amend	5-1-2007
413-040-0017	3-20-2007	Amend	5-1-2007	413-070-0850	3-20-2007	Repeal	5-1-2007
413-040-0021	3-20-2007	Repeal	5-1-2007	413-070-0855	3-20-2007	Amend	5-1-2007
413-040-0024	3-20-2007	Adopt	5-1-2007	413-070-0860	3-20-2007	Amend	5-1-2007
413-040-0027	3-20-2007	Repeal	5-1-2007	413-070-0870	3-20-2007	Amend	5-1-2007
413-040-0032	3-20-2007	Adopt	5-1-2007	413-070-0880	3-20-2007	Amend	5-1-2007
413-040-0037	3-20-2007	Repeal	5-1-2007	413-080-0040	3-20-2007	Amend	5-1-2007
413-040-0042	3-20-2007	Repeal	5-1-2007	413-080-0045	3-20-2007	Repeal	5-1-2007
413-040-0047	3-20-2007	Repeal	5-1-2007	413-080-0050	3-20-2007	Amend	5-1-2007
413-040-0052	3-20-2007	Repeal	5-1-2007	413-080-0052	3-20-2007	Adopt	5-1-2007
413-040-0057	3-20-2007	Repeal	5-1-2007	413-080-0055	3-20-2007	Amend	5-1-2007
413-040-0061	3-20-2007	Repeal	5-1-2007	413-080-0059	3-20-2007	Adopt	5-1-2007
413-040-0071	3-20-2007	Repeal	5-1-2007	413-080-0059	5-15-2007	Amend(T)	6-1-2007
413-050-0200	11-1-2007	Amend(T)	12-1-2007	413-080-0059	11-1-2007	Amend	12-1-2007
413-050-0210	11-1-2007	Amend(T)	12-1-2007	413-080-0063	3-20-2007	Adopt	5-1-2007

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OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
413-080-0067	3-20-2007	Am. & Ren.	5-1-2007	413-100-0135	2-7-2007	Amend(T)	3-1-2007
413-090-0000	4-1-2007	Amend	5-1-2007	413-100-0135	8-1-2007	Amend	9-1-2007
413-090-0000(T)	4-1-2007	Repeal	5-1-2007	413-100-0135(T)	8-1-2007	Repeal	9-1-2007
413-090-0005	4-1-2007	Amend	5-1-2007	413-100-0150	8-1-2007	Amend	9-1-2007
413-090-0005(T)	4-1-2007	Repeal	5-1-2007	413-100-0160	8-1-2007	Amend	9-1-2007
413-090-0010	4-1-2007	Amend	5-1-2007	413-100-0170	8-1-2007	Amend	9-1-2007
413-090-0010(T)	4-1-2007	Repeal	5-1-2007	413-100-0180	8-1-2007	Amend	9-1-2007
413-090-0030	4-1-2007	Amend	5-1-2007	413-100-0190	8-1-2007	Amend	9-1-2007
413-090-0030(T)	4-1-2007	Repeal	5-1-2007	413-100-0200	8-1-2007	Amend	9-1-2007
413-090-0040	4-1-2007	Amend	5-1-2007	413-100-0210	8-1-2007	Amend	9-1-2007
413-090-0050	4-1-2007	Amend	5-1-2007	413-100-0220	8-1-2007	Amend	9-1-2007
413-090-0050(T)	4-1-2007	Repeal	5-1-2007	413-100-0230	8-1-2007	Amend	9-1-2007
413-090-0100	4-1-2007	Amend	5-1-2007	413-100-0240	8-1-2007	Amend	9-1-2007
413-090-0100(T)	4-1-2007	Repeal	5-1-2007	413-100-0250	8-1-2007	Amend	9-1-2007
413-090-0110	4-1-2007	Amend	5-1-2007	413-100-0260	8-1-2007	Amend	9-1-2007
413-090-0110(T)	4-1-2007	Repeal	5-1-2007	413-100-0270	8-1-2007	Amend	9-1-2007
413-090-0120	4-1-2007	Amend	5-1-2007	413-100-0272	8-1-2007	Repeal	9-1-2007
413-090-0120(T)	4-1-2007	Repeal	5-1-2007	413-100-0274	8-1-2007	Repeal	9-1-2007
413-090-0130	4-1-2007	Amend	5-1-2007	413-100-0276	8-1-2007	Repeal	9-1-2007
413-090-0130(T)	4-1-2007	Repeal	5-1-2007	413-100-0280	8-1-2007	Amend	9-1-2007
413-090-0140	4-1-2007	Amend	5-1-2007	413-100-0290	8-1-2007	Repeal	9-1-2007
413-090-0140(T)	4-1-2007	Repeal	5-1-2007	413-100-0300	8-1-2007	Amend	9-1-2007
413-090-0150	4-1-2007	Amend	5-1-2007	413-100-0310	8-1-2007	Amend	9-1-2007
413-090-0150(T)	4-1-2007	Repeal	5-1-2007	413-100-0320	8-1-2007	Amend	9-1-2007
413-090-0160	4-1-2007	Amend	5-1-2007	413-100-0330	8-1-2007	Repeal	9-1-2007
413-090-0160(T)	4-1-2007	Repeal	5-1-2007	413-100-0340	8-1-2007	Repeal	9-1-2007
413-090-0170	4-1-2007	Amend	5-1-2007	413-100-0350	8-1-2007	Repeal	9-1-2007
413-090-0170(T)	4-1-2007	Repeal	5-1-2007	413-100-0360	8-1-2007	Repeal	9-1-2007
413-090-0180	4-1-2007	Amend	5-1-2007	413-120-0000	8-1-2007	Amend	9-1-2007
413-090-0180(T)	4-1-2007	Repeal	5-1-2007	413-120-0010	8-1-2007	Amend	9-1-2007
413-090-0190	4-1-2007	Amend	5-1-2007	413-120-0020	2-26-2007	Amend(T)	4-1-2007
413-090-0190(T)	4-1-2007	Repeal	5-1-2007	413-120-0020	8-1-2007	Amend	9-1-2007
413-090-0200	4-1-2007	Amend	5-1-2007	413-120-0020(T)	8-1-2007	Repeal	9-1-2007
413-090-0200(T)	4-1-2007	Repeal	5-1-2007	413-120-0030	8-1-2007	Amend	9-1-2007
413-090-0210	4-1-2007	Amend	5-1-2007	413-120-0033	8-1-2007	Amend	9-1-2007
413-090-0210(T)	4-1-2007	Repeal	5-1-2007	413-120-0035	8-1-2007	Amend	9-1-2007
413-090-0220	4-1-2007	Repeal	5-1-2007	413-120-0040	2-26-2007	Amend(T)	4-1-2007
413-090-0220(T)	4-1-2007	Repeal	5-1-2007	413-120-0040	8-1-2007	Amend	9-1-2007
413-100-0000	8-1-2007	Amend	9-1-2007	413-120-0040(T)	8-1-2007	Repeal	9-1-2007
413-100-0010	8-1-2007	Amend	9-1-2007	413-120-0045	8-1-2007	Amend	9-1-2007
413-100-0020	2-7-2007	Amend(T)	3-1-2007	413-120-0060	8-1-2007	Amend	9-1-2007
413-100-0020	8-1-2007	Amend	9-1-2007	413-120-0075	2-26-2007	Amend(T)	4-1-2007
413-100-0020(T)	8-1-2007	Repeal	9-1-2007	413-120-0075	8-1-2007	Amend	9-1-2007
413-100-0030	8-1-2007	Amend	9-1-2007	413-120-0075(T)	8-1-2007	Repeal	9-1-2007
413-100-0040	8-1-2007	Amend	9-1-2007	413-120-0080	8-1-2007	Amend	9-1-2007
413-100-0050	8-1-2007	Repeal	9-1-2007	413-200-0270	3-20-2007	Amend	5-1-2007
413-100-0060	8-1-2007	Amend	9-1-2007	413-200-0270	7-13-2007	Amend(T)	8-1-2007
413-100-0070	8-1-2007	Amend	9-1-2007	413-200-0270	7-13-2007	Amend(T)	8-1-2007
413-100-0080	8-1-2007	Amend	9-1-2007	413-200-0270	7-13-2007	Amend(T)	8-1-2007
413-100-0090	8-1-2007	Amend	9-1-2007	413-200-0270	7-13-2007	Amend(T)	8-1-2007
413-100-0100	8-1-2007	Repeal	9-1-2007	413-200-0270	11-1-2007	Amend	12-1-2007
413-100-0110	8-1-2007	Amend	9-1-2007	413-200-0270(T)	11-1-2007	Repeal	12-1-2007
413-100-0120	8-1-2007	Amend	9-1-2007	413-200-0272	3-20-2007	Am. & Ren.	5-1-2007
413-100-0130	2-7-2007	Amend(T)	3-1-2007	413-200-0272	6-1-2007	Amend(T)	7-1-2007
413-100-0130	8-1-2007	Amend	9-1-2007	413-200-0272	7-13-2007	Amend(T)	8-1-2007
413-100-0130(T)	8-1-2007	Repeal	9-1-2007	413-200-0272	7-13-2007	Amend(T)	8-1-2007

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413-200-0272	7-13-2007	Amend(T)	8-1-2007	413-200-0306	6-1-2007	Amend(T)	7-1-2007
413-200-0272	11-1-2007	Amend	12-1-2007	413-200-0306	7-13-2007	Amend(T)	8-1-2007
413-200-0272(T)	7-13-2007	Suspend	8-1-2007	413-200-0306	7-13-2007	Amend(T)	8-1-2007
413-200-0272(T)	7-13-2007	Suspend	8-1-2007	413-200-0306	7-13-2007	Amend(T)	8-1-2007
413-200-0272(T)	11-1-2007	Repeal	12-1-2007	413-200-0306	7-13-2007	Amend(T)	8-1-2007
413-200-0274	3-20-2007	Adopt	5-1-2007	413-200-0306	11-1-2007	Amend	12-1-2007
413-200-0274	7-13-2007	Amend(T)	8-1-2007	413-200-0306(T)	7-13-2007	Suspend	8-1-2007
413-200-0274	7-13-2007	Amend(T)	8-1-2007	413-200-0306(T)	7-13-2007	Suspend	8-1-2007
413-200-0274	7-13-2007	Amend(T)	8-1-2007	413-200-0306(T)	11-1-2007	Repeal	12-1-2007
413-200-0274	7-13-2007	Amend(T)	8-1-2007	413-200-0307	3-20-2007	Repeal	5-1-2007
413-200-0274	11-1-2007	Amend	12-1-2007	413-200-0308	3-20-2007	Amend	5-1-2007
413-200-0274(T)	11-1-2007	Repeal	12-1-2007	413-200-0309	3-20-2007	Repeal	5-1-2007
413-200-0276	3-20-2007	Adopt	5-1-2007	413-200-0311	3-20-2007	Repeal	5-1-2007
413-200-0278	3-20-2007	Adopt	5-1-2007	413-200-0314	3-20-2007	Am. & Ren.	5-1-2007
413-200-0278	7-13-2007	Amend(T)	8-1-2007	413-200-0314	7-13-2007	Amend(T)	8-1-2007
413-200-0278	7-13-2007	Amend(T)	8-1-2007	413-200-0314	7-13-2007	Amend(T)	8-1-2007
413-200-0278	7-13-2007	Amend(T)	8-1-2007	413-200-0314	7-13-2007	Amend(T)	8-1-2007
413-200-0278	7-13-2007	Amend(T)	8-1-2007	413-200-0314	7-13-2007	Amend(T)	8-1-2007
413-200-0278	11-1-2007	Amend	12-1-2007	413-200-0314	11-1-2007	Amend	12-1-2007
413-200-0278(T)	11-1-2007	Repeal	12-1-2007	413-200-0314(T)	11-1-2007	Repeal	12-1-2007
413-200-0281	3-20-2007	Adopt	5-1-2007	413-200-0335	3-20-2007	Amend	5-1-2007
413-200-0281	7-13-2007	Amend(T)	8-1-2007	413-200-0335	6-1-2007	Amend(T)	7-1-2007
413-200-0281	7-13-2007	Amend(T)	8-1-2007	413-200-0335	7-13-2007	Amend(T)	8-1-2007
413-200-0281	7-13-2007	Amend(T)	8-1-2007	413-200-0335	7-13-2007	Amend(T)	8-1-2007
413-200-0281	7-13-2007	Amend(T)	8-1-2007	413-200-0335	7-13-2007	Amend(T)	8-1-2007
413-200-0281	11-1-2007	Amend	12-1-2007	413-200-0335	7-13-2007	Amend(T)	8-1-2007
413-200-0281(T)	11-1-2007	Repeal	12-1-2007	413-200-0335	11-1-2007	Amend	12-1-2007
413-200-0283	3-20-2007	Adopt	5-1-2007	413-200-0335(T)	7-13-2007	Suspend	8-1-2007
413-200-0285	3-20-2007	Adopt	5-1-2007	413-200-0335(T)	7-13-2007	Suspend	8-1-2007
413-200-0287	3-20-2007	Adopt	5-1-2007	413-200-0335(T)	11-1-2007	Repeal	12-1-2007
413-200-0287	7-13-2007	Amend(T)	8-1-2007	413-200-0338	3-20-2007	Repeal	5-1-2007
413-200-0287	7-13-2007	Amend(T)	8-1-2007	413-200-0341	3-20-2007	Repeal	5-1-2007
413-200-0287	7-13-2007	Amend(T)	8-1-2007	413-200-0345	3-20-2007	Repeal	5-1-2007
413-200-0287	7-13-2007	Amend(T)	8-1-2007	413-200-0348	3-20-2007	Amend	5-1-2007
413-200-0287	11-1-2007	Amend	12-1-2007	413-200-0352	3-20-2007	Am. & Ren.	5-1-2007
413-200-0287(T)	11-1-2007	Repeal	12-1-2007	413-200-0354	3-20-2007	Adopt	5-1-2007
413-200-0289	3-20-2007	Adopt	5-1-2007	413-200-0354	7-13-2007	Amend(T)	8-1-2007
413-200-0290	3-20-2007	Repeal	5-1-2007	413-200-0354	7-13-2007	Amend(T)	8-1-2007
413-200-0292	3-20-2007	Adopt	5-1-2007	413-200-0354	7-13-2007	Amend(T)	8-1-2007
413-200-0292	7-13-2007	Amend(T)	8-1-2007	413-200-0354	7-13-2007	Amend(T)	8-1-2007
413-200-0292	7-13-2007	Amend(T)	8-1-2007	413-200-0354	11-1-2007	Amend	12-1-2007
413-200-0292	7-13-2007	Amend(T)	8-1-2007	413-200-0354(T)	11-1-2007	Repeal	12-1-2007
413-200-0292	7-13-2007	Amend(T)	8-1-2007	413-200-0358	3-20-2007	Am. & Ren.	5-1-2007
413-200-0292	11-1-2007	Amend	12-1-2007	413-200-0358	7-13-2007	Amend(T)	8-1-2007
413-200-0292(T)	11-1-2007	Repeal	12-1-2007	413-200-0358	7-13-2007	Amend(T)	8-1-2007
413-200-0294	3-20-2007	Adopt	5-1-2007	413-200-0358	7-13-2007	Amend(T)	8-1-2007
413-200-0296	3-20-2007	Adopt	5-1-2007	413-200-0358	7-13-2007	Amend(T)	8-1-2007
413-200-0296	7-13-2007	Amend(T)	8-1-2007	413-200-0358	11-1-2007	Amend	12-1-2007
413-200-0296	7-13-2007	Amend(T)	8-1-2007	413-200-0358(T)	11-1-2007	Repeal	12-1-2007
413-200-0296	7-13-2007	Amend(T)	8-1-2007	413-200-0362	3-20-2007	Am. & Ren.	5-1-2007
413-200-0296	7-13-2007	Amend(T)	8-1-2007	413-200-0371	3-20-2007	Amend	5-1-2007
413-200-0296	11-1-2007	Amend	12-1-2007	413-200-0371	7-13-2007	Amend(T)	8-1-2007
413-200-0296(T)	11-1-2007	Repeal	12-1-2007	413-200-0371	7-13-2007	Amend(T)	8-1-2007
413-200-0301	3-20-2007	Amend	5-1-2007	413-200-0371	7-13-2007	Amend(T)	8-1-2007
413-200-0305	3-20-2007	Amend	5-1-2007	413-200-0371	7-13-2007	Amend(T)	8-1-2007

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OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
413-200-0371	11-1-2007	Amend	12-1-2007	413-330-0400	9-1-2007	Repeal	10-1-2007
413-200-0371(T)	11-1-2007	Repeal	12-1-2007	413-330-0410	9-1-2007	Repeal	10-1-2007
413-200-0376	3-20-2007	Repeal	5-1-2007	413-330-0420	9-1-2007	Repeal	10-1-2007
413-200-0377	3-20-2007	Amend	5-1-2007	413-330-0430	9-1-2007	Repeal	10-1-2007
413-200-0379	3-20-2007	Am. & Ren.	5-1-2007	413-350-0000	11-1-2007	Amend	12-1-2007
413-200-0379	7-13-2007	Amend(T)	8-1-2007	413-350-0010	11-1-2007	Amend	12-1-2007
413-200-0379	7-13-2007	Amend(T)	8-1-2007	413-350-0020	11-1-2007	Amend	12-1-2007
413-200-0379	7-13-2007	Amend(T)	8-1-2007	413-350-0030	11-1-2007	Amend	12-1-2007
413-200-0379	7-13-2007	Amend(T)	8-1-2007	413-350-0040	11-1-2007	Amend	12-1-2007
413-200-0379	11-1-2007	Amend	12-1-2007	413-350-0050	11-1-2007	Amend	12-1-2007
413-200-0379(T)	11-1-2007	Repeal	12-1-2007	413-350-0060	11-1-2007	Amend	12-1-2007
413-200-0383	3-20-2007	Adopt	5-1-2007	413-350-0070	11-1-2007	Amend	12-1-2007
413-200-0383	7-13-2007	Amend(T)	8-1-2007	413-350-0080	11-1-2007	Amend	12-1-2007
413-200-0383	7-13-2007	Amend(T)	8-1-2007	413-350-0090	11-1-2007	Amend	12-1-2007
413-200-0383	7-13-2007	Amend(T)	8-1-2007	414-205-0010	3-20-2007	Amend(T)	5-1-2007
413-200-0383	7-13-2007	Amend(T)	8-1-2007	414-205-0010	7-13-2007	Amend	8-1-2007
413-200-0383	11-1-2007	Amend	12-1-2007	414-205-0020	3-20-2007	Amend(T)	5-1-2007
413-200-0383(T)	11-1-2007	Repeal	12-1-2007	414-205-0020	7-13-2007	Amend	8-1-2007
413-200-0386	3-20-2007	Adopt	5-1-2007	414-205-0035	3-20-2007	Amend(T)	5-1-2007
413-200-0388	3-20-2007	Adopt	5-1-2007	414-205-0035	7-13-2007	Amend	8-1-2007
413-200-0390	3-20-2007	Amend	5-1-2007	414-205-0055	3-20-2007	Amend(T)	5-1-2007
413-200-0390	7-13-2007	Amend(T)	8-1-2007	414-205-0055	7-13-2007	Amend	8-1-2007
413-200-0390	7-13-2007	Amend(T)	8-1-2007	414-205-0160	7-13-2007	Amend	8-1-2007
413-200-0390	7-13-2007	Amend(T)	8-1-2007	414-300-0005	3-20-2007	Amend(T)	5-1-2007
413-200-0390	7-13-2007	Amend(T)	8-1-2007	414-300-0005	7-13-2007	Amend	8-1-2007
413-200-0390	11-1-2007	Amend	12-1-2007	414-300-0030	7-13-2007	Amend	8-1-2007
413-200-0390(T)	11-1-2007	Repeal	12-1-2007	414-300-0060	7-13-2007	Amend	8-1-2007
413-200-0391	3-20-2007	Repeal	5-1-2007	414-300-0070	7-13-2007	Amend	8-1-2007
413-200-0392	3-20-2007	Repeal	5-1-2007	414-300-0080	3-20-2007	Amend(T)	5-1-2007
413-200-0393	3-20-2007	Amend	5-1-2007	414-300-0080	7-13-2007	Amend	8-1-2007
413-200-0394	3-20-2007	Amend	5-1-2007	414-300-0090	7-13-2007	Amend	8-1-2007
413-200-0395	3-20-2007	Amend	5-1-2007	414-300-0100	7-13-2007	Amend	8-1-2007
413-200-0396	3-20-2007	Amend	5-1-2007	414-300-0200	7-13-2007	Amend	8-1-2007
413-200-0401	3-20-2007	Repeal	5-1-2007	414-300-0220	7-13-2007	Amend	8-1-2007
413-210-0806	5-1-2007	Amend	6-1-2007	414-300-0260	7-13-2007	Amend	8-1-2007
413-300-0000	9-1-2007	Repeal	10-1-2007	414-350-0010	3-20-2007	Amend(T)	5-1-2007
413-300-0005	9-1-2007	Repeal	10-1-2007	414-350-0010	7-13-2007	Amend	8-1-2007
413-300-0010	9-1-2007	Repeal	10-1-2007	414-350-0050	12-1-2006	Amend	1-1-2007
413-300-0020	9-1-2007	Repeal	10-1-2007	414-350-0050	7-13-2007	Amend	8-1-2007
413-300-0030	9-1-2007	Repeal	10-1-2007	414-350-0080	7-13-2007	Amend	8-1-2007
413-300-0040	9-1-2007	Repeal	10-1-2007	414-350-0100	12-1-2006	Amend	1-1-2007
413-300-0050	9-1-2007	Repeal	10-1-2007	414-350-0100	7-13-2007	Amend	8-1-2007
413-300-0060	9-1-2007	Repeal	10-1-2007	414-350-0110	12-1-2006	Amend	1-1-2007
413-300-0070	9-1-2007	Repeal	10-1-2007	414-350-0120	12-1-2006	Amend	1-1-2007
413-300-0080	9-1-2007	Repeal	10-1-2007	414-350-0120	7-13-2007	Amend	8-1-2007
413-300-0090	9-1-2007	Repeal	10-1-2007	414-350-0180	7-13-2007	Amend	8-1-2007
413-300-0100	9-1-2007	Repeal	10-1-2007	415-012-0050	5-25-2007	Amend	7-1-2007
413-300-0110	9-1-2007	Repeal	10-1-2007	415-012-0080	5-25-2007	Amend	7-1-2007
413-300-0120	9-1-2007	Repeal	10-1-2007	415-051-0120	7-24-2007	Repeal	9-1-2007
413-320-0000	9-1-2007	Repeal	10-1-2007	415-056-0000	3-8-2007	Amend	4-1-2007
413-320-0010	9-1-2007	Repeal	10-1-2007	415-056-0005	3-8-2007	Amend	4-1-2007
413-320-0020	9-1-2007	Repeal	10-1-2007	415-056-0010	3-8-2007	Amend	4-1-2007
413-320-0030	9-1-2007	Repeal	10-1-2007	415-056-0015	3-8-2007	Amend	4-1-2007
413-320-0040	9-1-2007	Repeal	10-1-2007	415-056-0020	3-8-2007	Amend	4-1-2007
413-320-0050	9-1-2007	Repeal	10-1-2007	415-056-0025	3-8-2007	Amend	4-1-2007
413-320-0060	9-1-2007	Repeal	10-1-2007	416-115-0000	2-13-2007	Adopt	3-1-2007

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OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
416-115-0010	2-13-2007	Adopt	3-1-2007	423-045-0112	2-12-2007	Adopt	3-1-2007
416-115-0020	2-13-2007	Adopt	3-1-2007	423-045-0115	2-12-2007	Adopt	3-1-2007
416-115-0030	2-13-2007	Adopt	3-1-2007	423-045-0120	2-12-2007	Adopt	3-1-2007
416-115-0040	2-13-2007	Adopt	3-1-2007	423-045-0125	2-12-2007	Adopt	3-1-2007
416-115-0050	2-13-2007	Adopt	3-1-2007	423-045-0130	2-12-2007	Adopt	3-1-2007
416-115-0060	2-13-2007	Adopt	3-1-2007	423-045-0135	2-12-2007	Adopt	3-1-2007
416-115-0070	2-13-2007	Adopt	3-1-2007	423-045-0140	2-12-2007	Adopt	3-1-2007
416-115-0080	2-13-2007	Adopt	3-1-2007	423-045-0150	2-12-2007	Adopt	3-1-2007
416-115-0090	2-13-2007	Adopt	3-1-2007	423-045-0155	2-12-2007	Adopt	3-1-2007
416-115-0100	2-13-2007	Adopt	3-1-2007	423-045-0160	2-12-2007	Adopt	3-1-2007
416-115-0110	2-13-2007	Adopt	3-1-2007	423-045-0165	2-12-2007	Adopt	3-1-2007
416-115-0120	2-13-2007	Adopt	3-1-2007	423-045-0170	2-12-2007	Adopt	3-1-2007
416-115-0130	2-13-2007	Adopt	3-1-2007	423-045-0175	2-12-2007	Adopt	3-1-2007
416-115-0140	2-13-2007	Adopt	3-1-2007	423-045-0185	2-12-2007	Adopt	3-1-2007
416-115-0150	2-13-2007	Adopt	3-1-2007	436-009-0004	7-1-2007	Amend	7-1-2007
416-115-0160	2-13-2007	Adopt	3-1-2007	436-009-0005	7-1-2007	Amend	7-1-2007
416-115-0170	2-13-2007	Adopt	3-1-2007	436-009-0005	1-1-2008	Amend	12-1-2007
416-115-0180	2-13-2007	Adopt	3-1-2007	436-009-0008	7-1-2007	Amend	7-1-2007
416-115-0190	2-13-2007	Adopt	3-1-2007	436-009-0010	7-1-2007	Amend	7-1-2007
416-115-0200	2-13-2007	Adopt	3-1-2007	436-009-0010	1-1-2008	Amend	12-1-2007
416-115-0210	2-13-2007	Adopt	3-1-2007	436-009-0015	7-1-2007	Amend	7-1-2007
416-115-0220	2-13-2007	Adopt	3-1-2007	436-009-0020	7-1-2007	Amend	7-1-2007
416-115-0230	2-13-2007	Adopt	3-1-2007	436-009-0020	1-1-2008	Amend	12-1-2007
416-115-0240	2-13-2007	Adopt	3-1-2007	436-009-0022	7-1-2007	Amend	7-1-2007
416-115-0250	2-13-2007	Adopt	3-1-2007	436-009-0025	7-1-2007	Amend	7-1-2007
416-115-0260	2-13-2007	Adopt	3-1-2007	436-009-0030	7-1-2007	Amend	7-1-2007
416-115-0270	2-13-2007	Adopt	3-1-2007	436-009-0030	1-1-2008	Amend	12-1-2007
416-115-0280	2-13-2007	Adopt	3-1-2007	436-009-0040	7-1-2007	Amend	7-1-2007
416-530-0000	7-13-2007	Amend	8-1-2007	436-009-0040	1-1-2008	Amend	12-1-2007
416-530-0010	7-13-2007	Amend	8-1-2007	436-009-0050	7-1-2007	Amend	7-1-2007
416-530-0020	7-13-2007	Amend	8-1-2007	436-009-0070	7-1-2007	Amend	7-1-2007
416-530-0030	7-13-2007	Amend	8-1-2007	436-009-0080	7-1-2007	Amend	7-1-2007
416-530-0035	7-13-2007	Adopt	8-1-2007	436-010-0005	1-2-2008	Amend	12-1-2007
416-530-0040	7-13-2007	Amend	8-1-2007	436-010-0210	1-2-2008	Amend	12-1-2007
416-530-0050	7-13-2007	Amend	8-1-2007	436-010-0220	1-2-2008	Amend	12-1-2007
416-530-0060	7-13-2007	Amend	8-1-2007	436-010-0230	1-2-2008	Amend	12-1-2007
416-530-0070	7-13-2007	Amend	8-1-2007	436-010-0240	1-2-2008	Amend	12-1-2007
416-530-0080	7-13-2007	Amend	8-1-2007	436-010-0265	6-7-2007	Amend(T)	7-1-2007
416-530-0090	7-13-2007	Amend	8-1-2007	436-010-0265	12-4-2007	Amend	12-1-2007
416-530-0100	7-13-2007	Amend	8-1-2007	436-010-0265	1-2-2008	Amend	12-1-2007
416-530-0110	7-13-2007	Amend	8-1-2007	436-010-0280	1-2-2008	Amend	12-1-2007
416-530-0125	7-13-2007	Amend	8-1-2007	436-015-0005	1-1-2008	Amend	12-1-2007
416-530-0130	7-13-2007	Amend	8-1-2007	436-015-0030	1-1-2008	Amend	12-1-2007
416-530-0140	7-13-2007	Amend	8-1-2007	436-015-0040	1-1-2008	Amend	12-1-2007
416-530-0150	7-13-2007	Amend	8-1-2007	436-015-0120	1-1-2008	Amend	12-1-2007
416-530-0160	7-13-2007	Amend	8-1-2007	436-030-0007	1-2-2008	Amend	12-1-2007
416-530-0170	7-13-2007	Amend	8-1-2007	436-030-0020	1-2-2008	Amend	12-1-2007
423-001-0006	5-11-2007	Amend(T)	6-1-2007	436-030-0035	1-2-2008	Amend	12-1-2007
423-010-0023	5-11-2007	Amend(T)	6-1-2007	436-030-0115	1-2-2008	Amend	12-1-2007
423-010-0024	2-12-2007	Amend	3-1-2007	436-030-0135	1-2-2008	Amend	12-1-2007
423-045-0005	2-16-2007	Amend(T)	4-1-2007	436-030-0145	1-2-2008	Amend	12-1-2007
423-045-0010	2-16-2007	Amend(T)	4-1-2007	436-030-0155	1-2-2008	Amend	12-1-2007
423-045-0015	2-16-2007	Amend(T)	4-1-2007	436-030-0165	1-2-2008	Amend	12-1-2007
423-045-0101	2-12-2007	Adopt	3-1-2007	436-030-0175	1-2-2008	Amend	12-1-2007
423-045-0105	2-12-2007	Adopt	3-1-2007	436-030-0185	1-2-2008	Amend	12-1-2007
423-045-0110	2-12-2007	Adopt	3-1-2007	436-030-0440	1-2-2008	Repeal	12-1-2007

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436-030-0450	1-2-2008	Repeal	12-1-2007	436-060-0140	1-1-2008	Amend	12-1-2007
436-030-0460	1-2-2008	Repeal	12-1-2007	436-060-0147	1-1-2008	Amend	12-1-2007
436-030-0550	1-2-2008	Repeal	12-1-2007	436-060-0150	1-1-2008	Amend	12-1-2007
436-030-0570	1-2-2008	Repeal	12-1-2007	436-105-0002	12-1-2007	Amend	12-1-2007
436-035-0005	1-1-2008	Amend	12-1-2007	436-105-0003	12-1-2007	Amend	12-1-2007
436-035-0110	1-1-2008	Amend	12-1-2007	436-105-0005	12-1-2007	Amend	12-1-2007
436-035-0350	1-1-2008	Amend	12-1-2007	436-105-0008	12-1-2007	Amend	12-1-2007
436-035-0390	1-1-2008	Amend	12-1-2007	436-105-0500	12-1-2007	Amend	12-1-2007
436-035-0420	1-1-2008	Amend	12-1-2007	436-105-0510	12-1-2007	Am. & Ren.	12-1-2007
436-035-0500	6-27-2007	Amend(T)	8-1-2007	436-105-0510	12-1-2007	Am. & Ren.	12-1-2007
436-035-0500	10-29-2007	Amend(T)	12-1-2007	436-105-0510	12-1-2007	Amend	12-1-2007
436-035-0500	1-1-2008	Amend	12-1-2007	436-105-0520	12-1-2007	Amend	12-1-2007
436-040-0002	1-1-2008	Amend	12-1-2007	436-105-0540	12-1-2007	Amend	12-1-2007
436-040-0003	1-1-2008	Amend	12-1-2007	436-105-0550	12-1-2007	Amend	12-1-2007
436-040-0005	1-1-2008	Amend	12-1-2007	436-110-0003	12-1-2007	Amend	12-1-2007
436-040-0006	1-1-2008	Amend	12-1-2007	436-110-0005	12-1-2007	Amend	12-1-2007
436-040-0008	1-1-2008	Amend	12-1-2007	436-110-0007	12-1-2007	Amend	12-1-2007
436-040-0010	1-1-2008	Amend	12-1-2007	436-110-0240	12-1-2007	Amend	12-1-2007
436-040-0020	1-1-2008	Amend	12-1-2007	436-110-0290	12-1-2007	Amend	12-1-2007
436-040-0030	1-1-2008	Amend	12-1-2007	436-110-0310	12-1-2007	Amend	12-1-2007
436-040-0040	1-1-2008	Amend	12-1-2007	436-110-0320	12-1-2007	Amend	12-1-2007
436-040-0050	1-1-2008	Amend	12-1-2007	436-110-0325	12-1-2007	Amend	12-1-2007
436-040-0060	1-1-2008	Amend	12-1-2007	436-110-0326	12-1-2007	Repeal	12-1-2007
436-040-0070	1-1-2008	Amend	12-1-2007	436-110-0327	12-1-2007	Repeal	12-1-2007
436-040-0080	1-1-2008	Amend	12-1-2007	436-110-0330	12-1-2007	Amend	12-1-2007
436-040-0090	1-1-2008	Amend	12-1-2007	436-110-0335	12-1-2007	Amend	12-1-2007
436-040-0100	1-1-2008	Amend	12-1-2007	436-110-0336	12-1-2007	Amend	12-1-2007
436-045-0008	1-1-2008	Amend	12-1-2007	436-110-0337	12-1-2007	Amend	12-1-2007
436-045-0030	1-1-2008	Amend	12-1-2007	436-110-0345	12-1-2007	Amend	12-1-2007
436-050-0003	11-28-2007	Amend	12-1-2007	436-110-0346	12-1-2007	Amend	12-1-2007
436-050-0005	6-1-2007	Amend(T)	7-1-2007	436-110-0347	12-1-2007	Amend	12-1-2007
436-050-0005	11-28-2007	Amend	12-1-2007	436-110-0350	12-1-2007	Amend	12-1-2007
436-050-0100	11-28-2007	Amend	12-1-2007	436-110-0351	12-1-2007	Amend	12-1-2007
436-050-0175	11-28-2007	Amend	12-1-2007	436-110-0352	12-1-2007	Amend	12-1-2007
436-050-0200	11-28-2007	Amend	12-1-2007	436-110-0380	12-1-2007	Repeal	12-1-2007
436-050-0400	6-1-2007	Amend(T)	7-1-2007	436-110-0850	12-1-2007	Amend	12-1-2007
436-050-0400	11-28-2007	Amend	12-1-2007	436-120-0003	12-1-2007	Amend	12-1-2007
436-050-0410	11-28-2007	Amend	12-1-2007	436-120-0004	12-1-2007	Amend	12-1-2007
436-050-0420	6-1-2007	Amend(T)	7-1-2007	436-120-0007	12-1-2007	Amend	12-1-2007
436-050-0420	11-28-2007	Amend	12-1-2007	436-120-0008	12-1-2007	Amend	12-1-2007
436-050-0440	6-1-2007	Amend(T)	7-1-2007	436-120-0320	12-1-2007	Amend	12-1-2007
436-050-0440	11-28-2007	Amend	12-1-2007	436-120-0340	12-1-2007	Amend	12-1-2007
436-050-0450	6-1-2007	Amend(T)	7-1-2007	436-120-0350	12-1-2007	Amend	12-1-2007
436-050-0450	11-28-2007	Amend	12-1-2007	436-120-0360	12-1-2007	Amend	12-1-2007
436-050-0455	11-28-2007	Amend	12-1-2007	436-120-0400	12-1-2007	Amend	12-1-2007
436-050-0460	6-1-2007	Amend(T)	7-1-2007	436-120-0410	12-1-2007	Amend	12-1-2007
436-050-0460	11-28-2007	Amend	12-1-2007	436-120-0430	12-1-2007	Amend	12-1-2007
436-050-0470	11-28-2007	Amend	12-1-2007	436-120-0440	12-1-2007	Amend	12-1-2007
436-050-0480	6-1-2007	Amend(T)	7-1-2007	436-120-0455	12-1-2007	Amend	12-1-2007
436-050-0480	11-28-2007	Amend	12-1-2007	436-120-0500	12-1-2007	Amend	12-1-2007
436-060-0008	1-1-2008	Amend	12-1-2007	436-120-0510	12-1-2007	Amend	12-1-2007
436-060-0010	1-1-2008	Amend	12-1-2007	436-120-0520	12-1-2007	Amend	12-1-2007
436-060-0015	1-1-2008	Amend	12-1-2007	436-120-0530	12-1-2007	Amend	12-1-2007
436-060-0018	1-1-2008	Amend	12-1-2007	436-120-0700	12-1-2007	Amend	12-1-2007
436-060-0055	1-1-2008	Amend	12-1-2007	436-120-0710	12-1-2007	Amend	12-1-2007
436-060-0060	1-1-2008	Amend	12-1-2007	436-120-0720	12-1-2007	Amend	12-1-2007

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OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
436-120-0730	12-1-2007	Repeal	12-1-2007	441-049-1021	1-1-2008	Amend	11-1-2007
436-120-0800	12-1-2007	Amend	12-1-2007	441-049-1041	1-1-2008	Amend	11-1-2007
436-120-0810	12-1-2007	Amend	12-1-2007	441-175-0040	1-1-2008	Amend	11-1-2007
436-120-0820	12-1-2007	Amend	12-1-2007	441-205-0135	1-1-2008	Adopt	11-1-2007
436-120-0830	12-1-2007	Amend	12-1-2007	441-500-0020	10-22-2007	Amend	12-1-2007
436-120-0840	12-1-2007	Amend	12-1-2007	441-505-1100	10-22-2007	Repeal	12-1-2007
436-120-0900	12-1-2007	Amend	12-1-2007	441-505-1110	10-22-2007	Amend	12-1-2007
436-120-0915	12-1-2007	Amend	12-1-2007	441-505-1120	10-22-2007	Amend	12-1-2007
436-160-0004	1-1-2008	Amend	12-1-2007	441-505-1130	10-22-2007	Amend	12-1-2007
436-160-0005	1-1-2008	Amend	12-1-2007	441-505-1140	10-22-2007	Repeal	12-1-2007
436-160-0030	1-1-2008	Amend	12-1-2007	441-505-1150	10-22-2007	Amend	12-1-2007
436-160-0060	1-1-2008	Amend	12-1-2007	441-505-1160	10-22-2007	Adopt	12-1-2007
436-160-0080	1-1-2008	Amend	12-1-2007	441-505-3010	10-22-2007	Amend	12-1-2007
436-160-0400	1-1-2008	Adopt	12-1-2007	441-505-3030	10-22-2007	Amend	12-1-2007
436-160-0410	1-1-2008	Adopt	12-1-2007	441-505-3060	10-22-2007	Repeal	12-1-2007
436-160-0420	1-1-2008	Adopt	12-1-2007	441-505-4010	10-22-2007	Amend	12-1-2007
436-160-0430	1-1-2008	Adopt	12-1-2007	441-505-4020	10-22-2007	Amend	12-1-2007
436-170-0002	2-1-2007	Adopt	3-1-2007	441-505-4030	10-22-2007	Amend	12-1-2007
436-170-0100	2-1-2007	Adopt	3-1-2007	441-505-9010	10-22-2007	Repeal	12-1-2007
436-170-0200	2-1-2007	Adopt	3-1-2007	441-710-0085	1-1-2008	Adopt	12-1-2007
436-170-0300	2-1-2007	Adopt	3-1-2007	441-730-0000	12-21-2006	Amend	2-1-2007
437-001-0015	9-5-2007	Amend(T)	10-1-2007	441-730-0000	7-1-2007	Amend(T)	8-1-2007
437-002-0005	5-15-2007	Amend	9-1-2007	441-730-0010	12-21-2006	Amend	2-1-2007
437-002-0047	5-15-2007	Adopt	9-1-2007	441-730-0010	7-1-2007	Amend(T)	8-1-2007
437-002-0060	5-15-2007	Amend	9-1-2007	441-730-0015	12-21-2006	Am. & Ren.	2-1-2007
437-002-0120	11-30-2006	Amend	1-1-2007	441-730-0015	8-10-2007	Amend(T)	9-1-2007
437-002-0180	11-8-2007	Amend	12-1-2007	441-730-0025	12-21-2006	Adopt	2-1-2007
437-002-0187	11-8-2007	Adopt	12-1-2007	441-730-0050	12-21-2006	Amend	2-1-2007
437-002-0223	9-26-2007	Amend	11-1-2007	441-730-0080	12-21-2006	Amend	2-1-2007
437-002-0227	9-26-2007	Amend	11-1-2007	441-730-0120	12-21-2006	Amend	2-1-2007
437-002-0320	5-15-2007	Amend	9-1-2007	441-730-0255	12-21-2006	Adopt	2-1-2007
437-002-0321	5-15-2007	Repeal	9-1-2007	441-730-0270	7-1-2007	Amend(T)	8-1-2007
437-002-0322	5-15-2007	Repeal	9-1-2007	441-730-0275	7-1-2007	Amend(T)	8-1-2007
437-002-0323	5-15-2007	Repeal	9-1-2007	441-730-0310	7-1-2007	Amend(T)	8-1-2007
437-002-0324	5-15-2007	Repeal	9-1-2007	441-730-0320	12-21-2006	Amend	2-1-2007
437-002-0325	5-15-2007	Repeal	9-1-2007	441-860-0010	1-17-2007	Amend	3-1-2007
437-002-0360	11-30-2006	Amend	1-1-2007	441-860-0020	1-17-2007	Amend	3-1-2007
437-002-2224	9-26-2007	Adopt	11-1-2007	441-860-0030	1-17-2007	Amend	3-1-2007
437-002-2225	9-26-2007	Adopt	11-1-2007	441-860-0040	1-17-2007	Amend	3-1-2007
437-002-2226	9-26-2007	Adopt	11-1-2007	441-860-0060	1-17-2007	Amend	3-1-2007
437-003-0001	11-30-2006	Amend	1-1-2007	441-875-0020	1-17-2007	Amend	3-1-2007
437-003-0001	9-26-2007	Amend	11-1-2007	441-880-0020	1-17-2007	Amend	3-1-2007
437-003-0047	6-15-2007	Amend	7-1-2007	441-880-0030	1-17-2007	Amend	3-1-2007
437-003-0093	9-26-2007	Repeal	11-1-2007	441-930-0010	1-1-2008	Amend	11-1-2007
437-003-3224	9-26-2007	Adopt	11-1-2007	441-930-0080	1-1-2008	Amend	11-1-2007
437-003-3225	9-26-2007	Adopt	11-1-2007	441-930-0210	1-1-2008	Amend	11-1-2007
437-003-3226	9-26-2007	Adopt	11-1-2007	441-930-0240	1-1-2008	Amend	11-1-2007
437-004-1041	11-30-2006	Amend	1-1-2007	441-930-0250	1-1-2008	Amend	11-1-2007
437-004-1041	8-13-2007	Amend	9-1-2007	441-930-0320	1-1-2008	Amend	11-1-2007
437-005-0001	11-30-2006	Amend	1-1-2007	442-005-0010	7-9-2007	Amend	8-1-2007
437-005-0001	1-16-2007	Amend	2-1-2007	442-005-0050	11-27-2006	Amend(T)	1-1-2007
438-005-0046	3-1-2007	Amend	3-1-2007	442-005-0050	6-18-2007	Amend	8-1-2007
438-022-0005	3-1-2007	Amend	3-1-2007	442-005-0150	10-29-2007	Amend(T)	12-1-2007
440-045-0020	1-1-2008	Amend	11-1-2007	442-005-0190	7-9-2007	Amend	8-1-2007
440-045-0025	1-1-2008	Amend	11-1-2007	442-005-0220	7-9-2007	Amend	8-1-2007
441-035-0021	1-1-2008	Amend	11-1-2007	442-005-0230	7-9-2007	Amend	8-1-2007

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OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
443-002-0070	7-23-2007	Amend(T)	9-1-2007	461-025-0310	10-1-2007	Amend(T)	11-1-2007
459-005-0100	2-21-2007	Amend	4-1-2007	461-025-0315	7-1-2007	Amend	8-1-2007
459-005-0110	2-21-2007	Amend	4-1-2007	461-025-0350	7-1-2007	Amend	8-1-2007
459-005-0120	2-21-2007	Repeal	4-1-2007	461-101-0010	7-1-2007	Amend	8-1-2007
459-005-0130	2-21-2007	Amend	4-1-2007	461-101-0010	10-1-2007	Amend(T)	11-1-2007
459-005-0140	2-21-2007	Amend	4-1-2007	461-105-0010	1-1-2007	Amend	2-1-2007
459-005-0150	2-21-2007	Amend	4-1-2007	461-105-0010	4-1-2007	Amend	5-1-2007
459-005-0220	7-26-2007	Amend	9-1-2007	461-105-0010	10-1-2007	Amend(T)	11-1-2007
459-005-0591	2-16-2007	Amend(T)	4-1-2007	461-105-0060	4-1-2007	Amend	5-1-2007
459-005-0591	7-26-2007	Amend	9-1-2007	461-105-0060	7-1-2007	Amend	8-1-2007
459-005-0595	2-16-2007	Amend(T)	4-1-2007	461-105-0130	4-1-2007	Amend	5-1-2007
459-005-0595	7-26-2007	Amend	9-1-2007	461-105-0150	4-1-2007	Amend	5-1-2007
459-005-0599	2-16-2007	Amend(T)	4-1-2007	461-105-0150	7-1-2007	Amend	8-1-2007
459-005-0599	7-26-2007	Amend	9-1-2007	461-105-0160	4-1-2007	Amend	5-1-2007
459-007-0025	1-23-2007	Amend	3-1-2007	461-105-0160	7-1-2007	Repeal	8-1-2007
459-007-0300	1-23-2007	Amend	3-1-2007	461-105-0410	7-1-2007	Amend	8-1-2007
459-009-0084	11-24-2006	Amend	1-1-2007	461-110-0110	1-1-2007	Repeal	2-1-2007
459-009-0085	11-24-2006	Amend	1-1-2007	461-110-0115	1-1-2007	Am. & Ren.	2-1-2007
459-009-0090	11-24-2006	Adopt	1-1-2007	461-110-0210	7-1-2007	Amend	8-1-2007
459-011-0050	1-23-2007	Amend	3-1-2007	461-110-0210	10-1-2007	Amend	11-1-2007
459-011-0100	11-24-2006	Amend	1-1-2007	461-110-0310	10-1-2007	Amend	11-1-2007
459-016-0100	11-24-2006	Amend	1-1-2007	461-110-0370	1-1-2007	Amend	2-1-2007
459-040-0001	7-26-2007	Adopt	9-1-2007	461-110-0370	7-1-2007	Amend	8-1-2007
459-040-0010	7-26-2007	Adopt	9-1-2007	461-110-0370	10-1-2007	Amend	11-1-2007
459-040-0020	7-26-2007	Adopt	9-1-2007	461-110-0410	1-1-2007	Amend	2-1-2007
459-040-0030	7-26-2007	Adopt	9-1-2007	461-110-0430	10-1-2007	Amend	11-1-2007
459-040-0040	7-26-2007	Adopt	9-1-2007	461-110-0510	1-1-2007	Repeal	2-1-2007
459-040-0050	7-26-2007	Adopt	9-1-2007	461-110-0530	1-1-2007	Amend	2-1-2007
459-040-0060	7-26-2007	Adopt	9-1-2007	461-110-0530	7-1-2007	Amend	8-1-2007
459-040-0070	7-26-2007	Adopt	9-1-2007	461-110-0610	1-1-2007	Repeal	2-1-2007
459-040-0080	7-26-2007	Adopt	9-1-2007	461-110-0630	1-1-2007	Amend	2-1-2007
459-050-0025	1-23-2007	Amend	3-1-2007	461-110-0630	4-1-2007	Amend	5-1-2007
459-050-0037	5-1-2007	Adopt	3-1-2007	461-110-0630	10-1-2007	Amend	11-1-2007
459-050-0070	1-23-2007	Amend	3-1-2007	461-110-0630	10-1-2007	Amend(T)	11-1-2007
459-050-0077	5-1-2007	Adopt	3-1-2007	461-110-0720	1-1-2007	Repeal	2-1-2007
459-050-0077	7-26-2007	Amend	9-1-2007	461-110-0750	1-1-2007	Amend	2-1-2007
459-050-0090	2-16-2007	Amend(T)	4-1-2007	461-115-0010	1-1-2007	Amend	2-1-2007
459-050-0090	7-26-2007	Amend	9-1-2007	461-115-0010	10-1-2007	Amend	11-1-2007
459-050-0150	1-23-2007	Amend	3-1-2007	461-115-0030	4-1-2007	Amend	5-1-2007
459-076-0001	4-4-2007	Amend	5-1-2007	461-115-0030	10-1-2007	Amend(T)	11-1-2007
459-076-0020	4-4-2007	Amend	5-1-2007	461-115-0050	1-1-2007	Amend	2-1-2007
459-076-0050	4-4-2007	Amend	5-1-2007	461-115-0050	7-1-2007	Amend	8-1-2007
459-076-0060	4-4-2007	Amend	5-1-2007	461-115-0050	10-1-2007	Amend	11-1-2007
459-080-0100	11-24-2006	Amend	1-1-2007	461-115-0090	7-1-2007	Amend	8-1-2007
461-001-0000	1-1-2007	Amend	2-1-2007	461-115-0140	7-1-2007	Amend	8-1-2007
461-001-0000	4-1-2007	Amend	5-1-2007	461-115-0145	7-1-2007	Amend	8-1-2007
461-001-0000	10-1-2007	Amend	11-1-2007	461-115-0190	7-1-2007	Amend	8-1-2007
461-001-0000	10-1-2007	Amend(T)	11-1-2007	461-115-0190	10-1-2007	Amend	11-1-2007
461-001-0015	1-1-2007	Adopt	2-1-2007	461-115-0190	10-1-2007	Amend(T)	11-1-2007
461-001-0015	7-1-2007	Amend	8-1-2007	461-115-0430	10-1-2007	Amend(T)	11-1-2007
461-001-0020	1-1-2007	Adopt	2-1-2007	461-115-0450	10-1-2007	Amend	11-1-2007
461-001-0025	10-1-2007	Amend(T)	11-1-2007	461-115-0510	1-1-2007	Am. & Ren.	2-1-2007
461-001-0030	4-1-2007	Amend	5-1-2007	461-115-0530	1-1-2007	Amend	2-1-2007
461-005-0735	4-1-2007	Repeal	5-1-2007	461-115-0540	1-1-2007	Amend	2-1-2007
461-025-0310	4-1-2007	Amend	5-1-2007	461-115-0651	1-1-2007	Amend	2-1-2007
461-025-0310	7-1-2007	Amend	8-1-2007	461-115-0705	1-1-2007	Amend	2-1-2007

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461-115-0715	10-1-2007	Adopt(T)	11-1-2007	461-135-0505	10-1-2007	Amend(T)	11-1-2007
461-120-0005	1-1-2007	Repeal	2-1-2007	461-135-0506	1-1-2007	Amend	2-1-2007
461-120-0030	7-1-2007	Amend	8-1-2007	461-135-0506	10-1-2007	Amend(T)	11-1-2007
461-120-0120	10-1-2007	Amend	11-1-2007	461-135-0510	1-1-2007	Amend	2-1-2007
461-120-0125	1-1-2007	Amend	2-1-2007	461-135-0510	7-1-2007	Amend	8-1-2007
461-120-0210	4-1-2007	Amend	5-1-2007	461-135-0520	1-1-2007	Amend	2-1-2007
461-120-0210	10-1-2007	Amend	11-1-2007	461-135-0550	7-1-2007	Amend	8-1-2007
461-120-0230	4-1-2007	Repeal	5-1-2007	461-135-0708	1-1-2007	Amend	2-1-2007
461-120-0235	4-1-2007	Repeal	5-1-2007	461-135-0725	1-1-2007	Amend	2-1-2007
461-120-0310	10-1-2007	Amend(T)	11-1-2007	461-135-0730	4-1-2007	Amend	5-1-2007
461-120-0340	10-1-2007	Amend(T)	11-1-2007	461-135-0745	10-1-2007	Adopt	11-1-2007
461-120-0345	10-1-2007	Amend(T)	11-1-2007	461-135-0750	1-1-2007	Amend	2-1-2007
461-120-0610	1-1-2007	Repeal	2-1-2007	461-135-0750	4-1-2007	Amend	5-1-2007
461-125-0130	10-1-2007	Amend(T)	11-1-2007	461-135-0750	10-1-2007	Amend	11-1-2007
461-125-0255	4-1-2007	Amend	5-1-2007	461-135-0780	1-1-2007	Amend	2-1-2007
461-125-0260	10-1-2007	Adopt(T)	11-1-2007	461-135-0900	10-1-2007	Amend	11-1-2007
461-125-0370	1-1-2007	Amend	2-1-2007	461-135-0950	1-1-2007	Amend	2-1-2007
461-125-0370	4-1-2007	Amend	5-1-2007	461-135-0950	7-1-2007	Amend	8-1-2007
461-125-0810	10-1-2007	Amend(T)	11-1-2007	461-135-0960	1-1-2007	Amend	2-1-2007
461-130-0305	10-1-2007	Amend(T)	11-1-2007	461-135-0990	10-1-2007	Amend	11-1-2007
461-130-0310	1-1-2007	Amend	2-1-2007	461-135-1110	7-1-2007	Amend	8-1-2007
461-130-0310	10-1-2007	Amend(T)	11-1-2007	461-135-1195	10-1-2007	Adopt(T)	11-1-2007
461-130-0315	1-1-2007	Amend	2-1-2007	461-135-1225	7-1-2007	Amend	8-1-2007
461-130-0315	10-1-2007	Amend(T)	11-1-2007	461-135-1230	10-1-2007	Amend	11-1-2007
461-130-0323	10-1-2007	Adopt(T)	11-1-2007	461-135-1250	10-1-2007	Adopt(T)	11-1-2007
461-130-0325	1-1-2007	Amend	2-1-2007	461-140-0020	10-1-2007	Amend	11-1-2007
461-130-0325	10-1-2007	Amend(T)	11-1-2007	461-140-0040	4-1-2007	Amend	5-1-2007
461-130-0327	1-1-2007	Amend	2-1-2007	461-140-0040	10-1-2007	Amend	11-1-2007
461-130-0327	10-1-2007	Amend(T)	11-1-2007	461-140-0120	4-1-2007	Amend	5-1-2007
461-130-0330	10-1-2007	Amend(T)	11-1-2007	461-140-0210	1-1-2007	Amend	2-1-2007
461-130-0331	9-1-2007	Adopt(T)	10-1-2007	461-140-0220	1-1-2007	Amend	2-1-2007
461-130-0335	1-1-2007	Amend	2-1-2007	461-140-0242	1-1-2007	Amend	2-1-2007
461-130-0335	10-1-2007	Amend(T)	11-1-2007	461-140-0242	1-1-2007	Amend	2-1-2007
461-135-0010	1-1-2007	Amend	2-1-2007	461-140-0242	4-1-2007	Amend	5-1-2007
461-135-0010	7-1-2007	Amend	8-1-2007	461-140-0242	7-1-2007	Amend	8-1-2007
461-135-0010	10-1-2007	Amend	11-1-2007	461-140-0270	1-1-2007	Amend	2-1-2007
461-135-0010	10-1-2007	Amend(T)	11-1-2007	461-140-0296	1-1-2007	Amend	2-1-2007
461-135-0070	1-1-2007	Amend	2-1-2007	461-140-0296	4-1-2007	Amend	5-1-2007
461-135-0070	4-1-2007	Amend	5-1-2007	461-140-0296	7-1-2007	Amend	8-1-2007
461-135-0070	10-1-2007	Amend(T)	11-1-2007	461-140-0300	1-1-2007	Amend	2-1-2007
461-135-0075	1-1-2007	Amend	2-1-2007	461-145-0001	1-1-2007	Amend	2-1-2007
461-135-0075	10-1-2007	Amend(T)	11-1-2007	461-145-0005	4-1-2007	Amend	5-1-2007
461-135-0085	10-1-2007	Amend(T)	11-1-2007	461-145-0008	4-1-2007	Amend	5-1-2007
461-135-0089	10-1-2007	Amend(T)	11-1-2007	461-145-0010	4-1-2007	Amend	5-1-2007
461-135-0200	10-1-2007	Amend(T)	11-1-2007	461-145-0020	1-1-2007	Amend	2-1-2007
461-135-0210	1-1-2007	Amend	2-1-2007	461-145-0020	4-1-2007	Amend	5-1-2007
461-135-0400	1-1-2007	Amend	2-1-2007	461-145-0022	1-1-2007	Amend	2-1-2007
461-135-0475	1-1-2007	Amend	2-1-2007	461-145-0022	4-1-2007	Amend	5-1-2007
461-135-0475	10-1-2007	Amend(T)	11-1-2007	461-145-0025	1-1-2007	Amend	2-1-2007
461-135-0491	4-1-2007	Adopt	5-1-2007	461-145-0030	4-1-2007	Amend	5-1-2007
461-135-0492	4-1-2007	Adopt	5-1-2007	461-145-0040	7-1-2007	Amend	8-1-2007
461-135-0493	4-1-2007	Adopt	5-1-2007	461-145-0050	4-1-2007	Amend	5-1-2007
461-135-0494	4-1-2007	Adopt	5-1-2007	461-145-0055	1-1-2007	Amend	2-1-2007
461-135-0495	4-1-2007	Adopt	5-1-2007	461-145-0055	4-1-2007	Repeal	5-1-2007
461-135-0496	4-1-2007	Adopt	5-1-2007	461-145-0060	4-1-2007	Amend	5-1-2007

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461-145-0080	10-1-2007	Amend	11-1-2007	461-145-0490	7-1-2007	Amend	8-1-2007
461-145-0080	10-1-2007	Amend(T)	11-1-2007	461-145-0505	1-1-2007	Amend	2-1-2007
461-145-0086	4-1-2007	Am. & Ren.	5-1-2007	461-145-0510	4-1-2007	Amend	5-1-2007
461-145-0088	10-1-2007	Amend	11-1-2007	461-145-0510	10-1-2007	Amend	11-1-2007
461-145-0100	4-1-2007	Amend	5-1-2007	461-145-0540	1-1-2007	Amend	2-1-2007
461-145-0105	7-1-2007	Amend	8-1-2007	461-145-0540	1-1-2007	Amend	2-1-2007
461-145-0108	1-1-2007	Amend	2-1-2007	461-145-0540	4-1-2007	Amend	5-1-2007
461-145-0110	10-1-2007	Amend	11-1-2007	461-145-0540	10-1-2007	Amend	11-1-2007
461-145-0120	4-1-2007	Amend	5-1-2007	461-145-0570	1-1-2007	Amend	2-1-2007
461-145-0120	10-1-2007	Amend	11-1-2007	461-145-0580	1-1-2007	Amend	2-1-2007
461-145-0130	1-1-2007	Amend	2-1-2007	461-145-0582	7-1-2007	Amend	8-1-2007
461-145-0130	4-1-2007	Amend	5-1-2007	461-145-0600	4-1-2007	Amend	5-1-2007
461-145-0130	10-1-2007	Amend	11-1-2007	461-145-0600	10-1-2007	Amend	11-1-2007
461-145-0140	1-1-2007	Amend	2-1-2007	461-145-0920	4-1-2007	Amend	5-1-2007
461-145-0140	4-1-2007	Amend	5-1-2007	461-145-0930	4-1-2007	Amend	5-1-2007
461-145-0175	1-1-2007	Amend	2-1-2007	461-150-0010	1-1-2007	Repeal	2-1-2007
461-145-0180	10-1-2007	Amend	11-1-2007	461-150-0055	1-1-2007	Amend	2-1-2007
461-145-0185	1-1-2007	Adopt	2-1-2007	461-150-0060	10-1-2007	Amend	11-1-2007
461-145-0210	10-1-2007	Amend	11-1-2007	461-150-0070	1-1-2007	Amend	2-1-2007
461-145-0220	1-1-2007	Amend	2-1-2007	461-150-0080	1-1-2007	Amend	2-1-2007
461-145-0240	10-1-2007	Amend	11-1-2007	461-155-0010	10-1-2007	Amend	11-1-2007
461-145-0250	1-1-2007	Amend	2-1-2007	461-155-0030	7-1-2007	Amend(T)	8-1-2007
461-145-0250	4-1-2007	Amend	5-1-2007	461-155-0030	10-1-2007	Amend	11-1-2007
461-145-0260	10-1-2007	Amend	11-1-2007	461-155-0150	10-1-2007	Amend(T)	11-1-2007
461-145-0270	10-1-2007	Amend	11-1-2007	461-155-0180	1-24-2007	Amend	3-1-2007
461-145-0280	1-1-2007	Amend	2-1-2007	461-155-0190	10-1-2007	Amend	11-1-2007
461-145-0280	7-1-2007	Amend	8-1-2007	461-155-0225	1-1-2007	Amend	2-1-2007
461-145-0280	10-1-2007	Amend	11-1-2007	461-155-0225	4-1-2007	Amend	5-1-2007
461-145-0290	10-1-2007	Amend	11-1-2007	461-155-0225	10-1-2007	Amend	11-1-2007
461-145-0300	10-1-2007	Amend	11-1-2007	461-155-0235	1-24-2007	Amend	3-1-2007
461-145-0310	1-1-2007	Amend	2-1-2007	461-155-0250	1-1-2007	Amend	2-1-2007
461-145-0320	7-1-2007	Amend	8-1-2007	461-155-0250	3-1-2007	Amend(T)	4-1-2007
461-145-0330	1-1-2007	Amend	2-1-2007	461-155-0250	3-9-2007	Amend(T)	4-1-2007
461-145-0330	7-1-2007	Amend	8-1-2007	461-155-0250	4-1-2007	Amend	5-1-2007
461-145-0340	1-1-2007	Amend	2-1-2007	461-155-0250	4-1-2007	Amend(T)	5-1-2007
461-145-0340	10-1-2007	Amend	11-1-2007	461-155-0250	7-1-2007	Amend	8-1-2007
461-145-0343	1-1-2007	Adopt	2-1-2007	461-155-0250	10-1-2007	Amend	11-1-2007
461-145-0345	10-1-2007	Amend	11-1-2007	461-155-0250(T)	3-9-2007	Suspend	4-1-2007
461-145-0360	10-1-2007	Amend	11-1-2007	461-155-0250(T)	4-1-2007	Suspend	5-1-2007
461-145-0365	10-1-2007	Amend	11-1-2007	461-155-0270	1-1-2007	Amend	2-1-2007
461-145-0380	4-1-2007	Amend	5-1-2007	461-155-0290	3-1-2007	Amend(T)	4-1-2007
461-145-0380	10-1-2007	Amend	11-1-2007	461-155-0290	4-1-2007	Amend	5-1-2007
461-145-0400	10-1-2007	Amend	11-1-2007	461-155-0291	3-1-2007	Amend(T)	4-1-2007
461-145-0410	10-1-2007	Amend	11-1-2007	461-155-0291	4-1-2007	Amend	5-1-2007
461-145-0410	10-1-2007	Amend(T)	11-1-2007	461-155-0295	3-1-2007	Amend(T)	4-1-2007
461-145-0415	10-1-2007	Amend	11-1-2007	461-155-0295	4-1-2007	Amend	5-1-2007
461-145-0420	4-1-2007	Amend	5-1-2007	461-155-0300	1-1-2007	Amend	2-1-2007
461-145-0430	10-1-2007	Amend	11-1-2007	461-155-0320	10-1-2007	Adopt(T)	11-1-2007
461-145-0433	4-1-2007	Amend	5-1-2007	461-155-0530	4-1-2007	Amend	5-1-2007
461-145-0440	1-1-2007	Amend	2-1-2007	461-155-0630	10-1-2007	Amend	11-1-2007
461-145-0440	10-1-2007	Amend	11-1-2007	461-155-0660	1-1-2007	Amend	2-1-2007
461-145-0455	4-1-2007	Amend	5-1-2007	461-155-0670	4-1-2007	Amend	5-1-2007
461-145-0460	10-1-2007	Amend	11-1-2007	461-155-0670	10-1-2007	Amend(T)	11-1-2007
461-145-0470	1-1-2007	Amend	2-1-2007	461-155-0680	10-1-2007	Amend	11-1-2007
461-145-0470	7-1-2007	Amend	8-1-2007	461-160-0010	1-1-2007	Amend	2-1-2007
461-145-0490	4-1-2007	Amend	5-1-2007	461-160-0015	1-1-2007	Amend	2-1-2007

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OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
461-160-0020	1-1-2007	Repeal	2-1-2007	461-180-0081	10-1-2007	Amend(T)	11-1-2007
461-160-0040	10-1-2007	Amend	11-1-2007	461-180-0085	1-1-2007	Amend	2-1-2007
461-160-0055	1-1-2007	Amend	2-1-2007	461-180-0090	1-1-2007	Amend	2-1-2007
461-160-0090	1-1-2007	Amend	2-1-2007	461-180-0090	10-1-2007	Amend	11-1-2007
461-160-0400	1-1-2007	Amend	2-1-2007	461-185-0050	1-1-2007	Amend	2-1-2007
461-160-0415	1-1-2007	Amend	2-1-2007	461-190-0110	1-1-2007	Am. & Ren.	2-1-2007
461-160-0420	10-1-2007	Amend	11-1-2007	461-190-0151	10-1-2007	Amend(T)	11-1-2007
461-160-0430	1-1-2007	Amend	2-1-2007	461-190-0161	1-1-2007	Repeal	2-1-2007
461-160-0430	10-1-2007	Amend	11-1-2007	461-190-0163	10-1-2007	Amend(T)	11-1-2007
461-160-0430	10-1-2007	Amend(T)	11-1-2007	461-190-0171	10-1-2007	Amend(T)	11-1-2007
461-160-0500	1-1-2007	Amend	2-1-2007	461-190-0195	4-1-2007	Amend	5-1-2007
461-160-0560	1-1-2007	Am. & Ren.	2-1-2007	461-190-0195	9-1-2007	Amend(T)	10-1-2007
461-160-0580	1-1-2007	Amend	2-1-2007	461-190-0197	1-1-2007	Amend	2-1-2007
461-160-0580	4-1-2007	Amend	5-1-2007	461-190-0211	10-1-2007	Amend(T)	11-1-2007
461-160-0610	1-1-2007	Amend	2-1-2007	461-190-0231	10-1-2007	Amend(T)	11-1-2007
461-160-0610	4-1-2007	Amend	5-1-2007	461-190-0241	10-1-2007	Amend(T)	11-1-2007
461-160-0610	7-1-2007	Amend	8-1-2007	461-190-0310	1-1-2007	Amend	2-1-2007
461-160-0620	1-1-2007	Amend	2-1-2007	461-195-0301	1-1-2007	Amend	2-1-2007
461-160-0620	4-1-2007	Amend	5-1-2007	461-195-0305	1-1-2007	Amend	2-1-2007
461-160-0620	7-1-2007	Amend	8-1-2007	461-195-0310	1-1-2007	Amend	2-1-2007
461-160-0780	1-1-2007	Amend	2-1-2007	461-195-0325	1-1-2007	Amend	2-1-2007
461-165-0030	10-1-2007	Amend	11-1-2007	461-195-0501	10-1-2007	Amend(T)	11-1-2007
461-165-0030	10-1-2007	Amend(T)	11-1-2007	461-195-0511	1-1-2007	Amend	2-1-2007
461-165-0060	7-1-2007	Amend	8-1-2007	461-195-0521	7-1-2007	Amend	8-1-2007
461-165-0120	4-1-2007	Amend	5-1-2007	461-195-0541	1-1-2007	Amend	2-1-2007
461-165-0180	1-1-2007	Amend	2-1-2007	461-195-0541	4-1-2007	Amend	5-1-2007
461-170-0020	1-1-2007	Amend	2-1-2007	461-195-0551	10-1-2007	Amend(T)	11-1-2007
461-170-0020	4-1-2007	Amend	5-1-2007	461-195-0561	10-1-2007	Amend(T)	11-1-2007
461-170-0020	10-1-2007	Amend	11-1-2007	461-195-0601	10-1-2007	Amend(T)	11-1-2007
461-170-0020	10-1-2007	Amend(T)	11-1-2007	461-195-0611	1-1-2007	Amend	2-1-2007
461-170-0030	10-1-2007	Amend(T)	11-1-2007	462-160-0010	3-7-2007	Repeal	4-1-2007
461-170-0035	4-1-2007	Amend	5-1-2007	462-160-0020	3-7-2007	Repeal	4-1-2007
461-170-0101	1-1-2007	Amend	2-1-2007	462-160-0030	3-7-2007	Repeal	4-1-2007
461-170-0102	1-1-2007	Amend	2-1-2007	462-160-0100	3-7-2007	Adopt	4-1-2007
461-170-0103	1-1-2007	Amend	2-1-2007	462-160-0100(T)	3-7-2007	Repeal	4-1-2007
461-170-0130	1-1-2007	Amend	2-1-2007	462-160-0110	3-7-2007	Adopt	4-1-2007
461-175-0010	1-1-2007	Amend	2-1-2007	462-160-0110(T)	3-7-2007	Repeal	4-1-2007
461-175-0010	7-1-2007	Amend	8-1-2007	462-160-0120	3-7-2007	Adopt	4-1-2007
461-175-0030	1-1-2007	Repeal	2-1-2007	462-160-0120(T)	3-7-2007	Repeal	4-1-2007
461-175-0050	4-1-2007	Amend	5-1-2007	462-160-0130	3-7-2007	Adopt	4-1-2007
461-175-0200	7-1-2007	Amend	8-1-2007	462-160-0130(T)	3-7-2007	Repeal	4-1-2007
461-175-0200	10-1-2007	Amend	11-1-2007	462-160-0140	3-7-2007	Adopt	4-1-2007
461-175-0206	4-1-2007	Amend	5-1-2007	462-160-0140	3-7-2007	Amend(T)	4-1-2007
461-175-0230	7-1-2007	Amend	8-1-2007	462-160-0140	8-6-2007	Amend	9-1-2007
461-175-0250	1-1-2007	Amend	2-1-2007	462-160-0140(T)	3-7-2007	Repeal	4-1-2007
461-175-0250	7-1-2007	Amend	8-1-2007	462-200-0630	7-1-2007	Suspend	8-1-2007
461-175-0270	4-1-2007	Amend	5-1-2007	462-210-0030	7-1-2007	Amend	5-1-2007
461-175-0305	10-1-2007	Amend	11-1-2007	462-220-0030	7-1-2007	Amend	5-1-2007
461-180-0010	4-1-2007	Amend	5-1-2007	462-220-0070	7-1-2007	Amend	5-1-2007
461-180-0010	10-1-2007	Amend(T)	11-1-2007	462-220-0090	7-1-2007	Adopt	5-1-2007
461-180-0020	4-1-2007	Amend	5-1-2007	471-030-0017	7-14-2007	Amend	8-1-2007
461-180-0020	10-1-2007	Amend	11-1-2007	471-030-0050	9-26-2007	Amend(T)	11-1-2007
461-180-0020	10-1-2007	Amend(T)	11-1-2007	471-030-0050	9-26-2007	Amend(T)	11-1-2007
461-180-0044	1-1-2007	Amend	2-1-2007	471-030-0074	12-3-2006	Amend(T)	1-1-2007
461-180-0044	4-1-2007	Amend	5-1-2007	471-030-0074	1-29-2007	Amend	3-1-2007
461-180-0070	10-1-2007	Amend(T)	11-1-2007	471-030-0075	12-3-2006	Amend(T)	1-1-2007

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471-030-0075	1-29-2007	Amend	3-1-2007	571-021-0110	8-1-2007	Adopt	9-1-2007
471-031-0181	2-1-2007	Adopt	3-1-2007	571-021-0115	2-14-2007	Adopt(T)	3-1-2007
471-040-0010	12-3-2006	Amend	1-1-2007	571-021-0115	8-1-2007	Adopt	9-1-2007
471-040-0040	12-3-2006	Amend	1-1-2007	571-021-0120	2-14-2007	Adopt(T)	3-1-2007
471-040-0041	12-3-2006	Adopt	1-1-2007	571-021-0120	8-1-2007	Adopt	9-1-2007
471-041-0060	10-25-2007	Amend(T)	12-1-2007	571-021-0125	2-14-2007	Adopt(T)	3-1-2007
571-004-0016	2-14-2007	Amend(T)	3-1-2007	571-021-0125	8-1-2007	Adopt	9-1-2007
571-004-0016	8-1-2007	Amend	9-1-2007	571-021-0130	2-14-2007	Adopt(T)	3-1-2007
571-011-0015	3-1-2007	Amend	4-1-2007	571-021-0130	8-1-2007	Adopt	9-1-2007
571-021-0005	2-14-2007	Suspend	3-1-2007	571-021-0140	2-14-2007	Adopt(T)	3-1-2007
571-021-0005	8-1-2007	Repeal	9-1-2007	571-021-0140	8-1-2007	Adopt	9-1-2007
571-021-0009	2-14-2007	Suspend	3-1-2007	571-021-0150	2-14-2007	Adopt(T)	3-1-2007
571-021-0009	8-1-2007	Repeal	9-1-2007	571-021-0150	8-1-2007	Adopt	9-1-2007
571-021-0015	2-14-2007	Suspend	3-1-2007	571-021-0160	2-14-2007	Adopt(T)	3-1-2007
571-021-0015	8-1-2007	Repeal	9-1-2007	571-021-0160	8-1-2007	Adopt	9-1-2007
571-021-0019	2-14-2007	Suspend	3-1-2007	571-021-0165	2-14-2007	Adopt(T)	3-1-2007
571-021-0019	8-1-2007	Repeal	9-1-2007	571-021-0165	8-1-2007	Adopt	9-1-2007
571-021-0024	2-14-2007	Suspend	3-1-2007	571-021-0200	2-14-2007	Adopt(T)	3-1-2007
571-021-0024	8-1-2007	Repeal	9-1-2007	571-021-0200	8-1-2007	Adopt	9-1-2007
571-021-0029	2-14-2007	Suspend	3-1-2007	571-021-0205	2-14-2007	Adopt(T)	3-1-2007
571-021-0029	8-1-2007	Repeal	9-1-2007	571-021-0205	8-1-2007	Adopt	9-1-2007
571-021-0030	2-14-2007	Suspend	3-1-2007	571-021-0210	2-14-2007	Adopt(T)	3-1-2007
571-021-0030	8-1-2007	Repeal	9-1-2007	571-021-0210	8-1-2007	Adopt	9-1-2007
571-021-0035	2-14-2007	Suspend	3-1-2007	571-021-0215	2-14-2007	Adopt(T)	3-1-2007
571-021-0035	8-1-2007	Repeal	9-1-2007	571-021-0215	8-1-2007	Adopt	9-1-2007
571-021-0038	2-14-2007	Suspend	3-1-2007	571-021-0220	2-14-2007	Adopt(T)	3-1-2007
571-021-0038	8-1-2007	Repeal	9-1-2007	571-021-0220	8-1-2007	Adopt	9-1-2007
571-021-0040	2-14-2007	Suspend	3-1-2007	571-021-0230	2-14-2007	Adopt(T)	3-1-2007
571-021-0040	8-1-2007	Repeal	9-1-2007	571-021-0230	8-1-2007	Adopt	9-1-2007
571-021-0045	2-14-2007	Suspend	3-1-2007	571-021-0240	2-14-2007	Adopt(T)	3-1-2007
571-021-0045	8-1-2007	Repeal	9-1-2007	571-021-0240	8-1-2007	Adopt	9-1-2007
571-021-0050	2-14-2007	Suspend	3-1-2007	571-021-0250	2-14-2007	Adopt(T)	3-1-2007
571-021-0050	8-1-2007	Repeal	9-1-2007	571-021-0250	8-1-2007	Adopt	9-1-2007
571-021-0055	2-14-2007	Suspend	3-1-2007	571-023-0000	2-14-2007	Adopt(T)	3-1-2007
571-021-0055	8-1-2007	Repeal	9-1-2007	571-023-0000	8-1-2007	Adopt	9-1-2007
571-021-0056	2-14-2007	Suspend	3-1-2007	571-023-0005	2-14-2007	Amend(T)	3-1-2007
571-021-0056	8-1-2007	Repeal	9-1-2007	571-023-0005	8-1-2007	Amend	9-1-2007
571-021-0057	2-14-2007	Suspend	3-1-2007	571-023-0010	2-14-2007	Suspend	3-1-2007
571-021-0057	8-1-2007	Repeal	9-1-2007	571-023-0010	8-1-2007	Repeal	9-1-2007
571-021-0060	2-14-2007	Suspend	3-1-2007	571-023-0015	2-14-2007	Suspend	3-1-2007
571-021-0060	8-1-2007	Repeal	9-1-2007	571-023-0015	8-1-2007	Repeal	9-1-2007
571-021-0064	2-14-2007	Suspend	3-1-2007	571-023-0020	2-14-2007	Suspend	3-1-2007
571-021-0064	8-1-2007	Repeal	9-1-2007	571-023-0020	8-1-2007	Repeal	9-1-2007
571-021-0068	2-14-2007	Suspend	3-1-2007	571-023-0025	2-14-2007	Amend(T)	3-1-2007
571-021-0068	8-1-2007	Repeal	9-1-2007	571-023-0025	8-1-2007	Amend	9-1-2007
571-021-0070	2-14-2007	Suspend	3-1-2007	571-023-0030	2-14-2007	Suspend	3-1-2007
571-021-0070	8-1-2007	Repeal	9-1-2007	571-023-0030	8-1-2007	Repeal	9-1-2007
571-021-0072	2-14-2007	Suspend	3-1-2007	571-023-0035	2-14-2007	Suspend	3-1-2007
571-021-0072	8-1-2007	Repeal	9-1-2007	571-023-0035	8-1-2007	Repeal	9-1-2007
571-021-0073	2-14-2007	Suspend	3-1-2007	571-023-0040	2-14-2007	Suspend	3-1-2007
571-021-0073	8-1-2007	Repeal	9-1-2007	571-023-0040	8-1-2007	Repeal	9-1-2007
571-021-0100	2-14-2007	Adopt(T)	3-1-2007	571-023-0100	2-14-2007	Adopt(T)	3-1-2007
571-021-0100	8-1-2007	Adopt	9-1-2007	571-023-0100	8-1-2007	Adopt	9-1-2007
571-021-0105	2-14-2007	Adopt(T)	3-1-2007	571-023-0105	2-14-2007	Adopt(T)	3-1-2007
571-021-0105	8-1-2007	Adopt	9-1-2007	571-023-0105	8-1-2007	Adopt	9-1-2007
571-021-0110	2-14-2007	Adopt(T)	3-1-2007	571-023-0110	2-14-2007	Adopt(T)	3-1-2007

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571-023-0110	8-1-2007	Adopt	9-1-2007	571-040-0420	2-14-2007	Am. & Ren.(T)	3-1-2007
571-023-0115	2-14-2007	Adopt(T)	3-1-2007	571-040-0430	2-14-2007	Am. & Ren.(T)	3-1-2007
571-023-0115	8-1-2007	Adopt	9-1-2007	571-040-0440	2-14-2007	Am. & Ren.(T)	3-1-2007
571-023-0120	2-14-2007	Adopt(T)	3-1-2007	571-040-0450	2-14-2007	Am. & Ren.(T)	3-1-2007
571-023-0120	8-1-2007	Adopt	9-1-2007	571-040-0450	2-14-2007	Am. & Ren.(T)	3-1-2007
571-040-0010	2-14-2007	Adopt(T)	3-1-2007	571-040-0450	2-14-2007	Am. & Ren.(T)	3-1-2007
571-040-0010	8-1-2007	Adopt	9-1-2007	571-040-0460	2-14-2007	Am. & Ren.(T)	3-1-2007
571-040-0015	2-14-2007	Adopt(T)	3-1-2007	571-050-0011	8-31-2007	Amend	10-1-2007
571-040-0015	8-1-2007	Adopt	9-1-2007	571-050-0100	6-4-2007	Adopt(T)	7-1-2007
571-040-0020	2-14-2007	Am. & Ren.(T)	3-1-2007	571-050-0105	6-4-2007	Adopt(T)	7-1-2007
571-040-0030	2-14-2007	Am. & Ren.(T)	3-1-2007	571-050-0110	6-4-2007	Adopt(T)	7-1-2007
571-040-0040	2-14-2007	Am. & Ren.(T)	3-1-2007	571-050-0115	6-4-2007	Adopt(T)	7-1-2007
571-040-0050	2-14-2007	Am. & Ren.(T)	3-1-2007	571-050-0120	6-4-2007	Adopt(T)	7-1-2007
571-040-0060	2-14-2007	Am. & Ren.(T)	3-1-2007	571-050-0125	6-4-2007	Adopt(T)	7-1-2007
571-040-0070	2-14-2007	Am. & Ren.(T)	3-1-2007	571-050-0130	6-4-2007	Adopt(T)	7-1-2007
571-040-0080	2-14-2007	Am. & Ren.(T)	3-1-2007	571-050-0135	6-4-2007	Adopt(T)	7-1-2007
571-040-0100	2-14-2007	Adopt(T)	3-1-2007	571-060-0005	2-22-2007	Amend	4-1-2007
571-040-0100	8-1-2007	Adopt	9-1-2007	571-060-0005	3-12-2007	Amend	4-1-2007
571-040-0200	8-1-2007	Am. & Ren.	9-1-2007	571-060-0005	6-29-2007	Amend	6-1-2007
571-040-0201	2-14-2007	Am. & Ren.(T)	3-1-2007	571-060-0005	6-29-2007	Amend	8-1-2007
571-040-0210	8-1-2007	Am. & Ren.	9-1-2007	571-100-0000	2-20-2007	Adopt(T)	4-1-2007
571-040-0220	2-14-2007	Suspend	3-1-2007	571-100-0000	8-1-2007	Adopt	9-1-2007
571-040-0220	8-1-2007	Repeal	9-1-2007	571-100-0010	2-20-2007	Adopt(T)	4-1-2007
571-040-0230	8-1-2007	Am. & Ren.	9-1-2007	571-100-0010	8-1-2007	Adopt	9-1-2007
571-040-0240	2-14-2007	Suspend	3-1-2007	571-100-0020	2-20-2007	Adopt(T)	4-1-2007
571-040-0240	8-1-2007	Repeal	9-1-2007	571-100-0020	8-1-2007	Adopt	9-1-2007
571-040-0243	8-1-2007	Am. & Ren.	9-1-2007	571-100-0030	2-20-2007	Adopt(T)	4-1-2007
571-040-0250	8-1-2007	Am. & Ren.	9-1-2007	571-100-0030	8-1-2007	Adopt	9-1-2007
571-040-0251	2-14-2007	Am. & Ren.(T)	3-1-2007	571-100-0040	2-20-2007	Adopt(T)	4-1-2007
571-040-0253	2-14-2007	Suspend	3-1-2007	571-100-0040	8-1-2007	Adopt	9-1-2007
571-040-0253	8-1-2007	Repeal	9-1-2007	571-100-0050	2-20-2007	Adopt(T)	4-1-2007
571-040-0260	8-1-2007	Am. & Ren.	9-1-2007	571-100-0050	8-1-2007	Adopt	9-1-2007
571-040-0261	2-14-2007	Am. & Ren.(T)	3-1-2007	571-100-0060	2-20-2007	Adopt(T)	4-1-2007
571-040-0263	8-1-2007	Am. & Ren.	9-1-2007	571-100-0060	8-1-2007	Adopt	9-1-2007
571-040-0270	8-1-2007	Am. & Ren.	9-1-2007	571-100-0070	2-20-2007	Adopt(T)	4-1-2007
571-040-0271	8-1-2007	Am. & Ren.	9-1-2007	571-100-0070	8-1-2007	Adopt	9-1-2007
571-040-0280	2-14-2007	Suspend	3-1-2007	571-100-0080	2-20-2007	Adopt(T)	4-1-2007
571-040-0280	8-1-2007	Repeal	9-1-2007	571-100-0080	8-1-2007	Adopt	9-1-2007
571-040-0290	8-1-2007	Am. & Ren.	9-1-2007	571-100-0090	2-20-2007	Adopt(T)	4-1-2007
571-040-0310	8-1-2007	Am. & Ren.	9-1-2007	571-100-0090	8-1-2007	Adopt	9-1-2007
571-040-0320	8-1-2007	Am. & Ren.	9-1-2007	571-100-0100	2-20-2007	Adopt(T)	4-1-2007
571-040-0350	8-1-2007	Am. & Ren.	9-1-2007	571-100-0100	8-1-2007	Adopt	9-1-2007
571-040-0352	8-1-2007	Am. & Ren.	9-1-2007	571-100-0110	2-20-2007	Adopt(T)	4-1-2007
571-040-0360	8-1-2007	Am. & Ren.	9-1-2007	571-100-0110	8-1-2007	Adopt	9-1-2007
571-040-0361	8-1-2007	Am. & Ren.	9-1-2007	571-100-0120	2-20-2007	Adopt(T)	4-1-2007
571-040-0370	8-1-2007	Am. & Ren.	9-1-2007	571-100-0120	8-1-2007	Adopt	9-1-2007
571-040-0371	8-1-2007	Am. & Ren.	9-1-2007	571-100-0130	2-20-2007	Adopt(T)	4-1-2007
571-040-0380	2-14-2007	Amend(T)	3-1-2007	571-100-0130	8-1-2007	Adopt	9-1-2007
571-040-0380	8-1-2007	Amend	9-1-2007	571-100-0140	2-20-2007	Adopt(T)	4-1-2007
571-040-0382	2-14-2007	Amend(T)	3-1-2007	571-100-0140	8-1-2007	Adopt	9-1-2007
571-040-0382	8-1-2007	Amend	9-1-2007	571-100-0150	2-20-2007	Adopt(T)	4-1-2007
571-040-0390	2-14-2007	Amend(T)	3-1-2007	571-100-0150	8-1-2007	Adopt	9-1-2007
571-040-0390	8-1-2007	Amend	9-1-2007	571-100-0160	2-20-2007	Adopt(T)	4-1-2007
571-040-0400	2-14-2007	Adopt(T)	3-1-2007	571-100-0160	8-1-2007	Adopt	9-1-2007
571-040-0400	8-1-2007	Adopt	9-1-2007	573-040-0005	4-25-2007	Amend	6-1-2007
571-040-0410	2-14-2007	Am. & Ren.(T)	3-1-2007	573-050-0010	7-23-2007	Amend	9-1-2007

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573-050-0025	7-23-2007	Amend	9-1-2007	578-041-0030	6-7-2007	Amend	7-1-2007
573-050-0030	7-23-2007	Amend	9-1-2007	578-072-0020	6-7-2007	Amend	7-1-2007
573-050-0035	7-23-2007	Amend	9-1-2007	578-072-0030	6-7-2007	Amend	7-1-2007
573-050-0040	7-23-2007	Amend	9-1-2007	578-072-0050	6-7-2007	Amend	7-1-2007
573-050-0045	7-23-2007	Amend	9-1-2007	578-072-0070	6-7-2007	Amend	7-1-2007
573-080-0005	6-4-2007	Amend	7-1-2007	578-072-0091	6-7-2007	Amend	7-1-2007
574-050-0005	3-5-2007	Amend	4-1-2007	579-020-0006	5-14-2007	Amend	6-1-2007
574-050-0005	7-31-2007	Amend	9-1-2007	579-020-0006	8-15-2007	Amend(T)	9-1-2007
574-050-0005	11-1-2007	Amend	12-1-2007	579-040-0005	5-15-2007	Amend	9-1-2007
574-060-0010	9-5-2007	Amend	10-1-2007	579-040-0007	5-15-2007	Amend	9-1-2007
574-085-0040	9-5-2007	Amend	10-1-2007	579-040-0010	5-15-2007	Amend	9-1-2007
574-085-0090	9-5-2007	Amend	10-1-2007	579-040-0013	5-15-2007	Amend	9-1-2007
574-085-0100	9-5-2007	Amend	10-1-2007	579-040-0015	5-15-2007	Amend	9-1-2007
574-085-0110	9-5-2007	Amend	10-1-2007	579-040-0020	5-15-2007	Amend	9-1-2007
575-001-0015	11-7-2007	Amend	12-1-2007	579-040-0030	5-15-2007	Amend	9-1-2007
575-030-0005	11-7-2007	Amend	12-1-2007	579-040-0030	8-15-2007	Amend	9-1-2007
575-031-0010	11-7-2007	Amend	12-1-2007	579-040-0045	5-15-2007	Amend	9-1-2007
575-031-0022	11-7-2007	Adopt	12-1-2007	579-070-0005	8-15-2007	Amend	9-1-2007
575-031-0023	11-7-2007	Adopt	12-1-2007	579-070-0010	8-15-2007	Amend	9-1-2007
575-031-0025	11-7-2007	Amend	12-1-2007	579-070-0015	8-15-2007	Amend	9-1-2007
575-031-0030	11-7-2007	Amend	12-1-2007	579-070-0035	8-15-2007	Amend	9-1-2007
575-031-0045	11-7-2007	Amend	12-1-2007	579-070-0041	8-15-2007	Amend	9-1-2007
575-071-0000	10-3-2007	Amend	11-1-2007	579-070-0042	8-15-2007	Amend	9-1-2007
575-071-0010	10-3-2007	Amend	11-1-2007	579-070-0043	8-15-2007	Amend	9-1-2007
575-071-0020	10-3-2007	Amend	11-1-2007	579-070-0045	8-15-2007	Amend	9-1-2007
575-071-0030	10-3-2007	Amend	11-1-2007	580-020-0020	1-11-2007	Repeal	2-1-2007
575-071-0035	10-3-2007	Amend	11-1-2007	580-023-0005	11-29-2006	Adopt	1-1-2007
575-071-0040	10-3-2007	Amend	11-1-2007	580-023-0010	11-29-2006	Adopt	1-1-2007
575-076-0005	10-3-2007	Adopt	11-1-2007	580-023-0015	11-29-2006	Adopt	1-1-2007
575-076-0010	10-3-2007	Adopt	11-1-2007	580-023-0020	11-29-2006	Adopt	1-1-2007
575-076-0015	10-3-2007	Adopt	11-1-2007	580-023-0025	11-29-2006	Adopt	1-1-2007
575-076-0025	10-3-2007	Adopt	11-1-2007	580-023-0030	11-29-2006	Adopt	1-1-2007
575-076-0030	10-3-2007	Adopt	11-1-2007	580-023-0035	11-29-2006	Adopt	1-1-2007
575-077-0005	10-3-2007	Adopt(T)	11-1-2007	580-023-0040	11-29-2006	Adopt	1-1-2007
575-077-0010	10-3-2007	Adopt(T)	11-1-2007	580-023-0045	11-29-2006	Adopt	1-1-2007
575-077-0015	10-3-2007	Adopt(T)	11-1-2007	580-023-0050	11-29-2006	Adopt	1-1-2007
575-077-0020	10-3-2007	Adopt(T)	11-1-2007	580-023-0055	11-29-2006	Adopt	1-1-2007
575-077-0025	10-3-2007	Adopt(T)	11-1-2007	580-023-0060	11-29-2006	Adopt	1-1-2007
575-077-0030	10-3-2007	Adopt(T)	11-1-2007	580-023-0065	11-29-2006	Adopt	1-1-2007
575-077-0035	10-3-2007	Adopt(T)	11-1-2007	580-040-0035	1-11-2007	Amend	2-1-2007
575-077-0040	10-3-2007	Adopt(T)	11-1-2007	580-040-0040	6-21-2007	Amend	8-1-2007
575-095-0005	10-12-2007	Adopt(T)	11-1-2007	580-043-0060	8-23-2007	Amend(T)	9-1-2007
575-095-0010	10-12-2007	Adopt(T)	11-1-2007	580-043-0065	8-23-2007	Amend(T)	9-1-2007
575-095-0015	10-12-2007	Adopt(T)	11-1-2007	580-043-0070	8-23-2007	Amend(T)	9-1-2007
576-010-0000	7-1-2007	Amend	8-1-2007	580-043-0075	8-23-2007	Amend(T)	9-1-2007
577-031-0140	1-5-2007	Amend	2-1-2007	580-043-0085	8-23-2007	Amend(T)	9-1-2007
577-060-0020	7-5-2007	Amend	8-1-2007	580-043-0090	8-23-2007	Amend(T)	9-1-2007
577-070-0005	1-5-2007	Amend	2-1-2007	580-043-0095	8-23-2007	Amend(T)	9-1-2007
577-070-0010	1-5-2007	Amend	2-1-2007	580-043-0100	8-23-2007	Adopt(T)	9-1-2007
577-070-0015	1-5-2007	Amend	2-1-2007	580-055-0000	7-23-2007	Adopt	9-1-2007
577-070-0020	1-5-2007	Amend	2-1-2007	580-055-0010	7-23-2007	Adopt	9-1-2007
577-070-0025	1-5-2007	Amend	2-1-2007	580-055-0020	7-23-2007	Adopt	9-1-2007
577-070-0030	1-5-2007	Amend	2-1-2007	580-055-0030	7-23-2007	Adopt	9-1-2007
577-070-0035	1-5-2007	Amend	2-1-2007	580-055-0040	7-23-2007	Adopt	9-1-2007
577-070-0045	1-5-2007	Amend	2-1-2007	580-055-0050	7-23-2007	Adopt	9-1-2007
577-070-0050	1-5-2007	Amend	2-1-2007	580-055-0060	7-23-2007	Adopt	9-1-2007

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580-055-0080	7-23-2007	Adopt	9-1-2007	581-015-2160	4-25-2007	Am. & Ren.	6-1-2007
581-001-0005	2-21-2007	Amend	4-1-2007	581-015-2165	4-25-2007	Am. & Ren.	6-1-2007
581-001-0100	7-6-2007	Amend(T)	8-1-2007	581-015-2170	4-25-2007	Am. & Ren.	6-1-2007
581-011-0050	4-27-2007	Amend	6-1-2007	581-015-2175	4-25-2007	Am. & Ren.	6-1-2007
581-011-0052	4-27-2007	Adopt	6-1-2007	581-015-2180	4-25-2007	Am. & Ren.	6-1-2007
581-011-0077	12-12-2006	Amend	1-1-2007	581-015-2190	4-25-2007	Am. & Ren.	6-1-2007
581-011-0131	1-26-2007	Adopt	3-1-2007	581-015-2195	4-25-2007	Am. & Ren.	6-1-2007
581-015-0033	4-25-2007	Repeal	6-1-2007	581-015-2200	4-25-2007	Am. & Ren.	6-1-2007
581-015-0051	4-25-2007	Repeal	6-1-2007	581-015-2205	4-25-2007	Am. & Ren.	6-1-2007
581-015-0071	4-25-2007	Repeal	6-1-2007	581-015-2210	4-25-2007	Am. & Ren.	6-1-2007
581-015-0072	4-25-2007	Repeal	6-1-2007	581-015-2215	4-25-2007	Am. & Ren.	6-1-2007
581-015-0074	4-25-2007	Repeal	6-1-2007	581-015-2220	4-25-2007	Am. & Ren.	6-1-2007
581-015-0085	4-25-2007	Repeal	6-1-2007	581-015-2225	4-25-2007	Adopt	6-1-2007
581-015-0087	4-25-2007	Repeal	6-1-2007	581-015-2230	4-25-2007	Adopt	6-1-2007
581-015-0111	4-25-2007	Repeal	6-1-2007	581-015-2235	4-25-2007	Am. & Ren.	6-1-2007
581-015-0115	4-25-2007	Repeal	6-1-2007	581-015-2240	4-25-2007	Am. & Ren.	6-1-2007
581-015-0702	4-25-2007	Repeal	6-1-2007	581-015-2245	4-25-2007	Am. & Ren.	6-1-2007
581-015-0704	4-25-2007	Repeal	6-1-2007	581-015-2250	4-25-2007	Am. & Ren.	6-1-2007
581-015-0709	4-25-2007	Repeal	6-1-2007	581-015-2255	4-25-2007	Adopt	6-1-2007
581-015-0750	4-25-2007	Repeal	6-1-2007	581-015-2260	4-25-2007	Am. & Ren.	6-1-2007
581-015-0805	4-25-2007	Repeal	6-1-2007	581-015-2265	4-25-2007	Am. & Ren.	6-1-2007
581-015-0811	4-25-2007	Repeal	6-1-2007	581-015-2270	4-25-2007	Am. & Ren.	6-1-2007
581-015-0816	4-25-2007	Repeal	6-1-2007	581-015-2275	4-25-2007	Adopt	6-1-2007
581-015-0820	4-25-2007	Repeal	6-1-2007	581-015-2280	4-25-2007	Am. & Ren.	6-1-2007
581-015-0825	4-25-2007	Repeal	6-1-2007	581-015-2285	4-25-2007	Am. & Ren.	6-1-2007
581-015-2000	4-25-2007	Am. & Ren.	6-1-2007	581-015-2290	4-25-2007	Am. & Ren.	6-1-2007
581-015-2005	4-25-2007	Am. & Ren.	6-1-2007	581-015-2295	4-25-2007	Am. & Ren.	6-1-2007
581-015-2010	4-25-2007	Am. & Ren.	6-1-2007	581-015-2300	4-25-2007	Am. & Ren.	6-1-2007
581-015-2015	4-25-2007	Am. & Ren.	6-1-2007	581-015-2305	4-25-2007	Am. & Ren.	6-1-2007
581-015-2020	4-25-2007	Am. & Ren.	6-1-2007	581-015-2310	4-25-2007	Am. & Ren.	6-1-2007
581-015-2025	4-25-2007	Am. & Ren.	6-1-2007	581-015-2315	4-25-2007	Am. & Ren.	6-1-2007
581-015-2030	4-25-2007	Am. & Ren.	6-1-2007	581-015-2320	4-25-2007	Am. & Ren.	6-1-2007
581-015-2040	4-25-2007	Am. & Ren.	6-1-2007	581-015-2325	4-25-2007	Am. & Ren.	6-1-2007
581-015-2045	4-25-2007	Am. & Ren.	6-1-2007	581-015-2330	4-25-2007	Am. & Ren.	6-1-2007
581-015-2050	4-25-2007	Am. & Ren.	6-1-2007	581-015-2335	4-25-2007	Am. & Ren.	6-1-2007
581-015-2055	4-25-2007	Am. & Ren.	6-1-2007	581-015-2340	4-25-2007	Am. & Ren.	6-1-2007
581-015-2060	4-25-2007	Adopt	6-1-2007	581-015-2345	4-25-2007	Am. & Ren.	6-1-2007
581-015-2065	4-25-2007	Am. & Ren.	6-1-2007	581-015-2350	4-25-2007	Adopt	6-1-2007
581-015-2070	4-25-2007	Am. & Ren.	6-1-2007	581-015-2355	4-25-2007	Adopt	6-1-2007
581-015-2075	4-25-2007	Adopt	6-1-2007	581-015-2360	4-25-2007	Am. & Ren.	6-1-2007
581-015-2080	4-25-2007	Am. & Ren.	6-1-2007	581-015-2365	4-25-2007	Am. & Ren.	6-1-2007
581-015-2085	4-25-2007	Adopt	6-1-2007	581-015-2370	4-25-2007	Am. & Ren.	6-1-2007
581-015-2090	4-25-2007	Am. & Ren.	6-1-2007	581-015-2375	4-25-2007	Am. & Ren.	6-1-2007
581-015-2095	4-25-2007	Am. & Ren.	6-1-2007	581-015-2380	4-25-2007	Am. & Ren.	6-1-2007
581-015-2100	4-25-2007	Am. & Ren.	6-1-2007	581-015-2383	4-25-2007	Am. & Ren.	6-1-2007
581-015-2105	4-25-2007	Adopt	6-1-2007	581-015-2385	4-25-2007	Am. & Ren.	6-1-2007
581-015-2110	4-25-2007	Adopt	6-1-2007	581-015-2390	4-25-2007	Am. & Ren.	6-1-2007
581-015-2115	4-25-2007	Am. & Ren.	6-1-2007	581-015-2395	4-25-2007	Am. & Ren.	6-1-2007
581-015-2120	4-25-2007	Am. & Ren.	6-1-2007	581-015-2400	4-25-2007	Am. & Ren.	6-1-2007
581-015-2125	4-25-2007	Am. & Ren.	6-1-2007	581-015-2405	4-25-2007	Am. & Ren.	6-1-2007
581-015-2130	4-25-2007	Am. & Ren.	6-1-2007	581-015-2410	4-25-2007	Am. & Ren.	6-1-2007
581-015-2135	4-25-2007	Am. & Ren.	6-1-2007	581-015-2415	4-25-2007	Am. & Ren.	6-1-2007
581-015-2140	4-25-2007	Am. & Ren.	6-1-2007	581-015-2420	4-25-2007	Am. & Ren.	6-1-2007
581-015-2145	4-25-2007	Am. & Ren.	6-1-2007	581-015-2425	4-25-2007	Am. & Ren.	6-1-2007
581-015-2150	4-25-2007	Am. & Ren.	6-1-2007	581-015-2430	4-25-2007	Am. & Ren.	6-1-2007

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581-015-2435	4-25-2007	Am. & Ren.	6-1-2007	581-015-2805	4-25-2007	Am. & Ren.	6-1-2007
581-015-2440	4-25-2007	Am. & Ren.	6-1-2007	581-015-2810	4-25-2007	Am. & Ren.	6-1-2007
581-015-2445	4-25-2007	Am. & Ren.	6-1-2007	581-015-2815	4-25-2007	Am. & Ren.	6-1-2007
581-015-2450	4-25-2007	Am. & Ren.	6-1-2007	581-015-2820	4-25-2007	Am. & Ren.	6-1-2007
581-015-2455	4-25-2007	Am. & Ren.	6-1-2007	581-015-2825	4-25-2007	Am. & Ren.	6-1-2007
581-015-2460	4-25-2007	Am. & Ren.	6-1-2007	581-015-2830	4-25-2007	Am. & Ren.	6-1-2007
581-015-2465	4-25-2007	Adopt	6-1-2007	581-015-2835	4-25-2007	Am. & Ren.	6-1-2007
581-015-2470	4-25-2007	Am. & Ren.	6-1-2007	581-015-2840	4-25-2007	Am. & Ren.	6-1-2007
581-015-2475	4-25-2007	Adopt	6-1-2007	581-015-2845	4-25-2007	Am. & Ren.	6-1-2007
581-015-2480	4-25-2007	Am. & Ren.	6-1-2007	581-015-2850	4-25-2007	Am. & Ren.	6-1-2007
581-015-2483	4-25-2007	Adopt	6-1-2007	581-015-2855	4-25-2007	Am. & Ren.	6-1-2007
581-015-2485	4-25-2007	Adopt	6-1-2007	581-015-2860	4-25-2007	Am. & Ren.	6-1-2007
581-015-2490	4-25-2007	Am. & Ren.	6-1-2007	581-015-2865	4-25-2007	Am. & Ren.	6-1-2007
581-015-2495	4-25-2007	Am. & Ren.	6-1-2007	581-015-2870	4-25-2007	Am. & Ren.	6-1-2007
581-015-2500	4-25-2007	Am. & Ren.	6-1-2007	581-015-2875	4-25-2007	Am. & Ren.	6-1-2007
581-015-2505	4-25-2007	Am. & Ren.	6-1-2007	581-015-2880	4-25-2007	Am. & Ren.	6-1-2007
581-015-2510	4-25-2007	Am. & Ren.	6-1-2007	581-015-2885	4-25-2007	Am. & Ren.	6-1-2007
581-015-2515	4-25-2007	Am. & Ren.	6-1-2007	581-015-2890	4-25-2007	Am. & Ren.	6-1-2007
581-015-2530	4-25-2007	Am. & Ren.	6-1-2007	581-015-2895	4-25-2007	Am. & Ren.	6-1-2007
581-015-2535	4-25-2007	Am. & Ren.	6-1-2007	581-015-2900	4-25-2007	Am. & Ren.	6-1-2007
581-015-2540	4-25-2007	Am. & Ren.	6-1-2007	581-015-2905	4-25-2007	Am. & Ren.	6-1-2007
581-015-2545	4-25-2007	Am. & Ren.	6-1-2007	581-015-2910	4-25-2007	Am. & Ren.	6-1-2007
581-015-2550	4-25-2007	Am. & Ren.	6-1-2007	581-021-0032	4-25-2007	Adopt	6-1-2007
581-015-2555	4-25-2007	Am. & Ren.	6-1-2007	581-021-0034	4-25-2007	Amend	6-1-2007
581-015-2560	4-25-2007	Am. & Ren.	6-1-2007	581-021-0061	12-12-2006	Amend	1-1-2007
581-015-2565	4-25-2007	Am. & Ren.	6-1-2007	581-021-0062	12-12-2006	Adopt	1-1-2007
581-015-2570	4-25-2007	Am. & Ren.	6-1-2007	581-021-0072	4-25-2007	Amend	6-1-2007
581-015-2575	4-25-2007	Am. & Ren.	6-1-2007	581-021-0073	4-25-2007	Adopt	6-1-2007
581-015-2580	4-25-2007	Am. & Ren.	6-1-2007	581-021-0220	3-1-2007	Amend	4-1-2007
581-015-2585	4-25-2007	Am. & Ren.	6-1-2007	581-021-0250	3-1-2007	Amend	4-1-2007
581-015-2590	4-25-2007	Am. & Ren.	6-1-2007	581-021-0255	3-1-2007	Adopt	4-1-2007
581-015-2595	4-25-2007	Am. & Ren.	6-1-2007	581-021-0260	3-1-2007	Amend	4-1-2007
581-015-2600	4-25-2007	Am. & Ren.	6-1-2007	581-021-0265	3-1-2007	Adopt	4-1-2007
581-015-2605	4-25-2007	Am. & Ren.	6-1-2007	581-021-0270	3-1-2007	Amend	4-1-2007
581-015-2610	4-25-2007	Am. & Ren.	6-1-2007	581-021-0330	3-1-2007	Amend	4-1-2007
581-015-2700	4-25-2007	Am. & Ren.	6-1-2007	581-021-0340	3-1-2007	Amend	4-1-2007
581-015-2705	4-25-2007	Am. & Ren.	6-1-2007	581-021-0350	3-1-2007	Amend	4-1-2007
581-015-2710	4-25-2007	Am. & Ren.	6-1-2007	581-021-0360	3-1-2007	Amend	4-1-2007
581-015-2715	4-25-2007	Am. & Ren.	6-1-2007	581-021-0371	3-1-2007	Adopt	4-1-2007
581-015-2720	4-25-2007	Am. & Ren.	6-1-2007	581-021-0372	3-1-2007	Adopt	4-1-2007
581-015-2725	4-25-2007	Am. & Ren.	6-1-2007	581-021-0380	3-1-2007	Amend	4-1-2007
581-015-2730	4-25-2007	Am. & Ren.	6-1-2007	581-021-0391	3-1-2007	Adopt	4-1-2007
581-015-2735	4-25-2007	Am. & Ren.	6-1-2007	581-021-0400	3-1-2007	Amend	4-1-2007
581-015-2740	4-25-2007	Am. & Ren.	6-1-2007	581-021-0410	3-1-2007	Amend	4-1-2007
581-015-2745	4-25-2007	Am. & Ren.	6-1-2007	581-021-0440	3-1-2007	Repeal	4-1-2007
581-015-2750	4-25-2007	Am. & Ren.	6-1-2007	581-022-0613	3-1-2007	Adopt(T)	4-1-2007
581-015-2755	4-25-2007	Am. & Ren.	6-1-2007	581-022-1060	2-21-2007	Amend	4-1-2007
581-015-2760	4-25-2007	Am. & Ren.	6-1-2007	581-022-1065	2-21-2007	Adopt	4-1-2007
581-015-2765	4-25-2007	Am. & Ren.	6-1-2007	581-022-1109	3-22-2007	Adopt(T)	5-1-2007
581-015-2770	4-25-2007	Am. & Ren.	6-1-2007	581-022-1110	9-10-2007	Amend	10-1-2007
581-015-2775	4-25-2007	Am. & Ren.	6-1-2007	581-022-1130	12-12-2006	Amend	1-1-2007
581-015-2780	4-25-2007	Am. & Ren.	6-1-2007	581-022-1130	9-10-2007	Amend	10-1-2007
581-015-2785	4-25-2007	Am. & Ren.	6-1-2007	581-022-1210	9-10-2007	Amend	10-1-2007
581-015-2790	4-25-2007	Am. & Ren.	6-1-2007	581-022-1350	4-25-2007	Amend	7-1-2007
581-015-2795	4-25-2007	Am. & Ren.	6-1-2007	581-022-1350	9-10-2007	Amend	10-1-2007
581-015-2800	4-25-2007	Am. & Ren.	6-1-2007	581-022-1365	10-26-2007	Amend	12-1-2007

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OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
581-022-1366	10-26-2007	Amend	12-1-2007	584-021-0110	8-15-2007	Amend	9-1-2007
581-022-1367	10-26-2007	Amend	12-1-2007	584-021-0115	8-15-2007	Amend	9-1-2007
581-022-1368	10-26-2007	Amend	12-1-2007	584-021-0120	8-15-2007	Amend	9-1-2007
581-022-1369	10-26-2007	Amend	12-1-2007	584-021-0130	8-15-2007	Amend	9-1-2007
581-022-1370	10-26-2007	Amend	12-1-2007	584-021-0135	8-15-2007	Amend	9-1-2007
581-022-1371	10-26-2007	Adopt	12-1-2007	584-021-0140	4-23-2007	Amend	6-1-2007
581-022-1372	10-26-2007	Adopt	12-1-2007	584-021-0140	8-15-2007	Amend	9-1-2007
581-022-1440	7-6-2007	Amend	8-1-2007	584-021-0150	8-15-2007	Amend	9-1-2007
581-022-1640	4-27-2007	Amend	6-1-2007	584-021-0155	8-15-2007	Amend	9-1-2007
581-023-0006	2-21-2007	Amend	4-1-2007	584-021-0160	8-15-2007	Amend	9-1-2007
581-023-0035	1-26-2007	Amend	3-1-2007	584-021-0165	8-15-2007	Amend	9-1-2007
581-045-0001	1-1-2007	Amend	1-1-2007	584-021-0170	8-15-2007	Amend	9-1-2007
581-045-0006	1-1-2007	Amend	1-1-2007	584-021-0177	8-15-2007	Amend	9-1-2007
581-045-0012	1-1-2007	Amend	1-1-2007	584-021-0180	8-15-2007	Amend	9-1-2007
581-045-0014	1-1-2007	Amend	1-1-2007	584-021-0185	8-15-2007	Amend	9-1-2007
581-045-0018	1-1-2007	Amend	1-1-2007	584-021-0190	8-15-2007	Amend	9-1-2007
581-045-0019	1-1-2007	Amend	1-1-2007	584-021-0195	8-15-2007	Amend	9-1-2007
581-045-0023	1-1-2007	Amend	1-1-2007	584-021-0202	8-15-2007	Amend	9-1-2007
581-045-0028	1-1-2007	Renumber	1-1-2007	584-021-0205	8-15-2007	Amend	9-1-2007
581-045-0032	1-1-2007	Amend	1-1-2007	584-021-0210	8-15-2007	Amend	9-1-2007
581-045-0036	1-1-2007	Am. & Ren.	1-1-2007	584-021-0215	8-15-2007	Amend	9-1-2007
581-045-0037	1-1-2007	Am. & Ren.	1-1-2007	584-021-0220	8-15-2007	Amend	9-1-2007
581-045-0038	1-1-2007	Adopt	1-1-2007	584-021-0225	8-15-2007	Amend	9-1-2007
581-045-0060	1-1-2007	Amend	1-1-2007	584-021-0230	8-15-2007	Amend	9-1-2007
581-045-0061	1-1-2007	Amend	1-1-2007	584-021-0235	8-15-2007	Amend	9-1-2007
581-045-0062	1-1-2007	Amend	1-1-2007	584-036-0015	8-15-2007	Amend	9-1-2007
581-045-0064	1-1-2007	Amend	1-1-2007	584-036-0055	8-15-2007	Amend	9-1-2007
581-045-0200	1-1-2007	Amend	1-1-2007	584-036-0080	4-23-2007	Adopt	6-1-2007
581-045-0210	1-1-2007	Amend	1-1-2007	584-036-0081	8-15-2007	Amend	9-1-2007
581-053-0002	7-6-2007	Amend	8-1-2007	584-036-0081	9-12-2007	Amend	10-1-2007
581-053-0002	10-26-2007	Amend	12-1-2007	584-036-0082	4-23-2007	Adopt	6-1-2007
581-053-0008	7-6-2007	Amend	8-1-2007	584-038-0290	11-22-2006	Amend	1-1-2007
581-053-0512	10-26-2007	Amend	12-1-2007	584-038-0295	11-22-2006	Amend	1-1-2007
581-053-0517	10-26-2007	Amend	12-1-2007	584-038-0310	11-22-2006	Amend	1-1-2007
581-053-0527	10-26-2007	Amend	12-1-2007	584-038-0320	11-22-2006	Amend	1-1-2007
581-053-5556	10-22-2007	Adopt(T)	12-1-2007	584-038-0330	11-22-2006	Amend	1-1-2007
584-005-0005	4-23-2007	Amend	6-1-2007	584-038-0335	11-22-2006	Amend	1-1-2007
584-005-0005	8-15-2007	Amend	9-1-2007	584-038-0336	11-22-2006	Amend	1-1-2007
584-017-0120	11-22-2006	Amend	1-1-2007	584-040-0260	11-22-2006	Amend	1-1-2007
584-017-0120	4-23-2007	Amend	6-1-2007	584-040-0265	11-22-2006	Amend	1-1-2007
584-017-0150	8-15-2007	Amend	9-1-2007	584-040-0280	11-22-2006	Amend	1-1-2007
584-017-0200	4-23-2007	Amend	6-1-2007	584-040-0290	11-22-2006	Amend	1-1-2007
584-017-0200	6-14-2007	Amend	7-1-2007	584-040-0310	11-22-2006	Amend	1-1-2007
584-017-0250	8-15-2007	Repeal	9-1-2007	584-040-0315	11-22-2006	Amend	1-1-2007
584-017-0251	11-16-2006	Amend	1-1-2007	584-042-0002	8-15-2007	Amend	9-1-2007
584-017-0251	8-15-2007	Amend	9-1-2007	584-042-0006	4-23-2007	Amend	6-1-2007
584-017-0260	8-15-2007	Repeal	9-1-2007	584-042-0006	8-15-2007	Amend	9-1-2007
584-017-0261	11-16-2006	Amend	1-1-2007	584-042-0008	4-23-2007	Amend	6-1-2007
584-017-0261	8-15-2007	Amend	9-1-2007	584-042-0008	8-15-2007	Amend	9-1-2007
584-017-0280	8-15-2007	Amend	9-1-2007	584-042-0009	8-15-2007	Amend	9-1-2007
584-017-0282	8-15-2007	Amend	9-1-2007	584-048-0006	11-22-2006	Amend	1-1-2007
584-017-0441	11-22-2006	Amend	1-1-2007	584-048-0010	11-22-2006	Amend	1-1-2007
584-017-0442	11-22-2006	Amend	1-1-2007	584-048-0015	11-22-2006	Amend	1-1-2007
584-017-0451	11-22-2006	Amend	1-1-2007	584-048-0015	4-23-2007	Amend	6-1-2007
584-017-0452	11-22-2006	Amend	1-1-2007	584-048-0020	11-22-2006	Amend	1-1-2007
584-021-0105	8-15-2007	Amend	9-1-2007	584-048-0020	4-23-2007	Amend	6-1-2007

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584-048-0025	11-22-2006	Amend	1-1-2007	584-070-0022	4-23-2007	Adopt	6-1-2007
584-048-0030	11-22-2006	Amend	1-1-2007	584-070-0111	8-15-2007	Amend	9-1-2007
584-048-0032	11-22-2006	Amend	1-1-2007	584-070-0112	8-15-2007	Adopt	9-1-2007
584-048-0035	11-22-2006	Amend	1-1-2007	584-070-0120	4-23-2007	Amend	6-1-2007
584-048-0040	11-22-2006	Amend	1-1-2007	584-070-0211	8-15-2007	Amend	9-1-2007
584-048-0040	8-15-2007	Amend	9-1-2007	584-070-0400	4-23-2007	Repeal	6-1-2007
584-048-0042	11-22-2006	Repeal	1-1-2007	584-080-0001	11-22-2006	Amend	1-1-2007
584-048-0045	8-15-2007	Amend	9-1-2007	584-080-0002	11-22-2006	Amend	1-1-2007
584-048-0065	11-22-2006	Amend	1-1-2007	584-080-0011	11-22-2006	Repeal	1-1-2007
584-048-0067	11-22-2006	Amend	1-1-2007	584-080-0012	11-22-2006	Adopt	1-1-2007
584-048-0070	11-22-2006	Amend	1-1-2007	584-080-0021	11-22-2006	Repeal	1-1-2007
584-048-0085	11-22-2006	Amend	1-1-2007	584-080-0022	11-22-2006	Adopt	1-1-2007
584-048-0090	11-22-2006	Amend	1-1-2007	584-080-0031	11-22-2006	Amend	1-1-2007
584-048-0095	11-22-2006	Amend	1-1-2007	584-080-0050	4-23-2007	Repeal	6-1-2007
584-048-0105	11-22-2006	Amend	1-1-2007	584-080-0051	4-23-2007	Repeal	6-1-2007
584-048-0110	11-22-2006	Amend	1-1-2007	584-080-0052	4-23-2007	Repeal	6-1-2007
584-048-0115	11-22-2006	Amend	1-1-2007	584-080-0081	4-23-2007	Repeal	6-1-2007
584-048-0120	11-22-2006	Amend	1-1-2007	584-080-0131	4-23-2007	Repeal	6-1-2007
584-050-0004	11-22-2006	Amend	1-1-2007	584-080-0151	4-23-2007	Amend	6-1-2007
584-050-0005	11-22-2006	Amend	1-1-2007	584-080-0152	4-23-2007	Amend	6-1-2007
584-050-0006	11-22-2006	Amend	1-1-2007	584-080-0153	4-23-2007	Adopt	6-1-2007
584-050-0007	11-22-2006	Repeal	1-1-2007	584-080-0161	4-23-2007	Amend	6-1-2007
584-050-0008	11-22-2006	Repeal	1-1-2007	584-080-0171	8-15-2007	Amend	9-1-2007
584-050-0009	11-22-2006	Amend	1-1-2007	584-100-0002	4-23-2007	Amend	6-1-2007
584-050-0012	11-22-2006	Amend	1-1-2007	584-100-0006	11-22-2006	Amend	1-1-2007
584-050-0015	11-22-2006	Amend	1-1-2007	584-100-0011	8-15-2007	Amend	9-1-2007
584-050-0016	11-22-2006	Adopt	1-1-2007	584-100-0016	8-15-2007	Amend	9-1-2007
584-050-0018	11-22-2006	Adopt	1-1-2007	584-100-0021	8-15-2007	Amend	9-1-2007
584-050-0019	11-22-2006	Adopt	1-1-2007	584-100-0026	8-15-2007	Amend	9-1-2007
584-050-0020	11-22-2006	Amend	1-1-2007	584-100-0031	8-15-2007	Amend	9-1-2007
584-050-0022	11-22-2006	Amend	1-1-2007	584-100-0036	8-15-2007	Amend	9-1-2007
584-050-0025	11-22-2006	Repeal	1-1-2007	584-100-0046	8-15-2007	Repeal	9-1-2007
584-050-0027	11-22-2006	Amend	1-1-2007	584-100-0066	8-15-2007	Amend	9-1-2007
584-050-0035	11-22-2006	Amend	1-1-2007	584-100-0071	8-15-2007	Amend	9-1-2007
584-050-0040	11-22-2006	Amend	1-1-2007	584-100-0091	8-15-2007	Amend	9-1-2007
584-050-0042	11-22-2006	Amend	1-1-2007	584-100-0096	8-15-2007	Amend	9-1-2007
584-050-0043	11-22-2006	Adopt	1-1-2007	584-100-0101	8-15-2007	Amend	9-1-2007
584-060-0012	3-30-2007	Amend(T)	5-1-2007	584-100-0106	8-15-2007	Amend	9-1-2007
584-060-0014	3-30-2007	Adopt(T)	5-1-2007	585-001-0015	11-24-2006	Amend(T)	1-1-2007
584-060-0014	8-15-2007	Adopt	9-1-2007	585-001-0015	4-23-2007	Adopt	6-1-2007
584-060-0022	11-22-2006	Amend	1-1-2007	589-002-0100	12-15-2006	Amend	1-1-2007
584-060-0022	4-23-2007	Amend	6-1-2007	589-002-0100	7-6-2007	Amend	8-1-2007
584-060-0051	11-22-2006	Amend	1-1-2007	589-002-0100	10-1-2007	Amend	11-1-2007
584-060-0051	4-23-2007	Amend	6-1-2007	589-006-0050	6-15-2007	Amend(T)	7-1-2007
584-060-0051	8-15-2007	Amend	9-1-2007	589-006-0050	9-6-2007	Amend	10-1-2007
584-060-0062	4-23-2007	Amend	6-1-2007	603-011-0255	11-15-2007	Amend(T)	12-1-2007
584-060-0071	11-22-2006	Amend	1-1-2007	603-011-0371	12-4-2006	Amend	1-1-2007
584-060-0071	8-15-2007	Amend	9-1-2007	603-014-0055	7-1-2007	Amend(T)	8-1-2007
584-060-0141	4-23-2007	Repeal	6-1-2007	603-014-0065	7-1-2007	Amend(T)	8-1-2007
584-060-0161	5-14-2007	Suspend	6-1-2007	603-014-0095	7-1-2007	Amend(T)	8-1-2007
584-060-0161	8-15-2007	Repeal	9-1-2007	603-014-0100	7-1-2007	Suspend	8-1-2007
584-060-0163	3-30-2007	Adopt(T)	5-1-2007	603-014-0135	7-1-2007	Amend(T)	8-1-2007
584-065-0110	8-15-2007	Adopt	9-1-2007	603-027-0030	7-1-2007	Amend(T)	8-1-2007
584-070-0012	4-23-2007	Adopt	6-1-2007	603-027-0030	11-8-2007	Amend	12-1-2007
584-070-0014	4-23-2007	Adopt	6-1-2007	603-027-0105	2-2-2007	Amend	3-1-2007
584-070-0014	8-15-2007	Amend	9-1-2007	603-027-0170	2-2-2007	Amend	3-1-2007

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603-027-0180	2-2-2007	Amend	3-1-2007	603-110-0900	11-20-2006	Adopt	1-1-2007
603-027-0206	2-2-2007	Amend	3-1-2007	603-110-1000	11-20-2006	Adopt	1-1-2007
603-027-0220	2-2-2007	Amend	3-1-2007	603-110-1100	11-20-2006	Adopt	1-1-2007
603-027-0420	10-15-2007	Amend(T)	11-1-2007	605-020-0010	11-14-2007	Adopt	12-1-2007
603-027-0430	10-15-2007	Amend(T)	11-1-2007	605-020-0020	11-14-2007	Adopt	12-1-2007
603-027-0635	2-2-2007	Amend	3-1-2007	605-020-0030	11-14-2007	Adopt	12-1-2007
603-027-0640	2-2-2007	Amend	3-1-2007	606-001-0000	5-9-2007	Repeal	6-1-2007
603-027-0670	2-2-2007	Amend	3-1-2007	606-010-0010	5-9-2007	Repeal	6-1-2007
603-027-0680	2-2-2007	Amend	3-1-2007	606-010-0015	5-9-2007	Repeal	6-1-2007
603-027-0700	2-2-2007	Amend	3-1-2007	606-010-0020	5-9-2007	Repeal	6-1-2007
603-028-0005	8-2-2007	Amend	8-1-2007	606-010-0025	5-9-2007	Repeal	6-1-2007
603-028-0300	8-2-2007	Amend	8-1-2007	606-010-0030	5-9-2007	Repeal	6-1-2007
603-028-0850	8-2-2007	Amend	8-1-2007	606-030-0010	5-9-2007	Repeal	6-1-2007
603-028-0860	8-2-2007	Amend	8-1-2007	606-030-0020	5-9-2007	Repeal	6-1-2007
603-041-0005	8-23-2007	Repeal	10-1-2007	606-030-0040	5-9-2007	Repeal	6-1-2007
603-041-0010	8-23-2007	Repeal	10-1-2007	606-040-0010	5-9-2007	Repeal	6-1-2007
603-042-0010	8-23-2007	Amend	10-1-2007	617-040-0010	8-7-2007	Adopt	9-1-2007
603-042-0020	8-23-2007	Amend	10-1-2007	617-040-0020	8-7-2007	Adopt	9-1-2007
603-051-0856	3-16-2007	Amend	5-1-2007	617-040-0030	8-7-2007	Adopt	9-1-2007
603-051-0857	3-16-2007	Amend	5-1-2007	622-001-0000	7-1-2007	Repeal	6-1-2007
603-051-0858	3-16-2007	Amend	5-1-2007	622-001-0005	7-1-2007	Repeal	6-1-2007
603-051-0859	3-16-2007	Amend	5-1-2007	622-010-0000	7-1-2007	Repeal	6-1-2007
603-052-0114	1-30-2007	Amend	3-1-2007	622-010-0006	7-1-2007	Repeal	6-1-2007
603-052-0115	1-30-2007	Amend	3-1-2007	622-010-0011	7-1-2007	Repeal	6-1-2007
603-052-0120	1-30-2007	Amend	3-1-2007	622-020-0001	7-1-2007	Repeal	6-1-2007
603-052-0129	1-30-2007	Amend	3-1-2007	622-020-0140	7-1-2007	Repeal	6-1-2007
603-052-0136	3-16-2007	Amend	5-1-2007	622-020-0141	7-1-2007	Repeal	6-1-2007
603-052-0150	1-30-2007	Amend	3-1-2007	622-020-0142	7-1-2007	Repeal	6-1-2007
603-052-0360	1-30-2007	Amend	3-1-2007	622-020-0143	7-1-2007	Repeal	6-1-2007
603-052-0450	1-30-2007	Amend	3-1-2007	622-020-0144	7-1-2007	Repeal	6-1-2007
603-052-1200	1-30-2007	Amend	3-1-2007	622-020-0145	7-1-2007	Repeal	6-1-2007
603-052-1221	1-30-2007	Amend	3-1-2007	622-020-0147	7-1-2007	Repeal	6-1-2007
603-052-1230	3-27-2007	Amend	5-1-2007	622-020-0148	7-1-2007	Repeal	6-1-2007
603-052-1250	3-27-2007	Amend	5-1-2007	622-020-0149	7-1-2007	Repeal	6-1-2007
603-054-0027	3-16-2007	Amend	5-1-2007	622-020-0153	7-1-2007	Repeal	6-1-2007
603-057-0140	3-1-2007	Amend(T)	4-1-2007	622-030-0005	7-1-2007	Repeal	6-1-2007
603-057-0140	5-9-2007	Amend	6-1-2007	622-030-0010	7-1-2007	Repeal	6-1-2007
603-057-0216	6-7-2007	Amend(T)	7-1-2007	622-045-0000	7-1-2007	Repeal	6-1-2007
603-076-0005	7-5-2007	Amend	8-1-2007	622-045-0005	7-1-2007	Repeal	6-1-2007
603-076-0016	7-5-2007	Amend	8-1-2007	622-045-0010	7-1-2007	Repeal	6-1-2007
603-095-0300	12-21-2006	Amend	2-1-2007	622-045-0015	7-1-2007	Repeal	6-1-2007
603-095-0320	12-21-2006	Amend	2-1-2007	622-045-0019	7-1-2007	Repeal	6-1-2007
603-095-0340	12-21-2006	Amend	2-1-2007	622-055-0003	7-1-2007	Repeal	6-1-2007
603-095-0360	12-21-2006	Repeal	2-1-2007	622-055-0005	7-1-2007	Repeal	6-1-2007
603-095-0380	12-21-2006	Amend	2-1-2007	622-055-0009	7-1-2007	Repeal	6-1-2007
603-100-0000	1-2-2007	Amend	2-1-2007	622-055-0010	7-1-2007	Repeal	6-1-2007
603-100-0010	1-2-2007	Amend	2-1-2007	622-055-0015	7-1-2007	Repeal	6-1-2007
603-100-0040	1-2-2007	Adopt	2-1-2007	622-055-0020	7-1-2007	Repeal	6-1-2007
603-110-0100	11-20-2006	Adopt	1-1-2007	622-055-0025	7-1-2007	Repeal	6-1-2007
603-110-0200	11-20-2006	Adopt	1-1-2007	622-065-0001	7-1-2007	Repeal	6-1-2007
603-110-0300	11-20-2006	Adopt	1-1-2007	622-065-0002	7-1-2007	Repeal	6-1-2007
603-110-0400	11-20-2006	Adopt	1-1-2007	622-065-0003	7-1-2007	Repeal	6-1-2007
603-110-0500	11-20-2006	Adopt	1-1-2007	622-065-0010	7-1-2007	Repeal	6-1-2007
603-110-0600	11-20-2006	Adopt	1-1-2007	622-065-0011	7-1-2007	Repeal	6-1-2007
603-110-0700	11-20-2006	Adopt	1-1-2007	629-021-0100	11-21-2006	Adopt	1-1-2007
603-110-0800	11-20-2006	Adopt	1-1-2007	629-021-0200	11-21-2006	Adopt	1-1-2007

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OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
629-021-0300	11-21-2006	Adopt	1-1-2007	635-003-0085	5-1-2007	Amend	6-1-2007
629-021-0400	11-21-2006	Adopt	1-1-2007	635-004-0005	1-12-2007	Amend	2-1-2007
629-021-0500	11-21-2006	Adopt	1-1-2007	635-004-0009	1-12-2007	Amend	2-1-2007
629-021-0600	11-21-2006	Adopt	1-1-2007	635-004-0018	1-1-2007	Amend(T)	2-1-2007
629-021-0700	11-21-2006	Adopt	1-1-2007	635-004-0018	1-12-2007	Amend	2-1-2007
629-021-0800	11-21-2006	Adopt	1-1-2007	635-004-0018(T)	1-12-2007	Repeal	2-1-2007
629-021-0900	11-21-2006	Adopt	1-1-2007	635-004-0019	5-1-2007	Amend(T)	6-1-2007
629-021-1000	11-21-2006	Adopt	1-1-2007	635-004-0019	8-1-2007	Amend(T)	9-1-2007
629-021-1100	11-21-2006	Adopt	1-1-2007	635-004-0019	10-6-2007	Amend(T)	11-1-2007
629-022-0040	1-11-2007	Amend	2-1-2007	635-004-0027	1-1-2007	Amend(T)	2-1-2007
629-022-0110	1-11-2007	Amend	2-1-2007	635-004-0033	1-1-2007	Amend(T)	2-1-2007
629-022-0120	1-11-2007	Amend	2-1-2007	635-004-0033	1-12-2007	Amend	2-1-2007
629-022-0130	1-11-2007	Amend	2-1-2007	635-004-0033	9-1-2007	Amend(T)	10-1-2007
629-022-0150	1-11-2007	Amend	2-1-2007	635-004-0033	11-1-2007	Amend(T)	12-1-2007
629-022-0160	1-11-2007	Amend	2-1-2007	635-004-0033(T)	1-12-2007	Repeal	2-1-2007
629-022-0200	1-11-2007	Amend	2-1-2007	635-004-0033(T)	11-1-2007	Suspend	12-1-2007
629-022-0220	1-11-2007	Amend	2-1-2007	635-005-0030	2-14-2007	Amend	3-1-2007
629-022-0230	1-11-2007	Amend	2-1-2007	635-005-0031	2-14-2007	Amend	3-1-2007
629-022-0250	1-11-2007	Amend	2-1-2007	635-005-0042	1-1-2007	Amend(T)	1-1-2007
629-022-0300	1-11-2007	Amend	2-1-2007	635-005-0042	6-8-2007	Amend	7-1-2007
629-022-0310	1-11-2007	Repeal	2-1-2007	635-005-0042(T)	6-8-2007	Repeal	7-1-2007
629-022-0320	1-11-2007	Amend	2-1-2007	635-005-0055	12-1-2006	Amend(T)	1-1-2007
629-022-0330	1-11-2007	Repeal	2-1-2007	635-005-0055	12-26-2006	Amend	2-1-2007
629-022-0340	1-11-2007	Repeal	2-1-2007	635-005-0055	2-14-2007	Amend	3-1-2007
629-022-0350	1-11-2007	Repeal	2-1-2007	635-005-0055	6-8-2007	Amend	7-1-2007
629-022-0360	1-11-2007	Repeal	2-1-2007	635-005-0055	9-1-2007	Amend(T)	10-1-2007
629-022-0370	1-11-2007	Repeal	2-1-2007	635-005-0055(T)	12-26-2006	Suspend	2-1-2007
629-022-0380	1-11-2007	Amend	2-1-2007	635-005-0055(T)	6-8-2007	Repeal	7-1-2007
629-022-0390	1-11-2007	Amend	2-1-2007	635-006-0232	1-12-2007	Amend	2-1-2007
629-022-0410	1-11-2007	Amend	2-1-2007	635-006-1015	1-12-2007	Amend	2-1-2007
629-044-1005	12-31-2007	Amend	10-1-2007	635-006-1015	2-14-2007	Amend	3-1-2007
629-044-1020	12-31-2007	Amend	10-1-2007	635-006-1015(T)	1-12-2007	Repeal	2-1-2007
629-044-1075	12-31-2007	Amend	10-1-2007	635-006-1035	1-12-2007	Amend	2-1-2007
629-600-0100	1-8-2007	Amend	2-1-2007	635-006-1065	1-12-2007	Amend(T)	2-1-2007
629-606-0000	11-21-2006	Repeal	1-1-2007	635-006-1065	2-14-2007	Amend	3-1-2007
629-606-0010	11-21-2006	Repeal	1-1-2007	635-006-1075	1-12-2007	Amend	2-1-2007
629-606-0100	11-21-2006	Repeal	1-1-2007	635-006-1075	9-10-2007	Amend(T)	10-1-2007
629-606-0200	11-21-2006	Repeal	1-1-2007	635-006-1095	4-17-2007	Amend(T)	5-1-2007
629-606-0300	11-21-2006	Repeal	1-1-2007	635-007-0501	11-14-2007	Amend	12-1-2007
629-606-0400	11-21-2006	Repeal	1-1-2007	635-007-0600	11-14-2007	Amend	12-1-2007
629-606-0500	11-21-2006	Repeal	1-1-2007	635-007-0650	11-14-2007	Amend	12-1-2007
629-606-0600	11-21-2006	Repeal	1-1-2007	635-007-0705	11-14-2007	Amend	12-1-2007
629-606-0700	11-21-2006	Repeal	1-1-2007	635-007-0710	11-14-2007	Amend	12-1-2007
629-606-0800	11-21-2006	Repeal	1-1-2007	635-007-0720	11-14-2007	Amend	12-1-2007
629-606-0900	11-21-2006	Repeal	1-1-2007	635-007-0725	11-14-2007	Adopt	12-1-2007
629-606-1000	11-21-2006	Repeal	1-1-2007	635-007-0730	11-14-2007	Adopt	12-1-2007
629-640-0105	1-8-2007	Adopt	2-1-2007	635-007-0735	11-14-2007	Adopt	12-1-2007
629-640-0110	1-8-2007	Amend	2-1-2007	635-007-0740	11-14-2007	Adopt	12-1-2007
635-003-0003	5-1-2007	Amend	6-1-2007	635-007-0745	11-14-2007	Adopt	12-1-2007
635-003-0004	5-1-2007	Amend	6-1-2007	635-008-0085	1-1-2008	Amend	12-1-2007
635-003-0004	8-20-2007	Amend(T)	10-1-2007	635-008-0110	4-19-2007	Amend	6-1-2007
635-003-0004	8-25-2007	Amend(T)	10-1-2007	635-008-0155	10-31-2007	Amend	12-1-2007
635-003-0004	9-10-2007	Amend(T)	10-1-2007	635-008-0170	4-19-2007	Amend	6-1-2007
635-003-0077	6-23-2007	Amend(T)	8-1-2007	635-008-0170	1-1-2008	Amend	12-1-2007
635-003-0077	8-18-2007	Amend(T)	10-1-2007	635-008-0175	10-31-2007	Amend	12-1-2007
635-003-0078	8-14-2007	Amend(T)	9-1-2007	635-010-0015	8-14-2007	Amend	9-1-2007

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635-010-0045	1-1-2008	Amend	12-1-2007	635-039-0085	8-12-2007	Amend(T)	9-1-2007
635-010-0158	1-1-2008	Amend	12-1-2007	635-039-0085	8-24-2007	Amend(T)	10-1-2007
635-011-0175	7-17-2007	Amend(T)	9-1-2007	635-039-0085	9-14-2007	Amend(T)	10-1-2007
635-013-0003	5-1-2007	Amend	6-1-2007	635-039-0085	9-15-2007	Amend(T)	10-1-2007
635-013-0004	5-1-2007	Amend	6-1-2007	635-039-0085	9-20-2007	Amend(T)	11-1-2007
635-013-0004	8-25-2007	Amend(T)	10-1-2007	635-039-0090	1-1-2007	Amend(T)	2-1-2007
635-013-0004	9-2-2007	Amend(T)	10-1-2007	635-039-0090	1-12-2007	Amend	2-1-2007
635-013-0009	5-1-2007	Amend	6-1-2007	635-039-0090	2-14-2007	Amend	3-1-2007
635-014-0090	5-1-2007	Amend	6-1-2007	635-039-0090	8-11-2007	Amend(T)	9-1-2007
635-014-0090	8-11-2007	Amend(T)	9-1-2007	635-039-0090(T)	1-12-2007	Repeal	2-1-2007
635-016-0090	6-21-2007	Amend(T)	8-1-2007	635-041-0063	1-1-2007	Amend(T)	2-1-2007
635-016-0090	8-1-2007	Amend(T)	8-1-2007	635-041-0063	2-14-2007	Amend	3-1-2007
635-017-0090	6-1-2007	Amend	6-1-2007	635-041-0063	8-1-2007	Amend(T)	9-1-2007
635-017-0090	8-6-2007	Amend(T)	9-1-2007	635-041-0065	2-1-2007	Amend(T)	3-1-2007
635-017-0090	10-6-2007	Amend(T)	11-1-2007	635-041-0065	2-14-2007	Amend	3-1-2007
635-017-0095	1-1-2007	Amend(T)	2-1-2007	635-041-0065	3-9-2007	Amend(T)	4-1-2007
635-017-0095	2-1-2007	Amend(T)	3-1-2007	635-041-0065	3-14-2007	Amend(T)	4-1-2007
635-017-0095	5-1-2007	Amend	6-1-2007	635-041-0072	6-6-2007	Amend(T)	7-1-2007
635-017-0095	8-18-2007	Amend(T)	10-1-2007	635-041-0075	8-1-2007	Amend(T)	9-1-2007
635-017-0095(T)	5-1-2007	Repeal	6-1-2007	635-041-0075	8-22-2007	Amend(T)	10-1-2007
635-018-0090	4-15-2007	Amend(T)	5-1-2007	635-041-0075	9-11-2007	Amend(T)	10-1-2007
635-018-0090	8-1-2007	Amend(T)	8-1-2007	635-041-0075	9-25-2007	Amend(T)	11-1-2007
635-019-0090	3-1-2007	Amend(T)	4-1-2007	635-041-0075	10-3-2007	Amend(T)	11-1-2007
635-019-0090	5-10-2007	Amend(T)	6-1-2007	635-041-0075	10-3-2007	Amend(T)	11-1-2007
635-019-0090(T)	5-26-2007	Amend(T)	7-1-2007	635-041-0075	10-20-2007	Amend(T)	12-1-2007
635-021-0090	5-26-2007	Amend(T)	7-1-2007	635-041-0076	6-16-2007	Amend(T)	7-1-2007
635-021-0090	7-14-2007	Amend(T)	8-1-2007	635-041-0076	6-26-2007	Amend(T)	8-1-2007
635-021-0090	8-1-2007	Amend(T)	9-1-2007	635-041-0076	7-6-2007	Amend(T)	8-1-2007
635-023-0090	8-11-2007	Amend(T)	9-1-2007	635-042-0001	2-14-2007	Amend	3-1-2007
635-023-0095	1-1-2007	Amend(T)	2-1-2007	635-042-0010	2-14-2007	Amend	3-1-2007
635-023-0095	2-1-2007	Amend(T)	3-1-2007	635-042-0010	3-6-2007	Amend(T)	4-1-2007
635-023-0095	2-14-2007	Amend	3-1-2007	635-042-0022	2-14-2007	Amend	3-1-2007
635-023-0095	3-28-2007	Amend(T)	5-1-2007	635-042-0022	3-6-2007	Amend(T)	4-1-2007
635-023-0095	5-31-2007	Amend(T)	7-1-2007	635-042-0022	3-20-2007	Amend(T)	5-1-2007
635-023-0095	7-29-2007	Amend(T)	9-1-2007	635-042-0022	3-22-2007	Amend(T)	5-1-2007
635-023-0095	8-18-2007	Amend(T)	10-1-2007	635-042-0022	6-14-2007	Amend(T)	7-1-2007
635-023-0095	10-1-2007	Amend(T)	11-1-2007	635-042-0027	6-25-2007	Amend(T)	7-1-2007
635-023-0125	2-1-2007	Amend(T)	3-1-2007	635-042-0027	7-6-2007	Amend(T)	8-1-2007
635-023-0125	2-14-2007	Amend	3-1-2007	635-042-0031	8-1-2007	Amend(T)	9-1-2007
635-023-0125	4-26-2007	Amend(T)	6-1-2007	635-042-0031	8-23-2007	Amend(T)	10-1-2007
635-023-0125	5-16-2007	Amend(T)	6-1-2007	635-042-0060	9-18-2007	Amend(T)	11-1-2007
635-023-0125	5-31-2007	Amend(T)	7-1-2007	635-042-0060	9-24-2007	Amend(T)	11-1-2007
635-023-0125	6-6-2007	Amend(T)	7-1-2007	635-042-0060	9-26-2007	Amend(T)	11-1-2007
635-023-0128	5-1-2007	Amend	6-1-2007	635-042-0060	9-27-2007	Amend(T)	11-1-2007
635-023-0128	7-2-2007	Amend(T)	8-1-2007	635-042-0060	10-1-2007	Amend(T)	11-1-2007
635-023-0130	5-1-2007	Amend	6-1-2007	635-042-0060	10-3-2007	Amend(T)	11-1-2007
635-023-0130	9-19-2007	Amend(T)	11-1-2007	635-042-0060	10-10-2007	Amend(T)	11-1-2007
635-023-0130	9-22-2007	Amend(T)	11-1-2007	635-042-0060	10-17-2007	Amend(T)	12-1-2007
635-023-0130	9-29-2007	Amend(T)	11-1-2007	635-042-0060	10-23-2007	Amend(T)	12-1-2007
635-023-0134	5-11-2007	Amend(T)	6-1-2007	635-042-0110	2-1-2007	Amend(T)	3-1-2007
635-023-0134	6-17-2007	Amend(T)	7-1-2007	635-042-0110	2-14-2007	Amend	3-1-2007
635-039-0080	1-1-2007	Amend(T)	2-1-2007	635-042-0130	1-1-2007	Amend(T)	2-1-2007
635-039-0080	1-12-2007	Amend	2-1-2007	635-042-0130	3-6-2007	Amend(T)	4-1-2007
635-039-0080(T)	1-12-2007	Repeal	2-1-2007	635-042-0133	1-1-2007	Amend(T)	2-1-2007
635-039-0085	1-12-2007	Amend	2-1-2007	635-042-0133	2-14-2007	Amend	3-1-2007
635-039-0085	5-26-2007	Amend(T)	7-1-2007	635-042-0135	1-1-2007	Amend(T)	2-1-2007

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635-042-0135	2-13-2007	Amend(T)	3-1-2007	635-065-0001	1-1-2007	Amend	1-1-2007
635-042-0135	2-14-2007	Amend	3-1-2007	635-065-0001	1-1-2008	Amend	12-1-2007
635-042-0145	2-1-2007	Amend(T)	3-1-2007	635-065-0090	6-14-2007	Amend	7-1-2007
635-042-0145	2-14-2007	Amend	3-1-2007	635-065-0090	1-1-2008	Amend	12-1-2007
635-042-0145	3-6-2007	Amend(T)	4-1-2007	635-065-0401	1-1-2007	Amend	1-1-2007
635-042-0145	3-14-2007	Amend(T)	4-1-2007	635-065-0401	8-13-2007	Amend(T)	9-1-2007
635-042-0145	4-18-2007	Amend(T)	6-1-2007	635-065-0401	9-27-2007	Amend(T)	11-1-2007
635-042-0145	6-25-2007	Amend(T)	7-1-2007	635-065-0401	1-1-2008	Amend	12-1-2007
635-042-0145	7-4-2007	Amend(T)	8-1-2007	635-065-0625	1-1-2007	Amend	1-1-2007
635-042-0145	8-1-2007	Amend(T)	9-1-2007	635-065-0625	1-1-2008	Amend	12-1-2007
635-042-0145	10-14-2007	Amend(T)	11-1-2007	635-065-0635	1-1-2007	Amend	1-1-2007
635-042-0145(T)	3-6-2007	Suspend	4-1-2007	635-065-0635	6-14-2007	Amend	7-1-2007
635-042-0160	2-1-2007	Amend(T)	3-1-2007	635-065-0720	1-1-2007	Amend	1-1-2007
635-042-0160	2-14-2007	Amend	3-1-2007	635-065-0740	1-1-2007	Amend	1-1-2007
635-042-0160	3-6-2007	Amend(T)	4-1-2007	635-065-0740	6-14-2007	Amend	7-1-2007
635-042-0160	4-18-2007	Amend(T)	6-1-2007	635-065-0740	1-1-2008	Amend	12-1-2007
635-042-0160	8-1-2007	Amend(T)	9-1-2007	635-065-0760	6-1-2007	Amend	1-1-2007
635-042-0160	10-14-2007	Amend(T)	11-1-2007	635-065-0760	1-1-2008	Amend	12-1-2007
635-042-0160(T)	3-6-2007	Suspend	4-1-2007	635-066-0000	1-1-2007	Amend	1-1-2007
635-042-0170	8-1-2007	Amend(T)	9-1-2007	635-066-0000	1-1-2008	Amend	12-1-2007
635-042-0170	10-14-2007	Amend(T)	11-1-2007	635-066-0010	1-1-2008	Amend	12-1-2007
635-042-0180	2-1-2007	Amend(T)	3-1-2007	635-066-0020	1-1-2008	Amend	12-1-2007
635-042-0180	2-14-2007	Amend	3-1-2007	635-067-0000	1-1-2007	Amend	1-1-2007
635-042-0180	3-6-2007	Amend(T)	4-1-2007	635-067-0000	6-14-2007	Amend	7-1-2007
635-042-0180	4-18-2007	Amend(T)	6-1-2007	635-067-0000	1-1-2008	Amend	12-1-2007
635-042-0180	4-26-2007	Amend(T)	6-1-2007	635-067-0004	6-14-2007	Amend	7-1-2007
635-042-0180	8-1-2007	Amend(T)	9-1-2007	635-067-0015	1-1-2007	Amend	1-1-2007
635-042-0180	10-14-2007	Amend(T)	11-1-2007	635-067-0016	1-1-2008	Amend	12-1-2007
635-045-0000	1-1-2007	Amend	1-1-2007	635-067-0029	12-15-2006	Amend(T)	1-1-2007
635-045-0000	8-14-2007	Amend	9-1-2007	635-067-0034	12-15-2006	Amend(T)	1-1-2007
635-045-0000	1-1-2008	Amend	12-1-2007	635-067-0041	12-15-2006	Amend(T)	1-1-2007
635-045-0002	1-1-2007	Amend	1-1-2007	635-068-0000	3-1-2007	Amend	1-1-2007
635-045-0002	8-14-2007	Amend	9-1-2007	635-068-0000	6-14-2007	Amend	7-1-2007
635-045-0002	1-1-2008	Amend	12-1-2007	635-068-0000	3-1-2008	Amend	12-1-2007
635-047-0025	1-18-2007	Amend	3-1-2007	635-069-0000	2-1-2007	Amend	1-1-2007
635-047-0025	3-30-2007	Amend	5-1-2007	635-069-0000	6-14-2007	Amend	7-1-2007
635-047-0025	8-14-2007	Amend	9-1-2007	635-069-0000	2-1-2008	Amend	12-1-2007
635-051-0000	8-14-2007	Amend	9-1-2007	635-070-0000	4-1-2007	Amend	1-1-2007
635-051-0048	8-14-2007	Amend	9-1-2007	635-070-0000	6-14-2007	Amend	7-1-2007
635-052-0000	8-14-2007	Amend	9-1-2007	635-070-0000	4-1-2008	Amend	12-1-2007
635-053-0000	8-14-2007	Amend	9-1-2007	635-071-0000	4-1-2007	Amend	1-1-2007
635-053-0100	8-14-2007	Amend	9-1-2007	635-071-0000	6-14-2007	Amend	7-1-2007
635-053-0105	8-14-2007	Amend	9-1-2007	635-071-0000	4-1-2008	Amend	12-1-2007
635-053-0125	8-14-2007	Amend	9-1-2007	635-071-0010	6-14-2007	Amend	7-1-2007
635-054-0000	8-14-2007	Amend	9-1-2007	635-072-0000	1-1-2007	Amend	1-1-2007
635-060-0000	1-1-2007	Amend	1-1-2007	635-072-0000	1-1-2008	Amend	12-1-2007
635-060-0000	8-14-2007	Amend	9-1-2007	635-073-0000	2-1-2007	Amend	1-1-2007
635-060-0000	1-1-2008	Amend	12-1-2007	635-073-0000	6-14-2007	Amend	7-1-2007
635-060-0009	8-13-2007	Amend(T)	9-1-2007	635-073-0000	2-1-2008	Amend	12-1-2007
635-060-0009	9-27-2007	Amend(T)	11-1-2007	635-073-0050	6-14-2007	Amend	7-1-2007
635-060-0009	1-1-2008	Amend	12-1-2007	635-073-0065	6-14-2007	Amend	7-1-2007
635-060-0023	1-1-2008	Amend	12-1-2007	635-073-0065	2-1-2008	Amend	12-1-2007
635-060-0046	1-1-2007	Amend	1-1-2007	635-073-0070	6-14-2007	Amend	7-1-2007
635-060-0046	9-26-2007	Amend(T)	11-1-2007	635-073-0070	2-1-2008	Amend	12-1-2007
635-060-0055	4-1-2007	Amend	1-1-2007	635-073-0090	6-14-2007	Amend	7-1-2007
635-060-0055	1-1-2008	Amend	12-1-2007	635-074-0000	8-14-2007	Adopt	9-1-2007

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OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
635-074-0005	8-14-2007	Adopt	9-1-2007	660-041-0030(T)	2-9-2007	Repeal	3-1-2007
635-074-0010	8-14-2007	Adopt	9-1-2007	660-041-0040	2-9-2007	Adopt	3-1-2007
635-074-0015	8-14-2007	Adopt	9-1-2007	660-041-0050	2-9-2007	Adopt	3-1-2007
635-074-0020	8-14-2007	Adopt	9-1-2007	669-030-0050	9-26-2007	Adopt	11-1-2007
635-074-0025	8-14-2007	Adopt	9-1-2007	669-030-0060	9-26-2007	Adopt	11-1-2007
635-075-0011	1-1-2008	Amend	12-1-2007	669-030-0070	9-26-2007	Adopt	11-1-2007
635-080-0034	1-1-2008	Amend	12-1-2007	679-010-0010	3-28-2007	Amend	5-1-2007
635-080-0051	11-17-2006	Amend(T)	1-1-2007	690-310-0040	3-29-2007	Amend	5-1-2007
635-080-0052	11-17-2006	Amend(T)	1-1-2007	690-310-0280	3-29-2007	Amend	5-1-2007
635-080-0053	1-1-2008	Amend	12-1-2007	690-340-0050	3-29-2007	Repeal	5-1-2007
635-080-0060	1-1-2008	Amend	12-1-2007	690-340-0060	3-29-2007	Adopt	5-1-2007
635-080-0077	1-1-2008	Amend	12-1-2007	690-385-0100	1-5-2007	Amend	2-1-2007
635-090-0140	12-15-2006	Amend(T)	1-1-2007	690-385-3100	1-5-2007	Amend	2-1-2007
635-090-0200	1-18-2007	Adopt	3-1-2007	690-385-3145	1-5-2007	Adopt	2-1-2007
635-100-0125	4-19-2007	Amend	6-1-2007	690-385-3200	1-5-2007	Amend	2-1-2007
635-500-0200	4-5-2007	Amend	5-1-2007	690-385-3500	1-5-2007	Amend	2-1-2007
635-500-0410	4-5-2007	Amend	5-1-2007	690-518-0020	1-5-2007	Amend	2-1-2007
635-500-0510	4-5-2007	Amend	5-1-2007	695-007-0010	2-1-2007	Adopt	3-1-2007
635-500-0615	4-5-2007	Amend	5-1-2007	695-007-0020	2-1-2007	Adopt	3-1-2007
635-500-4050	4-5-2007	Amend	5-1-2007	695-007-0030	2-1-2007	Adopt	3-1-2007
635-500-4360	4-5-2007	Amend	5-1-2007	695-007-0040	2-1-2007	Adopt	3-1-2007
635-500-4570	4-5-2007	Amend	5-1-2007	731-001-0100	3-26-2007	Repeal	5-1-2007
635-500-4870	4-5-2007	Amend	5-1-2007	731-001-0110	3-26-2007	Repeal	5-1-2007
635-500-5060	4-5-2007	Amend	5-1-2007	731-001-0120	3-26-2007	Repeal	5-1-2007
635-500-5260	4-5-2007	Amend	5-1-2007	731-001-0130	3-26-2007	Repeal	5-1-2007
635-500-6500	4-5-2007	Adopt	5-1-2007	731-001-0140	3-26-2007	Repeal	5-1-2007
635-500-6525	9-12-2007	Adopt	10-1-2007	731-001-0150	3-26-2007	Repeal	5-1-2007
644-010-0010	1-1-2007	Amend	1-1-2007	731-001-0160	3-26-2007	Repeal	5-1-2007
645-040-0010	9-12-2007	Adopt	10-1-2007	731-001-0170	3-26-2007	Repeal	5-1-2007
645-040-0020	9-12-2007	Adopt	10-1-2007	731-001-0180	3-26-2007	Repeal	5-1-2007
645-040-0030	9-12-2007	Adopt	10-1-2007	731-001-0190	3-26-2007	Repeal	5-1-2007
647-010-0010	6-1-2007	Amend	6-1-2007	731-001-0200	3-26-2007	Repeal	5-1-2007
656-040-0010	10-7-2007	Adopt	11-1-2007	731-001-0210	3-26-2007	Repeal	5-1-2007
656-040-0020	10-7-2007	Adopt	11-1-2007	731-001-0220	3-26-2007	Repeal	5-1-2007
656-040-0030	10-7-2007	Adopt	11-1-2007	731-001-0230	3-26-2007	Repeal	5-1-2007
658-010-0005	7-17-2007	Repeal	9-1-2007	731-001-0240	3-26-2007	Repeal	5-1-2007
658-010-0006	7-17-2007	Repeal	9-1-2007	731-001-0250	3-26-2007	Repeal	5-1-2007
658-010-0007	7-17-2007	Repeal	9-1-2007	731-001-0260	3-26-2007	Repeal	5-1-2007
658-010-0015	7-17-2007	Adopt	9-1-2007	731-001-0270	3-26-2007	Repeal	5-1-2007
658-010-0020	7-17-2007	Adopt	9-1-2007	731-001-0280	3-26-2007	Repeal	5-1-2007
658-010-0030	7-17-2007	Adopt	9-1-2007	731-001-0290	3-26-2007	Repeal	5-1-2007
658-010-0040	7-17-2007	Adopt	9-1-2007	731-001-0300	3-26-2007	Repeal	5-1-2007
658-010-0050	7-17-2007	Adopt	9-1-2007	731-001-0310	3-26-2007	Repeal	5-1-2007
658-040-0005	7-7-2007	Adopt	9-1-2007	731-001-0320	3-26-2007	Repeal	5-1-2007
658-040-0010	7-7-2007	Adopt	9-1-2007	731-001-0330	3-26-2007	Repeal	5-1-2007
658-040-0020	7-7-2007	Adopt	9-1-2007	731-001-0340	3-26-2007	Repeal	5-1-2007
660-041-0000	12-4-2006	Adopt(T)	1-1-2007	731-001-0350	3-26-2007	Repeal	5-1-2007
660-041-0000	2-9-2007	Adopt	3-1-2007	731-001-0360	3-26-2007	Repeal	5-1-2007
660-041-0000(T)	2-9-2007	Repeal	3-1-2007	731-001-0370	3-26-2007	Repeal	5-1-2007
660-041-0010	12-4-2006	Adopt(T)	1-1-2007	731-001-0380	3-26-2007	Repeal	5-1-2007
660-041-0010	2-9-2007	Adopt	3-1-2007	731-001-0390	3-26-2007	Repeal	5-1-2007
660-041-0020	12-4-2006	Adopt(T)	1-1-2007	731-001-0400	3-26-2007	Repeal	5-1-2007
660-041-0020	2-9-2007	Adopt	3-1-2007	731-001-0410	3-26-2007	Repeal	5-1-2007
660-041-0020(T)	2-9-2007	Repeal	3-1-2007	731-001-0420	3-26-2007	Repeal	5-1-2007
660-041-0030	12-4-2006	Adopt(T)	1-1-2007	731-001-0430	3-26-2007	Repeal	5-1-2007
660-041-0030	2-9-2007	Adopt	3-1-2007	731-001-0440	3-26-2007	Repeal	5-1-2007

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731-001-0460	3-26-2007	Repeal	5-1-2007	733-030-0050	3-1-2007	Amend	4-1-2007
731-001-0470	3-26-2007	Repeal	5-1-2007	733-030-0055	3-1-2007	Amend	4-1-2007
731-001-0480	3-26-2007	Repeal	5-1-2007	733-030-0065	11-24-2006	Amend	1-1-2007
731-001-0490	3-26-2007	Repeal	5-1-2007	733-030-0090	3-1-2007	Amend	4-1-2007
731-001-0500	3-26-2007	Repeal	5-1-2007	733-030-0100	3-1-2007	Amend	4-1-2007
731-001-0510	3-26-2007	Repeal	5-1-2007	733-030-0105	3-1-2007	Amend	4-1-2007
731-001-0520	3-26-2007	Repeal	5-1-2007	733-030-0110	3-1-2007	Amend	4-1-2007
731-001-0530	3-26-2007	Repeal	5-1-2007	733-030-0135	11-24-2006	Amend	1-1-2007
731-001-0540	3-26-2007	Repeal	5-1-2007	733-030-0350	11-24-2006	Amend	1-1-2007
731-001-0550	3-26-2007	Repeal	5-1-2007	734-010-0230	1-24-2007	Amend	3-1-2007
731-001-0560	3-26-2007	Repeal	5-1-2007	734-010-0240	1-24-2007	Amend	3-1-2007
731-001-0570	3-26-2007	Repeal	5-1-2007	734-020-0014	6-25-2007	Adopt	8-1-2007
731-001-0580	3-26-2007	Repeal	5-1-2007	734-020-0015	6-25-2007	Amend	8-1-2007
731-001-0590	3-26-2007	Repeal	5-1-2007	734-020-0016	6-25-2007	Adopt	8-1-2007
731-001-0600	3-26-2007	Repeal	5-1-2007	734-020-0017	6-25-2007	Adopt	8-1-2007
731-001-0610	3-26-2007	Repeal	5-1-2007	734-020-0070	10-17-2007	Amend	12-1-2007
731-001-0620	3-26-2007	Repeal	5-1-2007	734-051-0020	1-26-2007	Amend	3-1-2007
731-001-0630	3-26-2007	Repeal	5-1-2007	734-051-0035	1-26-2007	Amend	3-1-2007
731-001-0640	3-26-2007	Repeal	5-1-2007	734-051-0040	1-26-2007	Amend	3-1-2007
731-001-0650	3-26-2007	Repeal	5-1-2007	734-051-0070	1-26-2007	Amend	3-1-2007
731-001-0660	3-26-2007	Repeal	5-1-2007	734-051-0115	1-26-2007	Amend	3-1-2007
731-001-0670	3-26-2007	Repeal	5-1-2007	734-051-0125	1-26-2007	Amend	3-1-2007
731-001-0680	3-26-2007	Repeal	5-1-2007	734-051-0145	1-26-2007	Amend	3-1-2007
731-001-0690	3-26-2007	Repeal	5-1-2007	734-051-0155	1-26-2007	Amend	3-1-2007
731-001-0700	3-26-2007	Repeal	5-1-2007	734-051-0225	1-26-2007	Amend	3-1-2007
731-001-0710	3-26-2007	Repeal	5-1-2007	734-051-0285	1-26-2007	Amend	3-1-2007
731-001-0720	3-26-2007	Adopt	5-1-2007	734-051-0295	1-26-2007	Amend	3-1-2007
731-001-0730	3-26-2007	Adopt	5-1-2007	734-051-0500	1-26-2007	Amend	3-1-2007
731-005-0430	5-23-2007	Amend	7-1-2007	734-051-0510	1-26-2007	Amend	3-1-2007
731-005-0450	1-24-2007	Amend	3-1-2007	734-059-0020	7-19-2007	Adopt(T)	9-1-2007
731-005-0470	5-23-2007	Amend	7-1-2007	734-059-0025	7-19-2007	Adopt(T)	9-1-2007
731-005-0505	5-23-2007	Adopt	7-1-2007	734-059-0030	7-19-2007	Adopt(T)	9-1-2007
731-005-0520	5-23-2007	Amend	7-1-2007	734-059-0050	7-19-2007	Adopt(T)	9-1-2007
731-005-0530	5-23-2007	Amend	7-1-2007	734-074-0008	10-17-2007	Amend	12-1-2007
731-005-0540	5-23-2007	Amend	7-1-2007	734-074-0020	10-17-2007	Amend	12-1-2007
731-005-0550	5-23-2007	Amend	7-1-2007	734-082-0005	7-19-2007	Amend	9-1-2007
731-005-0590	5-23-2007	Amend	7-1-2007	734-082-0005	10-17-2007	Amend	12-1-2007
731-005-0600	1-24-2007	Amend	3-1-2007	734-082-0010	7-19-2007	Amend	9-1-2007
731-005-0600(T)	1-24-2007	Repeal	3-1-2007	734-082-0015	10-17-2007	Amend	12-1-2007
731-035-0010	11-15-2007	Amend	12-1-2007	734-082-0016	10-17-2007	Amend	12-1-2007
731-035-0020	11-15-2007	Amend	12-1-2007	734-082-0020	7-19-2007	Amend	9-1-2007
731-035-0040	11-15-2007	Amend	12-1-2007	734-082-0035	7-19-2007	Amend	9-1-2007
731-035-0050	11-15-2007	Amend	12-1-2007	734-082-0040	7-19-2007	Amend	9-1-2007
731-035-0060	11-15-2007	Amend	12-1-2007	734-082-0051	7-19-2007	Amend	9-1-2007
731-035-0070	11-15-2007	Amend	12-1-2007	734-082-0101	7-19-2007	Amend	9-1-2007
731-035-0080	11-15-2007	Amend	12-1-2007	735-022-0000	11-17-2006	Amend	1-1-2007
731-146-0010	11-17-2006	Amend	1-1-2007	735-022-0020	11-17-2006	Repeal	1-1-2007
731-147-0010	11-17-2006	Amend	1-1-2007	735-022-0030	11-17-2006	Amend	1-1-2007
731-148-0010	11-17-2006	Amend	1-1-2007	735-022-0040	11-17-2006	Amend	1-1-2007
731-149-0010	11-17-2006	Amend	1-1-2007	735-022-0070	11-17-2006	Amend	1-1-2007
733-030-0011	3-1-2007	Amend	4-1-2007	735-022-0080	11-17-2006	Amend	1-1-2007
733-030-0016	3-1-2007	Amend	4-1-2007	735-022-0090	11-17-2006	Amend	1-1-2007
733-030-0021	3-1-2007	Amend	4-1-2007	735-028-0020	11-17-2006	Amend	1-1-2007
733-030-0026	3-1-2007	Amend	4-1-2007	735-034-0050	5-24-2007	Amend(T)	7-1-2007
733-030-0036	3-1-2007	Amend	4-1-2007	735-034-0050	10-17-2007	Amend	12-1-2007

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OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
735-040-0030	11-17-2006	Amend	1-1-2007	736-015-0030	8-28-2007	Amend	10-1-2007
735-050-0020	8-1-2007	Amend	7-1-2007	736-017-0000	12-15-2006	Adopt	1-1-2007
735-062-0000	8-1-2007	Amend	7-1-2007	736-017-0005	12-15-2006	Adopt	1-1-2007
735-062-0010	8-1-2007	Amend	7-1-2007	736-017-0010	12-15-2006	Adopt	1-1-2007
735-062-0030	8-1-2007	Amend	7-1-2007	736-017-0015	12-15-2006	Adopt	1-1-2007
735-062-0040	9-1-2007	Amend	7-1-2007	736-017-0020	12-15-2006	Adopt	1-1-2007
735-062-0080	12-13-2006	Amend	1-1-2007	736-017-0025	12-15-2006	Adopt	1-1-2007
735-062-0080(T)	12-13-2006	Repeal	1-1-2007	736-017-0030	12-15-2006	Adopt	1-1-2007
735-062-0090	6-5-2007	Amend	7-1-2007	736-017-0035	12-15-2006	Adopt	1-1-2007
735-062-0092	8-1-2007	Adopt	7-1-2007	736-017-0040	12-15-2006	Adopt	1-1-2007
735-062-0094	8-1-2007	Adopt	7-1-2007	736-017-0050	12-15-2006	Adopt	1-1-2007
735-062-0140	12-13-2006	Amend	1-1-2007	736-040-0025	7-1-2007	Amend	9-1-2007
735-062-0140(T)	12-13-2006	Repeal	1-1-2007	736-050-0120	2-8-2007	Amend	3-1-2007
735-062-0150	2-26-2007	Amend	4-1-2007	736-050-0120	4-13-2007	Amend	5-1-2007
735-062-0200	6-5-2007	Amend	7-1-2007	736-146-0010	2-7-2007	Adopt	3-1-2007
735-064-0005	11-17-2006	Amend	1-1-2007	736-146-0012	2-7-2007	Adopt	3-1-2007
735-064-0230	12-13-2006	Amend	1-1-2007	736-146-0015	2-7-2007	Adopt	3-1-2007
735-064-0235	12-13-2006	Amend	1-1-2007	736-146-0020	2-7-2007	Adopt	3-1-2007
735-064-0237	12-13-2006	Amend	1-1-2007	736-146-0025	2-7-2007	Adopt	3-1-2007
735-070-0010	12-13-2006	Amend	1-1-2007	736-146-0030	2-7-2007	Adopt	3-1-2007
735-072-0030	1-24-2007	Repeal	3-1-2007	736-146-0040	2-7-2007	Adopt	3-1-2007
735-072-0031	1-24-2007	Repeal	3-1-2007	736-146-0050	2-7-2007	Adopt	3-1-2007
735-072-0040	1-24-2007	Repeal	3-1-2007	736-146-0060	2-7-2007	Adopt	3-1-2007
735-072-0060	1-24-2007	Repeal	3-1-2007	736-146-0070	2-7-2007	Adopt	3-1-2007
735-072-0120	1-24-2007	Repeal	3-1-2007	736-146-0080	2-7-2007	Adopt	3-1-2007
735-072-0130	1-24-2007	Repeal	3-1-2007	736-146-0090	2-7-2007	Adopt	3-1-2007
735-072-0150	1-24-2007	Repeal	3-1-2007	736-146-0100	2-7-2007	Adopt	3-1-2007
735-074-0260	9-17-2007	Amend(T)	11-1-2007	736-146-0110	2-7-2007	Adopt	3-1-2007
735-074-0280	9-17-2007	Amend(T)	11-1-2007	736-146-0120	2-7-2007	Adopt	3-1-2007
735-074-0290	9-17-2007	Amend(T)	11-1-2007	736-146-0130	2-7-2007	Adopt	3-1-2007
735-090-0101	11-1-2006	Amend	3-1-2007	736-146-0140	2-7-2007	Adopt	3-1-2007
735-158-0000	11-17-2006	Amend	1-1-2007	736-147-0010	2-7-2007	Adopt	3-1-2007
736-002-0100	9-27-2007	Amend(T)	11-1-2007	736-147-0020	2-7-2007	Adopt	3-1-2007
736-004-0005	4-13-2007	Amend	5-1-2007	736-147-0030	2-7-2007	Adopt	3-1-2007
736-004-0010	4-13-2007	Amend	5-1-2007	736-147-0050	2-7-2007	Adopt	3-1-2007
736-004-0015	4-13-2007	Amend	5-1-2007	736-147-0060	2-7-2007	Adopt	3-1-2007
736-004-0015	7-1-2007	Amend	9-1-2007	736-148-0010	2-7-2007	Adopt	3-1-2007
736-004-0020	4-13-2007	Amend	5-1-2007	736-148-0020	2-7-2007	Adopt	3-1-2007
736-004-0025	4-13-2007	Amend	5-1-2007	736-149-0010	2-7-2007	Adopt	3-1-2007
736-004-0030	4-13-2007	Amend	5-1-2007	736-201-0000	7-1-2007	Adopt	6-1-2007
736-004-0030	7-1-2007	Amend	9-1-2007	736-201-0005	7-1-2007	Adopt	6-1-2007
736-004-0040	4-13-2007	Repeal	5-1-2007	736-201-0010	7-1-2007	Adopt	6-1-2007
736-004-0045	4-13-2007	Amend	5-1-2007	736-201-0015	7-1-2007	Adopt	6-1-2007
736-004-0050	4-13-2007	Repeal	5-1-2007	736-201-0020	7-1-2007	Adopt	6-1-2007
736-004-0060	4-13-2007	Amend	5-1-2007	736-201-0025	7-1-2007	Adopt	6-1-2007
736-004-0062	4-13-2007	Adopt	5-1-2007	736-201-0030	7-1-2007	Adopt	6-1-2007
736-004-0065	4-13-2007	Amend	5-1-2007	736-201-0035	7-1-2007	Adopt	6-1-2007
736-004-0070	4-13-2007	Amend	5-1-2007	736-201-0040	7-1-2007	Adopt	6-1-2007
736-004-0080	4-13-2007	Amend	5-1-2007	736-201-0045	7-1-2007	Adopt	6-1-2007
736-004-0085	4-13-2007	Amend	5-1-2007	736-201-0050	7-1-2007	Adopt	6-1-2007
736-010-0015	8-28-2007	Amend	10-1-2007	736-201-0055	7-1-2007	Adopt	6-1-2007
736-010-0020	8-28-2007	Amend	10-1-2007	736-201-0060	7-1-2007	Adopt	6-1-2007
736-010-0025	8-28-2007	Amend	10-1-2007	736-201-0065	7-1-2007	Adopt	6-1-2007
736-010-0030	8-28-2007	Amend	10-1-2007	736-201-0070	7-1-2007	Adopt	6-1-2007
736-010-0040	8-28-2007	Amend	10-1-2007	736-201-0075	7-1-2007	Adopt	6-1-2007
736-015-0010	8-28-2007	Amend	10-1-2007	736-201-0080	7-1-2007	Adopt	6-1-2007

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OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
736-201-0085	7-1-2007	Adopt	6-1-2007	800-010-0040	2-1-2007	Amend	2-1-2007
736-201-0090	7-1-2007	Adopt	6-1-2007	800-010-0041	2-1-2007	Amend	2-1-2007
736-201-0095	7-1-2007	Adopt	6-1-2007	800-010-0050	2-1-2007	Amend	2-1-2007
736-201-0100	7-1-2007	Adopt	6-1-2007	800-014-0070	2-1-2007	Amend	2-1-2007
736-201-0105	7-1-2007	Adopt	6-1-2007	800-015-0005	2-1-2007	Amend	2-1-2007
736-201-0110	7-1-2007	Adopt	6-1-2007	800-015-0010	2-1-2007	Amend	2-1-2007
736-201-0115	7-1-2007	Adopt	6-1-2007	800-015-0020	2-1-2007	Amend	2-1-2007
736-201-0120	7-1-2007	Adopt	6-1-2007	800-020-0015	2-1-2007	Amend	2-1-2007
736-201-0125	7-1-2007	Adopt	6-1-2007	800-020-0025	8-1-2007	Amend	9-1-2007
736-201-0130	7-1-2007	Adopt	6-1-2007	800-020-0030	2-1-2007	Amend	2-1-2007
736-201-0135	7-1-2007	Adopt	6-1-2007	800-020-0035	2-1-2007	Amend	2-1-2007
736-201-0140	7-1-2007	Adopt	6-1-2007	800-020-0065	2-1-2007	Amend	2-1-2007
736-201-0145	7-1-2007	Adopt	6-1-2007	800-025-0023	2-1-2007	Amend	2-1-2007
736-201-0150	7-1-2007	Adopt	6-1-2007	800-025-0027	2-1-2007	Amend	2-1-2007
736-201-0155	7-1-2007	Adopt	6-1-2007	800-025-0040	2-1-2007	Amend	2-1-2007
736-201-0160	7-1-2007	Adopt	6-1-2007	800-025-0050	2-1-2007	Amend	2-1-2007
736-201-0165	7-1-2007	Adopt	6-1-2007	800-025-0060	2-1-2007	Amend	2-1-2007
736-201-0170	7-1-2007	Adopt	6-1-2007	801-001-0035	1-1-2007	Amend	2-1-2007
736-201-0175	7-1-2007	Adopt	6-1-2007	801-005-0010	1-1-2007	Amend	2-1-2007
736-201-0180	7-1-2007	Adopt	6-1-2007	801-010-0010	1-1-2007	Amend	2-1-2007
737-015-0020	4-1-2007	Amend	5-1-2007	801-010-0050	1-1-2007	Amend	2-1-2007
737-015-0030	4-1-2007	Amend	5-1-2007	801-010-0065	1-1-2007	Amend	2-1-2007
737-015-0040	4-1-2007	Repeal	5-1-2007	801-010-0080	1-1-2007	Amend	2-1-2007
737-015-0050	4-1-2007	Amend	5-1-2007	801-010-0100	1-1-2007	Amend	2-1-2007
737-015-0060	4-1-2007	Amend	5-1-2007	801-010-0110	1-1-2007	Amend	2-1-2007
737-015-0070	4-1-2007	Amend	5-1-2007	801-010-0345	1-1-2007	Amend	2-1-2007
737-015-0080	4-1-2007	Repeal	5-1-2007	801-020-0620	1-1-2007	Amend	2-1-2007
737-015-0090	4-1-2007	Amend	5-1-2007	801-020-0690	1-1-2007	Amend	2-1-2007
737-015-0100	4-1-2007	Amend	5-1-2007	801-030-0005	1-1-2007	Amend	2-1-2007
737-015-0110	4-1-2007	Adopt	5-1-2007	801-030-0010	1-1-2007	Amend	2-1-2007
740-100-0010	4-1-2007	Amend	5-1-2007	801-030-0015	1-1-2007	Amend	2-1-2007
740-100-0060	4-1-2007	Amend	5-1-2007	801-030-0020	1-1-2007	Amend	2-1-2007
740-100-0070	4-1-2007	Amend	5-1-2007	801-040-0010	1-1-2007	Amend	2-1-2007
740-100-0080	4-1-2007	Amend	5-1-2007	804-001-0002	7-1-2007	Amend	7-1-2007
740-100-0090	4-1-2007	Amend	5-1-2007	804-010-0000	4-27-2007	Amend	6-1-2007
740-100-0100	4-1-2007	Amend	5-1-2007	804-010-0010	4-27-2007	Amend	6-1-2007
740-100-0140	9-17-2007	Am. & Ren.(T)	11-1-2007	804-010-0020	4-27-2007	Am. & Ren.	6-1-2007
740-110-0010	4-1-2007	Amend	5-1-2007	804-020-0001	4-27-2007	Am. & Ren.	6-1-2007
740-300-0140	9-17-2007	Am. & Ren.(T)	11-1-2007	804-020-0003	4-27-2007	Am. & Ren.	6-1-2007
741-060-0010	3-7-2007	Amend	4-1-2007	804-020-0005	4-27-2007	Amend	6-1-2007
741-060-0020	3-7-2007	Amend	4-1-2007	804-020-0030	4-27-2007	Amend	6-1-2007
741-060-0025	3-7-2007	Adopt	4-1-2007	804-020-0045	4-27-2007	Amend	6-1-2007
741-060-0030	3-7-2007	Amend	4-1-2007	804-022-0000	4-27-2007	Am. & Ren.	6-1-2007
741-060-0035	3-7-2007	Adopt	4-1-2007	804-022-0005	4-27-2007	Adopt	6-1-2007
741-060-0040	3-7-2007	Amend	4-1-2007	804-022-0010	4-27-2007	Am. & Ren.	6-1-2007
741-060-0050	3-7-2007	Amend	4-1-2007	806-001-0003	7-1-2007	Amend	6-1-2007
741-060-0060	3-7-2007	Amend	4-1-2007	806-010-0060	12-13-2006	Amend	1-1-2007
741-060-0070	3-7-2007	Amend	4-1-2007	806-010-0145	12-13-2006	Amend	1-1-2007
741-060-0080	3-7-2007	Amend	4-1-2007	808-001-0008	5-16-2007	Amend	7-1-2007
741-060-0090	3-7-2007	Amend	4-1-2007	808-002-0665	8-1-2007	Amend	9-1-2007
741-060-0095	3-7-2007	Adopt	4-1-2007	808-003-0015	8-1-2007	Amend	9-1-2007
741-060-0100	3-7-2007	Amend	4-1-2007	808-003-0018	8-1-2007	Amend	9-1-2007
741-060-0110	3-7-2007	Amend	4-1-2007	808-003-0035	8-1-2007	Amend	9-1-2007
800-010-0015	2-1-2007	Amend	2-1-2007	808-003-0040	8-1-2007	Amend	9-1-2007
800-010-0030	2-1-2007	Amend	2-1-2007	808-003-0112	8-1-2007	Amend	9-1-2007
800-010-0031	2-1-2007	Amend	2-1-2007	808-003-0260	2-1-2007	Amend	3-1-2007

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808-003-0440	8-1-2007	Adopt	9-1-2007	812-004-0350	1-1-2007	Amend	1-1-2007
808-003-0450	8-1-2007	Adopt	9-1-2007	812-004-0360	1-1-2007	Amend	1-1-2007
808-005-0020	8-1-2007	Amend	9-1-2007	812-004-0400	1-1-2007	Amend	1-1-2007
808-008-0260	8-1-2007	Amend	9-1-2007	812-004-0420	1-1-2007	Amend	1-1-2007
808-009-0400	8-1-2007	Amend	9-1-2007	812-004-0440	1-1-2007	Amend	1-1-2007
809-010-0001	7-1-2007	Amend	8-1-2007	812-004-0450	1-1-2007	Amend	1-1-2007
809-010-0025	7-1-2007	Amend	8-1-2007	812-004-0460	1-1-2007	Amend	1-1-2007
809-015-0010	3-14-2007	Amend	4-1-2007	812-004-0470	1-1-2007	Amend	1-1-2007
809-020-0025	3-14-2007	Amend	4-1-2007	812-004-0480	1-1-2007	Amend	1-1-2007
811-010-0085	11-24-2006	Amend	1-1-2007	812-004-0500	1-1-2007	Amend	1-1-2007
812-001-0130	1-1-2007	Amend	1-1-2007	812-004-0500	7-1-2007	Amend	8-1-2007
812-001-0135	1-1-2007	Adopt	1-1-2007	812-004-0510	1-1-2007	Amend	1-1-2007
812-001-0160	7-1-2007	Amend	8-1-2007	812-004-0520	1-1-2007	Amend	1-1-2007
812-001-0200	7-1-2007	Amend	8-1-2007	812-004-0520	7-1-2007	Amend	8-1-2007
812-001-0500	1-1-2007	Amend	1-1-2007	812-004-0530	1-1-2007	Amend	1-1-2007
812-002-0130	1-1-2007	Repeal	1-1-2007	812-004-0535	1-1-2007	Amend	1-1-2007
812-002-0140	1-1-2007	Amend	1-1-2007	812-004-0540	1-1-2007	Amend	1-1-2007
812-002-0143	1-1-2007	Adopt	1-1-2007	812-004-0540	7-1-2007	Amend	8-1-2007
812-002-0220	7-1-2007	Amend	8-1-2007	812-004-0550	1-1-2007	Amend	1-1-2007
812-002-0250	1-1-2007	Amend	1-1-2007	812-004-0560	1-1-2007	Amend	1-1-2007
812-002-0440	1-1-2007	Amend	1-1-2007	812-004-0590	1-1-2007	Amend	1-1-2007
812-002-0460	1-1-2007	Amend	1-1-2007	812-004-0600	1-1-2007	Amend	1-1-2007
812-002-0480	1-1-2007	Amend	1-1-2007	812-004-0600	7-1-2007	Amend	8-1-2007
812-002-0537	1-1-2007	Amend	1-1-2007	812-005-0200	1-1-2007	Amend	1-1-2007
812-002-0540	1-1-2007	Amend	1-1-2007	812-005-0210	1-1-2007	Amend	1-1-2007
812-002-0670	1-1-2007	Amend	1-1-2007	812-005-0210	9-1-2007	Amend	10-1-2007
812-002-0673	7-1-2007	Adopt	8-1-2007	812-005-0800	1-1-2007	Amend	1-1-2007
812-003-0130	7-1-2007	Amend	8-1-2007	812-005-0800	7-1-2007	Amend	8-1-2007
812-003-0140	1-1-2007	Amend	1-1-2007	812-006-0300	3-1-2007	Amend	4-1-2007
812-003-0150	1-1-2007	Amend	1-1-2007	812-006-0400	3-1-2007	Amend	4-1-2007
812-003-0160	1-1-2007	Amend	1-1-2007	812-006-0400(T)	3-1-2007	Repeal	4-1-2007
812-003-0175	1-1-2007	Amend	1-1-2007	812-006-0450	7-1-2007	Amend	8-1-2007
812-003-0240	2-1-2007	Amend	3-1-2007	812-007-0000	1-1-2007	Amend	1-1-2007
812-003-0260	1-1-2007	Amend	1-1-2007	812-007-0010	1-1-2007	Amend	1-1-2007
812-003-0260	9-1-2007	Amend	10-1-2007	812-007-0020	1-1-2007	Amend	1-1-2007
812-003-0280	1-1-2007	Amend	1-1-2007	812-007-0030	1-1-2007	Amend	1-1-2007
812-003-0300	1-1-2007	Amend	1-1-2007	812-007-0040	1-1-2007	Amend	1-1-2007
812-003-0400	1-1-2007	Amend	1-1-2007	812-007-0050	1-1-2007	Amend	1-1-2007
812-003-0430	1-1-2007	Amend	1-1-2007	812-007-0060	1-1-2007	Amend	1-1-2007
812-003-0450	5-1-2007	Adopt	6-1-2007	812-007-0070	1-1-2007	Amend	1-1-2007
812-003-0450	9-1-2007	Amend	10-1-2007	812-007-0080	1-1-2007	Amend	1-1-2007
812-004-0001	1-1-2007	Amend	1-1-2007	812-007-0090	1-1-2007	Amend	1-1-2007
812-004-0110	1-1-2007	Amend	1-1-2007	812-008-0040	1-1-2006	Amend	1-1-2007
812-004-0110	7-1-2007	Amend	8-1-2007	812-008-0072	1-1-2006	Amend	1-1-2007
812-004-0120	1-1-2007	Amend	1-1-2007	812-008-0074	1-1-2006	Amend	1-1-2007
812-004-0140	1-1-2007	Amend	1-1-2007	812-009-0010	1-1-2007	Amend	1-1-2007
812-004-0160	1-1-2007	Amend	1-1-2007	812-009-0020	1-1-2007	Amend	1-1-2007
812-004-0180	1-1-2007	Amend	1-1-2007	812-009-0050	1-1-2007	Amend	1-1-2007
812-004-0195	1-1-2007	Amend	1-1-2007	812-009-0070	1-1-2007	Amend	1-1-2007
812-004-0210	1-1-2007	Amend	1-1-2007	812-009-0090	1-1-2007	Amend	1-1-2007
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812-004-0250	1-1-2007	Amend	1-1-2007	812-009-0120	1-1-2007	Amend	1-1-2007
812-004-0260	1-1-2007	Amend	1-1-2007	812-009-0140	1-1-2007	Amend	1-1-2007
812-004-0300	1-1-2007	Amend	1-1-2007	812-009-0160	1-1-2007	Amend	1-1-2007
812-004-0320	1-1-2007	Amend	1-1-2007	812-009-0160	7-1-2007	Amend	8-1-2007
812-004-0340	1-1-2007	Amend	1-1-2007	812-009-0200	1-1-2007	Amend	1-1-2007

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OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
812-009-0220	1-1-2007	Amend	1-1-2007	813-012-0120	1-11-2007	Amend	2-1-2007
812-009-0400	1-1-2007	Amend	1-1-2007	813-012-0130	1-11-2007	Amend	2-1-2007
812-009-0430	1-1-2007	Amend	1-1-2007	813-012-0140	1-11-2007	Amend	2-1-2007
812-010-0020	1-1-2007	Amend	1-1-2007	813-012-0150	1-11-2007	Amend	2-1-2007
812-010-0040	1-1-2007	Amend	1-1-2007	813-012-0160	1-11-2007	Amend	2-1-2007
812-010-0085	1-1-2007	Amend	1-1-2007	813-012-0170	1-11-2007	Amend	2-1-2007
812-010-0090	1-1-2007	Amend	1-1-2007	813-012-0180	1-11-2007	Adopt	2-1-2007
812-010-0100	1-1-2007	Amend	1-1-2007	813-030-0005	1-11-2007	Amend	2-1-2007
812-010-0110	1-1-2007	Amend	1-1-2007	813-030-0010	1-11-2007	Amend	2-1-2007
812-010-0120	1-1-2007	Amend	1-1-2007	813-030-0020	1-11-2007	Amend	2-1-2007
812-010-0140	1-1-2007	Amend	1-1-2007	813-030-0025	1-11-2007	Amend	2-1-2007
812-010-0200	1-1-2007	Amend	1-1-2007	813-030-0030	1-11-2007	Amend	2-1-2007
812-010-0220	1-1-2007	Amend	1-1-2007	813-030-0031	1-11-2007	Amend	2-1-2007
812-010-0260	1-1-2007	Amend	1-1-2007	813-030-0032	1-11-2007	Amend	2-1-2007
812-010-0290	1-1-2007	Amend	1-1-2007	813-030-0034	1-11-2007	Amend	2-1-2007
812-010-0300	1-1-2007	Amend	1-1-2007	813-030-0035	1-11-2007	Amend	2-1-2007
812-010-0320	1-1-2007	Amend	1-1-2007	813-030-0040	1-11-2007	Amend	2-1-2007
812-010-0340	1-1-2007	Amend	1-1-2007	813-030-0044	1-11-2007	Amend	2-1-2007
812-010-0360	1-1-2007	Amend	1-1-2007	813-030-0046	1-11-2007	Amend	2-1-2007
812-010-0380	1-1-2007	Amend	1-1-2007	813-030-0047	1-11-2007	Amend	2-1-2007
812-010-0420	1-1-2007	Amend	1-1-2007	813-030-0060	1-11-2007	Amend	2-1-2007
812-010-0425	1-1-2007	Amend	1-1-2007	813-030-0062	1-11-2007	Amend	2-1-2007
812-010-0430	1-1-2007	Amend	1-1-2007	813-030-0066	1-11-2007	Amend	2-1-2007
812-010-0460	1-1-2007	Amend	1-1-2007	813-030-0067	1-11-2007	Amend	2-1-2007
812-010-0470	1-1-2007	Amend	1-1-2007	813-030-0068	1-11-2007	Amend	2-1-2007
812-010-0480	1-1-2007	Amend	1-1-2007	813-030-0070	1-11-2007	Adopt	2-1-2007
813-010-0006	1-11-2007	Amend	2-1-2007	813-035-0005	1-11-2007	Amend	2-1-2007
813-010-0011	1-11-2007	Amend	2-1-2007	813-035-0011	1-11-2007	Amend	2-1-2007
813-010-0016	1-11-2007	Amend	2-1-2007	813-035-0016	1-11-2007	Amend	2-1-2007
813-010-0021	1-11-2007	Amend	2-1-2007	813-035-0018	1-11-2007	Amend	2-1-2007
813-010-0023	1-11-2007	Repeal	2-1-2007	813-035-0021	1-11-2007	Amend	2-1-2007
813-010-0024	1-11-2007	Repeal	2-1-2007	813-035-0029	1-11-2007	Amend	2-1-2007
813-010-0028	1-11-2007	Repeal	2-1-2007	813-035-0033	1-11-2007	Amend	2-1-2007
813-010-0029	1-11-2007	Amend	2-1-2007	813-035-0036	1-11-2007	Amend	2-1-2007
813-010-0032	1-11-2007	Amend	2-1-2007	813-035-0040	1-11-2007	Amend	2-1-2007
813-010-0033	1-11-2007	Amend	2-1-2007	813-035-0045	1-11-2007	Amend	2-1-2007
813-010-0036	1-11-2007	Amend	2-1-2007	813-035-0051	1-11-2007	Amend	2-1-2007
813-010-0042	1-11-2007	Amend	2-1-2007	813-035-0070	1-11-2007	Adopt	2-1-2007
813-010-0051	1-11-2007	Amend	2-1-2007	813-035-0700	1-11-2007	Repeal	2-1-2007
813-010-0700	1-11-2007	Amend	2-1-2007	813-035-0705	1-11-2007	Repeal	2-1-2007
813-010-0705	1-11-2007	Amend	2-1-2007	813-035-0710	1-11-2007	Repeal	2-1-2007
813-010-0710	1-11-2007	Amend	2-1-2007	813-035-0715	1-11-2007	Repeal	2-1-2007
813-010-0715	1-11-2007	Amend	2-1-2007	813-035-0720	1-11-2007	Repeal	2-1-2007
813-010-0720	1-11-2007	Amend	2-1-2007	813-038-0005	5-10-2007	Adopt	6-1-2007
813-010-0740	1-11-2007	Adopt	2-1-2007	813-038-0010	5-10-2007	Adopt	6-1-2007
813-012-0010	1-11-2007	Amend	2-1-2007	813-038-0015	5-10-2007	Adopt	6-1-2007
813-012-0020	1-11-2007	Amend	2-1-2007	813-038-0020	5-10-2007	Adopt	6-1-2007
813-012-0030	1-11-2007	Amend	2-1-2007	813-038-0025	5-10-2007	Adopt	6-1-2007
813-012-0040	1-11-2007	Amend	2-1-2007	813-038-0030	5-10-2007	Adopt	6-1-2007
813-012-0050	1-11-2007	Amend	2-1-2007	813-038-0035	5-10-2007	Adopt	6-1-2007
813-012-0060	1-11-2007	Amend	2-1-2007	813-038-0040	5-10-2007	Adopt	6-1-2007
813-012-0070	1-11-2007	Amend	2-1-2007	813-042-0000	1-11-2007	Adopt	2-1-2007
813-012-0080	1-11-2007	Amend	2-1-2007	813-042-0000(T)	1-11-2007	Repeal	2-1-2007
813-012-0090	1-11-2007	Amend	2-1-2007	813-042-0010	1-11-2007	Adopt	2-1-2007
813-012-0100	1-11-2007	Amend	2-1-2007	813-042-0010(T)	1-11-2007	Repeal	2-1-2007
813-012-0110	1-11-2007	Amend	2-1-2007	813-042-0020	1-11-2007	Adopt	2-1-2007

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OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
813-042-0020(T)	1-11-2007	Repeal	2-1-2007	813-110-0022	10-16-2007	Amend(T)	12-1-2007
813-042-0030	1-11-2007	Adopt	2-1-2007	813-110-0025	10-16-2007	Amend(T)	12-1-2007
813-042-0030(T)	1-11-2007	Repeal	2-1-2007	813-110-0030	1-11-2007	Amend	2-1-2007
813-042-0040	1-11-2007	Adopt	2-1-2007	813-110-0030	10-16-2007	Amend(T)	12-1-2007
813-042-0040(T)	1-11-2007	Repeal	2-1-2007	813-110-0030(T)	1-11-2007	Repeal	2-1-2007
813-042-0050	1-11-2007	Adopt	2-1-2007	813-110-0033	1-11-2007	Amend	2-1-2007
813-042-0050(T)	1-11-2007	Repeal	2-1-2007	813-110-0033(T)	1-11-2007	Repeal	2-1-2007
813-042-0060	1-11-2007	Adopt	2-1-2007	813-110-0035	1-11-2007	Amend	2-1-2007
813-042-0060(T)	1-11-2007	Repeal	2-1-2007	813-110-0035	10-16-2007	Amend(T)	12-1-2007
813-042-0070	1-11-2007	Adopt	2-1-2007	813-110-0035(T)	1-11-2007	Repeal	2-1-2007
813-042-0070(T)	1-11-2007	Repeal	2-1-2007	813-120-0080	1-11-2007	Amend	2-1-2007
813-042-0080	1-11-2007	Adopt	2-1-2007	813-120-0080(T)	1-11-2007	Repeal	2-1-2007
813-042-0080(T)	1-11-2007	Repeal	2-1-2007	813-120-0100	1-11-2007	Amend	2-1-2007
813-042-0090	1-11-2007	Adopt	2-1-2007	813-120-0100(T)	1-11-2007	Repeal	2-1-2007
813-042-0090(T)	1-11-2007	Repeal	2-1-2007	813-130-0000	1-11-2007	Amend	2-1-2007
813-042-0100	1-11-2007	Adopt	2-1-2007	813-130-0000(T)	1-11-2007	Repeal	2-1-2007
813-042-0100(T)	1-11-2007	Repeal	2-1-2007	813-130-0010	1-11-2007	Amend	2-1-2007
813-042-0110	1-11-2007	Adopt	2-1-2007	813-130-0010(T)	1-11-2007	Repeal	2-1-2007
813-042-0110(T)	1-11-2007	Repeal	2-1-2007	813-130-0020	1-11-2007	Amend	2-1-2007
813-060-0005	1-11-2007	Amend	2-1-2007	813-130-0020(T)	1-11-2007	Repeal	2-1-2007
813-060-0010	1-11-2007	Amend	2-1-2007	813-130-0030	1-11-2007	Amend	2-1-2007
813-060-0020	1-11-2007	Amend	2-1-2007	813-130-0030(T)	1-11-2007	Repeal	2-1-2007
813-060-0025	1-11-2007	Amend	2-1-2007	813-130-0040	1-11-2007	Amend	2-1-2007
813-060-0030	1-11-2007	Amend	2-1-2007	813-130-0040(T)	1-11-2007	Repeal	2-1-2007
813-060-0031	1-11-2007	Amend	2-1-2007	813-130-0050	1-11-2007	Amend	2-1-2007
813-060-0032	1-11-2007	Amend	2-1-2007	813-130-0050(T)	1-11-2007	Repeal	2-1-2007
813-060-0036	1-11-2007	Adopt	2-1-2007	813-130-0060	1-11-2007	Amend	2-1-2007
813-060-0038	1-11-2007	Am. & Ren.	2-1-2007	813-130-0060(T)	1-11-2007	Repeal	2-1-2007
813-060-0040	1-11-2007	Amend	2-1-2007	813-130-0070	1-11-2007	Amend	2-1-2007
813-060-0044	1-11-2007	Amend	2-1-2007	813-130-0070(T)	1-11-2007	Repeal	2-1-2007
813-060-0045	1-11-2007	Amend	2-1-2007	813-130-0080	1-11-2007	Amend	2-1-2007
813-060-0047	1-11-2007	Amend	2-1-2007	813-130-0080(T)	1-11-2007	Repeal	2-1-2007
813-060-0055	1-11-2007	Amend	2-1-2007	813-130-0090	1-11-2007	Amend	2-1-2007
813-060-0056	1-11-2007	Amend	2-1-2007	813-130-0090(T)	1-11-2007	Repeal	2-1-2007
813-060-0061	1-11-2007	Amend	2-1-2007	813-130-0100	1-11-2007	Amend	2-1-2007
813-060-0062	1-11-2007	Amend	2-1-2007	813-130-0100(T)	1-11-2007	Repeal	2-1-2007
813-060-0065	1-11-2007	Amend	2-1-2007	813-130-0110	1-11-2007	Amend	2-1-2007
813-060-0070	1-11-2007	Adopt	2-1-2007	813-130-0110(T)	1-11-2007	Repeal	2-1-2007
813-090-0031	1-11-2007	Amend	2-1-2007	813-130-0120	1-11-2007	Amend	2-1-2007
813-090-0031(T)	1-11-2007	Repeal	2-1-2007	813-130-0120(T)	1-11-2007	Repeal	2-1-2007
813-090-0035	1-11-2007	Amend	2-1-2007	813-130-0130	1-11-2007	Amend	2-1-2007
813-090-0035(T)	1-11-2007	Repeal	2-1-2007	813-130-0130(T)	1-11-2007	Repeal	2-1-2007
813-090-0036	1-11-2007	Amend	2-1-2007	813-130-0140	1-11-2007	Adopt	2-1-2007
813-090-0036(T)	1-11-2007	Repeal	2-1-2007	813-130-0140(T)	1-11-2007	Repeal	2-1-2007
813-090-0070	1-11-2007	Amend	2-1-2007	813-205-0000	1-11-2007	Amend	2-1-2007
813-090-0070(T)	1-11-2007	Repeal	2-1-2007	813-205-0000(T)	1-11-2007	Repeal	2-1-2007
813-110-0005	10-16-2007	Amend(T)	12-1-2007	813-205-0010	1-11-2007	Amend	2-1-2007
813-110-0010	1-11-2007	Amend	2-1-2007	813-205-0010(T)	1-11-2007	Repeal	2-1-2007
813-110-0010	10-16-2007	Amend(T)	12-1-2007	813-205-0020	1-11-2007	Amend	2-1-2007
813-110-0010(T)	1-11-2007	Repeal	2-1-2007	813-205-0020(T)	1-11-2007	Repeal	2-1-2007
813-110-0013	10-16-2007	Adopt(T)	12-1-2007	813-205-0030	1-11-2007	Amend	2-1-2007
813-110-0015	1-11-2007	Amend	2-1-2007	813-205-0030(T)	1-11-2007	Repeal	2-1-2007
813-110-0015	10-16-2007	Amend(T)	12-1-2007	813-205-0040	1-11-2007	Amend	2-1-2007
813-110-0015(T)	1-11-2007	Repeal	2-1-2007	813-205-0040(T)	1-11-2007	Repeal	2-1-2007
813-110-0020	10-16-2007	Amend(T)	12-1-2007	813-205-0050	1-11-2007	Amend	2-1-2007
813-110-0021	10-16-2007	Amend(T)	12-1-2007	813-205-0050(T)	1-11-2007	Repeal	2-1-2007

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813-205-0051	1-11-2007	Amend	2-1-2007	820-010-0230	4-5-2007	Amend	5-1-2007
813-205-0051(T)	1-11-2007	Repeal	2-1-2007	820-010-0230	9-20-2007	Amend	11-1-2007
813-205-0052	1-11-2007	Adopt	2-1-2007	820-010-0231	11-21-2006	Adopt	1-1-2007
813-205-0052(T)	1-11-2007	Repeal	2-1-2007	820-010-0231	4-5-2007	Amend	5-1-2007
813-205-0060	1-11-2007	Amend	2-1-2007	820-010-0231	9-20-2007	Amend	11-1-2007
813-205-0060(T)	1-11-2007	Repeal	2-1-2007	820-010-0255	11-21-2006	Amend	1-1-2007
813-205-0070	1-11-2007	Amend	2-1-2007	820-010-0300	11-21-2006	Amend	1-1-2007
813-205-0070(T)	1-11-2007	Repeal	2-1-2007	820-010-0305	11-21-2006	Amend	1-1-2007
813-205-0080	1-11-2007	Amend	2-1-2007	820-010-0305	9-20-2007	Amend	11-1-2007
813-205-0080(T)	1-11-2007	Repeal	2-1-2007	820-010-0325	3-23-2007	Amend(T)	5-1-2007
813-205-0085	1-11-2007	Adopt	2-1-2007	820-010-0325	8-15-2007	Amend	9-1-2007
813-205-0085(T)	1-11-2007	Repeal	2-1-2007	820-010-0400	11-21-2006	Adopt	1-1-2007
813-205-0100	1-11-2007	Adopt	2-1-2007	820-010-0415	9-20-2007	Amend	11-1-2007
813-205-0100(T)	1-11-2007	Repeal	2-1-2007	820-010-0417	9-20-2007	Adopt	11-1-2007
813-205-0110	1-11-2007	Adopt	2-1-2007	820-010-0425	9-20-2007	Amend	11-1-2007
813-205-0110(T)	1-11-2007	Repeal	2-1-2007	820-010-0427	9-20-2007	Amend	11-1-2007
813-205-0120	1-11-2007	Adopt	2-1-2007	820-010-0440	9-20-2007	Amend	11-1-2007
813-205-0120(T)	1-11-2007	Repeal	2-1-2007	820-010-0463	9-20-2007	Adopt	11-1-2007
813-205-0130	1-11-2007	Adopt	2-1-2007	820-010-0470	9-20-2007	Amend	11-1-2007
813-205-0130(T)	1-11-2007	Repeal	2-1-2007	820-010-0510	9-20-2007	Adopt	11-1-2007
813-300-0010	10-2-2007	Amend(T)	11-1-2007	820-010-0520	9-20-2007	Adopt	11-1-2007
813-300-0020	10-2-2007	Amend(T)	11-1-2007	820-010-0605	11-21-2006	Amend	1-1-2007
813-300-0030	10-2-2007	Amend(T)	11-1-2007	820-010-0617	11-21-2006	Amend	1-1-2007
813-300-0060	10-2-2007	Amend(T)	11-1-2007	820-010-0618	11-21-2006	Repeal	1-1-2007
813-300-0080	10-2-2007	Amend(T)	11-1-2007	820-010-0620	12-5-2006	Amend(T)	1-1-2007
813-300-0100	10-2-2007	Amend(T)	11-1-2007	820-010-0620	8-15-2007	Amend	9-1-2007
813-300-0120	10-2-2007	Amend(T)	11-1-2007	820-010-0621	12-5-2006	Adopt(T)	1-1-2007
817-090-0080	11-1-2007	Amend	12-1-2007	820-010-0621	4-5-2007	Adopt	5-1-2007
818-001-0015	3-1-2007	Repeal	4-1-2007	820-010-0622	11-21-2006	Amend	1-1-2007
818-001-0021	3-1-2007	Repeal	4-1-2007	820-010-0635	11-21-2006	Amend	1-1-2007
818-001-0087	5-1-2007	Amend	6-1-2007	820-010-0635	4-5-2007	Amend	5-1-2007
818-012-0030	3-1-2007	Amend	4-1-2007	820-010-0635	9-20-2007	Amend	11-1-2007
818-035-0025	5-1-2007	Amend	6-1-2007	820-010-0720	4-5-2007	Amend	5-1-2007
818-035-0040	5-1-2007	Amend	6-1-2007	820-015-0005	11-21-2006	Amend	1-1-2007
818-035-0072	5-1-2007	Adopt	6-1-2007	820-015-0010	11-21-2006	Amend	1-1-2007
820-001-0000	11-21-2006	Amend	1-1-2007	820-015-0026	11-21-2006	Amend	1-1-2007
820-001-0020	11-21-2006	Amend	1-1-2007	820-020-0005	11-21-2006	Amend	1-1-2007
820-010-0010	11-21-2006	Amend	1-1-2007	820-020-0010	11-21-2006	Repeal	1-1-2007
820-010-0010	4-5-2007	Amend	5-1-2007	820-020-0015	4-5-2007	Amend	5-1-2007
820-010-0010	9-20-2007	Amend	11-1-2007	820-020-0025	11-21-2006	Amend	1-1-2007
820-010-0200	11-21-2006	Amend	1-1-2007	820-020-0030	11-21-2006	Amend	1-1-2007
820-010-0200	9-20-2007	Amend	11-1-2007	820-020-0035	11-21-2006	Amend	1-1-2007
820-010-0204	11-21-2006	Adopt	1-1-2007	820-020-0045	11-21-2006	Amend	1-1-2007
820-010-0205	11-21-2006	Amend	1-1-2007	820-040-0040	11-21-2006	Amend	1-1-2007
820-010-0206	11-21-2006	Adopt	1-1-2007	836-009-0011	9-14-2007	Amend	10-1-2007
820-010-0207	11-21-2006	Amend	1-1-2007	836-011-0000	11-8-2007	Amend	12-1-2007
820-010-0208	11-21-2006	Adopt	1-1-2007	836-020-0770	2-12-2007	Amend	3-1-2007
820-010-0210	4-5-2007	Amend	5-1-2007	836-031-0800	2-12-2007	Adopt	3-1-2007
820-010-0215	9-20-2007	Amend	11-1-2007	836-031-0805	2-12-2007	Adopt	3-1-2007
820-010-0225	11-21-2006	Amend	1-1-2007	836-031-0810	2-12-2007	Adopt	3-1-2007
820-010-0226	11-21-2006	Adopt	1-1-2007	836-031-0815	2-12-2007	Adopt	3-1-2007
820-010-0227	11-21-2006	Adopt	1-1-2007	836-043-0110	1-17-2007	Amend	3-1-2007
820-010-0227	9-20-2007	Amend	11-1-2007	836-053-0016	8-20-2007	Suspend	10-1-2007
820-010-0228	11-21-2006	Adopt	1-1-2007	836-053-0021	8-20-2007	Amend(T)	10-1-2007
820-010-0228	9-20-2007	Amend	11-1-2007	836-053-0026	8-20-2007	Suspend	10-1-2007
820-010-0230	11-21-2006	Amend	1-1-2007	836-053-0030	8-20-2007	Amend(T)	10-1-2007

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836-053-0050	8-20-2007	Amend(T)	10-1-2007	837-020-0070	4-1-2007	Amend	5-1-2007
836-053-0060	8-20-2007	Amend(T)	10-1-2007	837-020-0075	4-1-2007	Amend	5-1-2007
836-053-0065	8-20-2007	Amend(T)	10-1-2007	837-020-0080	4-1-2007	Amend	5-1-2007
836-071-0146	1-1-2008	Adopt	4-1-2007	837-020-0085	4-1-2007	Amend	5-1-2007
836-071-0180	1-1-2008	Amend	4-1-2007	837-020-0105	4-1-2007	Amend	5-1-2007
836-071-0215	1-1-2008	Amend	4-1-2007	837-020-0115	4-1-2007	Amend	5-1-2007
836-071-0220	1-1-2008	Amend	4-1-2007	837-020-0120	4-1-2007	Amend	5-1-2007
836-071-0242	1-1-2008	Amend	4-1-2007	837-020-0125	4-1-2007	Amend	5-1-2007
836-071-0250	1-1-2008	Amend	4-1-2007	837-035-0000	7-2-2007	Adopt(T)	8-1-2007
836-080-0750	1-1-2008	Adopt	10-1-2007	837-035-0020	7-2-2007	Adopt(T)	8-1-2007
836-080-0755	1-1-2008	Adopt	10-1-2007	837-035-0040	7-2-2007	Adopt(T)	8-1-2007
836-080-0760	1-1-2008	Adopt	10-1-2007	837-035-0060	7-2-2007	Adopt(T)	8-1-2007
836-080-0765	1-1-2008	Adopt	10-1-2007	837-035-0080	7-2-2007	Adopt(T)	8-1-2007
836-080-0770	1-1-2008	Adopt	10-1-2007	837-035-0100	7-2-2007	Adopt(T)	8-1-2007
836-080-0775	1-1-2008	Adopt	10-1-2007	837-035-0120	7-2-2007	Adopt(T)	8-1-2007
837-012-0305	1-1-2007	Amend	2-1-2007	837-035-0140	7-2-2007	Adopt(T)	8-1-2007
837-012-0310	1-1-2007	Amend	2-1-2007	837-035-0160	7-2-2007	Adopt(T)	8-1-2007
837-012-0315	1-1-2007	Amend	2-1-2007	837-035-0180	7-2-2007	Adopt(T)	8-1-2007
837-012-0320	1-1-2007	Amend	2-1-2007	837-035-0200	7-2-2007	Adopt(T)	8-1-2007
837-012-0325	1-1-2007	Amend	2-1-2007	837-035-0220	7-2-2007	Adopt(T)	8-1-2007
837-012-0330	1-1-2007	Amend	2-1-2007	837-035-0240	7-2-2007	Adopt(T)	8-1-2007
837-012-0340	1-1-2007	Amend	2-1-2007	837-035-0260	7-2-2007	Adopt(T)	8-1-2007
837-012-0350	1-1-2007	Amend	2-1-2007	837-035-0280	7-2-2007	Adopt(T)	8-1-2007
837-012-0360	1-1-2007	Amend	2-1-2007	837-035-0300	7-2-2007	Adopt(T)	8-1-2007
837-012-0370	1-1-2007	Amend	2-1-2007	837-035-0320	7-2-2007	Adopt(T)	8-1-2007
837-012-1200	12-1-2006	Amend	1-1-2007	837-035-0340	7-2-2007	Adopt(T)	8-1-2007
837-012-1210	12-1-2006	Amend	1-1-2007	837-040-0001	4-1-2007	Amend	1-1-2007
837-012-1220	12-1-2006	Amend	1-1-2007	837-040-0010	4-1-2007	Amend	1-1-2007
837-012-1230	12-1-2006	Amend	1-1-2007	837-040-0020	4-1-2007	Amend	1-1-2007
837-012-1240	12-1-2006	Amend	1-1-2007	837-040-0140	4-1-2007	Amend	1-1-2007
837-012-1250	12-1-2006	Amend	1-1-2007	839-003-0025	7-18-2007	Amend(T)	9-1-2007
837-012-1260	12-1-2006	Amend	1-1-2007	839-003-0025	10-1-2007	Amend	11-1-2007
837-012-1270	12-1-2006	Amend	1-1-2007	839-004-0001	7-18-2007	Amend(T)	9-1-2007
837-012-1280	12-1-2006	Amend	1-1-2007	839-004-0001	10-1-2007	Amend	11-1-2007
837-012-1290	12-1-2006	Amend	1-1-2007	839-004-0021	7-18-2007	Amend(T)	9-1-2007
837-012-1300	12-1-2006	Amend	1-1-2007	839-004-0021	10-1-2007	Amend	11-1-2007
837-012-1310	12-1-2006	Amend	1-1-2007	839-005-0010	2-2-2007	Amend	3-1-2007
837-012-1320	12-1-2006	Amend	1-1-2007	839-005-0030	1-3-2007	Amend	2-1-2007
837-012-1330	12-1-2006	Amend	1-1-2007	839-006-0205	2-1-2007	Amend	3-1-2007
837-012-1340	12-1-2006	Amend	1-1-2007	839-006-0206	2-1-2007	Amend	3-1-2007
837-012-1350	12-1-2006	Amend	1-1-2007	839-009-0250	1-17-2007	Amend	3-1-2007
837-012-1360	12-1-2006	Amend	1-1-2007	839-009-0280	1-3-2007	Amend	2-1-2007
837-012-1370	12-1-2006	Amend	1-1-2007	839-020-0004	11-27-2006	Amend(T)	1-1-2007
837-012-1380	12-1-2006	Amend	1-1-2007	839-020-0004	5-15-2007	Amend	6-1-2007
837-012-1390	12-1-2006	Amend	1-1-2007	839-025-0004	8-1-2007	Amend(T)	9-1-2007
837-012-1400	12-1-2006	Amend	1-1-2007	839-025-0005	8-1-2007	Adopt(T)	9-1-2007
837-012-1410	12-1-2006	Amend	1-1-2007	839-025-0020	1-23-2007	Amend	3-1-2007
837-012-1420	12-1-2006	Amend	1-1-2007	839-025-0020	8-1-2007	Amend(T)	9-1-2007
837-020-0025	4-1-2007	Amend	5-1-2007	839-025-0100	8-1-2007	Amend(T)	9-1-2007
837-020-0035	4-1-2007	Amend	5-1-2007	839-025-0310	8-1-2007	Amend(T)	9-1-2007
837-020-0040	4-1-2007	Amend	5-1-2007	839-025-0340	8-1-2007	Amend(T)	9-1-2007
837-020-0045	4-1-2007	Amend	5-1-2007	839-025-0530	8-1-2007	Amend(T)	9-1-2007
837-020-0050	4-1-2007	Amend	5-1-2007	839-025-0700	11-20-2006	Amend	1-1-2007
837-020-0055	4-1-2007	Amend	5-1-2007	839-025-0700	12-8-2006	Amend	1-1-2007
837-020-0060	4-1-2007	Amend	5-1-2007	839-025-0700	1-1-2007	Amend	2-1-2007

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839-025-0700	1-31-2007	Amend	3-1-2007	845-016-0075	9-1-2007	Amend	4-1-2007
839-025-0700	3-5-2007	Amend	4-1-2007	845-020-0035	9-17-2007	Amend(T)	11-1-2007
839-025-0700	3-30-2007	Amend	5-1-2007	847-005-0005	1-24-2007	Amend	3-1-2007
839-025-0700	4-1-2007	Amend	5-1-2007	847-008-0015	1-24-2007	Amend	3-1-2007
839-025-0700	4-2-2007	Amend	5-1-2007	847-008-0022	1-24-2007	Amend	3-1-2007
839-025-0700	4-30-2007	Amend	6-1-2007	847-008-0023	1-24-2007	Amend	3-1-2007
839-025-0700	5-31-2007	Amend	7-1-2007	847-008-0037	1-24-2007	Adopt	3-1-2007
839-025-0700	6-11-2007	Amend	7-1-2007	847-008-0037	10-24-2007	Amend(T)	12-1-2007
839-025-0700	6-28-2007	Amend	8-1-2007	847-008-0065	10-24-2007	Amend	12-1-2007
839-025-0700	6-28-2007	Amend	8-1-2007	847-010-0063	1-24-2007	Amend	3-1-2007
839-025-0700	7-1-2007	Amend	8-1-2007	847-010-0073	1-24-2007	Amend	3-1-2007
839-025-0700	7-12-2007	Amend	8-1-2007	847-010-0110	4-26-2007	Adopt	6-1-2007
839-025-0700	8-8-2007	Amend	9-1-2007	847-015-0025	10-24-2007	Amend	12-1-2007
839-025-0700	8-30-2007	Amend	10-1-2007	847-017-0010	7-23-2007	Amend	9-1-2007
839-025-0700	9-4-2007	Amend	10-1-2007	847-020-0110	1-24-2007	Amend	3-1-2007
839-025-0700	9-12-2007	Amend	10-1-2007	847-020-0130	10-24-2007	Amend	12-1-2007
839-025-0700	9-20-2007	Amend	11-1-2007	847-020-0140	1-24-2007	Amend	3-1-2007
839-025-0700	9-26-2007	Amend	11-1-2007	847-020-0150	7-23-2007	Amend	9-1-2007
839-025-0700	10-1-2007	Amend	11-1-2007	847-020-0150	10-24-2007	Amend	12-1-2007
839-025-0700	10-1-2007	Amend	11-1-2007	847-020-0155	1-24-2007	Adopt	3-1-2007
839-025-0750	1-1-2007	Amend	2-1-2007	847-020-0160	7-23-2007	Amend	9-1-2007
839-025-0750	7-2-2007	Amend	8-1-2007	847-020-0170	10-24-2007	Amend	12-1-2007
839-025-0750	11-2-2007	Amend	12-1-2007	847-020-0180	4-26-2007	Amend	6-1-2007
839-050-0140	12-6-2006	Amend	1-1-2007	847-020-0180	10-24-2007	Amend	12-1-2007
845-001-0007	4-1-2007	Amend	5-1-2007	847-020-0183	10-24-2007	Adopt	12-1-2007
845-003-0270	10-1-2007	Amend	11-1-2007	847-023-0010	2-6-2007	Adopt(T)	3-1-2007
845-005-0326	3-1-2007	Amend	4-1-2007	847-023-0010	7-23-2007	Adopt	9-1-2007
845-005-0415	5-14-2007	Amend(T)	6-1-2007	847-023-0015	2-6-2007	Adopt(T)	3-1-2007
845-005-0415	11-11-2007	Amend	11-1-2007	847-023-0015	7-23-2007	Adopt	9-1-2007
845-006-0345	4-1-2007	Amend	5-1-2007	847-025-0050	1-24-2007	Amend	3-1-2007
845-006-0348	10-1-2007	Amend	11-1-2007	847-028-0030	1-24-2007	Amend	3-1-2007
845-006-0361	8-1-2007	Repeal	9-1-2007	847-035-0030	1-24-2007	Amend	3-1-2007
845-006-0482	4-1-2007	Amend	5-1-2007	847-035-0030	4-26-2007	Amend	6-1-2007
845-006-0498	8-1-2007	Amend	9-1-2007	847-035-0030	10-24-2007	Amend	12-1-2007
845-006-0500	10-1-2007	Amend	11-1-2007	847-050-0031	10-24-2007	Amend	12-1-2007
845-010-0280	11-1-2007	Amend	12-1-2007	847-050-0035	10-24-2007	Amend	12-1-2007
845-010-0290	11-1-2007	Amend	12-1-2007	847-050-0045	10-24-2007	Repeal	12-1-2007
845-010-0905	11-1-2007	Amend	12-1-2007	847-070-0016	4-26-2007	Amend	6-1-2007
845-010-0910	11-1-2007	Amend	12-1-2007	847-070-0018	10-24-2007	Amend	12-1-2007
845-010-0915	11-1-2007	Amend	12-1-2007	847-070-0022	10-24-2007	Amend	12-1-2007
845-010-0920	11-1-2007	Amend	12-1-2007	847-070-0036	10-24-2007	Amend	12-1-2007
845-010-0925	11-1-2007	Repeal	12-1-2007	847-070-0037	10-24-2007	Amend	12-1-2007
845-010-0930	11-1-2007	Amend	12-1-2007	847-070-0038	4-26-2007	Amend	6-1-2007
845-010-0935	11-1-2007	Repeal	12-1-2007	847-070-0050	10-24-2007	Amend	12-1-2007
845-010-0940	11-1-2007	Repeal	12-1-2007	847-080-0001	1-24-2007	Amend	3-1-2007
845-015-0199	1-1-2007	Repeal	3-1-2007	847-080-0001	10-24-2007	Amend	12-1-2007
845-016-0005	9-1-2007	Amend	4-1-2007	847-080-0002	1-24-2007	Amend	3-1-2007
845-016-0010	9-1-2007	Amend	4-1-2007	847-080-0013	7-23-2007	Amend	9-1-2007
845-016-0015	9-1-2007	Amend	4-1-2007	847-080-0017	7-23-2007	Amend	9-1-2007
845-016-0015	9-1-2007	Amend	10-1-2007	847-080-0018	7-23-2007	Amend	9-1-2007
845-016-0016	9-1-2007	Adopt	4-1-2007	847-080-0018	7-23-2007	Amend(T)	9-1-2007
845-016-0020	9-1-2007	Amend	4-1-2007	847-080-0018	10-24-2007	Amend	12-1-2007
845-016-0030	9-1-2007	Amend	4-1-2007	848-001-0000	4-1-2007	Amend	4-1-2007
845-016-0035	9-1-2007	Amend	4-1-2007	848-001-0010	4-1-2007	Amend	4-1-2007
845-016-0036	9-1-2007	Adopt	4-1-2007	848-005-0010	6-1-2007	Amend	7-1-2007
845-016-0045	9-1-2007	Amend	4-1-2007	848-010-0015	4-1-2007	Amend	4-1-2007

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OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
848-010-0033	4-1-2007	Amend	4-1-2007	855-031-0010	6-29-2007	Amend	8-1-2007
848-010-0035	4-1-2007	Amend	4-1-2007	855-031-0015	6-29-2007	Amend	8-1-2007
848-015-0010	4-1-2007	Amend	4-1-2007	855-031-0020	6-29-2007	Amend	8-1-2007
848-015-0020	4-1-2007	Amend	4-1-2007	855-031-0030	6-29-2007	Amend	8-1-2007
848-020-0000	4-1-2007	Amend	4-1-2007	855-031-0033	6-29-2007	Amend	8-1-2007
848-040-0100	4-1-2007	Amend	4-1-2007	855-031-0035	6-29-2007	Repeal	8-1-2007
848-040-0110	4-1-2007	Amend	4-1-2007	855-031-0040	6-29-2007	Amend	8-1-2007
848-040-0117	4-1-2007	Amend	4-1-2007	855-031-0045	6-29-2007	Amend	8-1-2007
848-040-0125	4-1-2007	Amend	4-1-2007	855-031-0050	6-29-2007	Amend	8-1-2007
848-040-0130	4-1-2007	Amend	4-1-2007	855-031-0055	6-29-2007	Amend	8-1-2007
848-040-0135	4-1-2007	Amend	4-1-2007	855-041-0061	8-27-2007	Adopt(T)	10-1-2007
848-040-0140	4-1-2007	Amend	4-1-2007	855-041-0090	6-29-2007	Repeal	8-1-2007
848-040-0145	4-1-2007	Amend	4-1-2007	855-041-0120	6-29-2007	Amend	8-1-2007
848-040-0150	4-1-2007	Amend	4-1-2007	855-041-0500	6-29-2007	Amend	8-1-2007
848-040-0155	4-1-2007	Amend	4-1-2007	855-050-0070	1-1-2007	Amend(T)	2-1-2007
848-040-0160	4-1-2007	Amend	4-1-2007	855-050-0070	6-29-2007	Amend	8-1-2007
850-010-0005	6-12-2007	Amend	7-1-2007	855-060-0001	12-19-2006	Amend	2-1-2007
850-030-0020	6-12-2007	Adopt	7-1-2007	855-065-0001	12-19-2006	Amend	2-1-2007
850-060-0225	12-11-2006	Amend	1-1-2007	855-065-0005	12-19-2006	Amend	2-1-2007
850-060-0225	6-12-2007	Amend	7-1-2007	855-065-0006	12-19-2006	Adopt	2-1-2007
850-060-0226	12-11-2006	Amend	1-1-2007	855-065-0007	12-19-2006	Amend	2-1-2007
850-060-0226	6-12-2007	Amend	7-1-2007	855-065-0009	12-19-2006	Amend	2-1-2007
851-002-0010	7-1-2007	Amend	6-1-2007	855-065-0010	12-19-2006	Amend	2-1-2007
851-002-0020	11-29-2006	Amend	1-1-2007	855-065-0012	12-19-2006	Adopt	2-1-2007
851-002-0035	11-29-2006	Amend	1-1-2007	855-065-0013	12-19-2006	Adopt	2-1-2007
851-002-0040	1-1-2008	Amend	8-1-2007	855-070-0005	12-19-2006	Amend	2-1-2007
851-002-0055	7-1-2007	Adopt	6-1-2007	855-080-0015	6-29-2007	Amend	8-1-2007
851-031-0007	5-14-2007	Adopt	9-1-2007	855-080-0021	6-29-2007	Amend	8-1-2007
851-031-0010	11-29-2006	Amend	1-1-2007	855-080-0022	6-29-2007	Amend	8-1-2007
851-050-0002	3-13-2007	Amend	4-1-2007	855-080-0023	6-29-2007	Amend	8-1-2007
851-054-0040	3-13-2007	Amend	4-1-2007	855-080-0024	6-29-2007	Amend	8-1-2007
851-056-0012	3-13-2007	Amend	4-1-2007	855-080-0026	6-29-2007	Amend	8-1-2007
851-056-0012	5-2-2007	Amend	6-1-2007	855-080-0028	12-19-2006	Amend	2-1-2007
851-056-0012	6-26-2007	Amend	8-1-2007	855-080-0030	6-29-2007	Repeal	8-1-2007
851-056-0012	10-1-2007	Amend	11-1-2007	855-080-0031	6-29-2007	Amend	8-1-2007
851-062-0016	11-29-2006	Amend	1-1-2007	855-080-0065	6-29-2007	Amend	8-1-2007
851-062-0135	5-14-2007	Adopt	9-1-2007	855-080-0070	6-29-2007	Amend	8-1-2007
851-063-0035	10-1-2007	Adopt	11-1-2007	855-080-0080	6-29-2007	Amend	8-1-2007
852-005-0005	7-1-2007	Amend	7-1-2007	855-080-0085	6-29-2007	Amend	8-1-2007
852-010-0015	7-1-2007	Amend	7-1-2007	855-080-0090	6-29-2007	Repeal	8-1-2007
852-010-0023	7-1-2007	Amend	7-1-2007	855-110-0005	12-19-2006	Amend	2-1-2007
852-010-0080	7-1-2007	Amend	7-1-2007	856-010-0010	1-26-2007	Amend	3-1-2007
852-050-0005	7-1-2007	Amend	7-1-2007	856-010-0010	5-22-2007	Amend	7-1-2007
852-050-0006	7-1-2007	Amend	7-1-2007	856-010-0011	1-26-2007	Amend	3-1-2007
852-050-0012	7-1-2007	Amend	7-1-2007	856-010-0012	1-26-2007	Amend	3-1-2007
852-080-0040	7-1-2007	Amend	7-1-2007	856-010-0015	1-26-2007	Amend	3-1-2007
855-001-0000	6-29-2007	Amend	8-1-2007	856-010-0016	7-26-2007	Adopt(T)	9-1-2007
855-001-0005	12-19-2006	Amend	2-1-2007	860-011-0080	4-18-2007	Amend	6-1-2007
855-001-0040	6-29-2007	Am. & Ren.	8-1-2007	860-011-0090	4-18-2007	Adopt	6-1-2007
855-006-0005	12-19-2006	Amend	2-1-2007	860-011-0100	4-18-2007	Adopt	6-1-2007
855-006-0015	8-27-2007	Adopt(T)	10-1-2007	860-011-0110	4-18-2007	Adopt	6-1-2007
855-010-0001	6-29-2007	Amend	8-1-2007	860-016-0020	12-15-2006	Amend	1-1-2007
855-010-0005	6-29-2007	Amend	8-1-2007	860-016-0021	12-15-2006	Amend	1-1-2007
855-010-0010	6-29-2007	Repeal	8-1-2007	860-016-0025	12-15-2006	Amend	1-1-2007
855-021-0016	12-19-2006	Adopt	2-1-2007	860-016-0030	12-15-2006	Amend	1-1-2007
855-031-0005	6-29-2007	Amend	8-1-2007	860-021-0033	9-13-2007	Amend	10-1-2007

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860-022-0041	9-18-2007	Amend	11-1-2007	863-025-0015	3-12-2007	Amend	4-1-2007
860-022-0070	1-23-2007	Amend	3-1-2007	863-025-0020	3-12-2007	Amend	4-1-2007
860-024-0010	5-14-2007	Amend	6-1-2007	863-025-0025	3-12-2007	Amend	4-1-2007
860-024-0016	5-14-2007	Amend	6-1-2007	863-025-0030	3-12-2007	Amend	4-1-2007
860-024-0020	9-10-2007	Amend	10-1-2007	863-025-0035	3-12-2007	Amend	4-1-2007
860-024-0021	9-10-2007	Amend	10-1-2007	863-025-0040	3-12-2007	Amend	4-1-2007
860-027-0005	10-31-2007	Amend	12-1-2007	863-025-0045	3-12-2007	Amend	4-1-2007
860-028-0020	4-16-2007	Amend	6-1-2007	863-025-0050	3-12-2007	Amend	4-1-2007
860-028-0050	4-16-2007	Adopt	6-1-2007	863-025-0055	3-12-2007	Amend	4-1-2007
860-028-0060	4-16-2007	Adopt	6-1-2007	863-025-0060	3-12-2007	Amend	4-1-2007
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860-028-0080	4-16-2007	Adopt	6-1-2007	863-025-0070	3-12-2007	Amend	4-1-2007
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860-028-0110	4-16-2007	Amend	6-1-2007	918-020-0094	11-15-2007	Adopt(T)	12-1-2007
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860-028-0130	4-16-2007	Amend	6-1-2007	918-040-0000	12-29-2006	Adopt	2-1-2007
860-028-0140	4-16-2007	Amend	6-1-2007	918-040-0020	12-29-2006	Adopt	2-1-2007
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860-028-0170	4-16-2007	Amend	6-1-2007	918-040-0040	12-29-2006	Adopt	2-1-2007
860-028-0180	4-16-2007	Amend	6-1-2007	918-050-0100	7-1-2007	Amend	6-1-2007
860-028-0190	4-16-2007	Amend	6-1-2007	918-050-0110	7-1-2007	Amend	6-1-2007
860-028-0230	4-16-2007	Amend	6-1-2007	918-050-0800	1-1-2008	Amend	11-1-2007
860-028-0310	4-16-2007	Amend	6-1-2007	918-098-1000	1-1-2007	Amend	2-1-2007
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860-039-0015	7-27-2007	Adopt	9-1-2007	918-098-1025	1-1-2007	Amend	2-1-2007
860-039-0020	7-27-2007	Adopt	9-1-2007	918-098-1030	1-1-2007	Amend	2-1-2007
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860-039-0030	7-27-2007	Adopt	9-1-2007	918-098-1042	1-1-2007	Repeal	2-1-2007
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918-225-0700	4-1-2007	Amend	5-1-2007	951-002-0020	6-1-2007	Amend	7-1-2007
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