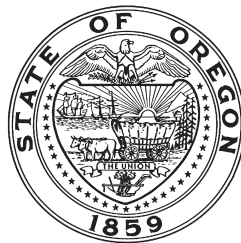


OREGON BULLETIN

Supplements the 2007 *Oregon Administrative Rules Compilation*

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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. 07-05

GOVERNOR'S RE-ENTRY COUNCIL

Pursuant to my authority as Governor of the State of Oregon, I find that:

Due to the tremendous increase in the incarceration rate in Oregon over the past fifteen years, record numbers of prison inmates who have served their sentences are now being released to return to Oregon communities.

Ninety-seven percent of prison inmates will return to community living at some point in their lives. Over 4,000 inmates will be released from state prisons to Oregon's communities in the next year. Many thousands more will be released from jails.

Offenders are spending longer periods of time incarcerated, yet treatment and educational programs have not kept pace with the growing population. Few inmates receive treatment services that would reduce their risk of re-offense upon release and make Oregon's communities safer.

The recidivism rate for offenders released from prison has remained virtually unchanged for the last ten years. One out of every three people released from prison commits a new felony crime within three years of release.

In order to reduce recidivism and its costs to society and crime victims, Oregon must focus resources on inmates as they are released from prison and return to the community. The success of the re-integration of offenders into the community is directly related to public safety.

Effective management of this high risk group will reduce recidivism, thereby reducing victimization and future incarceration costs. Local law enforcement, county jails, courts, prosecutors and victim and social service agencies all share the savings gained from reducing recidivism.

Successful reintegration of offenders returning from prison and jail requires the efforts of multiple state and local agencies. No single agency can accomplish this goal. Our long-term commitment to public safety requires that we address this issue through focused leadership and action.

NOW THEREFORE, IT IS HEREBY DIRECTED AND ORDERED:

1. The Governor's Re-Entry Council (the "Council") is established as a statewide leadership group to work collaboratively on improving the success and safety of incarceration to community transition.
2. The Council shall consist of 19 members as follows:
 - a. The Governor, who shall serve as chair;
 - b. The Director of the Department of Corrections, who shall serve as vice chair;
 - c. The Chair of the Board of Parole and Post-Prison Supervision;
 - d. The Director of the Oregon Youth Authority;
 - e. The Director of the Department of Human Services;
 - f. The Director of the Employment Department;
 - g. The Director of Oregon Housing and Community Services;
 - h. The Director of the Veteran's Department;

i. The Administrator of the Driver and Motor Vehicle Services Division of the Department of Transportation;

j. The Director of the Department of Community Colleges and Workforce Development;

k. The Governor shall appoint one member to represent each of the following:

i. The House of Representatives

ii. The Senate

iii. The Oregon Association of Community Corrections Directors

iv. The Oregon State Sheriffs Association

v. The Oregon District Attorneys Association

vi. The Oregon Criminal Defense Lawyers Association

vii. The Oregon Judicial Department

viii. The Oregon Association of Chiefs of Police

ix. Social service providers that concentrate on offenders transition from incarceration to the community

1. The Governor may appoint additional members as the Governor deems appropriate.

3. The chair shall establish an agenda for the Council and provide leadership and direction for the Council. The chair may appoint and approve the creation of subcommittees of the council.

4. A quorum for Council meetings shall consist of a majority of the appointed members. The Council shall strive to operate by consensus; however the Council may approve measures and make recommendations based on an affirmative vote of the majority of the quorum present.

5. The Council is responsible for planning, developing, implementing and overseeing a multi-agency transition approach for Oregon. The Council shall map the transition process and identify the impact of each state agency. The Council shall:

- Create a common vision for transition and reentry;
- Provide coordination at the executive level of reentry initiatives across the state;
- Conduct a thorough review of existing policies and practices and make specific recommendations for system improvement;
- Create an implementation plan for improvements in policy and practice and monitor the plan;
- Establish regular and continuing communication among stakeholders;
- Remove or minimize barriers that impede successful transition and re-integration;
- Review agency budgets and priorities and make recommendations to align them with evidence based practices and policies supporting successful transition;
- Recommend changes in funding to further support the reformed transition process;
- Review policies relating to institutional case planning, institutional transition planning and preparation, information sharing,

EXECUTIVE ORDERS

continuum of services following release, social services in the community, housing and employment; and

- Establish work groups to implement system reform and make the required changes in the procedures and practices of state and local agencies involved in the reentry process.

6. The Council shall define state level performance goals and create a system for measuring state level performance. The Council shall develop system-wide agreement on what is to be accomplished at the state level as a result of improving the prison to community transition. The Council shall regularly monitor its performance measures and report to stakeholders, policy makers and practitioners.

7. The Department of Corrections shall staff the Council. If the Council requests assistance from any other executive branch agency of the State, that agency shall provide such assistance.

8. Council members are not entitled to reimbursement of expenses or the per diem provided in ORS 292.495.

9. This Order shall remain in effect until rescinded.

Done at Salem, Oregon this 14th day of May, 2007.

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

ATTEST

/s/ Jean Straight
Jean Straight
DEPUTY SECRETARY OF STATE

EXECUTIVE ORDER NO. 07-06

AMENDS EXECUTIVE ORDER NO. 99-09 REGARDING GOVERNOR'S ADVISORY COMMITTEE ON MOTORCYCLE SAFETY

IT IS HEREBY DIRECTED AND ORDERED:

1. Executive Order No. 99-09, relating to the Governor's Advisory Committee on Motorcycle Safety, is restated and reaffirmed, with the following amendment.

2. Section 7 of Executive Order No. 99-09 is amended to state as follows:

"This Order shall expire on July 31, 2011."

Done at Salem, Oregon this 25 day of May, 2007.

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

ATTEST

/s/ Bill Bradbury
Bill Bradbury
SECRETARY OF STATE

EXECUTIVE ORDER NO. 07-07

COLLECTIVE BARGAINING WITH ADULT FOSTER HOME PROVIDERS

The availability of adult foster homes enables seniors and person 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.

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. Approximately 75% of the homes are family-owned and family-occupied, while all homes are required to be licensed and to have a licensed provider or trained resident manager on site. The quality of the care provided by adult foster homes depends upon many factors, including the care provider's training and the continuity of the relationship between the resident and the care provider.

Adult foster homes play an important role in the continuum of 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 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 adult foster home providers all will benefit from a process that allows for collective input from adult foster home providers on how the State can improve stability among providers and quality of care provided.

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 Adult Foster Home Providers who receive service fees from the State.

For purposes of this Executive Order, an "Eligible Adult Foster Home Provider" is a person who operates an adult foster home in the provider's home and who receives fees or payments from the state for providing adult foster care home services. "Eligible Adult Foster Care Home Provider" does not include a person: (a) who is a resident manager of an adult foster home who does not provide adult foster care home services in the resident manager's own home or who does not have a controlling interest in, or is not an officer or partner in, the entity that is the provider of adult foster care home services; (b) who is not a natural person; (c) who operates only a Relative Adult Foster Home as defined in OAR 411-050-0400(53); or (d) 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 negotiations and attempt to reach an agreement with SEIU Local 503, on behalf of Eligible Adult Foster Home Providers, concerning all terms and conditions of the relationship between the State and Eligible Adult Foster Home Providers that are within the State's control. 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

EXECUTIVE ORDERS

the negotiations may request from ERB a list of seven qualified, disinterested, unbiased persons to serve as a potential arbitrator so that 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 a 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 the parties. It is intended solely as executive direction to the State agencies identified herein. Nothing in this Executive Order is intended to give to adult

foster home providers, or imply that adult foster home providers have, any right to engage in a strike or a collective cessation of the delivery of foster home services. Nothing in this Executive Order is intended to authorize the execution of any fair-share agreements, unless and until the Legislative Assembly enacts legislation to allow for 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 adult foster home providers, or cause financial loss to them, including those not eligible for assistance from the State.

7. 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 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 first day of June, 2007.

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

ATTEST

/s/ Bill Bradbury
Bill Bradbury
SECRETARY OF STATE

OTHER NOTICES

A CHANCE TO COMMENT ON A PROPOSED CONSENT JUDGMENT FOR REMEDIAL ACTION AT THE FORMER REYNOLDS ALUMINUM FACILITY IN TROUTDALE, OREGON

COMMENTS DUE: July 31, 2007

PROJECT LOCATION: Troutdale, Oregon

PROPOSAL: The Department of Environmental Quality (DEQ) is proposing to enter into a Consent Judgment for Remedial Action with Reynolds Metals Company (Reynolds) and Alcoa Inc. (Alcoa) for the former Reynolds Aluminum facility located at 5100 NE Sun Dial Road, Troutdale, Oregon 97060 (the "Facility").

HIGHLIGHTS: The Facility was the former location of an aluminum smelting operation, which operated at the site from 1941 to 2000. During historic operations at the site, hazardous substances were released into the ground and groundwater at the Facility.

Reynolds has conducted investigations and Interim Removal Actions at the Facility under the direction and oversight of the United States Environmental Protection Agency (EPA). In December 1994 the Facility was placed on the National Priorities (Superfund) list. On September 29, 1995, EPA and Reynolds entered into an Administrative Order on Consent for Remedial Investigation/Feasibility Study and Removal Actions (EPA Docket No. 0194-01-19-106). Pursuant to the September 29, 1995 Administrative Order on Consent, Reynolds completed a Remedial Investigation in August 1999, and completed a Feasibility Study on June 15, 2000. The decision by EPA on the interim remedial actions to be implemented at the Site was embodied in a Record of Decision for Interim Remedial Actions ("Interim ROD"), executed on September 30, 2002, on which the State has given its concurrence.

On July 17, 2003, EPA issued an order to Reynolds for Remedial Design and Remedial Action (EPA Docket No. CERCLA 10-2003-0115) to implement the soil portion of the cleanup work identified in the Interim ROD. On August 5, 2005, EPA issued to Reynolds and Alcoa a second Unilateral Administrative Order for Remedial Design and Remedial Action (EPA Docket No. CERCLA 10-2005-0217) to implement the groundwater portion of the cleanup work identified in the Interim ROD.

In accordance with approved plans and EPA oversight, Reynolds and Alcoa completed approximately \$52 Million worth of investigation, design and remediation work that resulted in over 347,000 tons of contaminated materials being removed from the site and disposed of off-site in accordance with local state and federal requirements.

Reynolds and Alcoa thereafter completed a post-demolition Remedial Investigation Report on June 6, 2006, which referenced the previous Feasibility Study Report completed on June 15, 2000. The decision by EPA on the remedial action to be implemented at the Site is embodied in a final Record of Decision ("ROD"), executed on September 29, 2006, on which the State has given its concurrence. The selected cleanup is a result of evaluation of alternatives presented in the Feasibility Study report based on criteria such as degree of protectiveness, implementation risk and reasonableness of cost, plus consideration of public comments received on the proposed cleanup plan.

This State Consent Judgment will provide that Reynolds and Alcoa will carry out the cleanup actions selected in the EPA ROD. The selected cleanup actions include institutional controls restricting future site and groundwater use, operation of the focused extraction and production well optimization system for site groundwater, maintenance of caps placed as part of the site remedy, and monitoring of groundwater to assess effectiveness of ongoing cleanup actions.

The proposed Consent Judgment will provide Reynolds and Alcoa with a release from liability for claims by the State of Oregon under ORS 465.255, including claims for damages to natural resources, relating to historical releases of hazardous substances at or from the site. The proposed Consent Judgment will also provide Reynolds and Alcoa with protection from potential contribution actions by third parties for recovery of remedial action costs associated with histor-

ical releases at or from the Facility. DEQ retains all existing rights it may have as to all other parties potentially liable for the releases. **HOW TO COMMENT:** Written comments concerning the proposed Consent Judgment should be sent to Mavis Kent at DEQ NW Region Gresham Office, 1550 NW Eastman Parkway, Gresham, Oregon 97030. Comments must be received by DEQ by 5:00 pm July 31, 2007. Questions may be directed to Ms. Kent at that address or by calling 503-667-8414 x55008. The proposed Consent Judgment and DEQ file on the Property may be reviewed at DEQ's Northwest Region office in Portland at 2020 SW Fourth Avenue, Suite 400, Portland. For a review appointment call 503-229-6729.

Upon written request by ten or more persons, or by a group having ten or more members, a public meeting will be held to receive verbal comments on the proposed Consent Judgment.

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

A CHANCE TO COMMENT ON PROPOSED APPROVAL OF CLEANUP AT MCCANN/LENKSKE SITE

COMMENTS DUE: July 30, 2007

PROJECT LOCATION: 427 NE Cook Street, Portland, Oregon

PROPOSAL: Pursuant to ORS 465.320 the Department of Environmental Quality (DEQ) invites public comment on the no further action recommendation for the McCann/Lenske site (ECSI # 4711).

HIGHLIGHTS: The McCann/Lenske site had been utilized historically by a number of businesses including: a drycleaner, a battery manufacturer, a vehicle repair shop and a Standard Oil service station. The Portland Development Commission (PDC) purchased the McCann/Lenske property in December 2005 for purposes of redevelopment. In 2006 during demolition activities took place and lead and hydrocarbon contamination was observed in soils at this site. During subsequent remedial activities 152 tons of lead and petroleum contaminated soil were removed from the site for disposal as hazardous waste at the Arlington Landfill in Arlington, Oregon. Approximately another 107 tons of non-hazardous lead and petroleum contaminated soil were removed and disposed of at Hillsboro Landfill in Hillsboro, Oregon. Analytical results after soil removal indicated Total Lead in soils had been reduced below residential risk-based criteria and within regional background range, and that TPH levels had been reduced below detection limits. DEQ is therefore proposing a no further action (NFA) determination for the site.

HOW TO COMMENT: The project file is available for public review. To schedule an appointment, contact Dawn Weinberger at 503-229-6729. The DEQ contact for this project is Mike Greenburg, 503-229-5153. Written comments should be sent to the DEQ contact at the Department of Environmental Quality, Northwest Region, 2020 SW Fourth Avenue, Suite 400, Portland, OR 97201 by July 30, 2007. A public meeting will be held to receive verbal comments if requested by 10 or more people or by a group with a membership of 10 or more. Please notify DEQ if you need copies of written materials in an alternative format (e.g., Braille, large print, etc.). To make these arrangements, contact DEQ Office of Communication and Outreach at 503-229-5317. Additional information is also available at: <http://www.deq.state.or.us/news/publicnotices/>

A CHANCE TO COMMENT ON... PROPOSED ENVIRONMENTAL CLEANUP AT THE FORMER VELCO, INC. FACILITY

COMMENT PERIOD: July 1, 2007 through July 31, 2007

PROJECT LOCATION: 3900 West First Avenue, Eugene, Oregon

PROPOSAL: The Department of Environmental Quality and the Environmental Protection Agency are proposing a remedy selection and determination of "corrective action complete" under Resource Conservation and Recovery Act (RCRA) Administrative Order on Consent 1087-04-020-3008 (Order). Public notification is required by the Order.

OTHER NOTICES

HIGHLIGHTS: The former Velco, Inc. Facility manufactured paint and putty at 3900 West First Avenue, Eugene, Oregon. Between 1969 and 1979, the paint and solvent wastes generated at the Facility were disposed of in an onsite unlined pit (the paint trench). The paint trench was backfilled in 1979 and in 1984 a warehouse was built over a portion of the trench. As an interim measure, the property owners excavated most of the paint trench in 1989. In addition, between 1986 and 2004, the owners sampled ground water and soil several times.

The Facility is divided into two parcels: the south parcel (also referred to as "the adjacent parcel") and the north parcel (also referred to as "the Property"). The Property was the location of the manufacturing processes and associated activities. The adjacent parcel was largely undeveloped, although remediated soil from the Property was placed there. DEQ and EPA are proposing a determination of "corrective action complete with controls" for the Property and "corrective action complete without controls" for the adjacent parcel.

DEQ and EPA are proposing the interim measure, in conjunction with institutional controls, as the final remedy for the Property. The institutional controls will be implemented through an Easement and Equitable Servitudes that will remain in place for Property. The Easement restricts the use of the Property to industrial and prohibits use of ground water. The Easement also requires a contaminated media management plan for any construction in the area where contamination may remain.

A more detailed description of the proposed cleanup is presented in the Statement of Basis prepared for the site. The Statement of Basis will be available for review during the public comment period at DEQ's Eugene office and EPA's Seattle office.

HOW TO COMMENT: Written comments on the proposed cleanup may be submitted to Carla Fisher, EPA Region 10, 1200 6th Avenue, AWT-121, Seattle, Washington 98101 or by email at fisher.carla@epa.gov. Comments must be postmarked or emailed by March 1, 2007. Questions may be directed to Ms. Fisher at (206) 553-1756 or (800) 424-4EPA or Mr. Max Rosenberg at (541) 687-7330 or (800) 844-8467. The TTY number for EPA is (800) 877-8339 and the TTY number for DEQ is (541) 687-5603.

A public meeting to answer questions and receive verbal comment on the proposed cleanup will be held if requested by 10 or more persons or a group with a membership of 10 or more.

THE NEXT STEP: DEQ and EPA will consider all public comments prior to making a final decision on the cleanup. DEQ will publish the final decision after the consideration of public comments.

CHANCE TO COMMENT ON... PROPOSED NO FURTHER ACTION DECISION FOR THE MARKET TRANSPORT SITE PORTLAND, OREGON

COMMENTS DUE: July 31, 2007

PROJECT LOCATION: 110 N Marine Dr, Portland, Oregon

PROPOSAL: Pursuant to Oregon Revised Statute, ORS 465.320, and Oregon Administrative Rule, OAR 340-122-0100, the Department of Environmental Quality (DEQ) invites public comment on its proposal for a "No Further Action" (NFA) determination proposed for the Market Transport site in Portland, Oregon. This proposed NFA determination is based on approval of the investigation and remedial measures conducted to date.

HIGHLIGHTS: DEQ has completed a review of the investigation of the Market Transport facility. Market Transport is an active 18.4 acre commercial trucking facility, which has been operating at the same location since approximately 1985. Market Transport entered into a voluntary cleanup agreement with DEQ in May 2006. Under the agreement, a soil and groundwater investigation was completed to characterize soil and groundwater within portions of the project site where previous sampling had identified releases of fuel related compounds. The results of the investigation indicate the lev-

els of contamination do not pose an unacceptable risk to site workers. Shallow groundwater within several areas of the site appears to be impacted with low levels of these contaminants that exceed DEQ criteria for tap water uses. However, groundwater is not used at the site and the low levels of contamination are not likely to move off-site at levels of concern.

HOW TO COMMENT: You may review the administrative record for the proposed NFA at DEQ's Northwest Region Gresham Office located at 1550 NW Eastman Pkwy, Ste 290, Gresham, Oregon, 97030. For an appointment to review the files call 503-667-8414 x55012; toll free at (800)452-4011; or TTY at 503-229-5471. Please send written comments to Janelle Waggy, Project Manager, at the address listed above or via email at waggy.janelle@deq.state.or.us. DEQ must receive written comments by 5 p.m. on July 31, 2007. Upon written request by ten or more persons or by a group with a membership of 10 or more, DEQ will hold a public meeting to receive verbal comments.

DEQ is committed to accommodating people with disabilities at our hearings. Please notify DEQ of any special physical or language accommodations or if you need information in large print, Braille or another format. To make these arrangements, contact, contact DEQ's Office of Communications and Outreach at 503-229-5695, or toll free in Oregon at (800)452-4011. People with hearing impairments may call DEQ's TTY number 503-229-5471.

THE NEXT STEP: DEQ will consider all public comments received by the July 31, 2007 deadline. In the absence of comments, DEQ will issue the No Further Action determination.

OPPORTUNITY TO COMMENT NO FURTHER ACTION DETERMINATION OREGON AIR NATIONAL GUARD KLAMATH FALLS, OREGON

COMMENT DUE: July 31, 2007

PROJECT LOCATION: 173rd Fighter Wing, 211 Arnold Avenue, Suite 20, Klamath Falls, Oregon

PROPOSAL: The Department of Environmental Quality (DEQ) is providing notice for a public opportunity to review and comment on a draft Decision recommending No Further Action for three (3) separate sites located at Kingsley Field in Klamath Falls, Oregon. Specifically, Environmental Restoration Program Sites 1, 5, and 11 are recommended as eligible for closures based upon existing and reasonably likely future land use. The draft Decision details the results of historic site investigation and baseline risk screening evaluation for human health and ecologic species related to contaminated environmental media at each individual site. The specific locales evaluated are all currently within the active 173rd Fighter Wing of the Oregon Air National Guard. More information concerning site-specific investigations is available by contacting Mr. Cliff Walkey, DEQ's project manager for Oregon Air National Guard at Kingsley Field. Each of these sites is also recommended for delisting from the Confirmed Release List and Inventory of Hazardous Substances.

The Administrative File for this facility is archived at the DEQ's Bend, Oregon office, and can be reviewed in person by contacting Mr. Cliff Walkey at (541) 388-6146 extension 224 to arrange for an appointment. In addition, the draft Decision and other project-specific documents can also be reviewed on the DEQ website at: www.deq.state.or.us/lq/cu/er/KingsleyField

HOW TO COMMENT: The public comment period will extend from July 1 through July 31, 2007. Please address all comments and/or inquiries to Mr. Cliff Walkey at the following address:

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

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

OTHER NOTICES

THE NEXT STEP: DEQ will consider all public comments received before finalizing the No Further Action Decision for the 173rd Fighter Wing, Oregon Air National Guard, Klamath Field, Klamath Falls, Oregon. DEQ will provide written responses to all received public comments.

PROPOSED APPROVAL OF CLEANUP AT EA-6B PROWLER CRASH SITE UMATILLA COUNTY, OREGON

COMMENTS DUE: July 31, 2007

PROJECT LOCATION: Umatilla County, Oregon

PROPOSAL: The Department of Environmental Quality is proposing to issue a "No Further Action" determination based soil excavation actions performed at the EA-6B Prowler Aircraft crash site located north of Pendleton, Oregon.

Highlights: Petroleum contaminated soil from the initial impact area was excavated and transported off-site for treatment. Soil samples collected following removal actions and from other areas of the crash site indicate remaining concentrations are less than DEQ's generic residential risk based concentrations.

HOW TO COMMENT: The project file may be reviewed by appointment at DEQ's Eastern Regional Office at 700 SE Emigrant, Suite #330, Pendleton, OR 97801. To schedule an appointment to review the file or to ask questions, please contact Katie Robertson at (541) 278-4620. Written comments should be received by July 31, 2007 and sent to Katie Robertson, Project Manager, at the address listed above.

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

OPPORTUNITY TO COMMENT PROPOSED CONSENT JUDGMENT FOR REMEDIAL ACTION AT THE UNION PACIFIC RAILROAD LA GRANDE RAIL YARD SITE LA GRANDE, OREGON

COMMENT DUE: July 31, 2007

PROJECT LOCATION: La Grande, Oregon

PROPOSAL: The Department of Environmental Quality (DEQ) is proposing to enter into a Consent Judgment for Remedial Action with

Union Pacific Railroad Company (UPRR) for the UPRR La Grande Rail Yard site (the Site), located in La Grande, Oregon. Current operations at the Rail Yard consist of rail car switching, main line crew change outs, and track maintenance and operations activities. No fueling operations occur at the site.

Investigations of soil, groundwater, and surface water began in 1978 when releases of diesel were discovered in the Spruce Street underpass. Releases of hazardous substances at and from the Site were confirmed in 1981. Characterization of the nature and extent of contaminants at the Site was performed during the Remedial Investigation during several phases both on the UPRR property and on surrounding properties. Subsequent to the issuance of the Interim Record of Decision dated March 31, 1998 and the Consent Judgment No. 98-10-39028 in October 1998, interim removal actions have been implemented over a period of several years.

In August 2006, UPRR submitted a Feasibility Study to DEQ. The final Record of Decision was executed on February 15, 2007 selecting the remedial actions to be implemented at the site. The selected remedial actions are a result of DEQ's evaluation of alternatives presented in the August 2006 feasibility study report based on criteria such as degree of protectiveness, implementation risk and reasonableness of cost, plus consideration of public comments received on the proposed remedial actions. The Consent Judgment will require UPRR to carry out the remedial actions selected in the Record of Decision. The remedial actions include institutional and engineering controls with long-term groundwater monitoring. More information concerning site-specific investigations and remedial actions is available by contacting Katie Robertson, DEQ's project manager for this site, at the address below

HOW TO COMMENT: Written comments concerning the proposed Consent Judgment should be sent to Katie Robertson at DEQ, 700 SE Emigrant, Suite 330, Pendleton, OR 97801. Comments must be received by DEQ by 5:00 pm July 31, 2007. Questions may be directed to Katie Robertson at that address, by calling (541) 278-4620, or by e-mail at robertson.katie@deq.state.or.us.

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

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

NOTICES OF PROPOSED RULEMAKING

Notices of Proposed Rulemaking and Proposed Rulemaking Hearings

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

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

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

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

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

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Department of Administrative Services, Office for Oregon Health Policy and Research Chapter 409

Rule Caption: Oregon Prescription Drug Program amends eligibility requirements, eligibility definition, program price, and contracting.

Date:	Time:	Location:
7-16-07	1 p.m.	Public Service Bldg. Salem, OR

Hearing Officer: Staff

Stat. Auth.: ORS 414.312 – 414.320

Stats. Implemented: ORS 414.312, 414.318, OL 2007 (Senate Bill 362)

Proposed Adoptions: 409-030-0065

Proposed Amendments: 409-030-0000, 409-030-0005, 409-030-0010, 409-030-0020, 409-030-0040, 409-030-0050

Last Date for Comment: 7-20-07

Summary: Amends Oregon Prescription Drug Program individual and group eligibility requirements, amends the individual and group eligibility definition, removes annual renewal requirement, clarifies program costs, describes contract processes, and makes housekeeping changes.

Rules Coordinator: Cheryl Knottingham

Address: Department of Administrative Services, Office for Health Plan Policy and Research, 155 Cottage St. NE U90, Salem, OR 97301-3972

Telephone: (503) 378-2347, ext. 325

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

Rule Caption: Change/clarifications of federal regulations governing Internal Revenue Code have identified the need for amendment of the existing rule.

Stat. Auth.: ORS 243.061 – 243.302

Other Auth.: ORS 279

Stats. Implemented: ORS 243, 659, 743

Proposed Amendments: 101-010-0005

Last Date for Comment: 7-23-07

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

Rules Coordinator: Sharon M. Sheehan

Address: Department of Administrative Services, Public Employees' Benefit Board, 775 Court St. NE, Salem, OR 97301-3802

Telephone: (503) 378-8031

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Department of Agriculture, Oregon Dairy Products Commission Chapter 617

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

Date:	Time:	Location:
7-25-07	9 a.m.	Oregon Dairy Center 10505 SW Barbur Blvd. Portland, OR 97219

Hearing Officer: Nick Furman

Stat. Auth.: ORS 576.304

Other Auth.: Motion made by Oregon Dairy Products Commission board at the May 24, 2007 meeting in Hood River, Oregon

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

Proposed Adoptions: 658-040-0005, 658-040-0010, 658-040-0020

Last Date for Comment: 7-25-07, Close of Hearing

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

Rules Coordinator: Sheldon Pratt

Address: 10505 SW Barbur Blvd, Portland, OR 97219

Telephone: (503) 229-5033

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Department of Community Colleges and Workforce Development Chapter 589

Rule Caption: Definitions for Division 6, Community College Course Approval.

Date:	Time:	Location:
7-16-07	3–5 p.m.	Public Service Bldg. 255 Capitol St. NE Second Floor — 215B Salem, OR

Hearing Officer: Linda Hutchins

Stat. Auth.: ORS 326.051

Stats. Implemented:

Proposed Amendments: 589-006-0050

Last Date for Comment: 7-16-07

Summary: Adds the following definition and updates subsequent definitions numbering:

(11) "Career Pathways Certificate" is defined as a form of certificate awarded by a community college for meeting specific technical skill proficiency requirements that meet an employment need. Career Pathways Certificates pertain to a grouping of 12 to 44 credits that are wholly contained in an *approved* Associate of Applied Science (AAS) Degree/Option or an Independent Certificate of Completion (will a minimum size of 45 credits), have a defined job entry point, represent collegiate-level work, and meet State Board of Education's standards and criteria.

Rules Coordinator: Linda Hutchins

NOTICES OF PROPOSED RULEMAKING

Address: Department of Community Colleges and Workforce Development, Public Service Bldg., 255 Capitol St. NE, Salem, OR 97310

Telephone: (503) 378-8648, ext. 474

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

Rule Caption: Propose to adopt changes to Division 2/S, General Industry/Electrical.

Date:	Time:	Location:
7-26-07	1:30 p.m.	Dept. of Fish & Wildlife Bldg. 3406 Cherry Ave. NE Commission Rm. — First Flr. Salem OR 97303

Hearing Officer: Sue Joye

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

Stats. Implemented: ORS 654.001 – 654.295

Proposed Adoptions: 437-002-0047

Proposed Amendments: 437-002-0005, 437-002-0060, 437-002-0320

Proposed Repeals: 437-002-0321, 437-002-0322, 437-002-0323, 437-002-0324, 437-002-0325

Last Date for Comment: 8-1-07

Summary: Oregon OSHA proposes to adopt the Federal OSHA changes as they appear in the February 14, 2007 Federal Register, into Division 2/S, Electrical. The changes focus on safety in the design and installation of electrical equipment in the workplace. The proposed changes provide the first update since 1981 for the design and installation requirements which were drawn heavily from the 2000 edition of the National Fire Protection Agency (NFPA), Standard for Electrical Safety in the Workplace (NFPA 70E), and the 2002 edition of the National Electrical Code (NEC).

In addition to the Federal OSHA changes, Oregon OSHA proposes to repeal OAR 437-002-0321, 437-002-0322, 437-002-0323, 437-002-0324; and proposes to adopt a new rule OAR 437-002-0047 which is identical language to the recently amended OAR 437-003-0047 Working Near Overhead High Voltage Lines and Equipment, in Division 3/K, Construction/Electrical, that restricts all unqualified employees from coming within 10 feet of overhead high voltage power lines. With these aforementioned changes and to avoid redundancy within this subdivision, OR-OSHA proposes to repeal 29 CFR 1910.333(c)(3) introductory text and 1910.333(c)(3)(i).

OR-OSHA also proposes repeal of OAR 437-002-0325 because of redundant language within Division 2 General Industry and rules administered by the Oregon Public Utility Commission relating to underground utility locates. We will place a note directing the reader to use the national telephone number 811, Call Before You Dig.

Rules Coordinator: Sue C. Joye

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

Telephone: (503) 947-7449

Department of Corrections Chapter 291

Rule Caption: Religious Activities for Inmates in ODOC Facilities.

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

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

Proposed Amendments: 291-143-0010, 291-143-0130, 291-143-0140

Last Date for Comment: 8-15-07

Summary: Amendment of the rules is necessary in order to clarify Department policies regarding inmate religious exercise and activities and religious programming in Department of Corrections facilities, consistent with applicable legal standards.

Rules Coordinator: Janet R. Worley

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

Telephone: (503) 945-0933

Department of Energy Chapter 330

Rule Caption: Amendments to OAR Divisions 60 and 61 relating to the SHOW program.

Date:	Time:	Location:
7-31-07	10 a.m.	Oregon Dept. of Energy 625 Marion St. NE Salem, OR
8-7-07	10 a.m.	Oregon Dept. of Energy 625 Marion St. NE Salem, OR

Hearing Officer: Suzanne C. Dillard

Stat. Auth.: ORS 469.673 – 469.720

Stats. Implemented: ORS 469.673 – 469.720

Proposed Amendments: 330-060-0005 – 330-060-0050, 330-061-0005 – 330-061-0050

Last Date for Comment: 8-13-07, 5 p.m.

Summary: The Oregon Department of Energy is proposing amendments to its rules governing the State Home Oil Weatherization (SHOW) program to:

- Allow up to \$150 of the \$500 maximum individual rebate for replacing underground tanks when a replacement oil furnace is installed.
- Allow Community Action Programs (CAPs) to use their \$1000 maximum rebate on each home for any measure.
- Allow the Oregon Department of Energy to establish pilot programs to encourage cost effective energy efficiency measures.
- Authorize the Director of the Oregon Department of Energy to reduce the amount or the scope of the rebates if rebate applications are likely to exceed available funds.
- Ensure that weatherization and other energy efficiency measures are consistent with Oregon Department of Energy's Residential Energy Tax Credit program, residential building code and standard residential building practices.
- Housekeeping changes, as necessary.

Rules Coordinator: William P. Nesmith

Address: Department of Energy, 625 Marion St. NE, Salem, OR 97301-3742

Telephone: (503) 378-4040

Department of Fish and Wildlife Chapter 635

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

Date:	Time:	Location:
8-3-07	8 a.m.	3406 Cherry Ave. NE Salem, OR 97303

Hearing Officer: Fish and Wildlife Commission

Stat. Auth.: ORS 496.012, 496.138, 496.146, 496.232, 497.112

Stats. Implemented: ORS 496.012, 496.138, 496.146, 496.232, 497.112

Proposed Amendments: Rules in 635-008, 010, 045, 047, 051, 052, 053, 054, 060, 100

Last Date for Comment: 8-3-07

Summary: Amend rules regarding the harvest of game birds including 2007–2008 season dates, open areas, regulations and bag limits. Changes may also be made regarding marking of privately owned game birds and the take of resident Canada goose eggs. Rule may also be amended regarding Oregon residency requirements.

Rules Coordinator: Casaria Tuttle

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

Telephone: (503) 947-6033

NOTICES OF PROPOSED RULEMAKING

Rule Caption: ODFW mentored youth hunting program.
Date: 8-3-07 **Time:** 8 a.m. **Location:** ODFW — Commission Rm.
 3406 Cherry Ave. NE
 Salem, OR 97303

Hearing Officer: Fish and Wildlife Commission

Stat. Auth.: ORS 497.360

Stats. Implemented: ORS 497.360

Proposed Adoptions: Rules in 635-074

Last Date for Comment: 8-3-07

Summary: Rules will be adopted regarding the department's mentored youth hunting program.

Rules Coordinator: Casaria Tuttle

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

Telephone: (503) 947-6033

Rule Caption: Amend rules related to 2008 Oregon Sport Fishing Regulations.

Date: 8-3-07 **Time:** 8 a.m. **Location:** 3406 Cherry Ave. NE
 Salem, OR 97303

Hearing Officer: Fish and Wildlife Commission

Stat. Auth.: ORS 496.138, 496.146, 497.121, 506.119

Stats. Implemented: ORS 496.004, 496.009, 496.162, 506.129

Proposed Adoptions: Rules in 635-011, 013, 014, 016, 017, 018, 019, 021, 023, 039

Proposed Amendments: Rules in 635-011, 013, 014, 016, 017, 018, 019, 021, 023, 039

Proposed Repeals: Rules in 635-011, 013, 014, 016, 017, 018, 019, 021, 023, 039

Last Date for Comment: 8-3-07

Summary: Amend rules to adopt sport fishing regulations for fin-fish, shellfish, and marine invertebrates for 2008.

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 Forestry Chapter 629

Rule Caption: Oregon Smoke Management Plan Revision and Update.

Date:	Time:	Location:
7-25-07	6 p.m.	1825 SW Broadway, Rm. 238 Portland, OR
8-1-07	6 p.m.	Siuslaw Valley Fire Dept. 2625 Hwy 101 Florence, OR
8-7-07	6 p.m.	200 Antelope Rd. White City, OR
8-14-07	6 p.m.	2600 NW College Way Boyle Center, Rm. 151 Bend, OR
8-16-07	6 p.m.	1001 4th Street Misener Room La Grande, OR

Hearing Officer: Jim Trost

Stat. Auth.: ORS 477.013, 477.562 (as amended by ch 213, OL 2007, Enrolled HB 2973)

Other Auth.: ORS 526.016, 526.041

Stats. Implemented: ORS 477.013, 477.515, 477.552 – 477.562 (as amended by ch 213, OL 2007, Enrolled HB 2973)

Proposed Adoptions: 629-048-0001, 629-048-0010, 629-048-0020, 629-048-0100, 629-048-0110, 629-048-0120, 629-048-0130, 629-048-0140, 629-048-0150, 629-048-0160, 629-048-0200, 629-048-0210, 629-048-0220, 629-048-0230, 629-048-0300, 629-048-

0310, 629-048-0320, 629-048-0330, 629-048-0400, 629-048-0450, 629-048-0500

Proposed Amendments: 629-043-0040

Proposed Repeals: 629-043-0041, 629-043-0043

Last Date for Comment: 8-31-07

Summary: Revises and updates the Oregon Smoke Management Plan for prescribed burning of forestland in the State of Oregon. Sets out areas of the state in which forestland burning is controlled and rules for conducting prescribed burning. Designates areas which are to be protected from smoke impacts. Sets criteria for designating additional protected areas. Encourages the use of alternatives to burning and alternative burning practices to minimize particulate emissions. Modifies requirements for burning in and near federal Class I Areas for visibility purposes. Redefines terminology to more clearly identify source areas where burning will be controlled and receptor areas to be protected from smoke impacts. Outlines best burning practices and techniques to reduce emissions. Establishes burning that is subject to fees and the amount of those fees. Clarifies enforcement actions that may be taken for violations of the Oregon Smoke Management Plan.

Rules Coordinator: Gayle Birch

Address: Department of Forestry, 2600 State St., Salem, OR 97310

Telephone: (503) 945-7210

Department of Human Services, Addictions and Mental Health Division: Addiction Services Chapter 415

Rule Caption: Repeal of the OAR 415-051-0120 "Intensive Outpatient Programs" rules.

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 409.050

Proposed Repeals: 415-051-0120

Last Date for Comment: 7-18-07, 5 p.m.

Summary: The Addictions and Mental Health Division is repealing: OAR 415-051-0120 "Intensive Outpatient Programs" rules, as they are no longer needed or used by the Division.

Rules Coordinator: Richard Luthe

Address: 500 Summer St. NE E86, Salem OR 97301

Telephone: (503) 947-1186

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

Rule Caption: Establishment of a Department-wide customer service complaint process.

Date:	Time:	Location:
7-24-07	10–11 a.m.	Human Services Bldg Rm. 137-C 500 Summer St. NE Salem, OR

Hearing Officer: Jennifer Bittel

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 411.977

Proposed Adoptions: 407-005-0100, 407-005-0105, 407-005-0110, 407-005-0115, 407-005-0120

Last Date for Comment: 7-27-07, 5 p.m.

Summary: Defines customer service complaints, establishes criteria for the reporting, investigating and resolving customer service complaints received by the Department.

Rules Coordinator: Jennifer Bittel

Address: Department of Human Services, Administrative Services Division and Director's Office, 500 Summer St. NE, Salem, OR 97301

Telephone: (503) 947-5250

NOTICES OF PROPOSED RULEMAKING

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

Rule Caption: Changing OARs affecting Child Welfare programs.
Date: 7-24-07 **Time:** 8:30 a.m. **Location:** Rm. 254
500 Summer St. NE
Salem, OR

Hearing Officer: Annette Tesch
Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Proposed Amendments: 413-080-0059
Last Date for Comment: 7-24-07

Summary: 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 rules may also be changed to reflect new Department terminology and to correct formatting and punctuation.

A copy of the draft rules can be accessed at the Child Welfare policy website: <http://www.dhs.state.or.us/policy/childwelfare/drafts/drafts.htm>. To request a hardcopy, please contact the Rules coordinator.

Rules Coordinator: Annette Tesch
Address: Department of Human Services, Children, Adults and Families Division: Child Welfare Programs, 550 Summer St. NE, E-48, Salem, OR 97301
Telephone: (503) 945-6067

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

Rule Caption: Removal of outdated, unnecessary rules — Standards for Residential Programs.
Date: 7-17-07 **Time:** 10:30 a.m.–12 p.m. **Location:** DHS Bldg., Rm. 137C
Salem, OR

Hearing Officer: Darlene Nelson
Stat. Auth.: ORS 409.010, 409.110, 409.050
Stats. Implemented: ORS 414.065
Proposed Repeals: 410-010-0000, 410-010-0010, 410-010-0020, 410-010-0030, 410-010-0040, 410-010-0050, 410-010-0060, 410-010-0070, 410-010-0080, 410-010-0090, 410-010-0100, 410-010-0110, 410-010-0120, 410-010-0130, 410-010-0140, 410-010-0150, 410-010-0160, 410-010-0170
Last Date for Comment: 7-27-07
Summary: DHS will repeal all rules listed above because they are outdated and no longer necessary. Administrative rules covering standards for residential programs are found in Chapter 415.
Rules Coordinator: Darlene Nelson
Address: Department of Human Services, Division of Medical Assistance Programs, 500 Summer St. NE, E-35, Salem, OR 97301
Telephone: (503) 945-6927

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

Rule Caption: Addition of Hepatitis A and Pertussis Vaccines to School Immunization Requirements.
Date: 7-24-07 **Time:** 2:30 p.m. **Location:** Portland State Office Bldg.
800 NE Oregon St., Rm. 368
Portland, OR 97232

Hearing Officer: Jana Fussell
Stat. Auth.: ORS 433.273

Stats. Implemented: ORS 433.001, 433.004, 443.006 & 433.235 - 433.284
Proposed Amendments: 333-050-0010, 333-050-0020, 333-050-0030, 333-050-0040, 333-050-0050, 333-050-0060, 333-050-0070, 333-050-0080, 333-050-0090, 333-050-0095, 333-050-0100, 333-050-0110, 333-050-0120, 333-050-0130, 333-050-0140

Last Date for Comment: 7-24-07
Summary: The amendments add hepatitis A and pertussis-containing vaccines to school and children's facility immunization requirements. Hepatitis A will be required for children aged 18 months through kindergarten for school year 2008-2009, and this requirement will be phased-in one additional grade level each school year through twelfth grade. The pertussis-containing vaccine Tdap will be required for children in seventh grade for school year 2008-2009, and this requirement will be phased-in one additional grade level each year through twelfth grade. The pertussis-containing vaccine DTaP will be required for all children two months of age and older, as age appropriate. There will be no phase-in for DTaP, as most children have already received this vaccine.

Rules Coordinator: Christina Hartman
Address: Department of Human Services, Public Health Division, 800 NE Oregon St., Suite 930, Portland, OR 97232
Telephone: (971) 673-1291

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

Rule Caption: Pre-Admission Screening, Pre-Admission Assessment and Pre-Admission Screening and Resident Review.
Date: 6-25-07 **Time:** 2 p.m. **Location:** Human Services Bldg.
500 Summer St. NE
Rm. 137 ABC
Salem, OR 97301

Hearing Officer: Staff
Stat. Auth.: ORS 410.070, 410.535, 414.065
Other Auth.: 42 CFR, Part 483, Subpart C-E
Stats. Implemented: ORS 410.070, 410.535, 414.065
Proposed Amendments: 411-070-0005, 411-070-0040, 411-070-0043
Last Date for Comment: 7-10-07, 5 p.m.
Summary: The Department of Human Services, Seniors and People with Disabilities Division is extending the public comment period for the proposed amendments to Oregon Administrative Rule (OAR) 411-070-0005, OAR 411-070-0040 and OAR 411-070-0043 to clarify the Pre-Admission Screening, Pre-Admission Assessment and Pre-Admission Screening and Resident Review processes related to nursing facility admission. The public comment period is being extended to Tuesday, July 10, 2007 at 5 p.m.
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 Public Safety Standards and Training
Chapter 259**

Rule Caption: Define "Recall" & Amend rules relating to Police Chief certification, Sheriff Eligibility and certified retired officers.
Stat. Auth.: ORS 181.640, 181.665, 181.667, 206.015
Stats. Implemented: ORS 181.640, 181.665, 181.667, 206.015
Proposed Amendments: 259-008-0005, 259-008-0068, 259-008-0075, 259-008-0076
Last Date for Comment: 7-23-07, 5 p.m.
Summary: Amend definition of "Recall";
Amend rule relating to certified retired officer certification to allow upper levels of certification;

NOTICES OF PROPOSED RULEMAKING

Amend rule relating to Sheriff eligibility to include applicable standards that must be met by any individual elected to the office of Sheriff; and

Amend Police Chief certification rules to allow for "recall" of certification for failing to obtain management certification within two years of hire date.

Rules Coordinator: Bonnie Salle

Address: 4190 Aumsville Highway SE, Salem, OR 97317

Telephone: (503) 378-2431

Rule Caption: Amend rules relating to Student Dismissal from Academy.

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Proposed Amendments: 259-012-0035

Last Date for Comment: 7-22-07, 5 p.m.

Summary: Amends rule relating to student dismissal to include appeal processes by student and/or employer and establishes eligibility criteria to return to academy following a dismissal.

Rules Coordinator: Bonnie Salle

Address: 4190 Aumsville Hwy SE, Salem, OR 97317

Telephone: (503) 378-2431

Landscape Contractors Board Chapter 808

Rule Caption: Clarifies obtaining permits, providing social security numbers, criminal convictions, license fitness standards, amends penalties.

Date:
7-27-07

Time:
10 a.m.

Location:
19600 S Molalla Ave
Clackamas Community College
Clairmont Hall, Rm. 120
Oregon City, OR 97045

Hearing Officer: Matthew Triplett

Stat. Auth.: ORS 670.310 & 671.670

Stats. Implemented: ORS 25.278, 183, 447.060, 671.560, 671.610, 671.565 & 671.703

Proposed Adoptions: 808-003-0440, 808-003-0450

Proposed Amendments: 808-002-0665, 808-003-0015, 808-003-0018, 808-003-0035, 808-003-0040, 808-003-0112, 808-005-0020, 808-008-0260, 808-009-0400

Last Date for Comment: 7-27-07, Close of Hearing

Summary: 808-002-0665 Amend the definition of monetary damages to include the cost to demolish the negligent or improper work in order to restore the property to the condition it was before the landscaping work began.

808-003-0015 Clarifies the types of entities that are required to provide social security number to the LCB.

808-003-0018 Deletes requirement that Verification Form must be received each year, instead it is only required if it has not been previously submitted by that specific landscaping business for that specific landscape contractor.

808-003-0035 Clarifies the penalty and suspension of license for installing a backflow assembly when a written agreement not to install those assemblies has been signed may be against both the individual landscape contractor and/or the landscaping business.

808-003-0040 Clarifies the landscape contractor or the landscaping business can obtain the required backflow permits.

808-003-0112 Clarifies the types of entities that are required to provide social security number to the LCB.

808-003-0440 Adopted to require sole proprietors or partners in a partnership to notify the LCB within 30 days if they have been convicted of a crime listed in ORS 671.610(1)(q).

808-003-0450 Adoption of this rule ties abusive or predatory behavior crimes to a set of standards that allow the agency to properly exercise its authority in ORS 671.610(1)(q) to deny a license to applicants who pose a serious continued threat to the public.

808-005-0020 Adds penalty for advertising for landscape contracting work that is outside the scope of the landscape business license, amends penalties for performing landscape work without a written contract and failure to include the license number in all written advertisements.

808-008-0260 Eliminates the requirement that a recording be made on tape to allow for other types of recordings.

808-009-0400 Eliminates the requirement that a recording be made on tape to allow for other types of recordings.

Rules Coordinator: Kim Gladwill-Rowley

Address: Landscape Contractors Board, 235 Union St. NE, Salem, OR 97301

Telephone: (503) 986-6570

Oregon Department of Education Chapter 581

Rule Caption: Content of repealed rules is included in newly adopted rules and repeal will delete duplication.

Date:

Time:

Location:

7-25-07

1-3 p.m.

Public Services Bldg.
Rm. 251A
Salem, OR

Hearing Officer: Randy Harnisch

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 326.051

Proposed Repeals: 581-015-0055, 581-015-0065

Last Date for Comment: 7-25-07, 5 p.m.

Summary: The content of the rules proposed for repeal was included in other recently adopted rules. The repeal will remove duplicates.

Rules Coordinator: Paula Merritt

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

Telephone: (503) 947-5746

Rule Caption: Establishes complaint procedures for school districts and process to appeal local decisions to state.

Date:

Time:

Location:

7-25-07

1-3 p.m.

Public Services Bldg.
Rm. 251A
Salem, OR

Hearing Officer: Randy Harnisch

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 327.103

Proposed Adoptions: 581-022-1941

Proposed Amendments: 581-022-1940

Last Date for Comment: 7-25-07, 5 p.m.

Summary: The proposed amendments would clarify the requirements, processes and timelines for filing a complaint with the Department of Education regarding the actions of a local school district. The proposed rule would require school districts to adopt and implement a process for receiving and processing complaints from district constituents. The rule would establish minimum requirements and timelines for such processes.

Rules Coordinator: Paula Merritt

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

Telephone: (503) 947-5746

Rule Caption: Alters the type of appeal available to requests for audit adjustments.

Date:

Time:

Location:

7-25-07

1-3 p.m.

Public Services Bldg.,
Rm. 251A
Salem, OR

Hearing Officer: Randy Harnisch

Stat. Auth.: ORS 326.051, 327.125

Stats. Implemented: ORS 327.125

Proposed Amendments: 581-001-0100

Last Date for Comment: 7-25-07, 5 p.m.

NOTICES OF PROPOSED RULEMAKING

Summary: The existing rule provides that school districts who dispute an audit adjustment may appeal that decision as a contested case hearing under ORS 183.413 through 183.470. The department and DOJ legal counsel believe that an order from the Superintendent in this or other cases involving adjustments of state school fund allocations are by definition “orders in other than a contested case” and are appealable under ORS 183.484. The amendment proposed would clarify the process.

Rules Coordinator: Paula Merritt

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

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

.....
Oregon Liquor Control Commission
Chapter 845

Rule Caption: Amend and repeal rules updating labeling regulations and standards of identity for Oregon wines.

Date:	Time:	Location:
7-31-07	10 a.m.–12 p.m.	9079 SE McLoughlin Blvd. Portland, OR 97222

Hearing Officer: Jennifer Huntsman

Stat. Auth.: ORS 471, including 471.030, 471.730(1) & (5)

Stats. Implemented: ORS 471.442, 471.445, 471.446

Proposed Amendments: 845-010-0280, 845-010-0290, 845-010-0905, 845-010-0910, 845-010-0915, 845-010-0920, 845-010-0930

Proposed Repeals: 845-010-0925, 845-010-0935, 845-010-0940

Last Date for Comment: 8-24-07

Summary: These rules regulate wine labeling and standards of identity for Oregon wines. The Commission has accepted a petition from the Oregon Winegrowers’ Association (OWA) requesting the amendment of 5 rules and the repeal of 3 rules in Division 10. Staff proposes the amendment of two additional Division 10 rules for consistency purposes. 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 proposes using the federally approved list of grape varietal names instead of maintaining our own list in rule

Rules Coordinator: Jennifer Huntsman

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

Telephone: (503) 872-5004

.....
Rule Caption: Amend rule to remove the reference to Off-Premises Sales employees under civil penalties.

Date:	Time:	Location:
7-24-07	10 a.m.–12 p.m.	9079 SE McLoughlin Blvd. Portland, OR 97222

Hearing Officer: Jennifer Huntsman

Stat. Auth.: ORS 471, including 471.030, 471.040, 471.730(1) & (5)

Stats. Implemented: ORS 471.315, 471.322, 471.327

Proposed Amendments: 845-006-0500

Last Date for Comment: 8-7-07

Summary: This rule describes the various sanctions the Commission imposes on licensees, including cancellation or suspension of a license, and civil penalties. This rule also reference Exhibit 1, which lists the proposed sanctions for the first and subsequent violations within each violation category and also provides the categories for the most common violations. This Exhibit is not part of the Oregon Administrative Rule (OAR) compilation. Staff proposes housekeeping type amendments to the rule, including removal of the reference to “Off-Premises Sales employees” in section (6) as the Commission does not have statutory authority to impose civil penalties on sales clerks. We also need to amend the Statutory Authority

and Statutes Implemented section of this rule in order to accurately and completely cite all Oregon Revised Statutes. While not part of the formal rulemaking process with the Secretary of State (SOS), staff also proposes housekeeping type amendments to Exhibit 1. While the proposed revisions may appear extensive, there are no substantive changes being proposed to the sanction level of the various violations. The proposed revisions reflect the addition/deletion of violations to/from the chart in order to better represent the most common violations that occur. The revisions will also make the language and statutory/rule citations more consistent and accurate.

Rules Coordinator: Jennifer Huntsman

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

Telephone: (503) 872-5004

.....
Oregon Public Employees Retirement System
Chapter 459

Rule Caption: Establish new payment limits, correct conflicting language and align provisions of lump-sum payment rules.

Date:	Time:	Location:
8-29-07	2 p.m.	2nd Floor Conference Rm, Oregon State Archives 800 Summer St. NE Salem, OR 97310

Hearing Officer: Daniel Rivas

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238.225

Proposed Amendments: 459-009-0084, 459-009-0085, 459-009-0090

Last Date for Comment: 9-28-07

Summary: 459-009-0084 — Unfunded Actuarial Liability Lump-Sum Payments by Employers Participating in an Actuarial Group

Allows pooled employers to make lump sum payments for the purpose of reducing or eliminating an existing unfunded actuarial liability and to reduce the corresponding employer rate. Changes to this rule will allow for greater conformity with other lump sum payment rules.

459-009-0085 — Unfunded Actuarial Liability Lump-Sum Payments by Employers Not Participating in an Actuarial Group Allows non-pooled employers to make lump sum payments for the purpose of reducing or eliminating an existing unfunded actuarial liability and to reduce the corresponding employer rate. Changes to this rule will allow for greater conformity with other lump sum payment rules.

459-009-0090 — Surplus Lump-Sum Payments by Employers — Allows employers without an unfunded actuarial liability to make lump sum payments to further reduce their pension obligations and corresponding employer rate. This change establishes a new minimum and maximum payment, corrects previously conflicting language and provides for greater conformity with other lump sum payment rules.

Rules Coordinator: Daniel Rivas

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

Telephone: (503) 603-7713

.....
Rule Caption: Adjusts earnings crediting rule due to implementation of payroll-to-payroll amortization of side accounts.

Date:	Time:	Location:
8-29-07	2 p.m.	2nd Floor Conference Rm, Oregon State Archives 800 Summer St. NE Salem, OR 97310

Hearing Officer: Daniel Rivas

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238

Proposed Amendments: 459-007-0530

Last Date for Comment: 9-28-07

NOTICES OF PROPOSED RULEMAKING

Summary: This rule provides for the crediting of earnings to side accounts. The rule modifications allow the implementation of payroll-to-payroll amortization of side accounts as opposed to the current annual bases.

Rules Coordinator: Daniel Rivas

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

Telephone: (503) 603-7713

.....
Oregon State Marine Board
Chapter 250

Rule Caption: Provides licensing reciprocity between Washington/Oregon for outfitters/guides operating on the Columbia River.

Stat. Auth.: ORS 830.110

Other Auth.: HB—2072A

Stats. Implemented: ORS 704.025, 830.435

Proposed Adoptions: 250-016-0015

Last Date for Comment: 7-31-07

Summary: This rule provides licensing reciprocity between Washington and Oregon for outfitters and guides on the Columbia River upriver of the bridge at Longview-Rainier.

Rules Coordinator: June LeTarte

Address: Oregon State Marine Board, P.O. Box 14145, Salem, OR 97309-5065

Telephone: (503) 378-2617

.....
Oregon University System,
Eastern Oregon University
Chapter 579

Rule Caption: Amend special student and course fees.

Stat. Auth.: ORS 351.070

Other Auth.: ORS 351.070

Stats. Implemented:

Proposed Amendments: 579-020-0006

Last Date for Comment: 7-23-07

Summary: Amend fees charged to students for special uses of facilities, services or supplies at Eastern Oregon University.

Rules Coordinator: Lara Moore

Address: Oregon University System, Eastern Oregon University, One University Blvd., La Grande, OR 97850

Telephone: (541) 962-3368

.....
Rule Caption: Revisions to the Eastern Oregon University Student Code of Conduct.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.060, 351.088

Proposed Amendments: 570-040-0005, 579-040-0007, 579-040-0010, 579-040-0013, 579-040-0015, 579-040-0020, 579-040-0030, 579-040-0045

Last Date for Comment: 7-23-07

Summary: The proposed amendments to the rules of the Student Code of Conduct are to accommodate institutional changes and modifications for clarity and consistency. The proposed changes reflect current verbiage within the field of Student Services and will streamline the disciplinary process at Eastern Oregon University.

Rules Coordinator: Lara Moore

Address: Oregon University System, Eastern Oregon University, One University Blvd., La Grande, OR 97850

Telephone: (541) 962-3368

.....
Rule Caption: Amend parking and vehicular traffic regulations.

Stat. Auth.: ORS 351, 351.070, 352.360

Other Auth.: ORS 351.070

Stats. Implemented: ORS 351.070, 352.060

Proposed Amendments: 579-070-0005, 579-070-0010, 579-070-0015, 579-070-0030, 579-070-0035, 579-070-0041, 579-070-0042, 579-070-0043, 579-070-0045

Last Date for Comment: 7-23-07

Summary: The proposed amendments to OAR 579-070-0005, Parking and Vehicular Traffic Regulations, are to accommodate changing needs brought on by the growth of the University over the last decade. The proposed changes reflect current nomenclature and practices in implementing the University's parking and traffic regulations.

Rules Coordinator: Lara Moore

Address: Oregon University System, Eastern Oregon University, One University Blvd., La Grande, OR 97850

Telephone: (541) 962-3368

.....
Oregon University System,
Portland State University
Chapter 577

Rule Caption: The Schedule of Fines and Fees for General Services and other charges.

Date:	Time:	Location:
6-20-07	3 p.m.	Cramer Hall (CH 307) Portland, OR

Hearing Officer: Jeremy Dalton

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 352.360

Proposed Amendments: 577-060-0020

Last Date for Comment: 6-22-07

Summary: The proposed amendment establishes additional fees, charges, fines and deposits for General Services for the 2007–2008 fiscal year.

Rules Coordinator: Jeremy Dalton

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

Telephone: (503) 752-3701

.....
Oregon University System,
Western Oregon University
Chapter 574

Rule Caption: Revisions to special course fees and general services fees.

Stat. Auth.: ORS 351-070, 351-072

Stats. Implemented: ORS 351-070, 351-072

Proposed Amendments: 574-050-0005

Last Date for Comment: 7-23-07

Summary: Amendments will allow for increases, additions, and revisions of special course fees and general services fees.

Rules Coordinator: Debra L. Charlton

Address: Oregon University System, Western Oregon University, 345 N Monmouth Ave., Monmouth, OR 97361

Telephone: (503) 838-8175

.....
Public Utility Commission
Chapter 860

Rule Caption: In the Matter of Housekeeping and Clarification Changes to OAR 860-022-0041.

Date:	Time:	Location:
7-31-07	9:30 a.m.	Public Utility Commission Main Hearing Rm., 1st Flr. 550 Capitol Street NE Salem, OR

Hearing Officer: Michael Grant

Stat. Auth.: ORS 183, 756, 757, 759

Stats. Implemented: ORS 756.040, 756.060, 757.267, 757.268

Proposed Amendments: 860-022-0041

Last Date for Comment: 8-10-07

Summary: The proposed changes to the Annual Tax Reports and Automatic Adjustment Clauses Relating to Utility Taxes (860-022-0041) include (1) removing an iterative effect caused by calculating a tax effect on the amount either refunded or collected from customers; (2) allowing a change in methodology if ownership of the utility changes; (3) removing a potential federal tax law normaliza-

NOTICES OF PROPOSED RULEMAKING

tion problem caused by drawing down current deferred taxes; (4) creating a placeholder due to a legislative proposal so all parties will have the ability to comment on any changes to treatment of the BETC tax credit; and (5) correcting the calculation of the “floor” for the three-factor Apportionment Method. If adopted, the proposed changes will make it easier for utilities to prepare their October 15 tax filings.

Rules Coordinator: Diane Davis

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

Telephone: (503) 378-4372

.....
Racing Commission
Chapter 462

Rule Caption: Amends rule regarding responsibility for charges incurred when the laboratory needs to use alternate testing procedures.

Date:	Time:	Location:
7-19-07	1:30 p.m.	Rm. 1A, 800 NE Oregon St. Portland, OR

Hearing Officer: Jeff Gilmour, Chair

Stat. Auth.: ORS 462.270(3)

Stats. Implemented: ORS 462.270 & 462.415

Proposed Amendments: 462-160-0140

Last Date for Comment: 7-19-07, Close of Hearing

Summary: Deletes portion of the rule which states cost incurred for additional testing shall be borne by the licensee in instances where the laboratory needs to perform alternate testing procedures to determine if prohibited drug(s) are present in the sample.

Rules Coordinator: Carol N. Morgan

Address: 800 NE Oregon Street, Suite 310, Portland, OR 97232

Telephone: (971) 673-0208

.....
Secretary of State,
Archives Division
Chapter 166

Rule Caption: Clarifying for state agencies the manner and form for filing administrative rules.

Date:	Time:	Location:
7-26-07	9 a.m.	2nd Floor Conference Rm. 800 Summer St NE Salem, OR 97310

Hearing Officer: Julie Yamaka

Stat. Auth.: ORS 183.360

Stats. Implemented: ORS 177.130, 183.370, 192 & 357.885

Proposed Amendments: 166-500-0000, 166-500-0010, 166-500-0015, 166-500-0020, 166-500-0025, 166-500-0030, 166-500-0040, 166-500-0050, 166-500-0055

Proposed Repeals: 166-500-0045

Last Date for Comment: 7-26-07, Close of Hearing

Summary: Amendments and one rule repeal to clarify the requirements for the manner and form for filing administrative rules; to eliminate outdated references; to eliminate redundancy; to clarify and update definition terms.

Rules Coordinator: Julie Yamaka

Address: 800 Summer Street NE., Salem, OR 97310

Telephone: (503) 378-5199

.....
Teacher Standards and Practices Commission
Chapter 584

Rule Caption: Clarifies requirements for teacher’s and administrator’s licenses and housekeeping amendments for Nurse certificates and NCLB.

Date:	Time:	Location:
7-17-07	1–3 p.m.	TSPC Office 465 Commercial St. NE Salem, OR 97301

Hearing Officer: Victoria Chamberlain

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 – 342.430, 342.455–342.495, 342.985

Proposed Adoptions: 584-060-0014, 584-065-0110, 584-070-0112

Proposed Amendments: 584-005-0005, 584-017-0150, 584-017-0251, 584-017-0261, 584-017-0280, 584-017-0282, 584-021-0105, 584-021-0110, 584-021-0115, 584-021-0120, 584-021-0130, 584-021-0135, 584-021-0140, 584-021-0150, 584-021-0155, 584-021-0160, 584-021-0165, 584-021-0170, 584-021-0175, 584-021-0177, 584-021-0180, 584-021-0185, 584-021-0190, 584-021-0195, 584-021-0202, 584-021-0205, 584-021-0210, 584-021-0215, 584-021-0220, 584-021-0225, 584-021-0230, 584-021-0235, 584-036-0015, 584-036-0055, 584-036-0081, 584-042-0002, 584-042-0006, 584-042-0008, 584-042-0009, 584-048-0040, 584-048-0045, 584-060-0051, 584-060-0071, 584-070-0111, 584-070-0211, 584-080-0171, 584-100-0011, 584-100-0016, 584-100-0021, 584-100-0026, 584-100-0031, 584-100-0036, 584-100-0066, 584-100-0071, 584-100-0091, 584-100-0096, 584-100-0101, 584-100-0106

Proposed Repeals: 584-017-0250, 584-017-0260, 584-060-0161, 584-100-0046

Last Date for Comment: 8-2-07, 5 p.m.

Summary: ADOPT: 584-060-0014 *Initial Teaching License for Out-of-State Candidate First Application*—Creates non-provisional license for out-of-state applicants. (Currently filed as a temporary rule.)

584-065-0110 *Knowledge, Skills and Abilities for Library Media Endorsements*—Creates new standards for Library Media Endorsement

584-070-0112 *Restricted Transitional School Counselor License*—Creates new administrative rule for Restricted Transitional School Counselor (formerly part of OAR 584-070-0111)

AMEND: 584-005-0005 *Definition* (Recent Educational Experience – 50)—Clarifies when an “approved program” is considered completed for purposes of “Recent Educational Experience”

584-017-0150 *Endorsements Requiring Multiple Authorizations [Selected Subject Matter & Specialty Endorsements]*. Makes housekeeping amendments to rule.

584-017-0251 *Knowledge, Skills and Abilities for Initial Administrator License*—Clarifies practicum requirements for Initial Administrator License.

584-017-0261 *Knowledge, Skills and Abilities for Continuing Administrator License*—Clarifies practicum requirements for Continuing Administrator License.

584-017-0280 *Field Experience for Administrator License Program*—Clarifies practica experience for new administrator licenses.

584-017-0282 *Internship Experience for Administrator License Program*—Clarifies internship experience for new administrator licenses.

584-021-0105 *Definitions*—Changes term “license” to “certificate” and makes other housekeeping amendments.

584-021-0110 *General Provisions for School Nurse Certificate [Licenses]*—Changes term “license” to “certificate” and makes other housekeeping amendments.

584-021-0115 *Types of Nursing Certificates [Licenses]*—Changes term “license” to “certificate” and makes other housekeeping amendments.

584-021-0120 *Requirements for Applying for Initial Certification [Licensure]*—Changes term “license” to “certificate” and makes other housekeeping amendments.

584-021-0130 *Requirements for a Professional School Nurse Certificate [License]*—Changes term “license” to “certificate” and makes other housekeeping amendments.

584-021-0135 *Requirements for an Emergency School Nurse Certificate [License]*—Changes term “license” to “certificate” and makes other housekeeping amendments.

NOTICES OF PROPOSED RULEMAKING

584-021-0140 *Requirements for Applying for Renewal or Reinstatement of Certification [Licensure]*—Changes term “license” to “certificate” and makes other housekeeping amendments.

584-021-0150 *Renewal*—Changes term “license” to “certificate” and makes other housekeeping amendments.

584-021-0155 *Emergency School Nurse Certificate [License] Renewal*—Changes term “license” to “certificate” and makes other housekeeping amendments.

584-021-0160 *Incomplete Applications [Procedures for Applications Which Are Incomplete or Do Not Meet Requirements]*—Changes term “license” to “certificate” and makes other housekeeping amendments.

584-021-0165 *Verifying Knowledge of Laws Prohibiting Discrimination*—Changes term “license” to “certificate” and makes other housekeeping amendments.

584-021-0170 *Fees for Nursing Certificates*—Changes term “license” to “certificate” and makes other housekeeping amendments.

584-021-0175 *Character Questions to Establish Fitness to Serve as a School Nurse*—Changes term “license” to “certificate” and makes other housekeeping amendments.

584-021-0177 *Criminal Records Check Requirement*—Changes term “license” to “certificate” and makes other housekeeping amendments.

584-021-0180 *Criteria for Granting School Nurse Certificates [Licenses]*—Changes term “license” to “certificate” and makes other housekeeping amendments.

584-021-0185 *Criteria for Denying Issuance or Reinstatement of School Nurse Certificates [Licenses]*—Changes term “license” to “certificate” and makes other housekeeping amendments.

584-021-0190 *Criteria and Procedures for Denying Renewal of a School Nurse Certificate [License]*—Changes term “license” to “certificate” and makes other housekeeping amendments.

584-021-0195 *Procedures for Consideration of Other Cases*—Changes term “license” to “certificate” and makes other housekeeping amendments.

584-021-0202 *Criteria for Denial of Certification [Licensure] Based on Conviction for Crimes*—Changes term “license” to “certificate” and makes other housekeeping amendments.

584-021-0205 *Reinstatement of Revoked or Surrendered School Nurse Certificates [Licenses]*—Changes term “license” to “certificate” and makes other housekeeping amendments.

584-021-0210 *Reinstatement of Expired Certificates [Licenses]*—Changes term “license” to “certificate” and makes other housekeeping amendments.

584-021-0215 *Revocations*—Changes term “license” to “certificate” and makes other housekeeping amendments.

584-021-0220 *Surrender of Certificate [License]*—Changes term “license” to “certificate” and makes other housekeeping amendments.

584-021-0225 *Serving Without Proper Certification [Licensure]*—Changes term “license” to “certificate” and makes other housekeeping amendments.

584-021-0230 *Expiration of Certificates [Licenses]*—Changes term “license” to “certificate” and makes other housekeeping amendments.

584-021-0235 *Issuance—Effective Date of Certificates [Licenses]*—Changes term “license” to “certificate” and makes other housekeeping amendments.

584-036-0015 *Basic and Standard Teaching Licenses with Authorizations and Endorsements*—Changes term “Educational Media” to “Library Media;” clarifies rules regarding ESOL endorsements for Basic and Standard Teaching Licenses.

584-036-0055 *Fees*—Clarifies fees for out-of-state licensed educators.

584-036-0081 *Conditional Assignment Permits (CAP)*—Allows charter schools request conditional assignments permits; clarifies that

Exceptional Administrator License not eligible for CAP; makes other clarifying amendments.

584-042-0002 *Definitions*—Changes “Professional Technical” to “Career and Technical Education.”

584-042-0006 *[Requirements for a] Three-Year [Professional] Career and Technical Education (CTE) Teaching License*—Changes “Professional Technical” to “Career and Technical Education.”

584-042-0008 *Five-Year [Professional] Career and Technical Education Teaching License*—Changes “Professional Technical” to “Career and Technical Education.”

584-042-0009 *Adding [Professional] Career and Technical Education Endorsements*—Changes “Professional Technical” to “Career and Technical Education.”

584-048-0040 *[Professional] Career and Technical Education Teaching License Renewal*—Changes “Professional Technical” to “Career and Technical Education.”

584-048-0045 *Renewal of [Professional] Five-year Career and Technical Education License [Endorsements]*—Changes “Professional Technical” to “Career and Technical Education.”

584-060-0051 *Teaching Authorization Levels*—Clarifies grade authorizations for Early Intervention endorsements; eliminates term “preprimary” and substitutes “prekindergarten,” makes other housekeeping amendments.

584-060-0071 *Endorsements Requiring Multiple Authorization Levels*—Makes housekeeping amendments.

584-070-0111 *Transitional School Counselor License*—Removes rules for Restricted Transitional School Counselor License (new rule created for those provisions.)

584-070-0211 *Initial School Psychologist License*—Allows for more than one renewal of license.

584-080-0171 *Emergency Administrator License*—Clarifies that joint application required with district; clarifies method of application; adds ability to extend license in extenuating circumstances.

584-100-0011 *Highly Qualified Elementary Teacher New to the Profession*—Eliminates “Preliminary Teaching License,” makes housekeeping amendments.

584-100-0016 *Highly Qualified Elementary Teacher Not New to the Profession*—Eliminates “Preliminary Teaching License,” makes housekeeping amendments.

584-100-0021 *Highly Qualified Middle Level Teacher New to the Profession*—Eliminates “Preliminary Teaching License,” reference.

584-100-0026 *Highly Qualified Middle Level Teacher Not New to the Profession*—Eliminates “Preliminary Teaching License,” reference.

584-100-0031 *Highly Qualified Secondary [Grades 9-12] Teacher New to the Profession*—Eliminates “Preliminary Teaching License,” reference.

584-100-0036 *Highly Qualified Secondary [Grades 9-12] Teacher Not New to the Profession*—Eliminates “Preliminary Teaching License,” reference.

584-100-0066 *Highly Qualified Elementary Special Education Teacher (K-8)*—Eliminates “Preliminary Teaching License,” reference.

584-100-0071 *Highly Qualified Secondary Special Education Teacher (9-12)*—Eliminates “Preliminary Teaching License,” reference.

584-100-0091 *Licensed and Registered Charter School Elementary Teacher*—Makes clarifying and housekeeping amendments.

584-100-0096 *Licensed and Registered Middle Level or Secondary Charter School Teacher*—Makes clarifying and housekeeping amendments.

584-100-0101 *Licenses Considered “Full State Certification”*—Eliminates “Preliminary Teaching License,” reference.

584-100-0106 *Licenses Not Considered “Full State Certification”*—Eliminates Unrestricted Transitional Teaching License.

REPEAL: 584-017-0250 *Objectives for Initial Administrator License*—Repeals obsolete standards for Initial Administrator Licensure

NOTICES OF PROPOSED RULEMAKING

584-017-0260 *Objectives for Continuing Administrator License*—Repeals obsolete standards for Continuing Administrator Licensure
584-060-0161 *Transitional Teaching License*—Repeals License (becomes Initial Teaching License for Out-of-State Candidate First Application in OAR 584-060-0014).

584-100-0046 *Preliminary Teacher License*—Repeals the Preliminary Teaching License.

Rules Coordinator: Victoria Chamberlain

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

Telephone: (503) 378-6813

Water Resources Department
Chapter 690

Rule Caption: Special area Well Construction Standards for Petes Mountain Area (Clackamas County).

Date:	Time:	Location:
7-23-07	6–7:30 p.m.	Canby Adult Center 1250 S. Ivy Canby, OR

Hearing Officer: Juno Pandian

Stat. Auth.: ORS 537.780, 536.027, 536.090

Other Auth.: ORS 537.505 – 537.795

Stats. Implemented: ORS 537.780

Proposed Amendments: 690-200-0028

Last Date for Comment: 8-1-07

Summary: The Department is proposing administrative rules that establish special area standards for well construction. Specifically, the proposed special area standards would apply to new, altered, converted or deepened wells in the Petes Mountain area, in Clackamas County. The proposed rules include adding a 3/4 inch dedicated line to measure water levels in any new, altered, deepened or converted well to gather static water level measurement data to assist the Department in determining the stability of the ground water resource. New wells will require an 8 inch casing and a 3/4 inch dedicated line. Existing wells that are altered, deepened or converted will require the addition of a 3/4 inch dedicated line.

Rules Coordinator: Debbie Colbert

Address: Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301

Telephone: (503) 986-0878

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Appraiser Certification and Licensure Board Chapter 161

Rule Caption: Adopting temporary budget to allow for operation of agency pending hearing and permanent adoption.

Adm. Order No.: ACLB 2-2007(Temp)

Filed with Sec. of State: 6-6-2007

Certified to be Effective: 7-1-07 thru 11-30-07

Notice Publication Date:

Rules Amended: 161-006-0025

Subject: Amends Oregon Administrative Rule 161, Division 006, Rule 0025, regarding the Board's budget for the 2007-2009 biennium.

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 \$1,081,030 covering the period from July 1, 2007 through June 30, 2009. The Board will amend budgeted accounts as necessary within the approved budget of \$1,081,030 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

Board of Naturopathic Examiners Chapter 850

Rule Caption: Defines the term patient and cleans up terminology in other parts of this rule.

Adm. Order No.: BNE 1-2007

Filed with Sec. of State: 6-12-2007

Certified to be Effective: 6-12-07

Notice Publication Date: 5-1-07

Rules Amended: 850-010-0005

Subject: Defines "patient"; cleans up terminology in other definitions.

Rules Coordinator: Anne Walsh—(971) 673-0193

850-010-0005

Definitions

As used in OAR 850-010-0010 to 850-060-0226 unless otherwise required by context:

(1) "Board" means Oregon State Board of Naturopathic Examiners.

(2) "Diagnosis" is a determination by a licensed naturopathic physician of the nature and etiology of a disease by the use of all recognized and accepted physical and laboratory examinations, which includes the drawing of blood and taking specimens of body fluids and tissues for microscopic and chemical analysis.

(3) "Food" is any organic substance taken into the body which helps maintain life, builds or repairs tissue, and sustains growth. This includes the use of enzymes, minerals, vitamins (either in trace amounts or megadoses) and any food products or extracts however processed, refined, or concentrated.

(4) "Lesion" refers to any pathological or traumatic change to human tissue or impairment of a bodily function.

(5) "Naturopathy" or "Naturopathic Medicine" is defined as a system of diagnosing and treating the human body and maintaining or restoring it to a state of normal health, as defined in ORS Chapter 685, and in such other sections thereof as may apply.

(6) "Non-Poisonous Plant Substance" is any plant substance, taken in accepted therapeutic dosages, which would not, by its action on organs or tissue, seriously impair function or destroy life.

(7) "Patient" means any person who is examined, treated, or otherwise provided naturopathic medical services, whether or not the person has entered into a physician-patient relationship or has agreed to pay a fee for services.

(8) "Plant Substances" are those substances found in nature which impart therapeutic or medicinal properties and are used as medicines or ingredients in medicines. They comprise the whole plant, herbs, anatomical parts, saps, extracts, secretions, and other constituents thereof. Their natural state may be altered by any mechanical, physical, or chemical process.

(9) "Poisonous Plant Substances" The Board considers any of the following to be poisonous plant substances: Coniine, Delphinine, Muscarine, Oleandrin, and Strychnine.

(10) "Prescription" is a written or verbal order for the prescribing or dispensing of non-poisonous plant substances as taught in approved schools and given in standard medical dosages. Naturopathic physicians shall be allowed to prescribe and dispense non-poisonous plant substances.

(11) "Preventive" as used in ORS 685 and OAR 850, is defined as the branch of medicine concerned with preventing the occurrence of both mental and physical illness and disease. Preventive medicine encompasses preventing the development of disease in a susceptible or potentially susceptible population including general promotion of health and specific protection such as immunization; early diagnosis and prompt therapy to shorten duration of illness, reduce the severity of disease, reduce the possibility of contagion, and limit sequelae; and limiting the degree of disability and promoting rehabilitation in chronic and irreversible diseases".

(12) "Superficial" as used in ORS 685.010(4) Minor Surgery refers to lacerations, abrasions, benign lesions, foreign bodies and wounds which involve the skin, mucosa, and subcutaneous tissue to a depth of the deep superficial fascia, and which do not involve vital deep structure such as major nerves, major tendons, major blood vessels and bone or viscera.

Stat. Auth.: ORS 685.125

Stats. Implemented: ORS 685.010

Hist.: NE 3, f. 8-26-66; NE 4, f. 10-9-67; NE 1-1980, f. & ef. 9-11-80; NE 2-1984, f. & ef. 2-28-84; NE 3-1984(Temp), f. & ef. 12-13-84; NE 2-1992, f. & cert. ef. 7-28-92; BNE 4-2000, f. & cert. ef. 12-6-00; BNE 1-2007, f. & cert. ef. 6-12-07

Rule Caption: Rule necessary to authorize Board to do criminal checks on applicants per ORS 685.195.

Adm. Order No.: BNE 2-2007

Filed with Sec. of State: 6-12-2007

Certified to be Effective: 6-12-07

Notice Publication Date: 5-1-07

Rules Adopted: 850-030-0020

Subject: Rule necessary to authorize Board to do criminal checks on applicants per ORS 685.195; clarifies the process and standards.

Rules Coordinator: Anne Walsh—(971) 673-0193

850-030-0020

State and Nationwide Criminal Records Checks, Fitness Determinations

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

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

(3) The Board may require fingerprints of all applicants for an initial license as a naturopathic physician, licensees applying to reinstate an expired license, and licensees under investigation to determine the fitness of an applicant or licensee. These fingerprints will be provided on prescribed forms made available by the Board. Fingerprints may be obtained at a law enforcement office or at a private service acceptable to the Board; the Board will submit fingerprints to the Oregon Department of State Police to conduct a Criminal History Check and a National Criminal History Check. Any original fingerprint cards will subsequently be destroyed by the Oregon Department of State Police.

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

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acceptance of probation, conditions, limitations, or other restrictions upon licensure.

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

- (a) The nature of the crime;
- (b) The facts that support the conviction or pending indictment or that indicate the making of the false statement;

(c) The relevancy, if any, of the crime or the false statement to the specific requirements of the applicant's or licensee's present or proposed license; and

(d) Intervening circumstances relevant to the responsibilities and circumstances of the license. Intervening circumstances include but are not limited to:

- (A) The passage of time since the commission of the crime;
- (B) The age of the applicant or licensee at the time of the crime;
- (C) The likelihood of a repetition of offenses or of the commission of another crime;

(D) The subsequent commission of another relevant crime;

(E) Whether the conviction was set aside and the legal effect of setting aside the conviction; and

(F) A recommendation of an employer.

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

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

(8) Criminal offender information is confidential. Dissemination of information received under ORS 181.534 is only to people with a demonstrated and legitimate need to know the information. The information is part of the investigation of an applicant or licensee and as such is confidential pursuant to ORS 676.175(1).

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

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

(11) If an applicant or licensee is determined not to be fit for a license, the applicant or licensee is entitled to a contested case process pursuant to ORS 183.413-470. Challenges to the accuracy or completeness of information provided by the Oregon Department of State Police, Federal Bureau of Investigation and agencies reporting information must be made through the Oregon Department of State Police, Federal Bureau of Investigation, or reporting agency and not through the contested case process pursuant to ORS 183. If an individual successfully contests the accuracy or completeness of information provided by the Oregon State Police, the FBI or other reporting agency, the Board will conduct a new criminal history check upon submission of a new request.

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

Stat. Auth.: ORS 685.125
Stats. Implemented: ORS 685.195
Hist.: BNE 2-2007, f. & cert. ef. 6-12-07

Rule Caption: Updates the formulary compendium and classification for substances prescribed by Naturopathic physicians.

Adm. Order No.: BNE 3-2007

Filed with Sec. of State: 6-12-2007

Certified to be Effective: 6-12-07

Notice Publication Date: 5-1-07

Rules Amended: 850-060-0225, 850-060-0226

Subject: Adds Gamma-Hydroxy Butyrate, Levocarnitine, Sitagliptin; adds classifications: Amino Acids, and under Biologicals

(a) Cytokines (A) Monoclonal Antibodies

Rules Coordinator: Anne Walsh—(971) 673-0193

850-060-0225

Naturopathic Formulary Compendium

The following substances have been recommended for addition to the Formulary Compendium after review by the Board of Naturopathic Examiners Formulary Council established by the 65th Oregon Legislature. Substances listed on the formulary compendium can be prescribed in any dosage or any dosage form. Products marked with an asterisk (*) may be used by Naturopathic Physicians, but may not be prescribed. Combination products containing only active ingredients listed in the Formulary may be prescribed. Combination products containing any active ingredient(s), not listed in the Formulary, except non-legend drugs, may not be prescribed.

- (1) Abacavir;
- (2) Acarbose;
- (3) Acetic Acid;
- (4) Acetylcysteine;
- (5) Acitretin;
- (6) Acyclovir;
- (7) Adapalene;
- (8) Adenosine Monophosphate;
- (9) Albuterol Sulfate;
- (10) Alendronate;
- (11) Allopurinol;
- (12) Alprostadil;
- (13) Amino Acids;
- (14) Amino Aspirins;
- (15) Aminoglycosides;
- (16) Aminolevulinic Acid;
- (17) Aminophylline;
- (18) Aminosalicic Acid;
- (19) Ammonium Chloride;
- (20) Ammonium lactate lotion 12%;
- (21) Amoxicillin;
- (22) Amoxicillin & Clavulanate;
- (23) Amphotericin B;
- (24) Ampicillin;
- (25) Ampicillin & Sulbactam;
- (26) Anastrozole;
- (27) Anthralin;
- (28) Atorvastatin;
- (29) Atropine;
- (30) Atropine Sulfate;
- (31) Auranofin;
- (32) Azelaic Acid;
- (33) Azithromycin;
- (34) Bacampicillin;
- (35) Bacitracin;
- (36) Baclofen;
- (37) Becaplermin;
- (38) Belladonna;
- (39) Benazepril;
- (40) Benzodiazepines;
- (41) Benzoic Acid;
- (42) Benzonatate;
- (43) Betaine;
- (44) Betamethasone;
- (45) Bethanechol Chloride;
- (46) Bichloroacetic Acid*;
- (47) Bimatoprost Solution 0.03%;
- (48) Biologicals;
- (49) Biphosphonates;
- (50) Bromocriptine;
- (51) Budesonide;
- (52) Buprenorphine;
- (53) Butorphanol;
- (54) Cabergoline;
- (55) Calcipotriene;
- (56) Calcitonin;
- (57) Calcitriol;
- (58) Carbamide Peroxide;
- (59) Carbidopa;
- (60) Carbol-Fuchsin;
- (61) Captopril;
- (62) Cefaclor;
- (63) Cefdinir;
- (64) Cefibuten;

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- (65) Cefadroxil;
(66) Cefditoren;
(67) Cefixime;
(68) Cefonicid Sodium;
(69) Cefpodoxime Proxetil;
(70) Cefprozil;
(71) Cefibuten;
(72) Cefuroxime;
(73) Celecoxib;
(74) Cellulose Sodium Phosphate;
(75) Cenestin;
(76) Cephalexin;
(77) Cephadrine;
(78) Chirocaine*;
(79) Chloramphenicol;
(80) Chloroquine;
(81) Citrate Salts;
(82) Clarithromycin;
(83) Clindamycin;
(84) Clioquinol;
(85) Clostridium botulinum toxin (ab);
(86) Cloxacillin;
(87) Codeine;
(88) Colchicine;
(89) Colistimethate;
(90) Collagenase;
(91) Condylox;
(92) Cortisone;
(93) Coumadin;
(94) Cromolyn Sodium;
(95) Cyanocobalamin;
(96) Cycloserine;
(97) Danazol;
(98) Deferoxamine/Desferrioxamine (Board approved certification required before therapeutic IV chelation is allowed);
(99) Demeclocycline Hydrochloride;
(100) Desmopressin;
(101) Desoxyribonuclease;
(102) Dexamethasone;
(103) Dextran;
(104) Dextromethorphan;
(105) Dextrose;
(106) Dextrothyroxine;
(107) Dicloxacillin;
(108) Dihydroergotamine Migranal;
(109) Didanosine;
(110) Dimethyl Sulfone (DMSO);
(111) Digitalis;
(112) Digitoxin;
(113) Digoxin;
(114) Dinoprostone;
(115) Dipylline;
(116) Dirithromycin;
(117) DMPS (Board approved certification required before therapeutic IV chelation is allowed);
(118) DMSA;
(119) Doxercalciferol;
(120) Doxycycline;
(121) Dronabinol;
(122) Dyclonine;
(123) EDTA (Board approved certification required before therapeutic IV chelation is allowed);
(124) Electrolyte Solutions;
(125) Emtricitabine;
(126) Enalapril;
(127) Ephedrine;
(128) Epinephrine*;
(129) Epinephrine (auto-inject);
(130) Ergoloid Mesylates;
(131) Ergonovine Maleate;
(132) Ergotamine;
(133) Erythromycins;
(134) Erythropoietin;
(135) Estradiol;
(136) Estriol;
(137) Estrogen-Progestin Combinations;
(138) Estrogens, Conjugated;
(139) Estrogen, Esterified;
(140) Estrone;
(141) Estropipate;
(142) Ethyl Chloride;
(143) Etidronate;
(144) Ezetimibe;
(145) Famiciclovir;
(146) Fentanyl;
(147) Fibrinolytic;
(148) Flavoxate;
(149) Fluconazole;
(150) Fludrocortisone Acetate;
(151) Flunisolide;
(152) Fluorides;
(153) Fluoroquinolones;
(154) Fluoroquinolines;
(155) Fluorouracil;
(156) Fluticasone propionate;
(157) Fluvastatin;
(158) Fosinopril;
(159) Gaba Analogs;
(160) Gabapentin;
(161) Galantamine H. Br.;
(162) Gamma-Hydroxy Butyrate;
(163) Ganciclovir;
(164) Gentamicin;
(165) Gentian Violet;
(166) Griseofulvin;
(167) Guaifenesin;
(168) Heparin — subcutaneous, sublingual and heparin locks;
(169) Hexachlorophene;
(170) Homatropine Hydrobromide*;
(171) Human Growth Hormone;
(172) Hyaluronic Acid;
(173) Hyaluronidase;
(174) Hydrocodone;
(175) Hydrocortisone;
(176) Hydrogen Peroxide;
(177) Hydromorphone;
(178) Hydroquinone;
(179) Hydroxychloroquine;
(180) Hydroxypolyethoxydodecane*;
(181) Hyoscyamine;
(182) Iloprost Inhalation Solution;
(183) Imiquimod Cream (5%);
(184) Immune Globulins*;
(185) Insulin;
(186) Interferon Alpha b w/Ribavirin;
(187) Iodine;
(188) Iodoquinol;
(189) Iron Preparations;
(190) Isosorbide Dinitrate;
(191) Isotretinoin;
(192) Itraconazole;
(193) Kanamycin Sulfate;
(194) Ketoconazole;
(195) Lactulose;
(196) Lamivudine;
(197) Letrozole;
(198) Leucovorin Calcium;
(199) Levalbuteral;
(200) Levocarnitine;
(201) Levodopa;
(202) Levonorgestrel;
(203) Levorphanol;
(204) Levothyroxine;
(205) Lincomycin;
(206) Lindane;
(207) Lithyronine;
(208) Liotrix;
(209) Lisinopril;
(210) Lisuride;
(211) Lithium;

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- (212) Lovastatin;
(213) Mebendazole;
(214) Meclizine;
(215) Medroxyprogesterone;
(216) Medrysone;
(217) Mefloquine;
(218) Megestrol Acetate;
(219) Mercury, Ammoniated;
(220) Mesalamine;
(221) Metformin;
(222) Methadone;
(223) Methimazole;
(224) Methoxsalen;
(225) Methscopolamine;
(226) Methylergonovine;
(227) Methylprednisolone;
(228) Methylsulfonylmethane (MSM);
(229) Methyltestosterone;
(230) Methysergide;
(231) Metronidazole;
(232) Miglitol;
(233) Minerals (Oral & Injectable);
(233) Minocycline;
(235) Misoprostol;
(236) Moexipril;
(237) Monobenzene;
(238) Morphine;
(239) Mupirocin;
(240) Nafarelin acetate;
(241) Naloxone;
(242) Naltrexone;
(243) Natamycin;
(244) Nateglinide;
(245) Nicotine;
(246) Nitroglycerin;
(247) Novobiocin;
(248) Nystatin;
(249) Olsalazine;
(250) Omeprazole;
(251) Opium;
(252) Over the Counter (OTC);
(253) Oxacillin;
(254) Oxamniquine;
(255) Oxaprozin;
(256) Oxtriphylline;
(257) Oxycodone;
(258) Oxygen;
(259) Oxymorphone;
(260) Oxytetracycline;
(261) Oxytocin*;
(262) Pancrelipase;
(263) Papain;
(264) Papavarine;
(265) Paramethasone;
(266) Paregoric;
(267) Penciclovir;
(268) Penicillamine (Board approved certification required before therapeutic IV chelation is allowed);
(269) Penicillin;
(270) Pentosan;
(271) Pentoxifylline;
(272) Pergolide;
(273) Perindopril;
(277) Permethrin;
(275) Phenazopyridine;
(276) Phenylalkylamine;
(277) Phenylephrine*;
(278) Physostigmine;
(279) Pilocarpine;
(280) Pimecrolimus Cream 1%;
(281) Podophyllum Resin;
(282) Polymyxin B Sulfate;
(283) Polysaccharide-Iron Complex;
(284) Potassium Iodide;
(285) Potassium Supplements;
(286) Pramoxine;
(287) Pravastatin;
(288) Prednisolone;
(289) Prednisone;
(290) Pregabalin;
(291) Progesterone;
(292) Progestins;
(293) Propionic Acids;
(294) Propylthiouracil;
(295) Prostaglandins;
(296) Proton Pump inhibitor;
(297) Pseudoephedrine;
(298) Pyrazinamide;
(299) Pyrethrins;
(300) Quinapril;
(301) Quinidine;
(302) Quinilones;
(303) Quinine Sulfate;
(304) Quinines;
(305) Quinolines;
(306) Ramopril;
(307) Rauwolfia Alkaloids;
(308) Rho(D) Immune globulins*;
(309) Rifabutin;
(310) Rifampin;
(311) Risendronate;
(312) Salicylamide;
(313) Salicylate Salts;
(314) Salicylic Acid;
(315) Salsalate;
(316) Scopolamine;
(317) Selenium Sulfide;
(318) Silver Nitrate;
(319) Simvastatin;
(320) Sitagliptin;
(321) Sodium Polystyrene Sulfonate;
(322) Sodium Thiosulfate;
(323) Spironolactone;
(324) Stavudine;
(325) Spectinomycin;
(326) Sucralfate;
(327) Sulfasalazine;
(328) Sulfonamide/Trimethoprim/Sulfones;
(329) Tazarotene topical gel;
(330) Tacrolimus;
(331) Telithromycin;
(332) Tenofovir;
(333) Testosterone;
(334) Tetracycline;
(335) Theophylline;
(336) Thiabendazole;
(337) Thyroid;
(338) Thyroxine;
(339) Tiagabine;
(340) Tibolone;
(341) Tiludronate;
(342) Tinidazole;
(343) Tobramycin;
(344) Topical steroids;
(345) Tramadol;
(346) Trandolapril;
(347) Tretinoin;
(348) Triamcinolone;
(349) Triamterene;
(350) Trichloroacetic Acid*;
(351) Trioxsalen;
(352) Triptans;
(353) Troleandomycin;
(354) Undecylenic Acid;
(355) Urea;
(356) Urised;
(357) Ursodiol;
(358) Valacyclovir;
(359) Vancomycin;
(360) Verapamil;

ADMINISTRATIVE RULES

- (361) Vidarabine;
 - (362) Vitamins (Oral & Injectable);
 - (363) Yohimbine;
 - (364) Zalcitabine;
 - (365) Zidovudine;
 - (366) Zolpidem;
 - (367) Local Anesthetics:
 - (a) Benzocaine*;
 - (b) Bupivacaine*;
 - (c) Chloroprocaine*;
 - (d) Dyclonine*;
 - (e) Etidocaine*;
 - (f) Lidocaine*;
 - (g) Lidocaine (non-injectable dosage form);
 - (h) Mepivocaine*;
 - (i) Prilocaine*;
 - (j) Procaine*;
 - (k) Tetracaine*.
 - (364) Vaccines:
 - (a) BCG*;
 - (b) Cholera*;
 - (c) Diphtheria*;
 - (d) DPT*;
 - (e) Haemophilus b Conjugate*;
 - (f) Hepatitis A Virus*;
 - (g) Hepatitis B*;
 - (h) Influenza Virus*;
 - (i) Japanese Encephalitis Virus*;
 - (j) Measles Virus*;
 - (k) Mumps Virus*;
 - (l) Pertussis*;
 - (m) Plague*;
 - (n) Pneumococcal*;
 - (o) Poliovirus Inactivated*;
 - (p) Poliovirus-Live Oral*;
 - (q) Rabies*;
 - (r) Rubella*;
 - (s) Smallpox*;
 - (t) Tetanus IG*;
 - (u) Tetanus Toxoid*;
 - (v) Typhoid*;
 - (w) Varicella*;
 - (x) Yellow Fever*;
 - (365) SkinTests:
 - (a) Diphtheria*;
 - (b) Mumps*;
 - (c) Tuberculin*.
- Stat. Auth.: ORS 685.125
Stats. Implemented: ORS 681.145
Hist.: NE 2-1990, f. & cert. ef. 11-8-90; NE 1-1997, f. 10-13-97, cert. ef. 10-20-97; BNE 1-1999, f. 6-24-99, cert. ef. 6-25-99; BNE 1-2000, f. & cert. ef. 1-10-00; BNE 3-2000, f. & cert. ef. 8-16-00; BNE 2-2001, f. & cert. ef. 2-7-01; BNE 4-2001, f. & cert. ef. 5-25-01; BNE 8-2001, f. & cert. ef. 12-7-01; BNE 4-2002, f. & cert. ef. 8-8-02; BNE 3-2003, f. & cert. ef. 6-9-03; BNE 5-2003, f. & cert. ef. 12-5-03; BNE 5-2004, f. & cert. ef. 6-10-04; BNE 3-2005, f. & cert. ef. 2-4-05; BNE 5-2005, f. & cert. ef. 6-10-05; Renumbered from 850-010-0225, BNE 8-2005, f. & cert. ef. 10-27-05; BNE 9-2005, f. & cert. ef. 12-12-05; BNE 4-2006, f. & cert. ef. 12-11-06; BNE 3-2007, f. & cert. ef. 6-12-07

850-060-0226

Naturopathic Formulary by Classification

The following classifications for substances listed in 850-060-0225 have been recommended by the Board of Naturopathic Examiners Formulary Council established by the 65th Oregon Legislature. Substances listed on the formulary compendium can be prescribed in any dosage or any dosage form. Products marked with an asterisk (*) may be used by Naturopathic Physicians, but may not be prescribed. Combination products containing only active ingredients listed in the Formulary may be prescribed. Combination products containing any active ingredient(s), not listed in the Formulary, except non-legend drugs, may not be prescribed. A double asterisk (**) indicates examples include but are not limited to the substances listed.

- (1) Amino Acids;
 - (a) Levocarnitine**;
- (2) Antiestrogens;
 - (a) Nafarelin Acetate;
- (b) Tibolone;
- (3) Antigout;
- (a) Colchicine;

- (b) allopurinol;
- (4) Anti-infective Agents;
 - (a) Anthelmintics;
 - (A) Thiabendazole.
 - (B) Oxamniquine.
 - (C) Mebendazole.
 - (b) Antibacterials;
 - (A) Aminoglycosides**;
 - (i) Gentamicin;
 - (ii) Kanamycin Sulfate;
 - (iii) Tobramycin;
 - (B) Cephalosporins**;
 - (i) Cefaclor;
 - (ii) Cefadroxil;
 - (iii) Cefdinir;
 - (iv) Cefditoren;
 - (v) Cefibuten;
 - (vi) Cefixime;
 - (vii) Cefonicid Sodium;
 - (viii) Cefpodoxime Proxetil;
 - (ix) Cefprozil;
 - (x) Ceftibuten;
 - (xi) Cefuroxime;
 - (xii) Cephalexin;
 - (xiii) Cephadrine;
 - (C) Chloramphenicol;
 - (D) Macrolides and Ketolides**;
 - (i) Azithromycin;
 - (ii) Clarithromycin;
 - (iii) Dirithromycin;
 - (iv) Erythromycins;
 - (v) Telithromycin;
 - (vi) Troleandomycin;
 - (E) Penicillins**;
 - (i) Amoxicillin and Clavulanate;
 - (ii) Amoxicillin;
 - (iii) Ampicillin and Sulbactam;
 - (iv) Ampicillin;
 - (v) Bacampicillin;
 - (vi) Cloxacillin;
 - (vii) Dicloxacillin;
 - (viii) Oxacillin;
 - (ix) Penicillin;
 - (F) Quinolones**;
 - (i) Fluoroquinolones;
 - (ii) Quinolines -all;
 - (G) Sulfonamides;
 - (i) Sulfonamide/ Trimethoprim/ Sulfones;
 - (H) Tetracyclines**;
 - (i) Demeclocycline Hydrochloride;
 - (ii) Doxycycline;
 - (iii) Minocycline;
 - (iv) Oxytetracycline;
 - (v) Tetracycline;
 - (I) Misc. antibacterials;
 - (i) Bacitracin;
 - (ii) Clindamycin;
 - (iii) Colistimethate;
 - (iv) Lincomycin;
 - (v) Novobiocin;
 - (vi) Polymyxin B Sulfate;
 - (vii) Spectinomycin;
 - (viii) Vancomycin;
 - (c) Antifungals;
 - (A) Azoles**;
 - (i) Fluconazole;
 - (ii) Itraconazole;
 - (iii) Ketoconazole;
 - (iv) Tinidazole;
 - (B) Amphotericin B;
 - (C) Gentian Violet;
 - (D) Griseofulvin;
 - (E) Nystatin;
 - (d) Antimycobacterials;
 - (A) Aminosalicic Acid;

ADMINISTRATIVE RULES

- (B) Cycloserine;
- (C) Pyrazinamide;
- (D) Rifabutin;
- (E) Rifampin;
- (e) Antivirals;
- (A) Interferon**;
- (B) Nucleoside/nucleotide analogs**;
- (i) Abacavir;
- (ii) Acyclovir;
- (iii) Didanosine;
- (iv) Emtricitabine;
- (v) Famciclovir;
- (vi) Ganciclovir;
- (vii) Lamivudine;
- (viii) Penciclovir;
- (ix) Stavudine;
- (x) Tenofovir;
- (xi) Valacyclovir;
- (xii) Viarabine;
- (xiii) Zalcitabine;
- (xiv) Zidovudine;
- (f) Antiprotozoal;
- (A) Iodoquinol;
- (B) Metronidazole;
- (C) Quinines;
- (i) Chloroquine;
- (ii) Hydroxychloroquine;
- (iii) Mefloquine;
- (iv) Quinine Sulfate;
- (g) Misc;
- (A) Immune Globulins* **;
- (B) Lindane;
- (C) Permethrin;
- (D) Pyrethrins;
- (5) Antineoplastic Agents;
- (a) Anastrozole;
- (b) Letrozole;
- (6) Anti-thyroid;
- (a) Thionamides;
- (A) Methimazole;
- (B) Propylthiouracil;
- (7) Autonomic Drugs;
- (a) Parasympathomimetic;
- (A) Bethanechol;
- (B) Galantamine H. Br;
- (b) Anticholinergic;
- (A) Atropine Sulfate;
- (B) Atropine;
- (C) Belladonna;
- (D) Flavoxate;
- (E) Homatropine Hydrobromide*;
- (F) Hyoscyamine;
- (G) Meclizine;
- (H) Methscopolamine;
- (I) Physostigmine;
- (J) Pilocarpine;
- (K) Scopolamine;
- (c) Sympathomimetic;
- (A) Ephedrine;
- (B) Epinephrine*;
- (C) Epinephrine (auto-inject);
- (D) Pseudoephedrine;
- (d) Sympatholytic;
- (A) Yohimbine;
- (e) Skeletal Muscle Relaxants;
- (A) Clostridium botulinum toxin (ab);
- (B) Baclofen;
- (f) Misc;
- (A) Nicotine;
- (8) Biologicals;
- (a) Cytokine;
- (A) Monoclonal antibodies;
- (b) Enzymes**;
- (A) Collagenase;
- (B) Desoxyribonuclease;
- (C) Fibrinolysin;
- (D) Hyaluronidase;
- (E) Pancrelipase;
- (F) Papain;
- (c) Hormones — see hormone;
- (d) Immune globulins — see anti-infective, misc;
- (e) Interferons — see antivirals;
- (f) Prostaglandins**;
- (A) Alprostadil;
- (B) Bimatoprost;
- (C) Iloprost;
- (D) Dinoprostone;
- (E) Misoprostal;
- (g) Blood derivatives;
- (9) Blood Formation and Coagulation;
- (a) Coumadin;
- (b) Erythropoietin;
- (c) Heparin; subcutaneous, sublingual and heparin locks;
- (10) Cardiovascular Drugs;
- (a) Cardiac;
- (A) Adenosine Monophosphate;
- (B) Digitalis;
- (C) Digitoxin;
- (D) Digoxin;
- (E) Quinidine;
- (b) Antilipemic;
- (A) HMG CoA Reductase Inhibitors**;
- (i) Atorvastatin;
- (ii) Fluvastatin;
- (iii) Lovastatin;
- (iv) Pravastatin;
- (v) Simvastatin;
- (B) Ezetimibe;
- (c) Diuretics;
- (A) Spironolactone;
- (B) Triamterene;
- (d) Hypotensive;
- (A) Lisuride;
- (B) Rauwolfia Alkaloids;
- (e) Vasodilating;
- (A) Nitrates**;
- (i) Isosorbide Dinitrate;
- (ii) Mononitrate;
- (iii) Nitroglycerin;
- (B) Papavarine;
- (f) Calcium Channel blockers;
- (A) Phenylalkylamine**;
- (i) Verapamil;
- (g) ACE inhibitors**;
- (A) Benazepril;
- (B) Captopril;
- (C) Enalapril;
- (D) Fosinopril;
- (E) Lisinopril;
- (F) Moexipril;
- (G) Perindopril;
- (H) Quinapril;
- (I) Ramopril;
- (J) Trandolapril;
- (11) Central Nervous System Agents;
- (a) Analgesics and Antipyretics;
- (A) NAIDS;
- (i) Amino Aspirins;
- (ii) Celecoxib;
- (iii) Mesalamine;
- (iv) Olsalazine;
- (v) Oxaprozin;
- (vi) Propionic Acid Derivatives**;
- (aa) Fenoprofen;
- (bb) Flurbiprofen;
- (cc) Ibuprofen;
- (dd) Ketoprofen;
- (ee) Oxaprozin;
- (ff) Naproxen;
- (vii) Salicylic Acid;

ADMINISTRATIVE RULES

- (viii) Salicylamide;
- (ix) Salicylate Salts;
- (x) Salsalate;
- (xi) Sulfasalazine;
- (B) Opioids**;
- (i) Buprenorphine;
- (ii) Butorphanol;
- (iii) Codeine;
- (iv) Dextromethorphan;
- (v) Fentanyl;
- (vi) Hydrocodone;
- (vii) Hydromorphone;
- (viii) Levorphanol;
- (ix) Methadone;
- (x) Morphine;
- (xi) Opium;
- (xii) Oxycodone;
- (xiii) Oxymorphone;
- (xiv) Paregoric;
- (xv) Tramadol;
- (b) Opioid Antagonists;
- (A) Naloxone;
- (B) Naltrexone;
- (c) Anticonvulsants;
- (A) Gaba Analogues**;
- (i) Gabapentin;
- (ii) Pregabalin;
- (iii) Tigabine;
- (d) Anti-Parkinson's;
- (A) Bromocriptine;
- (B) Carbidopa;
- (C) Cabergoline;
- (D) Levodopa;
- (E) Pergolide;
- (e) Psychotherapeutic;
- (A) Anxiolytics, sedatives and hypnotics;
- (i) Benzodiazepines**;
- (ii) Zolpidem;
- (B) Anti-Manic;
- (i) Lithium;
- (f) Misc;
- (A) Gamma-Hydroxy Butyrate;
- (B) Triptans**;
- (12) Diabetic;
- (a) Acarbose;
- (b) Insulin;
- (c) Metformin;
- (d) Miglitol;
- (e) Nateglinide;
- (13) Electrolytic;
- (a) Ammonium Chloride;
- (b) Bisphosphonates**;
- (A) Alendronate;
- (B) Etidronate;
- (C) Risendronate;
- (D) Tiludronate;
- (c) Cellulose Sodium Phosphate (calcium removing);
- (d) Dextran;
- (e) Dextrose;
- (f) Electrolyte Solutions;
- (g) Fluorides;
- (h) Iodine;
- (i) Iron Preparations;
- (j) Minerals (Oral & Injectable);
- (k) Polysaccharide-Iron Complex;
- (l) Potassium Iodide;
- (m) Potassium Supplements;
- (n) Sodium Polystyrene Sulfonate;
- (14) Ergot Derivatives**;
- (a) Dihydroergotamine;
- (b) Ergoloid Mesylates;
- (c) Ergonovine Maleate;
- (d) Ergotamine;
- (15) EENT preparations;
- (a) Acetic Acid;
- (b) Ophthalmic Solution (0.03%);
- (c) Carbamide Peroxide;
- (d) Natamycin;
- (e) Phenylephrine;
- (f) Prostaglandins — see Biologicals;
- (16) GI drugs;
- (a) Antidiarrhea — see opioids;
- (b) Cathartics and laxatives;
- (A) Lactulose;
- (c) Antiemetics;
- (A) Dronabinol;
- (d) Antiulcer and acid suppressants;
- (A) Misoprostol;
- (B) Proton Pump Inhibitors**;
- (i) Omeprazole;
- (C) Sucralfate;
- (e) Misc;
- (A) Citrate Salts;
- (B) Ursodiol;
- (17) Gold Compounds;
- (a) Auranofin;
- (18) Heavy Metal antagonists (see 850-060-225 for specific education requirements);
- (a) Deferoxamine/Desferroxamine;
- (b) DMSA;
- (c) DMSA;
- (d) EDTA;
- (e) Penicillamine;
- (f) Sodium Thiosulfate;
- (19) Hormones and synthetic substitutes**;
- (a) Adrenals;
- (A) Betamethasone;
- (B) Budesonide;
- (C) Cortisone;
- (D) Dexamethasone;
- (E) Fludrocortisone Acetate;
- (F) Flunisolide;
- (G) Fluticasone Propionate;
- (H) Hydrocortisone;
- (I) Paramethasone;
- (J) Prednisolone;
- (K) Prednisone;
- (L) Tibolone;
- (M) Triamcinolone;
- (b) Androgens;
- (A) Danazol;
- (B) Methyltestosterone;
- (C) Testosterone;
- (c) Contraceptives;
- (A) Estrogen-Progestin Combinations;
- (B) Progestins;
- (d) Estrogens and antiestrogens;
- (A) Cenestin;
- (B) Estradiol;
- (C) Estriol;
- (D) Estrogen, Esterified;
- (E) Estrogens, Conjugated;
- (F) Estrone;
- (G) Estropipate;
- (e) Pituitary;
- (A) Desmopressin;
- (B) Human Growth Hormone;
- (C) Oxytocin;
- (f) Progestins;
- (A) Medroxyprogesterone;
- (B) Medrysone;
- (C) Megestrol Acetate;
- (D) Methylprednisolone;
- (E) Progesterone;
- (F) Progestins;
- (g) Thyroid;
- (A) Dextrothyroxine;
- (B) Levonorgestrel;
- (C) Levothyroxine;
- (D) Liothyronine;

ADMINISTRATIVE RULES

(E) Liotrix;
(F) Thyroxine;
(20) Immunological;
(a) Tacrolimus;
(b) Rho(D) Immune globulins*;
(21) Local anesthetics**;
(a) Benzocaine*;
(b) Betaine;
(c) Bupivacaine*;
(d) Chirocaine*;
(e) Chloroprocaine*;
(f) Dyclonine*;
(g) Ethyl Chloride;
(h) Etidocaine*;
(i) Hydroxypolyetho-xydodecane*;
(j) Lidocaine (non-injectable dosage form);
(k) Lidocaine*;
(l) Mepivocaine*;
(m) Pramoxine;
(n) Prilocaine*;
(o) Procaine*;
(p) Tetracaine*;
(22) Prostaglandins — see Biologicals;
(23) Skin and mucous membrane agents;
(a) Anti-infectives;
(A) Benzoic Acid;
(B) Carbol-Fuchsin;
(C) Clioquinol;
(D) Hexachlorophene;
(E) Iodoquinol;
(F) Mercury, Ammoniated;
(G) Mupirocin;
(H) Selenium Sulfide;
(I) Silver Nitrate;
(J) Undecylenic Acid;
(b) Anti-inflammatory;
(A) Topical steroids;
(c) Antipruritics and local anesthetics;
(A) Pentosan;
(B) Phenazopyridine;
(d) Cell stimulants and proliferants;
(A) Anthralin;
(B) Tretinoin;
(e) Keratolytic;
(A) Adapalene;
(B) Aminolevulinic Acid;
(C) Bichloroacetic Acid;
(D) Imiquimod Cream (5%);
(E) Isotretinoin;
(F) Podophyllum Resin;
(G) Trichloroacetic Acid*;
(H) Urea;
(f) Misc;
(A) Acitretin;
(B) Ammonium lactate lotion 12%;
(C) Azelaic Acid;
(D) Becaplermin;
(E) Calcipotriene;
(F) Condylox;
(G) Fluorouracil;
(H) Hydroquinone;
(I) Methoxsalen;
(J) Monobenzene;
(K) Pimecrolimus Cream 1%;
(L) Tazarotene topical gel;
(M) Trioxsalen;
(24) Skin Tests**;
(a) Diphtheria*;
(b) Mumps*;
(c) Tuberculin*;
(25) Upper Respiratory;
(a) Acetylcysteine;
(b) Albuterol Sulfate;
(c) Benzonatate;
(d) Cromolyn Sodium;

(e) Guaifenesin;
(f) Levalbuteral;
(g) Nedocromil;
(h) Xanthines**;
(A) Aminophylline;
(B) Diphylline;
(C) Oxtriphylline;
(D) Pentoxifylline;
(E) Theophylline;
(26) Vaccines**;
(a) BCG*;
(b) Cholera*;
(c) Diphtheria*;
(d) DPT*;
(e) Haemophilus b Conjugate*;
(f) Hepatitis A Virus*;
(g) Hepatitis B*;
(h) Influenza Virus*;
(i) Japanese Encephalitis Virus*;
(j) Measles Virus*;
(k) Mumps Virus*;
(l) Pertussis*;
(m) Plague*;
(n) Pneumococcal*;
(o) Poliovirus — Inactivated*;
(p) Poliovirus — Live Oral*;
(q) Rabies*;
(r) Rubella*;
(s) Smallpox*;
(t) Tetanus IG*;
(u) Tetanus Toxoid*;
(v) Typhoid*;
(w) Varicella*;
(x) Yellow Fever*;
(27) Vitamins**;
(a) Calcitonin;
(b) Calcitriol;
(c) Cyanocobalamin;
(d) Doxercalciferol;
(e) Leucovorin Calcium;
(f) Vitamins (Oral & Injectable);
(28) Misc;
(a) Colchicine (gout);
(b) Dimethyl Sulfone (DMSO);
(c) Hyaluronic Acid;
(d) Hydrogen Peroxide;
(e) MSM;
(f) OTC Substances;
(g) Oxygen;
(h) Sitagliptin;
(i) Urised.

Stat. Auth.: ORS 685.125

Stats. Implemented: ORS 685.145

Hist.: BNE 1-2002, f. & cert. ef. 2-19-02; BNE 4-2002, f. & cert. ef. 8-8-02; BNE 3-2003, f. & cert. ef. 6-9-03; BNE 5-2003, f. & cert. ef. 12-5-03; BNE 5-2004, f. & cert. ef. 6-10-04; Renumbered from 850-010-0226, BNE 8-2005, f. & cert. ef. 10-27-05; BNE 9-2005, f. & cert. ef. 12-12-05; BNE 4-2006, f. & cert. ef. 12-11-06; BNE 3-2007, f. & cert. ef. 6-12-07

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Board of Optometry
Chapter 852

Rule Caption: Adopts Board Budget for 2007–2009; Revision of CPR requirements.

Adm. Order No.: OPT 1-2007

Filed with Sec. of State: 5-21-2007

Certified to be Effective: 7-1-07

Notice Publication Date: 3-1-07

Rules Amended: 852-005-0005, 852-010-0015, 852-010-0023, 852-010-0080, 852-050-0005, 852-050-0006, 852-050-0012, 852-080-0040

ADMINISTRATIVE RULES

Subject: 852-005-0005

852-010-0015; 0023; 0080

852-050-0005; 0006 — Adopts the Board's budget for the 2007–2009 biennium and changes the associated fees in rule.

852-080-0040 — Changes the renewal and reporting requirements for CPR certification

Rules Coordinator: David W. Plunkett—(503) 399-0662 ext 23

852-005-0005

Budget

The Oregon Board of Optometry hereby adopts by reference the Oregon Board of Optometry 2007-2009 Biennium Budget of \$617,904 covering the period from July 1, 2007 through June 30, 2009. The Executive Director of the Board will amend budgeted accounts as necessary within the approved budget of \$617,904 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 and are also posted on the Board's website.

Stat. Auth.: ORS 683 & 182

Stats. Implemented: ORS 182.462(1)(2)

Hist.: OPT 1-1999, f. 6-4-99, cert. ef. 7-1-99; OPT 1-2001, f. 6-18-01, cert. ef. 7-1-01; OPT 1-2003, f. 6-12-03, cert. ef. 7-1-03; OPT 3-2005, f. 6-29-05, cert. ef. 7-1-05; OPT 1-2007, f. 5-21-07, cert. ef. 7-1-07

852-010-0015

Application for Examination and Licensure

(1) Each applicant must meet educational qualifications and must comply with the requirements of ORS 683.040 before the applicant will be accepted for examination and licensure.

(2) Each inquiry regarding application for licensure as a Doctor of Optometry must be directed to the office of the Board of Optometry.

(3) The application will be completed upon receipt by the Board of:

(a) An application form;

(b) A copy of the official final transcript from an accredited College of Optometry indicating receipt of the Doctor of Optometry degree;

(c) A copy of the record establishing satisfactory completion of a course in pharmacology as it applies to optometry from an institution approved under ORS 683.040(2) when applicable;

(d) Verification of the passage of the examination of the National Board of Examiners in Optometry;

(e) Receipt by the Board's office of the \$200 application fee; and

(f) Confirmation that a candidate for licensure has not been sanctioned for violating the laws, rules and standards of ethics of another jurisdiction if licensed therein.

(g) Documentation of completion of the required continuing optometric education.

(4) Any application received from an optometrist who has been sanctioned by revocation of license by another optometric licensing jurisdiction shall be reviewed on a case by case basis by the Board.

Stat. Auth.: ORS 683.182

Stats. Implemented: ORS 683.140, 683.060, 683.270 & 182.466

Hist.: OE 2, f. 12-5-57; OE 2-1984, f. & ef. 7-14-84; OP 1-1987, f. & ef. 4-30-87; OP 1-1989, f. 1-13-89, cert. ef. 1-16-89; OP 1-1991, f. & cert. ef. 4-12-91; OP 2-1992, f. & cert. ef. 10-21-92; OP 2-1993(Temp), f. & cert. ef. 5-17-93; OP 3-1993, f. & cert. ef. 10-27-93; OP 2-1994, f. & cert. ef. 7-22-94; OPT 1-2001, f. 6-18-01, cert. ef. 7-1-01; OPT 1-2005, f. & cert. ef. 2-23-05; OPT 1-2007, f. 5-21-07, cert. ef. 7-1-07

852-010-0023

Rules for Endorsement Examination and Licensure

Pursuant to ORS 683.220 the Board may grant to an applicant a license by endorsement for the practice of optometry if the applicant:

(1) Holds a license for the practice of optometry obtained by examination in another state in the United States;

(2) has been continuously engaged in the practice of optometry for not less than two years immediately preceding the application to the Board;

(3) has educational qualifications the Board considers equivalent to the educational requirements necessary for licensing by the Board at the time the applicant commenced the practice of optometry. The educational requirements shall include a passing score on Parts I, II, III, (PAM and Clinical Skills) and TMOD (Treatment and Management of Ocular Disease) of the National Board of Examiners in Optometry (NBEO) examination or its equivalent, as determined by the Board. NBEO standards for passing the NBEO examination will be acceptable to the Board;

(4) submits documentation satisfactory to the Board of continuing optometric education hours equivalent to the requirements established by OAR 852-70;

(5) provides confirmation from all states ever licensed regarding violation of laws, rules and standards of ethics while licensed in those states;

(a) The National Practitioner Data Bank and the Healthcare Integrity and Protection Data Bank shall be queried for adverse actions on each person making an application for licensure by endorsement.

(6) pays the licensure by endorsement application fee of \$300; and

(7) passes a written examination relating to Oregon optometric law and administrative rules.

(a) must score at least 75 on the written examination;

(b) must pass the written examination within the 12 months previous to date of Oregon licensure.

(c) Since the Administrative Rule and Law examination is not clinical in nature, any applicant who does not receive a passing score on the Administrative Rule and Law examination may retake the Administrative Rule and Law examination within 90 days of the reading of the results. The Board will set a location, date and time for the administration. The examination fee for each administration of the Administrative Rule and Law examination by the Board is \$75.

(8) Any applicant whose conduct constitutes cheating or subverting of the process of the evaluation of professional competency by the Board or by an examiner may be dismissed from the examination and denied licensure.

Stat. Auth.: ORS 683 & 182

Stats. Implemented: ORS 683.220, 683.270 & 182.466

Hist.: OPT 2-2001, f. 12-13-01, cert. ef. 1-1-02; OPT 1-2005, f. & cert. ef. 2-23-05; OPT 1-2007, f. 5-21-07, cert. ef. 7-1-07

852-010-0080

Schedule of Fees

(1) The following fee schedule is established by the Oregon Board of Optometry to set forth in one place all of the fees charged by the Board:

(a) Annual Renewal — Active License — \$243;

(b) Annual Renewal — Inactive License — \$98;

(c) Continuing Education Renewal Fee — \$20;

(d) Disciplinary Renewal Fee — \$35;

(e) Additional Office License — \$45;

(f) Multiple Office License — \$90;

(g) Application for Examination and Licensure — \$200;

(h) Application for Endorsement Examination and Licensure — \$300;

(i) Application for TPA Certification — \$75;

(j) Law and Administrative Rule Examination — \$75;

(k) Reactivation of License — \$100;

(l) Reinstatement of License — \$100;

(m) Wall Display Certificate — \$30;

(n) License Verification — \$20;

(o) Law and Administrative Rules Booklet — \$25;

(p) List of Licensees — \$25–\$50;

(q) Late Renewal application, payment, continuing optometric education — \$50 — \$200.

(r) Failure to notify the Board of practice locations — \$50–\$200

(2) The Board will not refund any fee unless there has been an error by the Board in the charging of the fee. Information not known by the Board because the licensee, applicant, etc. has not supplied the correct information is not considered an error.

Stat. Auth.: ORS 683 & 182

Stats. Implemented: ORS 683.270 & 182.466

Hist.: OPT 1-2001, f. 6-26-01, cert. ef. 7-1-01; OPT 1-2003, f. 6-12-03, cert. ef. 7-1-03; OPT 3-2005, f. 6-29-05, cert. ef. 7-1-05; OPT 3-2006, f. 3-20-06, cert. ef. 7-1-06; OPT 1-2007, f. 5-21-07, cert. ef. 7-1-07

852-050-0005

Certificate of Registration

(1) Upon the successful completion of the practical examination for licensure each licensee shall pay to the Oregon Board of Optometry a \$30 fee for the certificate of registration (wall certificate). Each licensee shall be required to pay a license renewal fee on or before the license renewal date established by the Board. The licensee will be given written notification of the license renewal period at the time of licensure. The license renewal period will remain the same for the licensee once established.

(2) If a licensee engages in practice in more than one office or place of business, the licensee shall acquire and post a current license conspicuously in each additional office or place of business. Upon written application of the licensee, the Board shall issue such number of licenses upon receipt of \$45 for each license. The licensee must renew each practice location on an annual basis during the license renewal period.

(3) In lieu of acquiring an additional office license for each practice location, any licensee who has acquired a license to practice optometry in Oregon may elect to acquire a multiple office license which allows the

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licensee to practice at an unlimited number of additional practice locations. Upon written application of the licensee and receipt of an additional \$90 fee, the Board shall issue a license for practicing at multiple locations. This license shall be conspicuously displayed at each location prior to practicing there. It is the responsibility of the licensee to keep the Board informed of all practice locations. The licensee must renew this license to practice at multiple locations on an annual basis during the license renewal period.

(4) The licensee's status (active or inactive, T, AT or ATI certified, etc.) shall be indicated directly upon the annual license form.

Stat. Auth.: ORS 683 & 182

Stats. Implemented: ORS 683.070, 683.100, 683.120, 683.270 & 182.466

Hist.: OE 11, f. 5-19-72, ef. 6-1-72; OE 14, f. 2-20-73, ef. 3-1-73; OE 2-1980, f. 12-23-80, ef. 12-29-80; OE 2-1984, f. & ef. 7-14-84; OP 1-1987, f. & ef. 4-30-87; OP 1-1991, f. & cert. ef. 4-12-91; OP 2-1992, f. & cert. ef. 10-21-92; OP 2-1994, f. & cert. ef. 7-22-94; OP 2-1997, f. & cert. ef. 10-1-97; OPT 3-1998, f. 6-10-98, cert. ef. 7-1-98; OPT 1-2001, f. 6-18-01, cert. ef. 7-1-01; OPT 2-2002, f. & cert. ef. 12-18-02; OPT 1-2003, f. 6-12-03, cert. ef. 7-1-03; OPT 1-2007, f. 5-21-07, cert. ef. 7-1-07

852-050-0006

Annual Renewal of Active License

(1) Active licensees shall annually renew their license to practice optometry for the license period established by the Board. License year renewal periods are established by the Board based upon birth dates of licensees in order that expiration dates fall due each month of the year.

(a) If the licensee's date of birth is not available to the Board, a license renewal period will be established for the licensee.

(b) License renewals will cover 12-month license periods based upon birth dates.

(2) License renewal applications are due in the Board's office on the first day of the month of license expiration (month of licensee's birth date).

(3) The license renewal application must include the following to be considered complete:

(a) A completed license renewal form signed by the licensee;

(b) Check or money order for the correct license renewal fees;

(c) Documentation of completion of the required continuing optometric education.

(d) Documentation of current CPR certification, as required in OAR 852-80-040, if licensed to use Nontopical TPA's.

(4) The Board will, as a courtesy, send license year renewal forms to the licensees last address of record. The license renewal application is due and must be postmarked on or before the first day of the month of license expiration.

(5) A licensee who is not more than 30 days delinquent in renewing the license may renew the license upon payment to the Board of the required fee plus a delinquent fee. If a licensee is more than 30 days delinquent the license is automatically suspended upon 30 day notice given to the licensee.

(6) If a person is more than 60 days in renewing the license the person may be required to take an examination and pay the examination fee as required in ORS 683.060. The Board may, upon written application, waive the examination requirement when in its opinion it is in the best interest of the public to do so.

(7) The annual fee for the renewal of a license to practice optometry shall be \$243, plus an additional \$20 assessed for continuing education offerings and a \$35.00 disciplinary fee.

(8) Any licensee whose license renewal fee is postmarked after the first day of the month of license expiration shall be subject to a late payment fee of \$50 for the first failure; \$100 for the second failure; \$200 for each subsequent failure. This late payment fee must be received before the license will be issued.

Stat. Auth.: ORS 683 & 182

Stats. Implemented: ORS 683.070, 683.100, 683.120, 683.270 & 182.466

Hist.: OE 2-1982, f. & ef. 3-18-82; OE 2-1984, f. & ef. 7-14-84; OP 1-1987, f. & ef. 4-30-87; OP 1-1988, f. & cert. ef. 6-28-88; OP 1-1989, f. 1-13-89, cert. ef. 1-16-89; OP 2-1992, f. & cert. ef. 10-21-92; OP 3-1993, f. & cert. ef. 10-27-93; OP 2-1997, f. & cert. ef. 10-1-97; OPT 3-1998, f. 6-10-98, cert. ef. 7-1-98; OPT 1-2001, f. 6-18-01, cert. ef. 7-1-01; OPT 1-2002, f. & cert. ef. 7-26-02; OPT 1-2003, f. 6-12-03, cert. ef. 7-1-03; OPT 3-2005, f. 6-29-05, cert. ef. 7-1-05; OPT 2-2006, f. 3-20-06, cert. ef. 4-1-06; OPT 3-2006, f. 3-20-06, cert. ef. 7-1-06; OPT 1-2007, f. 5-21-07, cert. ef. 7-1-07

852-050-0012

Inactive Status License

(1) Eligible licensees may be granted an inactive status license by petitioning the board by letter.

(a) If the licensee's date of birth is not available to the Board, a license renewal period will be established for the licensee.

(2) Inactive licensees shall annually renew their license to practice optometry for the license period established by the Board. License year renewal periods are established by the Board based upon birth dates of

licensees in order that expiration dates fall due each month of the year. License renewals will cover 12-month license periods based upon birth dates.

(3) License renewal applications are due in the Board's office on the first day of the month of license expiration (month of licensee's birth date).

(4) The license renewal application must include the following to be considered complete:

(a) A completed license renewal form signed by the licensee;

(b) Check or money order for the correct license renewal fees;

(5) The Board will, as a courtesy, send license year renewal forms to inactive status licensees last address of record. The license renewal application is due and must be postmarked on or before the first day of the month of license expiration.

(6) A licensee who is not more than 30 days delinquent in renewing the license may renew the license upon payment to the Board of the required fee plus a delinquent fee. If a licensee is more than 30 days delinquent the license is automatically suspended upon 30 day notice given to the licensee.

(7) If a person is more than 60 days delinquent in renewing the license the person may be required to take an examination and pay the examination fee as required in ORS 683.060. The Board may, upon written application, waive the examination requirement when in its opinion it is in the best interest of the public to do so.

(8) The renewal fee for inactive status licensees shall be \$98.

(9) Any licensee whose license renewal fee is postmarked after the first day of the month of license expiration shall be subject to a late payment fee of \$50 for the first failure; \$100 for the second failure; \$200 for each subsequent failure. This late payment fee must be received before the license will be issued.

(10) To reactivate a license to practice optometry in Oregon an inactive status licensee shall meet the following prior to the first day of practice in Oregon:

(a) Pay the difference between the inactive and active status license renewal fees;

(b) Submit continuing education hours equivalent to Oregon requirements for the previous license renewal period;

(c) submit documentation of current CPR certification, as required in OAR 852-80-040, if licensed to use Nontopical TPA's;

(d) Submit the inactive license certificate issued during the current license renewal period;

(e) Provide the Board's office with the current practice location in the State of Oregon;

(f) Submit written verification of good standing from state(s) licensed. This verification shall contain a statement to indicate the status of the licensee regarding past and/or present sanctioning or investigations for sanctioning; and

(g) Pass the Oregon optometric law and administrative rules examination if it has been more than two years since the person held an active status license in Oregon.

(h) If the request for reactivation occurs within one year from the date of being placed in inactive license status by the Board there will be a \$100 reactivation fee in addition to the other conditions in (a) through (f) above.

Stat. Auth.: ORS 683 & 182

Stats. Implemented: ORS 683.070, 683.100, 683.120, 683.270 & 182.466

Hist.: OE 2-1984, f. & ef. 7-14-84; OP 1-1987, f. & ef. 4-30-87; OP 2-1992, f. & cert. ef. 10-21-92; OP 3-1993, f. & cert. ef. 10-27-93; OP 2-1997, f. & cert. ef. 10-1-97; OPT 3-1998, f. 6-10-98, cert. ef. 7-1-98; OPT 1-2001, f. 6-18-01, cert. ef. 7-1-01; OPT 1-2002, f. & cert. ef. 7-26-02; OPT 1-2003, f. 6-12-03, cert. ef. 7-1-03; OPT 2-2006, f. 3-20-06, cert. ef. 4-1-06; OPT 1-2007, f. 5-21-07, cert. ef. 7-1-07

852-080-0040

Certification to Use Pharmaceutical Agents

(1) Topical TPA Certification (T) for inactive status licensee — Any doctor of optometry licensed in Oregon in inactive status must:

(a) Pass the National Board of Examiners in Optometry's "Treatment and Management of Ocular Disease" (TMOD) or have passed a 100 hour TPA course approved by the Board and have been continuously practicing using therapeutic pharmaceutical agents in another state or states without disciplinary incident;

(b) Pay a \$75 TPA examination and licensure fee for topical TPA certification; and

(c) Receive a certificate from the Oregon Board of Optometry indicating "Certified to use Topical Therapeutic Pharmaceutical Agents".

(2) Nontopical TPA Certification (AT) for active status licensee — Prior to using nontopical therapeutic pharmaceutical agents as listed in this rule, any doctor of optometry licensed in Oregon in active status must:

(a) Meet Topical TPA Certification;

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(b) Pass a didactic Nontopical TPA course of at least 23 hours approved by the Board or pass the National Board of Examiners in Optometry's "Treatment and Management of Ocular Disease" (TMOD), year 2002 or subsequent examination;

(c) Pay a \$75 TPA examination and licensure fee for nontopical TPA certification;

(d) Receive and prominently display a certificate from the Oregon Board of Optometry indicating "Certified to use Topical and Nontopical Therapeutic Pharmaceutical Agents"; and

(e) Acquire and maintain CPR certification. The CPR certification shall be the American Heart Association's BLS Healthcare Providers Course or its equivalent, as determined by the Board. This CPR course shall be a hands-on course; online CPR courses will not be approved by the Board for initial CPR certification.

(i) After the initial CPR certification, the Board will accept a BLS Healthcare Providers Online Renewal course. A CPR certification card with an expiration date must be received from the CPR provider. A hands-on component is required for renewal CPR certification. An online CPR course that is not equivalent will not be approved by the Board.

(ii) The Board shall consider the CPR expiration date to be the last day of the month that the CPR instructor indicates that the certification expires.

(iii) Documentation of CPR certification is due with the licensee's annual license renewal as indicated in OAR 852-050-006. Failure to maintain current CPR certification will result in immediate automatic loss of Nontopical TPA certification. The Nontopical TPA certification will not be reinstated until the CPR certification deficiency has been corrected.

(iv) Any licensee whose Nontopical TPA certification is lost due to expiration of their CPR certification shall be subject to a fee of \$50 to have the Nontopical TPA certification reinstated. The fee must be received before the Nontopical TPA certification will be reinstated.

(3) Nontopical TPA Certification (AT) for inactive status licensee — Any doctor of optometry licensed in Oregon in inactive status must:

(a) Meet all criteria for Topical TPA Certification in OAR 852-080-0040(1);

(b) Pass a didactic Nontopical TPA course of at least 23 hours approved by the Board or pass the National Board of Examiners in Optometry's "Treatment and Management of Ocular Disease" (TMOD), year 2002 or subsequent examination;

(c) Pay a \$75 TPA examination and licensure fee for nontopical TPA certification;

(d) Receive and prominently display a certificate from the Oregon Board of Optometry indicating "Certified to use Topical and Nontopical Therapeutic Pharmaceutical Agents"; and

(e) Acquire CPR certification. The CPR certification shall be the American Heart Association's BLS Healthcare Providers Course or its equivalent, as determined by the Board. This CPR course shall be a hands-on course; online CPR courses will not be approved by the Board for initial CPR certification. A CPR certification card with an expiration date must be received from the CPR provider. The Board shall consider the CPR expiration date to be the last day of the month that the CPR instructor indicates that the certification expires.

(4) Nontopical TPA Certification with Injections (ATI) for active status licensee — Prior to using nontopical therapeutic pharmaceutical agents with injections as listed in this rule, any doctor of optometry licensed in Oregon in active status must:

(a) Pass a didactic Nontopical TPA course of at least 23 hours approved by the Board or pass the National Board of Examiners in Optometry's "Treatment and Management of Ocular Disease" (TMOD), year 2002 or subsequent examination,

(b) Pass a Nontopical TPA injection workshop of at least 7 hours approved by the Board or provide proof of equivalent training acceptable to the Board,

(c) Pay a \$75 TPA examination and licensure fee for nontopical TPA certification,

(d) Receive and prominently display a certificate from the Oregon Board of Optometry indicating "Certified to use Topical and Nontopical Therapeutic Pharmaceutical Agents with Injections"; and

(e) Acquire and maintain CPR certification. The CPR certification shall be the American Heart Association's BLS Healthcare Providers Course or its equivalent, as determined by the Board. This CPR course shall be a hands-on course; online CPR courses will not be approved by the Board for initial CPR certification.

(i) After the initial CPR certification, the Board will accept a BLS Healthcare Providers Online Renewal course. A CPR certification card with

an expiration date must be received from the CPR provider. A hands-on component is required for renewal CPR certification. An online CPR course that is not equivalent will not be approved by the Board.

(ii) The Board shall consider the CPR expiration date to be the last day of the month that the CPR instructor indicates that the certification expires.

(iii) Documentation of CPR certification is due with the licensee's annual license renewal as indicated in OAR 852-050-006. Failure to maintain current CPR certification will result in immediate automatic loss of Nontopical TPA certification. The Nontopical TPA certification will not be reinstated until the CPR certification deficiency has been corrected.

(iv) Any licensee whose Nontopical TPA certification is lost due to expiration of their CPR certification shall be subject to a fee of \$50 to have the Nontopical TPA certification reinstated. The fee must be received before the Nontopical TPA certification will be reinstated.

(f) Effective April 1, 2006, all doctors of optometry that have been certified by the board as meeting the requirements for Nontopical TPA Certification and met the original certification requirements which included the injections workshop, will automatically have their licensure and certification changed to Nontopical TPA Certification with Injections.

(5) Nontopical TPA Certification with Injections (ATI) for inactive status licensee — Prior to using nontopical therapeutic pharmaceutical agents with injections as listed in this rule, any doctor of optometry licensed in Oregon in inactive status must:

(a) Pass a didactic Nontopical TPA course of at least 23 hours approved by the Board or pass the National Board of Examiners in Optometry's "Treatment and Management of Ocular Disease" (TMOD), year 2002 or subsequent examination;

(b) Pass a Nontopical TPA injection workshop of at least 7 hours approved by the Board or provide proof of equivalent training acceptable to the Board;

(c) Pay a \$75 TPA examination and licensure fee for nontopical TPA certification;

(d) Receive and prominently display a certificate from the Oregon Board of Optometry indicating "Certified to use Topical and Nontopical Therapeutic Pharmaceutical Agents with Injections"; and

(e) Acquire CPR certification. The CPR certification shall be the American Heart Association's BLS Healthcare Providers Course or its equivalent, as determined by the Board. This CPR course shall be a hands-on course; online CPR courses will not be approved by the Board for initial CPR certification. A CPR certification card with an expiration date must be received from the CPR provider. The Board shall consider the CPR expiration date to be the last day of the month that the CPR instructor indicates that the certification expires.

(f) Effective April 1, 2006, all doctors of optometry that have been certified by the board as meeting the requirements for Nontopical TPA Certification and met the original certification requirements which included the injections workshop, will automatically have their licensure and certification changed to Nontopical TPA Certification with Injections.

Stat. Auth.: ORS 683 & 182

Stats. Implemented: ORS 683.270 & 182.466

Hist.: OP 1-1994, f. 5-4-94, cert. ef. 5-9-94; OPT 2-1999, f. 12-29-99, cert. ef. 1-1-00; OPT 1-2002, f. & cert. ef. 7-26-02; OPT 3-2003, f. 9-15-03, cert. ef. 10-1-03; OPT 3-2004, f. 9-24-04, cert. ef. 10-1-04; OPT 2-2005, f. & cert. ef. 4-8-05; OPT 2-2006, f. 3-20-06, cert. ef. 4-1-06; OPT 4-2006, f. & cert. ef. 8-2-06; OPT 1-2007, f. 5-21-07, cert. ef. 7-1-07

Bureau of Labor and Industries Chapter 839

Rule Caption: Amends the prevailing rates of wage for the period beginning January 1, 2007.

Adm. Order No.: BLI 12-2007

Filed with Sec. of State: 5-31-2007

Certified to be Effective: 5-31-07

Notice Publication Date:

Rules Amended: 839-025-0700

Subject: The amended rule amends the prevailing rates of wage as determined by the Commissioner of the Bureau of Labor and Industries for the period beginning January 1, 2007.

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

839-025-0700

Prevailing Wage Rate Determination/Amendments to Determination

(1) Pursuant to ORS 279C.815, the Commissioner of the Bureau of Labor and Industries has determined that the wage rates stated in publications of the Bureau of Labor and Industries entitled *Prevailing Wage Rates*

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on *Public Works Contracts in Oregon* and *Prevailing Wage Rates for Public Works Contracts in Oregon* subject to BOTH the state PWR and federal Davis-Bacon Act dated January 1, 2007, are the prevailing rates of wage for workers upon public works in each trade or occupation in the locality where work is performed for the period beginning January 1, 2007, and the effective dates of the applicable special wage determination and rates amendments:

(a) Marine Rates for Public Works Contracts in Oregon (effective October 4, 2006).

(b) Amendments/Corrections to January 1, 2007 PWR Rates for Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act (reflecting changes to Davis-Bacon rates effective January 19, 2007).

(c) Amendments/Corrections to January 1, 2007 PWR Rates for Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act (reflecting changes to Davis-Bacon rates effective February 16, 2007).

(d) Amendment to Oregon Determination 2007-01 (effective April 1, 2007).

(e) Amendments/Corrections to January 1, 2007 PWR Rates for Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act (reflecting changes to Davis-Bacon rates effective March 23, 2007).

(f) Amendments/Corrections to January 1, 2007 PWR Rates for Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act (reflecting changes to Davis-Bacon rates effective April 1, 2007).

(g) Amendments/Corrections to January 1, 2007 PWR Rates for Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act (reflecting changes to Davis-Bacon rates effective April 20, 2007).

(h) Amendments/Corrections to January 1, 2007 PWR Rates for Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act (reflecting changes to Davis-Bacon rates effective May 18, 2007).

(2) Copies of *Prevailing Wage Rates on Public Works Contracts in Oregon* and *Prevailing Wage Rates for Public Works Contracts in Oregon* subject to BOTH the state PWR and federal Davis-Bacon Act dated January 1, 2007, are available from any office of the Wage and Hour Division of the Bureau of Labor and Industries. The offices are located in Eugene, Medford, Portland and Salem and are listed in the blue pages of the phone book. Copies are also available on the bureau's webpage at www.oregon.gov/boli or may be obtained from the Prevailing Wage Rate Coordinator, Prevailing Wage Rate Unit, Wage and Hour Division, Bureau of Labor and Industries, 800 NE Oregon Street #1045, Portland, Oregon 97232; (971) 673-0839.

Stat. Auth.: ORS 279C.815, 651.060

Stats. Implemented: ORS.279C.815

Hist.: BLI 7-1998(Temp), f. & cert. ef. 10-29-98 thru 4-27-99; BLI 1-1999, f. 1-8-99, cert. ef. 1-15-99; BLI 4-1999, f. 6-16-99, cert. ef. 7-1-99; BLI 6-1999, f. & cert. ef. 7-23-99; BLI 9-1999, f. 9-14-99, cert. ef. 10-1-99; BLI 16-1999, f. 12-8-99, cert. ef. 1-1-00; BLI 4-2000, f. & cert. ef. 2-1-00; BLI 9-2000, f. & cert. ef. 3-1-00; BLI 10-2000, f. 3-17-00, cert. ef. 4-1-00; BLI 22-2000, f. 9-25-00, cert. ef. 10-1-00; BLI 26-2000, f. 12-14-00 cert. ef. 1-1-01; BLI 1-2001, f. & cert. ef. 1-5-01; BLI 3-2001, f. & cert. ef. 3-15-01; BLI 4-2001, f. 3-27-01, cert. ef. 4-1-01; BLI 5-2001, f. 6-21-01, cert. ef. 7-1-01; BLI 8-2001, f. & cert. ef. 7-20-01; BLI 14-2001, f. 9-26-01, cert. ef. 10-1-01; BLI 16-2001, f. 12-28-01, cert. ef. 1-1-02; BLI 2-2002, f. 1-16-02, cert. ef. 1-18-02; BLI 8-2002, f. 3-25-02, cert. ef. 4-1-02; BLI 12-2002 f. 6-19-02 cert. ef. 7-1-02; BLI 16-2002, f. 12-24-02 cert. ef. 1-1-03; BLI 1-2003, f. 1-29-03, cert. ef. 2-14-03; BLI 3-2003, f. & cert. ef. 4-1-03; BLI 4-2003, f. 6-26-03, cert. ef. 7-1-03; BLI 5-2003, f. 9-17-03, cert. ef. 10-1-03; BLI 9-2003, f. 12-31-03, cert. ef. 1-5-04; BLI 1-2004, f. 4-9-04, cert. ef. 4-15-04; BLI 6-2004, f. 6-25-04, cert. ef. 7-1-04; BLI 11-2004, f. & cert. ef. 10-1-04; BLI 17-2004, f. 12-10-04 cert. ef. 12-13-04; BLI 18-2004, f. 12-20-04, cert. ef. 1-1-05; Renumbered from 839-016-0700, BLI 7-2005, f. 2-25-05, cert. ef. 3-1-05; BLI 8-2005, f. 3-29-05, cert. ef. 4-1-05; BLI 18-2005, f. 9-19-05, cert. ef. 9-20-05; BLI 19-2005, f. 9-23-05, cert. ef. 10-1-05; BLI 26-2005, f. 12-23-05, cert. ef. 1-1-06; BLI 1-2006, f. 1-24-06, cert. ef. 1-25-06; BLI 2-2006, f. & cert. ef. 2-9-06; BLI 4-2006, f. 2-23-06, cert. ef. 2-24-06; BLI 14-2006, f. 3-30-06, cert. ef. 4-1-06; BLI 20-2006, f. & cert. ef. 6-16-06; BLI 21-2006, f. 6-16-06 cert. ef. 7-1-06; BLI 23-2006, f. 6-27-06 cert. ef. 6-29-06; BLI 25-2006, f. & cert. ef. 7-11-06; BLI 26-2006, f. & cert. ef. 7-13-06; BLI 28-2006, f. 7-21-06, cert. ef. 7-24-06; BLI 29-2006, f. 8-8-06, cert. ef. 8-9-06; BLI 32-2006, f. & cert. ef. 9-13-06; BLI 33-2006, f. 9-28-06, cert. ef. 10-1-06; BLI 36-2006, f. & cert. ef. 10-4-06; BLI 37-2006, f. & cert. ef. 10-19-06; BLI 40-2006, f. 11-17-06, cert. ef. 11-20-06; BLI 43-2006, f. 12-7-06, cert. ef. 12-8-06; BLI 45-2006, f. 12-26-06, cert. ef. 1-1-07; BLI 5-2007, f. 1-30-07, cert. ef. 1-31-07; BLI 6-2007, f. & cert. ef. 3-5-07; BLI 7-2007, f. 3-28-07, cert. ef. 3-30-07; BLI 8-2007, f. 3-29-07, cert. ef. 4-1-07; BLI 9-2007, f. & cert. ef. 4-2-07; BLI 10-2007, f. & cert. ef. 4-30-07; BLI 12-2007, f. & cert. ef. 5-31-07

Rule Caption: Amends the prevailing rates of wage for the period beginning January 1, 2007.

Adm. Order No.: BLI 13-2007

Filed with Sec. of State: 6-8-2007

Certified to be Effective: 6-11-07

Notice Publication Date:

Rules Amended: 839-025-0700

Subject: The amended rule amends the prevailing rates of wage as determined by the Commissioner of the Bureau of Labor and Industries for the period beginning January 1, 2007.

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

839-025-0700

Prevailing Wage Rate Determination/Amendments to Determination

(1) Pursuant to ORS 279C.815, the Commissioner of the Bureau of Labor and Industries has determined that the wage rates stated in publications of the Bureau of Labor and Industries entitled *Prevailing Wage Rates on Public Works Contracts in Oregon* and *Prevailing Wage Rates for Public Works Contracts in Oregon* subject to BOTH the state PWR and federal Davis-Bacon Act dated January 1, 2007, are the prevailing rates of wage for workers upon public works in each trade or occupation in the locality where work is performed for the period beginning January 1, 2007, and the effective dates of the applicable special wage determination and rates amendments:

(a) Marine Rates for Public Works Contracts in Oregon (effective October 4, 2006).

(b) Amendments/Corrections to January 1, 2007 PWR Rates for Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act (reflecting changes to Davis-Bacon rates effective January 19, 2007).

(c) Amendments/Corrections to January 1, 2007 PWR Rates for Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act (reflecting changes to Davis-Bacon rates effective February 16, 2007).

(d) Amendment to Oregon Determination 2007-01 (effective April 1, 2007).

(e) Amendments/Corrections to January 1, 2007 PWR Rates for Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act (reflecting changes to Davis-Bacon rates effective March 23, 2007).

(f) Amendments/Corrections to January 1, 2007 PWR Rates for Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act (reflecting changes to Davis-Bacon rates effective April 1, 2007).

(g) Amendments/Corrections to January 1, 2007 PWR Rates for Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act (reflecting changes to Davis-Bacon rates effective April 20, 2007).

(h) Amendments/Corrections to January 1, 2007 PWR Rates for Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act (reflecting changes to Davis-Bacon rates effective May 18, 2007).

(i) Amendments/Corrections to January 1, 2007 PWR Rates for Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act (reflecting changes to Davis-Bacon rates effective June 1, 2007).

(2) Copies of *Prevailing Wage Rates on Public Works Contracts in Oregon* and *Prevailing Wage Rates for Public Works Contracts in Oregon* subject to BOTH the state PWR and federal Davis-Bacon Act dated January 1, 2007, are available from any office of the Wage and Hour Division of the Bureau of Labor and Industries. The offices are located in Eugene, Medford, Portland and Salem and are listed in the blue pages of the phone book. Copies are also available on the bureau's webpage at www.oregon.gov/boli or may be obtained from the Prevailing Wage Rate Coordinator, Prevailing Wage Rate Unit, Wage and Hour Division, Bureau of Labor and Industries, 800 NE Oregon Street #1045, Portland, Oregon 97232; (971) 673-0839.

Stat. Auth.: ORS 279C.815, 651.060

Stats. Implemented: ORS.279C.815

Hist.: BLI 7-1998(Temp), f. & cert. ef. 10-29-98 thru 4-27-99; BLI 1-1999, f. 1-8-99, cert. ef. 1-15-99; BLI 4-1999, f. 6-16-99, cert. ef. 7-1-99; BLI 6-1999, f. & cert. ef. 7-23-99; BLI 9-1999, f. 9-14-99, cert. ef. 10-1-99; BLI 16-1999, f. 12-8-99, cert. ef. 1-1-00; BLI 4-2000, f. & cert. ef. 2-1-00; BLI 9-2000, f. & cert. ef. 3-1-00; BLI 10-2000, f. 3-17-00, cert. ef. 4-1-00; BLI 22-2000, f. 9-25-00, cert. ef. 10-1-00; BLI 26-2000, f. 12-14-00 cert. ef. 1-1-01; BLI 1-2001, f. & cert. ef. 1-5-01; BLI 3-2001, f. & cert. ef. 3-15-01; BLI 4-2001, f. 3-27-01, cert. ef. 4-1-01; BLI 5-2001, f. 6-21-01, cert. ef. 7-1-01; BLI 8-2001, f. & cert. ef. 7-20-01; BLI 14-2001, f. 9-26-01, cert. ef. 10-1-01; BLI 16-2001, f. 12-28-01, cert. ef. 1-1-02; BLI 2-2002, f. 1-16-02, cert. ef. 1-18-02; BLI 8-2002, f. 3-25-02, cert. ef. 4-1-02; BLI 12-2002 f. 6-19-02 cert. ef. 7-1-02; BLI 16-2002, f. 12-24-02 cert. ef. 1-1-03; BLI 1-2003, f. 1-29-03, cert. ef. 2-14-03; BLI 3-2003, f. & cert. ef. 4-1-03; BLI 4-2003, f. 6-26-03, cert. ef. 7-1-03; BLI 5-2003, f. 9-17-03, cert. ef. 10-1-03; BLI 9-2003, f. 12-31-03, cert. ef. 1-5-04; BLI 1-2004, f. 4-9-04, cert. ef. 4-15-04; BLI 6-2004, f. 6-25-04, cert. ef. 7-1-04; BLI 11-2004, f. & cert. ef. 10-1-04

ADMINISTRATIVE RULES

04; BLI 17-2004, f. 12-10-04 cert. ef. 12-13-04; BLI 18-2004, f. 12-20-04, cert. ef. 1-1-05; Renumbered from 839-016-0700, BLI 7-2005, f. 2-25-05, cert. ef. 3-1-05; BLI 8-2005, f. 3-29-05, cert. ef. 4-1-05; BLI 18-2005, f. 9-19-05, cert. ef. 9-20-05; BLI 19-2005, f. 9-23-05, cert. ef. 10-1-05; BLI 26-2005, f. 12-23-05, cert. ef. 1-1-06; BLI 1-2006, f. 1-24-06, cert. ef. 1-25-06; BLI 2-2006, f. & cert. ef. 2-9-06; BLI 4-2006, f. 2-23-06, cert. ef. 2-24-06; BLI 14-2006, f. 3-30-06, cert. ef. 4-1-06; BLI 20-2006, f. & cert. ef. 6-16-06; BLI 21-2006, f. 6-16-06 cert. ef. 7-1-06; BLI 23-2006, f. 6-27-06 cert. ef. 6-29-06; BLI 25-2006, f. & cert. ef. 7-11-06; BLI 26-2006, f. & cert. ef. 7-13-06; BLI 28-2006, f. 7-21-06, cert. ef. 7-24-06; BLI 29-2006, f. 8-8-06, cert. ef. 8-9-06; BLI 32-2006, f. & cert. ef. 9-13-06; BLI 33-2006, f. 9-28-06, cert. ef. 10-1-06; BLI 36-2006, f. & cert. ef. 10-4-06; BLI 37-2006, f. & cert. ef. 10-19-06; BLI 40-2006, f. 11-17-06, cert. ef. 11-20-06; BLI 43-2006, f. 12-7-06, cert. ef. 12-8-06; BLI 45-2006, f. 12-26-06, cert. ef. 1-1-07; BLI 5-2007, f. 1-30-07, cert. ef. 1-31-07; BLI 6-2007, f. & cert. ef. 3-5-07; BLI 7-2007, f. 3-28-07, cert. ef. 3-30-07; BLI 8-2007, f. 3-29-07, cert. ef. 4-1-07; BLI 9-2007, f. & cert. ef. 4-2-07; BLI 10-2007, f. & cert. ef. 4-30-07; BLI 12-2007, f. & cert. ef. 5-31-07; BLI 13-2007, f. 6-8-07, cert. ef. 6-11-07

Department of Administrative Services Chapter 125

Rule Caption: Temporary Rule Amendment confirming requirements for Ballot Measure 37 claims filed after December 4, 2006, concerning State Land Use Regulations.

Adm. Order No.: DAS 1-2007

Filed with Sec. of State: 6-1-2007

Certified to be Effective: 6-5-07

Notice Publication Date: 5-1-07

Rules Amended: 125-145-0020, 125-145-0040

Subject: This rule amendment specifies the requirements for Measure 37 claims made to the State of Oregon. These amendments specify general requirements for Measure 37 claims made after December 4, 2006. The rules also incorporate by cross-reference, more specific requirements for Measure 37 claims involving state land use regulations administered by DLCD, such as the Statewide Land Use Planning Goals and rules that implement them, as well as ORS Chapter 215.

Rules Coordinator: Cheryl Knottingham—(503) 378-2349 ext. 325

125-145-0020

Definitions

The following definitions apply to this division:

- (1) Agency has the meaning provided by ORS 183.310.
- (2) Claim means a written demand for compensation under ORS 197.352.
- (3) Claimant means the owner who submitted a Claim, or the owner on whose behalf a Claim was submitted.
- (4) Department means the Department of Administrative Services.
- (5) DLCD Regulation has the meaning provided by OAR 660-041-0010.
- (6) Land Use Regulation has the meaning provided in ORS 197.352. An Existing State Land Use Regulation means a Land Use Regulation that was enacted by the State of Oregon or adopted by an Agency, with an effective date before December 2, 2004. A New State Land Use Regulation means a Land Use Regulation that was enacted by the State of Oregon or adopted by an Agency, with an effective date on or after December 2, 2004.
- (7) Lot means a single unit of land that is created by a subdivision of land as defined in ORS 92.010.
- (8) Measure 37 means ORS 197.352.
- (9) Parcel means a single unit of land that is created by a partitioning of land as defined in ORS 92.010 and ORS 215.010.
- (10) Property means the Lot or Parcel that is or that includes the private real property that is the subject of a Claim.
- (11) Reduction in Fair Market Value means the decrease (if any) in the fair market value of the Property resulting from enactment or enforcement of the Land Use Regulation(s) identified in the Claim as of the date the Claim is submitted to the Department.
- (12) Registry means the database of information about Claims required by OAR 125-145-0060.
- (13) Regulating Entity means an Agency that has enacted or enforced, or has authority to remove, modify or not to apply, the Land Use Regulation(s) identified in the Claim.

Stat. Auth.: ORS 197.352, 293, 125 - 145

Stats. Implemented: ORS 197.352, 306

Hist.: DAS 5-2004(Temp), f. 11-30-04, cert. ef. 12-1-04 thru 5-29-05; DAS 2-2005(Temp), f. & cert. ef. 2-24-05 thru 5-29-05; DAS 6-2005, f. & cert. ef. 5-27-05; Suspended by DAS 13-2005(Temp), f. & cert. ef. 11-4-05 thru 5-3-06; DAS 2-2006(Temp), f. 3-10-06, cert. ef. 3-13-06 thru 9-8-06; Administrative correction 9-21-06; DAS 7-2006(Temp), f. & cert. ef. 12-6-06 thru 6-4-07; DAS 1-2007, f. 6-1-07, cert. ef. 6-5-07

125-145-0040

Contents of a Claim

A Claim must contain the information described in subsections (1)–(8) of this rule, along with the information described in subsection (9), (10), (11) or (12), whichever is applicable. A Claim should contain the information described in subsections (13) and (14) of this rule. A Claim that does not contain the required information may be denied as provided in OAR 125-145-0090.

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

(2) The location of the Property by reference to:

(a) The township, range, section and tax lot number for each Lot or Parcel that makes up the Property;

(b) The street address of the Property if one has been assigned;

(c) The county the Property is located in; and

(d) If the Property is located within the boundary of a city, the city the Property is located in.

(3) Evidence that the Claimant owns an interest in the Property that includes the legal right to carry out the use of the Property that the Claimant alleges has been restricted, and a copy of the document or documents conveying that interest to the Claimant. In most cases, this will be the deed conveying fee title to the Property to the Claimant, but it may also include a land sale contract or other conveyances.

(4) Evidence of the date the Claimant acquired the ownership interest in the Property and, if the Claim is based on the prior ownership of a family member of the Claimant, the date that the family member acquired an ownership interest in the Property along with evidence of the chain of title from the family member to the Claimant.

(5) Evidence or information describing any encroachments, easements, Covenants Conditions and Restrictions (CC&Rs), and any other recorded or unrecorded rights applicable to the use of the Property that may affect the Claimant's legal right to carry out the use of the Property that the Claimant alleges has been restricted. This may include a preliminary title report or comparable information from a title company.

(6) The comprehensive land use plan and zoning designation of the Property:

(A) Currently; and

(B) On the date the Claimant acquired the Property.

(7) A description of the Claimant's desired use of the Property that the Claimant alleges is restricted by one or more state Land Use Regulations. If the Claimant has filed a claim with a city or county, the Claim must include a copy of that claim, and a statement as to whether the Claimant's desired use is the same in both claims.

(8)(a) A statement acknowledged by signature of the Claimant, or the person submitting the claim if other than the Claimant, as follows: "The information contained in this Claim is true and correct to the best of my knowledge." It is a crime under ORS 162.085 to certify the truth of a statement when the person certifying knows the statement is not true. This offense is a Class B misdemeanor and is punishable by a jail sentence of up to six months, a fine of up to \$2,500, or both.

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

(9) A Claim received by the Department on or before December 4, 2006, must identify the state Land Use Regulation(s) that the Claim is based on, and include evidence or information that demonstrates the following:

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

(b) The amount by which the enforcement or enactment of the state Land Use Regulation(s) has caused a Reduction in the Fair Market Value of the Property.

(10) A Claim received by the Department after December 4, 2006 that demands compensation based on one or more Existing State Land Use Regulations must be received by the Department within two years of the date a city, county, Metro, or an Agency applied the Existing State Land Use Regulation as an approval criterion to an application submitted by the owner of the property. These Claims must include evidence or information that demonstrates the amount by which the enactment or enforcement of the state Land Use Regulation has caused a Reduction in the Fair Market Value of the Property, and one or more of the following:

ADMINISTRATIVE RULES

(a) If the Claim is based on a DLCD Regulation, the Claim must include the material required by OAR 660-041-0020(1)(b);

(b) If the Claim is based on an Existing State Land Use Regulation other than a DLCD Regulation, the Claim must include a copy of the final written action by an Agency on a complete application to the Agency, in which Agency determined that the Existing State Land Use Regulation was an approval criterion for the application.

(11) A Claim received by the Department after December 4, 2006 that demands compensation based on one or more New State Land Use Regulations must be received by the Department within two years of the effective date of the New State Land Use Regulation, or within two years of the date the Claimant submitted a complete land use application to a city, a county or Metro in which the New State Land Use Regulation was an approval criterion for the land use application, whichever is later.

(12) If a Claim received by the Department after December 4, 2006 contains a demand for compensation based on both Existing and New State Land Use Regulations, the requirements of both subsections (10) and (11) of this section must be met.

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

(14) Evidence that may be submitted to address the requirements of this section include, but are not limited to, the following: current tax assessor's maps of the Property and the surrounding area; a title report for the Property; an appraisal report for the Property by a certified appraiser; the deed or other instrument conveying the Property to the Claimant; Covenants, Conditions & Restrictions (CC&Rs) relating to the Property; land use applications, staff reports and decisions concerning the Claimant's desired use of the Property; applications for permits, staff reports and decisions concerning the Claimant's desired use of the Property.

Stat. Auth.: ORS 197.352, 293, 125 - 145

Stats. Implemented: ORS 197.352, 306

Hist.: DAS 5-2004(Temp), f. 11-30-04, cert. ef. 12-1-04 thru 5-29-05; DAS 2-2005(Temp), f. & cert. ef. 2-24-05 thru 5-29-05; DAS 6-2005, f. & cert. ef. 5-27-05; Suspended by DAS 13-2005(Temp), f. & cert. ef. 11-4-05 thru 5-3-06; DAS 2-2006(Temp), f. 3-10-06, cert. ef. 3-13-06 thru 9-8-06; Administrative correction 9-21-06; DAS 7-2006(Temp), f. & cert. ef. 12-6-06 thru 6-4-07; DAS 1-2007, f. 6-1-07, cert. ef. 6-5-07

Rule Caption: Measure 37 rule revisions to extend comment period for responses to neighbor notices, and responses to draft staff reports, from 10 to 15 days.

Adm. Order No.: DAS 2-2007(Temp)

Filed with Sec. of State: 6-11-2007

Certified to be Effective: 6-11-07 thru 12-8-07

Notice Publication Date:

Rules Amended: 125-145-0080, 125-045-0100

Subject: The recommended revisions to these two Measure 37 rules would change the comment period for responses to neighbor notices, and for responses to draft staff reports, from 10 to 15 days. The revision will provide additional time for claimants, neighbors, and other interested parties to comment on these critical elements of the M37 waiver consideration process. This rule change will not impact the total time allowed to process any individual claim; it would run within the statutory defined time period.

Rules Coordinator: Cheryl Knottingham—(503) 378-2349, ext. 325

125-145-0080

Third Party Participation

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

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

(3) Comments, evidence and information from third parties must be submitted within fifteen (15) days of the date the notice under this rule is sent or information about the Claim first appeared in the Registry, whichever is later, and must be submitted to the location and in the manner described in OAR 125-145-0030. Comments, evidence and information will be submitted in a timely fashion if either postmarked on the fifteenth (15th) day or actually delivered to the Department by the close of business on the fifteenth (15th) day.

Stat. Auth.: ORS 293.295 - 293.515

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

Hist.: DAS 5-2004(Temp), f. 11-30-04, cert. ef. 12-1-04 thru 5-29-05; DAS 2-2005(Temp), f. & cert. ef. 2-24-05 thru 5-29-05; DAS 6-2005, f. & cert. ef. 5-27-05; Suspended by DAS 13-2005(Temp), f. & cert. ef. 11-4-05 thru 5-3-06; DAS 2-2006(Temp), f. 3-10-06, cert. ef. 3-13-06 thru 9-8-06; Administrative correction 9-21-06; DAS 2-2007(Temp), f. & cert. ef. 6-11-07 thru 12-8-07

125-145-0100

Regulating Entity Review and Decision Process

(1) A Regulating Entity that receives a claim from the Department, shall issue a staff report addressing at least the issues listed in subsection (2). The staff report shall be mailed to the Claimant, person who submitted the Claim, if different, and any third parties who submitted comments under OAR 125-145-0080, and shall be mailed or otherwise delivered to the Department and other Regulating Entities, if any.

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

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

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

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

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

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

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

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

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

(3) The Claimant or the Claimant's authorized agent and any third parties who submitted comments under OAR 125-145-0080 may submit comments, evidence and information in response to the staff report. Such response must be filed no more than fifteen (15) days after the date the staff report is mailed to the Claimant and any third parties, at the location and in the manner described in OAR 125-145-0030. Such responses will be submitted in a timely fashion if either postmarked on the fifteenth (15th) day, or actually delivered to the Department by the close of business on the fifteenth (15th) day.

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

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

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

Stat. Auth.: ORS 293.295 - 293.515

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

Hist.: DAS 5-2004(Temp), f. 11-30-04, cert. ef. 12-1-04 thru 5-29-05; DAS 2-2005(Temp), f. & cert. ef. 2-24-05 thru 5-29-05; DAS 6-2005, f. & cert. ef. 5-27-05; Suspended by DAS 13-2005(Temp), f. & cert. ef. 11-4-05 thru 5-3-06; DAS 2-2006(Temp), f. 3-10-06, cert. ef. 3-13-06 thru 9-8-06; Administrative correction 9-21-06; DAS 2-2007(Temp), f. & cert. ef. 6-11-07 thru 12-8-07

Department of Administrative Services, Office for Oregon Health Policy and Research Chapter 409

Rule Caption: Oregon Prescription Drug Program amends eligibility requirements and amends eligibility definition.

ADMINISTRATIVE RULES

Adm. Order No.: OHP 2-2007(Temp)

Filed with Sec. of State: 5-16-2007

Certified to be Effective: 5-16-07 thru 11-6-07

Notice Publication Date:

Rules Amended: 409-030-0000, 409-030-0010, 409-030-0020, 409-030-0040, 409-030-0050

Subject: Temporary rule to amend the eligibility requirements for enrollment in the OPDP, remove annual renewal requirement, amend the group participation requirements.

Rules Coordinator: Cheryl Knottingham—(503) 378-2349, ext. 325

409-030-0000

Definitions

(1) Administrator — The Administrator of the Oregon Prescription Drug Program.

(2) Department — The Department of Administrative Services acting by and through the Administrator of the Oregon Prescription Drug Program, the Office of Health Policy and Research, and any other office of the Department.

(3) Contractor(s) — One or more PBMs or TPAs authorized by the Oregon Prescription Drug Program (OPDP) to perform administrative duties of the program including but not limited to processing and paying claims, issuing I.D. cards and maintaining eligibility files.

(4) Enrollee — Any person who meets the eligibility requirements of the Oregon Prescription Drug Program according to ORS 414.312(c) or (f) pays the applicable enrollment fee and is issued an enrollment card.

(5) OPDP — Oregon Prescription Drug Program

(6) Participating Groups — Agencies or institutions eligible to participate in the OPDP according to ORS 414.312(4)(a), (b), (d), (e), (g) or (h). Group Enrollee means any person who is issued an OPDP ID card through a Participating Group.

(7) PDL — Preferred Drug List

(8) Pharmacy Benefit Manager (PBM) — An entity that, in addition to being a prescription drug claims processor, negotiates and executes contracts with pharmacies, manages preferred drug lists, negotiates rebates with prescription drug manufacturers and serves as an intermediary between the Administrator, prescription drug manufacturers and pharmacies.

(9) Pharmacy providers — Retail drug outlets that volunteer to participate in the Oregon Prescription Drug Program and that contract with the Department as a pharmacy provider.

(10) Prescription drugs — Drugs that must legally be prescribed by a practitioner authorized to prescribe drugs (legend drugs).

(11) Prescription drug claims processor — An entity that processes and pays prescription drug claims, transmits prescription drug prices and claims data between pharmacies and the OPDP and processes payments to pharmacies.

(12) Program Price — The reimbursement rates and prescription drug prices established by the Administrator of the Oregon Prescription Drug Program (OPDP), including the dispensing fee and all applicable manufacturers discounts and rebates.

(13) Rebates — Promotional or volume related refunds pre-arranged with manufacturers on certain prescription drugs used to reduce the cost to purchaser.

(14) Third Party Administrator (TPA) — An entity that, in addition to being a prescription drug claim processor, facilitates program management including processing and paying prescription drug claims; transmitting prescription drug prices and claims and enrollment data between pharmacies and the OPDP and its groups; maintaining enrollment and issuing I.D. cards; and processing payments to pharmacies. The TPA could be contracted through the Department or a PBM.

Stat. Auth.: ORS 414.320

Stats. Implemented: ORS 414.312 - 414.320

Hist.: OHP 1-2004, f. & cert. ef. 9-24-04; OHP 2-2006(Temp), f. & cert. ef. 11-28-06 thru 5-23-07; OHP 2-2007(Temp), f. & cert. ef. 5-16-07 thru 11-6-07

409-030-0010

Pharmacy Providers

(1) To be a pharmacy provider under the Oregon Prescription Drug Program (OPDP), the pharmacy must contract with the Department of Administrative Services (Department) and the pharmacy provider must be licensed with the State of Oregon Board of Pharmacy as a pharmacy in Oregon.

(2) Signing the pharmacy provider contract constitutes agreement by the pharmacy provider to comply with all applicable state and federal laws and regulations, including these rules, and the terms and conditions of the contract. The contract authorizes the pharmacy to serve Enrollees in OPDP and outlines program compliance requirements.

(3) A contract may be issued to a qualified pharmacy provider upon:

(a) Completion and signing of the contract by the pharmacy provider or a person authorized by the pharmacy provider to bind the organization to compliance with these rules;

(b) Verification of pharmacy licensing with the Oregon Board of Pharmacy. Loss of the appropriate licensure will result in immediate termination of the OPDP contract; and

(c) Approval of the contract by the Department of Administrative Services.

(4) To contract for the OPDP, the pharmacy provider must agree to:

(a) Accept the Program Price in effect on the date of the transaction as established by the Administrator including but not limited to dispensing fees which may be charged to the Enrollee;

(b) Keep sufficient documentation of transactions to resolve disagreements with the Enrollee about the amount charged for the prescription drugs;

(c) Reimburse the Enrollee or Participating Group directly for overcharges as determined by Program Price in effect on the date of the transaction;

(d) Cooperate with the Contractor designated by the Administrator for claims processing, reimbursement, and such other tasks as necessary to administer the OPDP, including providing access to records;

(e) Agree to not charge Enrollees for costs incurred by the pharmacy provider for the electronic transmittal of the Program Price from the Department to the pharmacy.

(5) Advertising:

(a) A pharmacy provider may advertise that it participates in the OPDP;

(b) Advertising or marketing materials must be accurate and not misleading or confusing to Enrollees or to the public about participation in the OPDP or the savings offered by the pharmacy provider;

(c) The pharmacy provider must stop all advertisements pertaining to participation in the program if the Department suspends or terminates the contract.

(6) The Administrator may, at its discretion, suspend or remove a pharmacy provider from the OPDP if the pharmacy provider fails to comply with any material term or condition of its contract or these rules.

Stat. Auth.: ORS 414.320

Stats. Implemented: ORS 414.312 - 414.320

Hist.: OHP 1-2004, f. & cert. ef. 9-24-04; OHP 2-2007(Temp), f. & cert. ef. 5-16-07 thru 11-6-07

409-030-0020

Program Price

(1) The price for a prescription drug a pharmacy provider can charge an Enrollee under the Oregon Prescription Drug Program (OPDP), is the lesser of the following on the date of the transaction:

(a) The Program Price, or

(b) The pharmacy provider's usual and customary price, including dispensing fee.

(2) The Contractor will transmit the price of the prescription drugs to the pharmacy providers electronically.

(3) The OPDP is limited to prescription drugs prescribed in the name of and for the use by the Enrollee, except as otherwise provided in section (8) of this Rule.

(4) Prescription drug benefits will be outlined on Enrollee and Group Enrollee identification cards.

(5) The OPDP does not include prescriptions for over-the-counter drugs.

(6) The Administrator may establish different reimbursement rates or prescription drug prices for pharmacies in rural areas to maintain statewide access to the OPDP.

(7) Certain Participating Groups may receive the Program Price based on other reimbursement arrangements with OPDP, where the prescription drug is not being dispensed by a pharmacy provider to an individual Group Enrollee. Such reimbursement arrangements shall be approved and arranged by the PBM or TPA, as appropriate.

Stat. Auth.: ORS 414.320

Stats. Implemented: ORS 414.312 - 414.320

Hist.: OHP 1-2004, f. & cert. ef. 9-24-04; OHP 2-2006(Temp), f. & cert. ef. 11-28-06 thru 5-23-07; OHP 2-2007(Temp), f. & cert. ef. 5-16-07 thru 11-6-07

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409-030-0040

Participating Groups and Small Entity Participating Groups

The Administrator may establish processes, terms and conditions describing how the entities identified in ORS 414.312(4) may participate in the OPDP as a Participating Group, including such entities otherwise subject to ORS 731.036(6).

Stat. Auth.: ORS 414.320

Stats. Implemented: ORS 414.312 - 414.320

Hist.: OHP 1-2004, f. & cert. ef. 9-24-04; OHP 2-2007(Temp), f. & cert. ef. 5-16-07 thru 11-6-07

409-030-0050

Enrollment

(1) Participating Groups. Participating Groups will enroll for participation through the PBM or TPA chosen by the OPDP to administer the Participating Group's enrollment and claims processing:

(a) Eligibility for Group Enrollees of a Participating Group will be maintained electronically between the group and PBM or TPA;

(b) I.D. cards will be issued for Group Enrollees through the Participating Group at initial enrollment and renewals, and to individuals within the group between those times as needed.

(2) Individual Enrollees. Oregon residents who do not have prescription drug coverage or who are underinsured for prescription drug coverage and enrollees in the Senior Prescription Drug Assistance Program created under ORS 414.342 may be enrolled by the PBM or TPA:

(a) I.D. cards will be issued for Enrollees by the PBM or TPA.;

(b) Individuals who are eligible for Medicare Part D prescription drug coverage may participate in the program.

(3) The OPDP may charge a nominal fee to participate in the program.

Stat. Auth.: ORS 414.320

Stats. Implemented: ORS 414.312 - 414.320

Hist.: OHP 1-2004, f. & cert. ef. 9-24-04; OHP 2-2006(Temp), f. & cert. ef. 11-28-06 thru 5-23-07; OHP 2-2007(Temp), f. & cert. ef. 5-16-07 thru 11-6-07

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

Rule Caption: Changes/clarification of federal regulations governing Internal Revenue Code have identified the need for amendment of the existing rule.

Adm. Order No.: PEBB 1-2007(Temp)

Filed with Sec. of State: 6-11-2007

Certified to be Effective: 6-11-07 thru 12-8-07

Notice Publication Date:

Rules Amended: 101-010-0005

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

Rules Coordinator: Sharon Sheehan—(503) 378-8031

101-010-0005

Definitions

Unless the context indicates otherwise, as used in OAR chapter 101, divisions 1 through 60, the following definitions will apply:

(1) "Actively at work" means:

(a) For medical and dental insurance coverage, an active eligible employee at work, in paid regular status, scheduled for work during the month of requested insurance coverage, or using accrued leave on the effective date of coverage.

(b) For life, disability and accidental death and dismemberment insurance coverage, an active eligible employee who is physically on the job and receiving pay for the first scheduled day of work and performing the material duties of the employee's occupation at the employer's usual place of business. If an active eligible employee is incapable of active work because of sickness, injury, or pregnancy on the day before the scheduled effective date of his or her insurance coverage or increase in insurance coverage, the insurance coverage or increase is not effective until the first of the month after the active eligible employee completes one full day of active work.

(2) "Affidavit of Dependency" means a written document that attests a dependent child meets the criteria in section (7).

(3) "Affidavit of Domestic Partnership" means a written document that attests the eligible employee and one other eligible individual meet the criteria in section (8).

(4) "Benefit amount" means the amount of money paid by a PEBB participating organization on behalf of active eligible employees for the purchase of benefit plans.

(5) "CBIW" means Continuation of Benefits for Injured Workers.

(6) "COBRA" means the federal Consolidated Omnibus Reconciliation Act.

(7) "Dependent child" means any child who meets the criteria in this section. In defining dependent child, PEBB follows Internal Revenue Code (IRC) 152 as revised by the Working Families Tax Relief Act of 2004:

(a) The child is not married and does not have a domestic partner; and

(A) Is under the age of 19 at the end of the calendar year; or

(B) Meets the IRC 152(f)(2) definition of a dependent child between the ages of 19 and up to age 24 attending school full time, excluding foreign students; or

(C) Is between the ages of 19 and up to age 24, living in the home of the eligible employee over six months of the calendar year, and the eligible employee provides over half the yearly support; or

(D) Is between the ages of 19 and up to age 24, and is incapable of self-sustaining employment because of a developmental disability, mental illness, or physical disability. The attending physician must submit documentation of the disability to the insurance plan for approval. Once certified, the insurance plan may review dependent certification to determine continued eligibility; or

(E) Is a child age 24 or older, and is incapable of self-sustaining employment because of a developmental disability, mental illness, or physical disability. Except in the case of a child who previously qualified under (a)(D) of this section, the attending physician must submit documentation of the disability to the insurance plan for approval. The insurance plan may review dependent certification to determine continued eligibility. If the child is terminated from PEBB insurance coverage after age 24 for any reason, the eligible employee cannot re-enroll the child. A disabled dependent child, age 24 or older, must also meet the following criteria:

(i) The disability must have existed prior to attaining age 24.

(ii) The child must have had continuous medical insurance coverage, group or individual, prior to attaining age 24 and until the time of the PEBB insurance effective date.

(b) The child must not qualify as any other person's dependent child, except that a child of divorced or separated parents meeting conditions under IRC 152(e) can be treated as a dependent of both parents.

(c) A dependent child must also meet one of the following criteria:

(A) Is a biological child of, an adopted child of, or a child placed for adoption with the eligible employee, spouse, or domestic partner; or

(B) Is a legal ward by court decree, a dependent by Affidavit of Dependency, or is under legal guardianship of the eligible employee, spouse or domestic partner, and is living in the home of the eligible employee.

(d) A child of a domestic partner meeting the definition of a dependent child is eligible to receive insurance coverage subject to imputed value tax. A valid Affidavit of Domestic Partnership must be on file with the agency for a domestic partner's child meeting the qualifications of a dependent child.

(8) "Domestic partner" means an eligible employee's unmarried partner of the same or opposite sex.

(9) "Eligible employee" means and includes:

(a) "Active eligible employee" means an employee of a PEBB participating organization, including state officials, in exempt, unclassified, classified and management service positions who are expected to work at least 90 days; and who work at least half-time or are in a position classified as job share.

(b) "Retired eligible employee" means a previously active eligible employee, who meets retiree eligibility as defined in OAR 101-050-0005. A retired eligible employee is eligible only for those benefit plans established in division 50 of this chapter.

(c) "Other eligible employees" mean individuals of self-pay groups as established by ORS 243.140 and 243.200. This group is eligible only for medical or dental benefits as approved.

(10) "Family member" means a spouse or dependent child.

(11) "FMLA" means the federal Family Medical Leave Act.

(12) "FTE" means full time equivalent classified job position.

(13) "Half-time" means an eligible employee who works less than full time but at least:

ADMINISTRATIVE RULES

(a) Assigned to a .5 FTE classified job position and works at least eighty paid regular hours per month; or

(b) .5 FTE for Oregon University System (OUS) employees; or

(c) As defined by collective bargaining.

(14) "Imputed value" means a dollar amount established yearly for an insurance premium at fair market value. The IRS views the imputed value as taxable income. The imputed value dollar amount is added to the eligible employee's taxable wages.

(15) "Ineligible individual" means an individual or employee who does not meet the definition of an eligible employee, spouse, domestic partner, or dependent child as established in this rule.

(16) "Job share" means two eligible employees sharing one full time equivalent position. Each eligible employee's percentage of the total position determines the benefit amount the employee receives. The employees need not be classified as half-time. They cannot donate their portion of the benefit amount to the other job share co-worker. The monthly benefit amount percentage remains the same regardless of individual hours worked.

Example 1: John and Jill share one full time equivalent position. When they were hired into the position in July, John's percentage of the total position was 40 percent; Jill's percentage was 60 percent. John worked 70 percent of the available hours in September. John's benefit amount percentage for September remains at 40 percent. Jill's benefit amount percentage remains at 60 percent.

(17) "OFLA" means the Oregon Family Leave Act.

(18) "Open enrollment period" means an annual period chosen by PEBB when both active and other eligible employees and COBRA participants can make benefit plan changes or elections for the next plan year.

(19) "Paid regular" means in current payroll status, payment for work time including vacation, sick, holiday or personal leave and compensatory time.

(20) "Pebb.benefits" means the automated internet benefit management application sponsored by PEBB. The system allows electronic enrollment and termination of the eligible individual's benefit plans, personal information updates, and the transmittal of benefit plan data to insurance plans and payroll centers.

(21) "PEBB participating organization" means a state agency, board, commission, university, or other entity that receives approval to participate in PEBB benefit plans.

(22) "Plan change period" means a period chosen by PEBB when retirees can make limited benefit plan changes.

(23) "Plan year" means a period of twelve consecutive months.

(24) "Qualified status change" (QSC) means a change in family or work status that allows limited mid-year changes to benefit plans consistent with the individual QSC.

(25) "Reinstatement" or "reinstated" means to reactivate the benefit amount and enrollment in previous medical, dental, life, and disability insurance coverage, if available, on a guaranteed basis when returning to eligible status within a specific time frame.

(26) "Spouse" means a person of the opposite sex who is a husband or wife. A relationship recognized as a marriage in another state will be recognized in Oregon even though such a relationship would not be a marriage if the same facts had been relied upon to create a marriage in Oregon. The definition of spouse does not include a former spouse and a former spouse does not qualify as a dependent.

Stat. Auth.: ORS 243.061 - 243.302
Stats. Implemented: ORS 243.061-302, 659A.060-069, 743.600-602 & 743.707
Hist.: PEBB 1-1999, f. 12-8-99, cert. ef. 1-1-00; PEBB 1-2000, f. 11-15-00, cert. ef. 1-1-01; PEBB 1-2001, f. & cert. ef. 9-6-01; PEBB 1-2002, f. 7-30-02, cert. ef. 8-1-02; PEBB 1-2003, f. & cert. ef. 12-4-03; PEBB 1-2004, f. & cert. ef. 7-2-04; PEBB 3-2004, f. & cert. ef. 10-7-04; PEBB 3-2005, f. 8-31-05, cert. ef. 9-1-05; PEBB 2-2006(Temp), f. & cert. ef. 12-14-06 thru 6-12-07; PEBB 1-2007(Temp), f. & cert. ef. 6-11-07 thru 12-8-07

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 9-2007(Temp)

Filed with Sec. of State: 6-7-2007

Certified to be Effective: 6-7-07 thru 12-1-07

Notice Publication Date:

Rules Amended: 603-057-0216

Subject: Update 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

Department of Community Colleges and Workforce Development Chapter 589

Rule Caption: Definitions for Division 6, Community College Course Approval.

Adm. Order No.: DCCWD 1-2007(Temp)

Filed with Sec. of State: 6-15-2007

Certified to be Effective: 6-15-07 thru 12-11-07

Notice Publication Date:

Rules Amended: 589-006-0050

Subject: Adds the following definition and updates subsequent definitions numbering:

(11) "Career Pathways Certificate" is defined as a form of certificate awarded by a community college for meeting specific technical skill proficiency requirements that meet an employment need. Career Pathways Certificates pertain to a grouping of 12 to 44 credits that are wholly contained in an approved Associate of Applied Science (AAS) Degree/Option or an Independent Certificate of Completion (with a minimum size of 45 credits), have a defined job entry point, represent collegiate-level work, and meet State Board of Education's standards and criteria.

Rules Coordinator: Linda Hutchins—(503) 378-8648, ext. 474

589-006-0050

Definitions for Division 006, Chapter 589

For the purposes of division 006 of chapter 589, the following definitions apply:

(1) "Academic standard of achievement" is defined as demonstrated achievement, proficiency, or measured learning acknowledged as meeting a predetermined academic standard. Normally noted through a record transcribed and maintained by the college.

(2) "Adverse intersegmental impact" is defined as the detriment of duplication that would fall on a school or its students in a segment other than that of the school proposing the new program or location, except that a publicly funded program or location proposed by a private school or other organization has adverse intersegmental impact if it is detrimental to a school in any of the five segments.

(3) "Associate degree" is defined as a state-approved lower division undergraduate award issued by a community college that indicates satisfactory completion of a course of study approved by the community college board.

(4) "Associate of Applied Science" is defined as a state-approved associate degree that is intended to prepare graduates for direct entry into the workforce. AAS degrees may also help to prepare students for career advancement, occupational licensure, or further study at the baccalaureate level.

(5) "Associate of Applied Science degree option" is defined as a transcribed specialization within a state-approved associate degree that is intended to prepare graduates for direct entry into the workforce.

(6) "Associate of Arts — Oregon Transfer degree" is defined as a state approved associate degree that is intended to prepare students to transfer into upper division courses for a baccalaureate degree.

(7) "Associate of General Studies" is defined as a state-approved associate degree that is intended to meet the individual student need using a variety of collegiate level courses to meet degree requirements.

(8) "Associate of Science" is defined as a state-approved associate degree that is intended to prepare student to transfer into an upper division baccalaureate degree program in areas such as Business, Science,

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Mathematics, and Engineering. The Associate of Science degree is often designed to meet the requirements of a specific receiving institution.

(9) "Business and Industry Based program" is defined as an Associate of Applied Science degree and/or certificate of completion designed for employers to meet specific occupational and educational needs of their current employees.

(10) "Certificate of Completion" is defined as a form of recognition awarded by a community college for meeting minimum occupational course, curriculum or proficiency requirements. Certificates of completion must be state-approved, have a defined job entry point, represent collegiate-level work, and meet State Board of Education's standards and criteria.

(11) "Career Pathways Certificate" is defined as a form of certificate awarded by a community college for meeting specific technical skill proficiency requirements that meet an employment need. Career Pathways Certificates pertain to a grouping of 12 to 44 credits that are wholly contained in an approved Associate of Applied Science (AAS) Degree/Option or an Independent Certificate of Completion (with a minimum size of 45 credits), have a defined job entry point, represent collegiate-level work, and meet State Board of Education's standards and criteria.

(12) "Clock/contact hours" is defined as one clock (or contact) hour is 60 minutes long. No more than 10 minutes of each hour can be used for a regularly-scheduled break or passing period.

(13) "Collegiate level work" is defined as course and program content that provides skills and information beyond that which is normally gained before or during the secondary level. It is characterized by analysis, synthesis, and application in which students demonstrate an integration of skills and critical thinking. It is a term that denotes more than college/university transfer courses. It also includes professional technical education and other courses that exceed basic skills, workplace readiness, and fundamental basic skills. Courses must be collegiate level if used to fulfill a requirement in an associate degree, option or certificate of completion program.

(14) "Complementary courses in general education" are defined as courses that are designed to serve as supportive parts of the professional technical programs. They are designed to aid the students in attaining a higher degree of self-development and to assist the student to make a maximum contribution as a citizen in a democratic society.

(15) "Continuing Education Units (CEUs)" is defined as a form of recognition given for completion of a unit of training for selected occupational supplementary courses. CEUs are based on time attended and not on the assessment of learning.

(16) "Credit" is defined as an indication or certification by a school that a student has completed a unit of study, demonstrated achievement or proficiency, or manifested measured learning outside of school, so as to have satisfied a portion of the requirements for a degree or for any other academic recognition offered by the school.

(17) "Credit course" is defined as courses offered by the college as part of a lower-division transfer degree or approved professional technical program.

(18) "Degree" is defined as any academic or honorary title, rank, or status that may be used for any purpose whatsoever, which is designated by a symbol or series of letters or words such as, but not limited to, associate, bachelor, master, or doctor, and forms or abbreviations thereof that signifies, purports, or may generally be taken to signify

(a) Completion of a course of instruction at the college or university level; or

(b) Demonstration of achievement or proficiency comparable to such completion; or

(c) Recognition for nonacademic learning, public service, or any other reason of distinction comparable to such completion.

(19) "Deleted program" is defined as the permanent elimination of a program previously approved by the local and State Boards of Education.

(20) "Detrimental Duplication" is defined as a situation that occurs when recruitment of students for a new program or location will tend to redirect prospects from a fixed pool concomitant with the application of publicly funded educational cost subsidies, thereby significantly reducing enrollment in existing similar programs for which student financial aid is available but the number of prospective enrollees is limited by non-financial factors such as interest, qualifications needed for admission, internship openings for students, and job openings for graduates.

(21) "Direct control" is defined as the community college maintains direct and sole responsibility for the academic quality of all aspects of all programs and courses through the management and supervision by faculty and institutional administrators.

(22) "Educational programs" are defined as state-approved certificate of completion and associate degree programs.

(23) "General education" is defined as the introduction to the content and methodology of the major areas of knowledge -- the humanities and fine arts, the natural sciences, mathematics, and the social sciences and help students to develop the mental skills that will make them more effective learners and citizens in a democratic society.

(24) "Hobby course" is defined as any directed activity engaged in by individuals as an avocation resulting in a collection of objects or in the production of works.

(25) "Intersegmental" is defined as across segments of education. See "Segments of Education."

(26) "Laboratory (Lab)" is defined as an instructional setting in which students work independently with the instructor available and in the instructional area for assistance and supervision.

(27) "Lecture" is defined as an instructional setting in which the instructor delivers information.

(28) "Lecture/laboratory (Lecture/Lab)" is defined as an instructional setting in which the instructor gives short presentations and supervises student application of content. Instructional methods are integrated; lecture and lab are dependent upon each other for the student's educational success.

(29) "Local community college program approval" is defined as the approval by the local community college board of education or their designee indicating that a program has met or exceeded local community college program standards and processes prior to being submitted to the State Board of Education or their designee for review.

(30) "Lower Division Collegiate" (LDC) is defined as collegiate level work in areas of instruction that parallel the offerings of the first two years of Oregon's four-year institutions, and are generally accepted for transfer by Oregon's public higher education institutions.

(31) "New location of an approved program" is defined as a facility where students collectively may receive instruction in the program face-to-face or through telecommunications in a community not previously so served, including a non-Oregon location within 50 miles of where a comparable program is located in Oregon."

(32) "New program" is defined as any program not previously approved by the State Board of Education, Office of Degree Authorization of the Oregon Student Assistance Commission or by their predecessor review authorities, regardless of whether it comprises new instructional components or the reassembled components of existing programs.

(33) "Non-credit course" is defined as a course that does not offer college credit for completion and generally cannot be used as part of a credit based degree or certificate program. No assessment of learning generally takes place.

(34) "Occupational preparatory program" is defined as a state-approved professional technical program which is designed to prepare persons for employment in a specified occupation or cluster of closely related occupations.

(35) "Occupational supplementary program" is defined as a state-approved program designed for individuals who have already entered an occupation but seek to improve their occupational skills and knowledge in order to achieve employment stability or advancement.

(36) "Other Education Courses" are defined as general self-improvement courses intended primarily for adults and independent of professional technical or lower division curricula. These courses are not intended for programs that may lead toward a baccalaureate degree. These courses may be used as prerequisite and elective courses in professional technical degree and certificate programs. Other Education Courses include areas of instruction not otherwise included in the professional technical education and lower-division collegiate categories. Other Education course areas include but are not limited to adult basic education (ABE), general education development (GED), adult high school completion (AHS), English as a second language (ESL), and self-improvement courses not fitting into previously listed categories.

(37) "Professional technical courses" are defined as the collegiate level occupational preparatory or occupational supplementary courses that are designed to prepare persons for entrance into and employment stability and advancement in specific occupations or clusters of closely related occupations. Professional technical courses include both occupational preparatory and occupational supplementary courses.

(38) "Professional technical program" is defined as collegiate level coursework that is designed to prepare persons for entrance into and employment stability and advancement in specific occupations or clusters of closely related occupations. Professional technical programs result in the

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achievement of a state-approved certificate of completion, associate of applied science degree or associate of applied science degree option.

(39) "Program" is defined as any organized teaching and learning activity in which successful completion qualifies a student for a degree, a certificate of substantial academic or vocational learning short of a degree, a certificate of preparation related to new or modified occupational licensure, or another academic or vocational certificate that represents a shorter period of activity but has value as a public credential.

(40) "Program amendment" is defined as a change in state-approved program submitted to the State Board of Education or their designee by a college to receive approval to revise the program. Revisions include minor changes in curriculum content, courses, program outcomes and titles.

(41) "Program approval" is defined as the process by which the local community college board and the State Board of Education acknowledge that a program has met the applicable program standards and requirements of the local and state boards or their designees. Program approval also includes the authorization of the program by the Office of Degree Authorization of the Student Assistance Commission.

(42) "Publicly funded" is defined as controlled by an agency of government or by a public corporation as occurs in Oregon community colleges, institutions of higher education, and the Oregon Health Sciences University, regardless of specific sources and applications of funds, or controlled by a private entity but subsidized with appropriated public funds received directly for program operation rather than indirectly in the form of student financial aid.

(43) "Recognition award" is defined as an award given to a student by a community college for completion of a state-approved course or courses or for attendance and participation in workshops or seminars. Recognition awards may not be called "certificates of completion" or "certificates" and may not be included on the official student transcript.

(44) "Recreational course" is defined as any directed activity in which individuals participate with the purpose of engaging in physical activity, except those activities which focus on physical fitness or which directly relate to the initial skill development of physical activities in which individuals could reasonably be expected to participate during most of their adult lives.

(45) "Related instruction" is defined as programs of study for which applied or specialized associate degrees are granted, or programs of an academic year or more in length for which certificates are granted. They must contain a recognizable body of instruction in program-related areas of:

- (a) Communication;
- (b) Computation; and

(c) Human relations. Additional topics which should be covered as appropriate include safety, industrial safety, and environmental awareness. Related instruction areas are either embedded within the program curriculum or taught in blocks of specialized instruction.

(46) "Segment of education" is defined as any one of the following:

(a) Oregon community colleges, community college districts, or service districts, together with every other postsecondary program or location ultimately sponsored by the State Board of Education;

(b) Oregon state-owned institutions of higher education and related organizational units, together with every other postsecondary program or location ultimately sponsored by the State Board of Higher Education;

(c) The Oregon Health Sciences University, any hereafter created public corporations for higher education, and any organizational units of such public corporations, together with every postsecondary program or location under their ultimate sponsorship;

(d) Private Oregon degree-granting institutions and organizations and all non-Oregon entities offering residential instruction in Oregon for credit toward full degrees approved by the Office of Degree Authorization, together with every postsecondary program or location they sponsor; and

(e) Private nondegree career schools offering instruction in Oregon and licensed under ORS 345, together with every postsecondary program or location they sponsor.

(47) "Stand alone occupational prep courses" are defined as courses designed for individuals seeking to build knowledge and skills for initial employment in an area not included in one or more of a community college's existing approved Associate of Applied Science degree or certificate of completion programs. Also see Occupational Preparatory Course.

(48) "Statewide or regional consortium program" is defined as an associate of applied science and/or certificate of completion program which is developed, applied for and continuously monitored by a partnership of colleges to address a specific program need through a cohesive and transferable curriculum among participating colleges.

(49) "State approved program" is defined as a community college certificate of completion or associate degree program that has met and continues to meet the standards and criteria of the State Board of Education and has received authorization by the Office of Degree Authorization of the Student Assistance Commission.

(50) "Suspended program" is defined as the temporary removal of a state-approved program from the overall curriculum of a community college by the local community college board of education or their designee.

Stat. Auth.: ORS 326.051

Stats. Implemented:

Hist.: DCCWD 1-2003, f. & cert. ef. 1-9-03; DCCWD 5-2003, f. & cert. ef. 10-20-03; DCCWD 1-2007(Temp), f. & cert. ef. 6-15-07 thru 12-11-07

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

Rule Caption: Adopt nationally published addenda to the Oregon Boiler and Pressure Vessel Specialty Code.

Adm. Order No.: BCD 6-2007

Filed with Sec. of State: 6-8-2007

Certified to be Effective: 6-15-07

Notice Publication Date: 5-1-07

Rules Amended: 918-225-0435

Subject: This proposed rule adopts the nationally published code addenda to the Oregon Boiler and Pressure Vessel Specialty Code. The addenda amends the 2004 Edition of the ANSI/ASME B31.1 Power Piping Code, designated ASME B31.1b (2006) and the 2004 Edition of the National Board Inspection Code (NBIC), designated ANSI/NB-23 (2006).

Rules Coordinator: Marianne Manning—(503) 373-7438

918-225-0435

Amendments to the Oregon Boiler and Pressure Vessel Specialty Code

(1) The **Oregon Boiler and Pressure Vessel Specialty Code** is adopted and amended pursuant to chapter 918, division 8. Amendments adopted for inclusion into the **Oregon Boiler and Pressure Vessel Specialty Code** are placed in this rule.

(2) Effective January 1, 2007, the following sections of the **Boiler and Pressure Vessel Code of The American Society of Mechanical Engineers (ASME), 2004 Edition**, are amended to adjust Oregon boiler code provisions that are in conflict with national standards:

(a) Section IV, "Rules for Construction of Heating Boilers."

(b) Section V, "Nondestructive Examination."

(c) Section VI, "Recommended Rules for the Care and Operation of Heating Boilers."

(d) Section VII, "Recommended Guidelines for the Care of Power Boilers."

(e) Section VIII, Divisions 1, 2 and 3, "Rules for Construction of Pressure Vessels."

(f) Section IX, "Qualification Standard for Welding and Brazing Procedures, Welders, Brazers, and Welding and Brazing Operators."

(g) Section X, "Fiber-Reinforced Plastic Pressure Vessels."

(3) Effective June 15, 2007, addenda to the **2004 Edition of the ANSI/ASME B31.1 Power Piping Code**, designated **ASME B31.1b (2006)**, are adopted.

(4) Effective June 15, 2007, addenda to the **2004 Edition of the National Board Inspection Code (NBIC)**, designated **ANSI/NB-23 (2006)**, are adopted.

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

Stat. Auth.: ORS 455.020, 480.545 & 480.550

Stats. Implemented: ORS 480.545 & 480.550

Hist.: BCD 16-2006, f. 12-29-06, cert. ef. 1-1-07; BCD 6-2007, f. 6-8-07, cert. ef. 6-15-07

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

Rule Caption: Adoption of changes to Working Near Overhead High Voltage Lines and Equipment in Construction.

Adm. Order No.: OSHA 2-2007

Filed with Sec. of State: 6-8-2007

Certified to be Effective: 6-15-07

Notice Publication Date: 4-1-07

Rules Amended: 437-003-0047

ADMINISTRATIVE RULES

Subject: Oregon OSHA adopted amendments to OAR 437-003-0047, Working Near Overhead High Voltage Lines and Equipment, Division 3/K, Construction/Electrical. The final language reflects changes to the proposal as a result of comments received at public hearing and during the comment period. Stakeholders asked that minimum requirements for notification be better defined, and that a minimum time period be added.

Instead of adding a separate rule for definitions as proposed, three definitions (Insulating Barrier or Guard; Restricted Space; and Proper Notification) are now included as paragraph (1) of 437-003-0047.

Three notes have also been added to clarify: overhead line covers are for visual reference only; employer responsibility for their employees' safe and healthy working conditions; and owner of the lines discretionary action to allow entrance into restricted space.

The requirements of 437-003-0047 are the same as before with two additions:

- (1) Allows the use of insulated lines and equipment for entry into restricted space.
- (2) Ten foot clearance signs must be clear and understandable to the operator.

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

The standard's title has been changed from *Proximity to Overhead High Voltage Lines and Equipment* to **Working Near Overhead High Voltage Lines and Equipment**. The standard prohibits exposure within 10 feet of overhead lines. The new language requires the same clearances, but refers to them as restricted space. The standard still allows working within the restricted space when overhead lines are de-energized and grounded, or when insulating barriers are erected to prevent possible contact with power lines or equipment. It also prohibits insulating barriers from being attached to the overhead lines. Please visit OR-OSHA's web site at www.orosha.org

Rules Coordinator: Sue C. Joye—(503) 947-7449

437-003-0047

Working Near Overhead High Voltage Lines and Equipment

(1) Definitions.

(a) Insulating Barrier or Guard. A structure, installation, barrier, or guard (such as a wall, fence, pole, shield, or something similar) that stops movement and prevents all possible contact with the lines or equipment. Its design, material composition, and installation prevents possible conduction of electricity up to the maximum voltage of the system.

(b) Restricted Space.

(A) For lines rated more than 600 V to 50 kV, restricted space extends 10 feet in all directions from the surface of the line or equipment.

(B) For lines rated over 50 kV, restricted space extends 10 feet plus 0.4 inch for each 1 kV over 50 kV, or twice the length of the insulator (but never less than 10 feet) in all directions from the surface of the line or equipment.

(C) For equipment or structures in transit, on level surfaces, restricted space extends 4 feet in all directions from lines or equipment rated 50 kV or less, 10 feet in all directions for lines or equipment rated over 50 kV, and 16 feet in all directions for lines or equipment rated over 345 kV up to and including 750 kV.

(c) Proper Notification. The person(s) responsible for the planned activity must notify the owner/operator of the line or equipment, at their business office, at least 2 business days prior to the anticipated beginning of work (business days are Monday through Friday, excluding federal and state holidays). The notification must include:

- (A) The proposed date to start activity within restricted space;
- (B) The location of the planned activity;
- (C) A description of the planned activity; and
- (D) Name and contact information of the contact person.

(2) General requirement. Do not enter, perform any function or activity (such as handling, erecting, operating, transporting, or storing any tools, equipment or materials, moving a building or structure) within the restricted space surrounding an overhead high voltage line or equipment unless:

(a) You are the owner, an authorized employee, or authorized (in writing) agent of the overhead high voltage system; or

(b) Proper notification is provided; and

(A) The line and/or equipment is de-energized and visibly grounded by the owner of the high voltage system or their authorized agent; or

(B) Accidental contact is effectively prevented by use of insulating barriers or guards. Barriers or guards must:

(i) Be erected or installed by the owner of the high voltage system or their authorized agent;

(ii) Not be attached to, or be part of the lines, equipment, or machinery;

Note: Overhead line covers are only for visual reference, and their use does not allow entry into restricted space. If used, they must be installed by the owner of the high voltage system or their authorized agent.

(iii) Prevent all possible contact with the lines or equipment; and

(iv) Insulate against the system's maximum voltage; or

(c) Insulated lines (not tree wire) and equipment (designed and engineered to allow only incidental contact) are erected or installed by the owner of the high voltage system or their authorized agent.

Note: Nothing in this standard shifts the responsibility for safe and healthy working conditions from the person(s) responsible for the activity to the owner of the lines or their agent.

Note: Nothing in this standard mandates that the owner of the lines or equipment, or their authorized agent must agree to de-energize, move, barricade, guard, or insulate lines or equipment, or take other action to allow entry into restricted space.

(3) Do not move, reposition, or reduce restricted space in any direction by applying stress or force to a line, equipment, or supporting structure.

(4) Operation of machinery or equipment.

(a) Do not enter restricted space when using insulating links or proximity warning devices on equipment.

(b) Post a warning sign on each piece of equipment which is capable of vertical, lateral, or swinging motion, such as a crane, derrick, power shovel, drilling rig, or pile driver.

(A) The sign must be made of durable material.

(B) It must be in clear view of the operator.

(C) The message must be legible to the operator when at the controls.

(D) The message must be understood by the operator.

(E) The message must clearly convey that it is "Unlawful to operate the piece of equipment within 10 feet of high voltage lines".

(c) Use an observer to provide audible warning (able to be clearly heard over surrounding noise) when it becomes difficult for an operator to identify restricted space by using visual means. The observer's only task is to watch the clearance and warn the operator if it appears that restricted space will be breached.

(d) Restrict, barricade, or otherwise make it impossible for a machine or piece of equipment to reach into restricted space if it is reasonable to anticipate that the operator's attention may be focused on the work process rather than the location of an overhead high voltage line or equipment (such as during excavating, or other fast-paced, repetitive work).

(5) Railway and commuter systems

(a) Standard rail equipment used to transport freight and/or passengers, and relief trains or other equipment used in emergencies, may enter restricted space surrounding high voltage lines or equipment.

(b) Qualified employees, authorized and supervised by a person familiar with the hazards of the railway high voltage system, may perform normal repair or construction work within restricted space prior to compliance with the clearance and safeguard requirements in sections (1) through (4).

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

Stats. Implemented: ORS 654.001 - 654.295

Hist.: APD 5-1989, f. 3-31-89, ef. 5-1-89; APD 8-1989, f. & ef. 7-7-89; OSHA 2-2007, f. 6-8-07, cert. ef. 6-15-07

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

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

Adm. Order No.: WCD 2-2007

Filed with Sec. of State: 5-23-2007

Certified to be Effective: 7-1-07

Notice Publication Date: 4-1-07

Rules Amended: 436-009-0004, 436-009-0005, 436-009-0008, 436-009-0010, 436-009-0015, 436-009-0020, 436-009-0022, 436-009-

ADMINISTRATIVE RULES

0025, 436-009-0030, 436-009-0040, 436-009-0050, 436-009-0070, 436-009-0080

Subject: These rules adopt by reference:

- Portions of the Centers for Medicare & Medicaid Services (CMS) 2007 Medicare Resource-Based Relative Value Scale;
- American Society of Anesthesiologists (ASA), Relative Value Guide 2007;
- The Physicians' Current Procedural Terminology (CPT® 2007), Fourth Edition;
- The AMA's CPT® Assistant, Volume 0, Issue 04 1990 through Volume 16, Issue 12 2006, as a supplement for determining the level of service described by the CPT® manual guidelines; and
- The alphanumeric codes from the CMS Healthcare Common Procedure Coding System (HCPCS) 2007 (limitations apply).

In addition, these adopted rules:

- Provide dispute resolution through the director regarding overpayments to a medical provider;
- Eliminate 10% per month discounting of late medical bills and set a 12-month deadline (with some exceptions), after which payment is no longer due;
- Encourage negotiation of out-of-state hospital fees, and provide that if agreement is not reached, parties may come to the director to resolve the dispute;
- Specify conditions for reimbursement of workers for meals during required travel and other out-of-pocket costs;
- Require that insurers inform workers in writing of the two-year time limitation to request reimbursement of travel-related costs;
- Require that insurers provide a written explanation to the medical provider with any medical bills that are rejected, not paid, or not paid as billed;
- Require insurers to use secure file transfer protocol (SFTP) when submitting medical data to the Department of Consumer and Business Services, instead of FTP, diskette, or compact disc;
- Maintain the current level of reimbursement, system wide, in the evaluation & management service category, to reduce the impact of the CMS increase in the relative value units for this service category;
- Are expected to keep system-wide reimbursements the same or increase by up to 0.5%, due to changes by CMS to RVUs in all service categories;
- Clarify that fee reductions for imaging procedures for multiple body areas apply to the technical but not the professional component;
- Clarify that a medical arbiter must be paid for any file review completed prior to cancellation of the examination;
- Clarify that if a worker does not attend a director-required medical examination without providing 48 hours notice, the insurer must pay the provider for the appointment time and any time spent reviewing the record prior to the examination time; and
- Require that if a provider can demonstrate that 85% of the manufacturer's suggested retail price for durable medical equipment is less than 140% of the actual cost to the provider, the insurer must pay the provider 140% of the provider's actual cost for the item as documented on a receipt of sale.

Direct questions to: Fred Bruyns, Rules Coordinator; phone 503-947-7717; fax 503-947-7581; or e-mail fred.h.bruyns@state.or.us. Rules are available on the internet: <http://www.wcd.oregon.gov/policy/rules/rules.html>

For a copy of the rules, contact Publications at 503-947-7627, Fax 503-947-7630.

Rules Coordinator: Fred Bruyns—(503) 947-7717

436-009-0004

Adoption of Standards

(1) The director adopts, by reference, the columns titled "CPT/HCPCS," "Mod," "Year 2007 Transitional Non-Facility Total," "Year 2007 Transitional Facility Total," and "Global" in the Centers for Medicare & Medicaid Services (CMS) 2007 Medicare Resource-Based Relative Value Scale (RBRVS) Addendum B and Addendum C, 71 Federal Register No. 231, December 1, 2006, as the basis for the fee schedule for

payment of medical service providers except as otherwise provided in these rules. The director does not adopt the definitions, status indicators, alpha codes, edits, processes, policies or philosophies of CMS, such as the National Correct Coding Initiative.

(2) The director adopts, by reference, the *American Society of Anesthesiologists ASA, Relative Value Guide 2007* as a supplementary fee schedule for payment of anesthesia service providers except as otherwise provided in these rules for those anesthesia codes not found in the Federal Register.

(3) The director adopts, by reference, the *American Medical Association's (AMA) The Physicians' Current Procedural Terminology (CPT® 2007)*, Fourth Edition Revised, 2006, for billing by medical providers except as otherwise provided in these rules. The guidelines are adopted as the basis for determining level of service.

(4) The director adopts, by reference, the AMA's CPT® Assistant, Volume 0, Issue 04 1990 through Volume 16, Issue 12 2006, as a supplement for determining the level of service described by the CPT® manual guidelines. If there is a conflict between the CPT® manual and CPT® Assistant, the CPT® manual shall be the controlling resource to determine the level of service.

(5) The director adopts, by reference, only the alphanumeric codes from the *CMS Healthcare Common Procedure Coding System (HCPCS) December 21, 2006*, to be used when billing for services only to identify products, supplies, and services that are not described by CPT® codes or that provide more detail than a CPT® code. The director does not adopt the edits, processes, exclusions, color-coding and associated instructions, age and sex edits, notes, status indicators, or other policies of CMS.

(6) Specific provisions contained in OAR chapter 436, divisions 009, 010, and 015 control over any conflicting provision in Addenda B and C, 71 Federal Register, No. 231, December 1, 2006, ASA Relative Value Guide 2007, CPT® 2007, CPT® Assistant, or HCPCS 2007.

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

Stat. Auth.: ORS 656.248 & 656.726(4)

Stats. Implemented: ORS 656.248

Hist.: WCD 9-1999, f. 5-27-99, cert. ef. 7-1-99; WCD 2-2000, f. 3-15-00, cert. ef. 4-1-00; WCD 2-2001, f. 3-8-01, cert. ef. 4-1-01; WCD 3-2002, f. 2-25-02 cert. ef. 4-1-02; WCD 6-2003, f. 5-28-03, cert. ef. 7-1-03; WCD 3-2004, f. 3-5-04 cert. ef. 4-1-04; WCD 2-2005, f. 3-24-05, cert. ef. 4-1-05; WCD 3-2006, f. 3-14-06, cert. ef. 4-1-06; WCD 2-2007, f. 5-23-07, cert. ef. 7-1-07

436-009-0005

Definitions

(1) Unless a term is specifically defined elsewhere in these rules or the context otherwise requires, the definitions of ORS chapter 656 and OAR 436-010-0005 are hereby incorporated by reference and made part of these rules.

(2) Abbreviations used in these rules are either defined in the rules in which they are used or defined as follows:

- (a) CMS means Centers for Medicare & Medicaid Services.
- (b) CPT® means Current Procedural Terminology published by the American Medical Association.
- (c) EDI means electronic data interchange.
- (d) HCPCS means Healthcare Common Procedure Coding System published by CMS.
- (e) ICD-9-CM means International Classification of Diseases, Ninth Revision, Clinical Modification, Vol. 1, 2 & 3 by US Department of Health and Human Services.
- (f) MCO means managed care organization.
- (g) OSC means Oregon specific code.
- (h) PCE means physical capacity evaluation.
- (i) RBRVS means Medicare Resource-Based Relative Value Scale published by CMS.

(j) RVU means relative value unit.

(k) WCE means work capacity evaluation.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.726(4)

Hist.: WCD 12-1996, f. 5-6-96, cert. ef. 6-1-96; WCD 20-1996, f. 10-2-96, cert. ef. 1-1-97; WCD 5-1998, f. 4-3-98, cert. ef. 7-1-98; WCD 9-1999, f. 5-27-99, cert. ef. 7-1-99; WCD 3-2002, f. 2-25-02 cert. ef. 4-1-02; WCD 6-2003, f. 5-28-03, cert. ef. 7-1-03; WCD 3-2004, f. 3-5-04 cert. ef. 4-1-04; WCD 3-2006, f. 3-14-06, cert. ef. 4-1-06; WCD 2-2007, f. 5-23-07, cert. ef. 7-1-07

436-009-0008

Administrative Review Before the Director

(1)(a) The director has exclusive jurisdiction to resolve all disputes concerning medical services including treatment, medical fees and non-payment of compensable medical bills. The director may, on the director's own motion, initiate a medical service review at any time. A party need not

ADMINISTRATIVE RULES

be represented to participate in the administrative review before the director.

(b) Any party may request the director provide voluntary alternative dispute resolution after a request for administrative review or hearing is filed. When a dispute is resolved by agreement of the parties to the satisfaction of the director, the director will put the agreement in writing; or the parties shall put any agreement in writing for approval by the director. If the dispute is not resolved through alternative dispute resolution, the director will issue an order.

(2) The medical provider, injured worker, or insurer may request review by the director in the event of a dispute about either the amount of a fee or non-payment of bills for medical services on a compensable injury. The following time frames and conditions apply to requests for administrative review before the director under this rule:

(a) For all MCO enrolled claims where a party disagrees with an action or decision of the MCO, the aggrieved party shall first apply to the MCO for dispute resolution within 30 days pursuant to OAR 436-015-0110. When the aggrieved party is a represented worker, and the worker's attorney has given written notice of representation, the 30 day time frame begins when the attorney receives written notice or has actual knowledge of the dispute. Administrative review by the director must be requested within 60 days of issuance of the MCO's final decision under the MCO's dispute resolution process. If a party has been denied access to the MCO dispute process or the process has not been completed for reasons beyond a party's control, the party may request director review within 60 days of the failure of the MCO process. If the MCO does not have a process for resolving fee and billing disputes, the insurer shall advise the medical provider or worker that they may request review by the director.

(b) For all claims not enrolled in an MCO, or for disputes which do not involve an action or decision of the MCO, the aggrieved party must request administrative review by the director within 90 days of the date the party knew, or should have known, there was a dispute over the provision of medical services. This time frame only applies if the aggrieved party other than the insurer is given written notice that they have 90 days in which to request administrative review by the director. When the aggrieved party is a represented worker, and the worker's attorney has given written notice of representation, the 90 day time frame begins when the attorney receives written notice or has actual knowledge of the dispute. For purposes of this rule, the date the insurer should have known of the dispute is the date action on the bill was due pursuant to OAR 436-009-0030. Filing a request for administrative review under this rule may also be accomplished in the manner prescribed in OAR chapter 438, division 005.

(c) When an insurer determines it has overpaid a provider for a medical service, it may request review by the director within 90 days of the date payment was issued.

(d) Under ORS 656.704(3)(c), when there is a formal denial of the underlying condition or a denial of the causal relationship between the medical service and the accepted condition, the issue may first be decided by the Hearings Division of the Workers' Compensation Board.

(3) Parties must submit requests for administrative review to the director in the form and format prescribed by the director. When an insurer or the worker's representative submits a request without the required information, at the director's discretion the administrative review may not be initiated until the information is submitted. Unrepresented workers may contact the director for help in meeting the filing requirements. The requesting party must simultaneously notify all other interested parties of the dispute, and their representatives, if known, as follows:

(a) Identify the worker's name, date of injury, insurer, and claim number.

(b) Specify the issues in dispute and the relief sought.

(c) Provide the specific dates of the unpaid disputed treatment or services.

(d) If the request for review is submitted by either the insurer or medical provider, it shall state specific code(s) of service(s) in dispute and include sufficient documentation to support the review request, including but not limited to copies of original CMS bills, chart notes, bill analyses, operative reports, any correspondence between the parties regarding the dispute, and any other documentation necessary to evaluate the dispute. The insurer or medical provider requesting review shall certify that they have provided all involved parties a copy of:

(A) The request for review; and

(B) Any attached supporting documentation; and

(C) If known, an indication of whether or not there is an issue of causation or compensability of the underlying claim or condition.

(4) The division will investigate the matter upon which review was requested.

(a) The investigation may include, but not be limited to, request for and review of pertinent medical treatment and payment records, interviews with the parties to the dispute, or consultation with an appropriate committee of the medical provider's peers.

(b) Upon receipt of a written request for additional information, the party must respond within 14 days.

(c) A dispute may be resolved by agreement between the parties to the dispute. When the parties agree, the director may issue a letter of agreement in lieu of an administrative order, which will become final on the 10th day after the letter of agreement is issued unless the agreement specifies otherwise. Once the agreement becomes final, the director may revise the agreement or reinstate the review only under one or more of the following conditions:

(A) A party fails to honor the agreement;

(B) The agreement was based on misrepresentation;

(C) Implementation of the agreement is not feasible because of unforeseen circumstances; or

(D) All parties request revision or reinstatement.

(5) The director may on the director's own motion reconsider or withdraw any order that has not become final by operation of law. A party may also request reconsideration of an administrative order upon an allegation of error, omission, misapplication of law, incomplete record, or the discovery of new information which could not reasonably have been discovered and produced during the review. The director may grant or deny a request for reconsideration at the director's sole discretion. A request must be mailed to the director before the administrative order becomes final.

(6) Hearings before an administrative law judge: Under ORS 656.704(2), any party that disagrees with an action or order of the director under these rules may request a hearing by filing a request for hearing as provided in OAR 436-001-0019 within 30 days of the mailing date of the order or notice of action. OAR 436-001 applies to the hearing.

(7) Contested case hearings of sanction and civil penalties: Under ORS 656.740, any party that disagrees with a proposed order or proposed assessment of a civil penalty issued by the director under ORS 656.254, or 656.745 may request a hearing by the Hearings Division of the Workers' Compensation Board as described in OAR 436-010-0008(14).

(8) Director's administrative review of other actions: Any party seeking an action or decision by the director or aggrieved by an action taken by any other party, not covered under sections (1) through (7) of this rule, according to these rules, may request administrative review by the director as follows:

(a) A written request for review must be sent to the administrator of the Workers' Compensation Division within 90 days of the disputed action and must specify the grounds upon which the action is contested.

(b) The division may require and allow such input and information as it deems appropriate to complete the review.

Stat. Auth.: ORS 656.704 & 656.726(4)

Stats. Implemented: ORS 656.248, 656.704 & OL 2005, Ch. 26

Hist.: WCD 5-1982(Admin), f. 2-23-82, ef. 3-1-82; WCD 1-1984(Admin), f. & ef. 1-16-84; Renumbered from 436-069-0901, 5-1-85 WCD 1-1988, f. 1-20-88, cert. ef. 2-1-88; WCD 1-1990, f. 1-5-90, cert. ef. 2-1-89, (Former sections (3), (4), & (7) Renumbered to 436-010-0130); WCD 12-1990(Temp), f. 6-20-90, cert. ef. 7-1-90; WCD 30-1990, f. 12-10-90, cert. ef. 12-26-90; WCD 11-1992, f. 6-11-92, cert. ef. 7-1-92; WCD 13-1994, f. 12-20-94, cert. ef. 2-1-95; WCD 12-1996, f. 5-6-96, cert. ef. 6-1-96, Renumbered from 436-010-0110; WCD 5-1998, f. 4-3-98, cert. ef. 7-1-98; WCD 9-1999, f. 5-27-99, cert. ef. 7-1-99; WCD 13-1999(Temp), f. & cert. ef. 10-25-99 thru 4-21-00; WCD 2-2000, f. 3-15-00, cert. ef. 4-1-00; WCD 2-2001, f. 3-8-01, cert. ef. 4-1-01; WCD 3-2002, f. 2-25-02 cert. ef. 4-1-02; WCD 6-2003, f. 5-28-03, cert. ef. 7-1-03; WCD 14-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 6-28-04; WCD 3-2004, f. 3-5-04 cert. ef. 4-1-04; WCD 2-2005, f. 3-24-05, cert. ef. 4-1-05; WCD 7-2005, f. 10-20-05, cert. ef. 1-2-06; WCD 3-2006, f. 3-14-06, cert. ef. 4-1-06; WCD 2-2007, f. 5-23-07, cert. ef. 7-1-07

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 shall include the worker's full name and date of injury, the employer's name and, if available, the insurer's claim number. All medical providers shall 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 shall be submitted on American Dental Association dental claim forms;

(b) Pharmacy billings, which shall be submitted on the most current National Council for Prescription Drug Programs (NCPDP) form; and

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(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 shall 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 shall use the National Drug Code (NDC) to identify the drug or biological billed. A "zz" qualifier shall 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 shall 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 shall indicate that the charges have been previously billed.

(7) The medical provider shall bill their usual fee charged to the general public. The submission of the bill by the medical provider shall serve as a warrant that the fee submitted is the usual fee of the medical provider for the services rendered. The department shall have the right to require documentation from the medical provider establishing that the fee under question is the medical provider's usual fee charged to the general public. For purposes of this rule, "general public" means any person who receives medical services, except those persons who receive medical services subject to specific billing arrangements allowed under the law which require providers to bill other than their usual fee.

(8) Medical providers shall not submit false or fraudulent billings, including billing for services not provided. As used in this section, "false or fraudulent" 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 shall be divided among the injuries or illnesses, irrespective of whether there is more than one insurer.

(10) Workers may make a written request to a medical provider to receive copies of medical billings. Upon receipt of a request, the provider may furnish the worker a copy during the next billing cycle, but no later than 30 days following receipt of the request. Thereafter, worker copies shall be furnished during the regular billing cycle.

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

Stat. Auth.: ORS 656.245, 656.252, 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

436-009-0015

Limitations on Medical Billings

(1) An injured worker is not liable to pay for any medical service related to an accepted compensable injury or illness or any amount reduced by the insurer according to OAR chapter 436. A medical provider shall not attempt to collect payment for any medical service from an injured worker, except as follows:

(a) When the injured worker seeks treatment for conditions not related to the accepted compensable injury or illness;

(b) When the injured worker seeks treatment that has not been prescribed by the attending physician or authorized nurse practitioner, or a specialist physician upon referral of the attending physician or authorized nurse practitioner. This would include, but not be limited to, ongoing treatment by non-attending physicians in excess of the 30-day/12-visit period or by nurse practitioners in excess of the 90-day period, as set forth in ORS 656.245 and OAR 436-010-0210;

(c) When the injured worker seeks palliative care that is either not compensable or not authorized by the insurer or the director under OAR 436-010-0290, after the worker has been provided notice that the worker is medically stationary;

(d) When the injured worker seeks treatment outside the provisions of a governing MCO contract after insurer notification in accordance with OAR 436-010-0275; or

(e) When the injured worker seeks treatment after being notified that such treatment has been determined to be unscientific, unproven, outmoded, or experimental.

(2) A medical provider may not charge any fee for completing a medical report form required by the director under this chapter or for providing chart notes required by OAR 436-009-0010(3) of this rule.

(3) The medical provider may not charge a fee for the preparation of a written treatment plan and the supplying of progress notes that document the services billed as they are integral parts of the fee for the medical service.

(4) No fee is payable for the completion of a work release form or completion of a PCE form where no tests are performed.

(5) No fee is payable for a missed appointment except a closing examination or an appointment arranged by the insurer or for a Worker Requested Medical Examination. Except as provided in OAR 436-009-0070(9)(d) and (10)(d), when the worker fails to appear without providing the medical provider at least 24 hours notice, the medical provider shall be paid at 50 percent of the examination or testing fee.

(6) Under ORS 656.245(3), the director has excluded from compensability the following medical treatment. While these services may be provided, medical providers shall not be paid for the services or for treatment of side effects.

(a) Dimethyl sulfoxide (DMSO), except for treatment of compensable interstitial cystitis;

(b) Intradiscal electrothermal therapy (IDET);

(c) Surface EMG (electromyography) tests;

(d) Rolffing;

(e) Prolotherapy; and

(f) Thermography.

(7) Only one office visit code may be used for each visit except for those code numbers relating specifically to additional time.

(8) Mechanical muscle testing may be paid a maximum of three times during a treatment program when prescribed and approved by the attending physician or authorized nurse practitioner: once near the beginning, once near the middle, and once near the end of the treatment program. Additional mechanical muscle testing shall be paid for only when authorized in writing by the insurer prior to the testing. The fee for mechanical muscle testing includes a copy of the computer printout from the machine, written interpretation of the results, and documentation of time spent with the patient.

(9)(a) When a physician or authorized nurse practitioner provides services in hospital emergency or outpatient departments which are similar to services that could have been provided in the physician's or authorized nurse practitioner's office, such services shall be identified by CPT® codes and paid according to the fee schedule.

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(b) When a worker is seen initially in an emergency department and is then admitted to the hospital for inpatient treatment, the services provided immediately prior to admission shall be considered part of the inpatient treatment. Diagnostic testing done prior to inpatient treatment shall be considered part of the hospital services subject to the hospital fee schedule.

(10) Physician assistant, authorized nurse practitioner, or out-of-state nurse practitioner fees shall be paid at the rate of 85 percent of a physician's allowable fee for a comparable service. The bills for services by these providers must be marked with modifier "--81". Chart notes shall document when medical services have been provided by a physician assistant or nurse practitioner.

(11) Except as otherwise provided in OAR 436-009-0070, when a medical provider is asked to prepare a report, or review records or reports prepared by another medical provider, an insurance carrier or their representative, the medical provider should bill for their report or review of the records utilizing CPT® codes such as 99080. Refer to specific code definitions in the CPT® for other applicable codes. The billing should include documentation of the actual time spent reviewing the records or reports.

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

Stat. Auth.: ORS 656.245, 656.252 & 656.254

Stats. Implemented: ORS 656.245, 656.252 & 656.254

Hist.: WCD 9-1999, f. 5-27-99, cert. ef. 7-1-99; WCD 2-2000, f. 3-15-00, cert. ef. 4-1-00; WCD 2-2001, f. 3-8-01, cert. ef. 4-1-01; WCD 8-2001, f. 9-13-01, cert. ef. 9-17-01; WCD 13-2001, f. 12-17-01, cert. ef. 1-1-02; WCD 3-2002, f. 2-25-02, cert. ef. 4-1-02; WCD 6-2003, f. 5-28-03, cert. ef. 7-1-03; WCD 14-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 6-28-04; WCD 3-2004, f. 3-5-04, cert. ef. 4-1-04; WCD 2-2005, f. 3-24-05, cert. ef. 4-1-05; WCD 3-2006, f. 3-14-06, cert. ef. 4-1-06; WCD 2-2007, f. 5-23-07, cert. ef. 7-1-07

436-009-0020

Hospital Fees

(1) Hospital inpatient charges billed to insurers shall include ICD-9-CM diagnostic and procedural codes. Unless otherwise provided for by a governing MCO contract, insurers shall pay hospitals for inpatient services using the current adjusted cost/charge ratio (see Bulletin 290). For purposes of this rule, hospital inpatient services include, but are not limited to, those bills coded "111" through "118" in space #4 on the UB-04 billing form. The audited bill shall be multiplied by the hospital's adjusted cost/charge ratio to determine the allowable payment.

(2) Hospital outpatient charges billed to insurers shall include revenue codes, ICD-9-CM diagnostic and procedural codes, CPT® codes, HCPCS codes, and National Drug Codes (NDC), where applicable. Unless otherwise provided for by a governing MCO contract, insurers shall pay hospitals for outpatient services according to the following: the insurer shall first separate out and pay charges for services by physicians and other licensed medical service providers assigned a code under the CPT® and assigned a value in RBRVS for physician fees 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 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 shall submit a copy of their CMS 2552 and financial statements each year within 150 days of the end of their fiscal year to the Information Management Division, Department of Consumer and Business Services. The adjusted cost/charge ratio schedule will be published by bulletin twice yearly, effective for the six-month period beginning April 1 and the six-month period beginning October 1.

(g) For newly formed or established hospitals for which no CMS 2552 has been filed or for which there is insufficient data, or for those hospitals that do not file Worksheet G-2 with the submission of their CMS 2552, the division shall determine an adjusted cost/charge ratio for the hospital based upon the adjusted cost/charge ratios of a group of hospitals of similar size or geographic location.

(h) If the financial circumstances of a hospital unexpectedly or dramatically change, the division may revise the hospital's adjusted cost/charge ratio to allow equitable payment.

(i) If audit of a hospital's CMS 2552 by the CMS produces significantly different data from that obtained from the initial filing, the division may revise the hospital's adjusted cost/charge ratio to reflect the data developed subsequent to the initial calculation.

(j) Notwithstanding subsections (c) through (i) of this section, the 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

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436-009-0022

Ambulatory Surgical Center Fees

(1) An ambulatory surgical center (ASC) is any distinct entity licensed by the state of Oregon, and operated exclusively for the purpose of providing surgical services to patients not requiring hospitalization.

(a) Any ASC outside of Oregon must meet similar licensing requirements, or be certified by Medicare or a nationally recognized agency.

(b) Bills from an ASC shall be submitted on CMS 1500 form. The modifier "SG" shall be used to identify facility charges.

(2) Fees shall be paid at the provider's usual fee, or in accordance with the fee schedule, whichever is less. For all MCO enrolled claims, payment of fees shall be as provided by the MCO contract, at the provider's usual fee, or according to the fee schedule, whichever is less.

(3) Payment shall be made using the Medicare ASC groups, except:

(a) Arthroscopies (CPT® codes 29819 through 29898 except 29888 and 29889) are paid as Group 6.

(b) Arthroscopies (CPT® codes 29888 and 29889) are paid as Group 7.

(c) Services not listed in the Medicare ASC groups 1 through 9 shall be paid at the provider's usual rate.

(4) The ASC fee schedule is:

Group 1 — \$ 853.28
Group 2 — \$ 1,143.88
Group 3 — \$ 1,307.68
Group 4 — \$ 1,616.75
Group 5 — \$ 1,838.68
Group 6 — \$ 2,108.00
Group 7 — \$ 2,551.95
Group 8 — \$ 2,485.78
Group 9 — \$ 3,444.43

(5) The ASC fee includes services, such as:

(a) Nursing, technical, and related services;

(b) Use of the facility where the surgical procedure is performed;

(c) Drugs, biologicals, surgical dressings, supplies, splints, casts, and appliances and equipment directly related to the provision of the surgical procedure;

(d) Diagnostic or therapeutic services or items directly related to the provision of a surgical procedure;

(e) Administrative, record-keeping, and housekeeping items and services;

(f) Materials for anesthesia;

(g) Supervision of the services of an anesthetist by the operating surgeon.

(6) The ASC fee does not include services, such as physicians' services, laboratory, x-ray or diagnostic procedures not directly related to the surgical procedure, prosthetic devices, orthotic devices, durable medical equipment (DME), or anesthetists' services. The insurer shall pay for prosthetic devices, orthotic devices, and DME as provided in OAR 436-009-0080.

(7) When multiple procedures are performed, the highest payment group shall be paid at 100% of the maximum allowed fee. Each additional procedure shall be paid at 50% of the maximum allowed fee.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.248 & 656.252

Hist.: WCD 3-2002, f. 2-25-02 cert. ef. 4-1-02; WCD 6-2003, f. 5-28-03, cert. ef. 7-1-03; WCD 3-2004, f. 3-5-04 cert. ef. 4-1-04; WCD 3-2006, f. 3-14-06, cert. ef. 4-1-06; WCD 2-2007, f. 5-23-07, cert. ef. 7-1-07

436-009-0025

Reimbursement of Related Services Costs

(1) The insurer shall notify the worker in writing at the time of claim acceptance that claim-related services, not otherwise addressed by these rules, paid by the worker will be reimbursed by the insurer as provided in this rule. The notification must include notice to the worker of the two year time limitation to request reimbursement.

(a) The worker must request reimbursement from the insurer in writing.

(b) The insurer may require reasonable documentation to support the request. Insurers shall date stamp requests for reimbursement upon receipt and shall reimburse the costs within 30 days of receiving the request and supporting documentation, if the request clearly shows the costs are related to the accepted compensable injury or disease. If the insurer cannot determine if the costs are related to the accepted compensable injury or disease, the insurer shall inform the worker what information is needed before the request for reimbursement can be processed. If additional information is needed, the time needed to obtain the information is not counted in the 30 day time frame for the insurer to issue reimbursement.

(c) Notwithstanding subsections (a) and (b) of this section, in deferred claims, requests which are at least 30 days old at the time of claim accept-

ance become due immediately upon claim acceptance and shall be paid within 14 days. In a claim for aggravation or a new medical condition, reimbursement of related services is not due and payable until the aggravation or new medical condition is accepted. If the claim is denied, requests for reimbursement shall be returned to the worker within 14 days.

(2) Reimbursement of the costs of meals, lodging, public transportation and use of a private vehicle shall be reimbursed as provided in this section. The maximum rate of reimbursement is limited to the rate of reimbursement for State of Oregon classified employees, as published in Bulletin 112. When a worker has documentation of the expense which includes the date of the expense, he or she may be entitled to reimbursement for:

(a) Any meal reasonably required by necessary travel to a claim-related appointment.

(b) Lodging based on the need for overnight travel to attend the appointment. Reimbursement may exceed the maximum rate where special lodging was required or where the worker was unable to find lodging at or below the maximum rate within 10 miles of the appointment location.

(c) Mileage when using a personal vehicle based on the beginning and ending addresses. Reimbursement may exceed the maximum if special transportation is required. Public transportation will be reimbursed based on actual cost.

(d) Prescriptions and other claim-related expenses will be reimbursed based on actual cost.

(3) Requests for reimbursement of claim-related services costs must be received by the insurer within two years of the date the costs were incurred or within two years of the date the claim or medical condition is finally determined compensable, whichever date is later. The insurer may disapprove requests for reimbursement received beyond the two year period as being untimely requested.

(4) Requests for reimbursement denied as unreasonable or not related to the accepted compensable injury or disease shall be returned to the worker within 30 days of the date of receipt by the insurer. The insurer shall provide the worker an explanation of the reason for nonpayment and advise the worker of the right to appeal the insurer's decision by requesting administrative review before the director, under OAR 436-009-0008.

(5) Pursuant to ORS 656.325(1)(f) and 436-060-0095(5)(f), the insurer shall reimburse the worker for costs related to the worker's attendance at an independent medical examination regardless of the acceptance, deferral, or denial of the claim.

Stat. Auth.: ORS 656.245, 656.704 & 656.726(4)

Stats. Implemented: ORS 656.245, 656.704 & 656.726(4)

Hist.: WCB 6-1969, f. 10-23-69, ef. 10-29-69; WCD 1-1980(Admin), f. & ef. 1-11-80; WCD 6-1981(Admin), f. 12-23-81, ef. 1-1-82; WCD 8-1983(Admin), f. 12-29-83, ef. 1-1-84; Renumbered from 436-054-0270, 5-1-85; WCD 8-1985(Admin), f. 12-12-85, ef. 1-1-86; WCD 4-1987, f. 12-18-87, ef. 1-1-88; WCD 6-1989, f. 12-22-89, cert. ef. 1-1-90; WCD 29-1990, f. 11-30-90, cert. ef. 12-26-90; WCD 1-1992, f. 1-3-92, cert. ef. 2-1-92; WCD 5-1996, f. 2-6-96, cert. ef. 2-12-96; WCD 13-2001, f. 12-17-01, cert. ef. 1-1-02, Renumbered from 436-060-0070; WCD 3-2004, f. 3-5-04 cert. ef. 4-1-04; WCD 3-2006, f. 3-14-06, cert. ef. 4-1-06; WCD 2-2007, f. 5-23-07, cert. ef. 7-1-07

436-009-0030

Insurer's Duties and Responsibilities

(1) The insurer shall pay for medical services related to a compensable injury claim, except as provided by OAR 436-060-0055.

(2) The insurer, or its designated agent, may request from the medical provider, any and all necessary records needed to review accuracy of billings. The medical provider may charge an appropriate fee for copying documents in accordance with OAR 436-009-0070(1). If the evaluation of the records must be conducted on-site, the provider shall furnish a reasonable work-site for the records to be reviewed at no cost. These records shall be provided or made available for review within 14 days of a request.

(3) Insurers shall date stamp medical bills and reports upon receipt and pay bills for medical services on accepted claims within 45 days of receipt of the bill, if the billing is submitted in proper form in accordance with OAR 436-009-0010(2) through (4) and clearly shows that the treatment is related to the accepted compensable injury or disease. Billings not submitted in the proper form must be returned to the medical provider within 20 days of receipt of the bill 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.

(a) The insurer shall retain a copy of each medical provider's bill received by the insurer or shall be able to reproduce upon request data relevant to the bill, including but not limited to, provider name, date of serv-

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ice, 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 shall, within 45 days, pay the undisputed portion of the bill and at the same time provide specific reasons for non-payment or reduction of each medical service code. Resolution of billing disputes, including possible overpayment disputes, shall be made in accordance with OAR 436-009-0008, 436-010-0008 and 436-015.

(7) Bills for medical services rendered at the request of the insurer and bills for information submitted at the request of the insurer, which are in addition to those required in OAR 436-010-0240 shall be paid for within 45 days of receipt by the insurer even if the claim is denied.

(8) The insurer shall establish an audit program for bills for all medical services to determine that the bill reflects the services provided, that appropriate prescriptions and treatment plans are completed in a timely manner, that payments do not exceed the maximum fees adopted by the director, and that bills are submitted in a timely manner. The audit shall be continuous and shall include no fewer than 10 percent of medical bills. The insurer shall provide upon request documentation establishing that the insurer is conducting a continuous audit of medical bills. This documentation shall include, but not be limited to, medical bills, internal audit forms, and any medical charge summaries prepared by private medical audit companies.

(9) The insurer must pay a medical provider for any bill related to the claimed condition received by the insurer on or before the date the terms of a disputed claim settlement (DCS) were agreed on, but was either not listed in the approved DCS or was not paid to the medical provider as set forth in the approved DCS. Payment must be made by the insurer as prescribed by ORS 656.313(4)(d) and OAR 438-009-0010(2)(g) as if the bill had been listed in the approved settlement or as set forth in the approved DCS, except if the DCS payments have already been made, the payment must not be deducted from the settlement proceeds. Payment must be made within 45 days of the insurer's knowledge of the outstanding bill.

(10) Insurers that had at least 100 accepted disabling claims in the previous calendar year, as determined by the director, are required to submit detailed medical service billing data to the Information Management Division of the Department of Consumer and Business Services at 350 Winter St NE, Room 300, PO Box 14480, Salem OR 97309-0405. Once an insurer has reached the minimum number of accepted disabling claims, they must continue to report in subsequent years unless there is a significant decrease below the 100 claim minimum which is expected to continue. If the insurer drops below the 100 disabling claim level or encounters other significant hardships, the insurer may apply to the director for exemption from the reporting requirement. The reporting requirements are as follows:

(a) The director will notify the affected insurers when they reach the minimum. The transmission data and format requirements are included in **Appendix A**;

(b) The data shall include all payments made during each calendar quarter for medical services that are covered by the department's fee schedules. The following apply:

(A) Hospital Inpatient: Each hospital inpatient stay should be reported as one record summarizing all services related to the inpatient stay using provider type "HI." Report ICD-9-CM procedure code in the service code field.

(B) Hospital Outpatient: Report at the individual service-code level using provider type "HO." A service code, whether CPT®, HCPCS or

other, is required on all "HO" records in addition to the ICD-9-CM diagnostic code.

(C) Adjustments to payments must be associated with specific services.

(c) The affected insurers shall submit the medical data within 45 days of the end of each calendar quarter. A grace period of two calendar quarters may be granted for revised requirements and also for insurers which are newly affected by these requirements. The calendar quarter due dates are as outlined in the table below:

QUARTERLY DUE DATES Table
QUARTER — MONTH OF PAYMENT — DUE NEXT
First — January, February & March — May 15th
Second — April, May & June — August 14th
Third — July, August & September — November 14th
Fourth — October, November & December — February 14th

(d) Technical Requirements: Data for each quarter calendar year must be transmitted as an individual file. Insurers transmitting data for more than one insurer may batch multiple insurer data files in one transmission. Data must be transmitted in electronic text files by secure file transfer protocol (SFTP). Contact the Information Management Division (IMD) to arrange submission by secure FTP files. The record length must be fixed, 129 bytes, no packed fields, and in conformance with the records layout in Appendix A. Contact IMD for e-mail cover letter instructions. The cover letter must include the following: a list of all insurance companies' data included in the transmission; number of records; a contact person's name, address, and telephone number; and any known problems with the data.

(e) Data Quality: The director will conduct electronic edits for blank or invalid data. Affected insurers are responsible for pre-screening the data they submit to check that all the required information is reported. Files which have more than five percent missing or invalid data in any field, based on initial computerized edits, will be returned to the insurer for correction and must be resubmitted within three weeks (21 days) from the date it was returned by the department.

(f) Audit Quality: The director may also conduct field audits of actual payments reported for individual claims. When an audit occurs, in order to be in compliance with this rule audited data must have no more than 15 percent inaccurate data in any field.

[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

436-009-0040

Calculating Medical Provider Fees

(1) The insurer shall pay for medical services at the provider's usual fee or in accordance with the fee schedule whichever is less. Insurers shall pay for medical services that have no fee schedule at the provider's usual fee. For all MCO enrolled claims, the insurer shall pay for medical services at the provider's usual fee or according to the fee schedule, whichever is less, unless otherwise provided by MCO contract. Where there is no maximum payment established by the fee schedule, an insurer may challenge the reasonableness of a provider's billing on a case by case basis by asking the director to review the billing under OAR 436-009-0008. If the director determines the amount billed is unreasonable, the director may establish a different fee to be paid to the provider based on at least one of, but not limited to, the following: reasonableness, the usual fees of similar providers, the services provided in the specific case, fees for similar services in similar geographic regions, and any extenuating circumstances.

(2)(a) When using RBRVS, the RVU is determined by reference to the appropriate CPT® code. Where the procedure is performed inside the medical service provider's office, use Year 2007 non-facility total column. Where the procedure is performed outside the medical service provider's office, use Year 2007 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 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.

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(3) Payment according to the fee schedule shall be determined by multiplying the assigned RVU or basic unit value by the applicable conversion factor. Where the code is designated by an RVU of "0.00" or IC (individual consideration) for Anesthesia codes, the insurer shall pay at the provider's usual rate.

(4) The table below lists the conversion factors to be applied to services, assigned an RVU, rendered by all medical 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. 3-24-05, 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

436-009-0050 CPT® Sections

Each CPT® section has its own schedule of relative values, completely independent of and unrelated to any of the other sections. The definitions, descriptions, and guidelines found in CPT® shall be used as guides governing the descriptions of services, except as otherwise provided in these rules. The following provisions are in addition to those provided in each section of CPT®.

- (1) Evaluation and Management services.
- (2) Anesthesia services.

(a) In calculating the units of time, use 15 minutes per unit. If a medical provider bills for a portion of 15 minutes, round the time up to the next 15 minutes and pay one unit for the portion of time.

(b) Anesthesia basic unit values are to be used only when the anesthesia is personally administered by either a licensed physician or certified nurse anesthetist who remains in constant attendance during the procedure for the sole purpose of rendering such anesthesia service.

(c) When a regional anesthesia is administered by the attending surgeon, the value shall be the "basic" anesthesia value only without added value for time.

(d) When the surgeon or attending physician administers a local or regional block for anesthesia during a procedure, the modifier "NT" (no time) shall be noted on the bill.

(e) Local infiltration, digital block, or topical anesthesia administered by the operating surgeon is included in the relative value unit for the surgical procedure.

- (3) Surgery services.

(a) When a worker is scheduled for elective surgery, the pre-operative visit, in the hospital or elsewhere, necessary to examine the patient, complete the hospital records, and initiate the treatment program is included in the listed global value of the surgical procedure. If the procedure is not elective, the physician is entitled to payment for the initial evaluation of the worker in addition to the global fee for the surgical procedure(s) performed.

(b) When an additional surgical procedure(s) is carried out within the listed period of follow-up care for a previous surgery, the follow-up periods will continue concurrently to their normal terminations.

(c) Multiple surgical procedures performed at the same session shall be paid as follows:

(A) When multiple surgical procedures are performed by one surgeon, the principal procedure is paid at 100 percent of the maximum allowable fee, the secondary and all subsequent procedures are paid at 50 percent of the maximum allowable fee. A diagnostic arthroscopic procedure performed preliminary to an open operation, is considered a secondary procedure and paid accordingly.

(B) When multiple arthroscopic procedures are performed, the major procedure shall be paid at no more than 100 percent of the value listed in these rules and the subsequent procedures paid at 50 percent of the value listed.

(C) When more than one surgeon performs surgery, each procedure shall be billed separately. The maximum allowable fee for each procedure, as listed in these rules, shall be reduced by 25 percent. When the surgeons assist each other throughout the operation, each is entitled to an additional fee of 20 percent of the other surgeon's allowable fee as an assistant's fee. When the surgeons do not assist each other, and a third physician assists the

surgeons, the third physician is entitled to the assistant's fee of 20 percent of the surgeons' allowable fees.

(D) When a surgeon performs surgery following severe trauma that requires considerable time, and the surgeon does not think the fees should be reduced under the multiple surgery rule, the surgeon may request special consideration by the insurer. Such a request must be accompanied by written documentation and justification. Based on the documentation, the insurer may pay for each procedure at 100 percent.

(E) When a surgical procedure is performed bilaterally, the modifier "-50" shall be noted on the bill for the second side, and paid at 50% of the fee allowed for the first side.

(d) Physician assistants or nurse practitioners shall be paid at the rate of 15 percent of the surgeon's allowable fee for the surgical procedure(s). The bills for services by these providers shall be marked with a modifier "-81." Chart notes shall document when medical services have been provided by a physician assistant or nurse practitioner.

(e) Other surgical assistants who are self-employed and work under the direct control and supervision of a physician shall be paid at the rate of 10 percent of the surgeon's allowable fee for the surgical procedure(s). The operation report shall document who assisted.

- (4) Radiology services.

(a) In order to be paid, x-ray films must be of diagnostic quality and include a report of the findings. Billings for 14" x 36" lateral views shall not be paid.

(b) When multiple contiguous areas are examined by computerized axial tomography (CAT) scan, computerized tomography angiography (CTA), magnetic resonance angiography (MRA), or magnetic resonance imaging (MRI), the technical component for the first area examined shall be paid at 100 percent, the second area at 50 percent, and the third and all subsequent areas at 25 percent under these rules. The discount applies to multiple studies done within 2 days, unless the ordering provider provides a reasonable explanation of why the studies needed to be done on separate days. No reduction is applied to multiple areas for the professional component.

- (5) Pathology and Laboratory services.

(a) The laboratory and pathology conversion factor applies only when there is direct physician involvement.

(b) Laboratory fees shall be billed in accordance with ORS 676.310. If any physician submits a bill for laboratory services that were performed in an independent laboratory, the bill shall show the amount charged by the laboratory and any service fee that the physician charges.

- (6) Medicine services.

- (7) Physical Medicine and Rehabilitation services.

(a) Increments of time for a time-based CPT® code shall not be pro-rated.

(b) Payment for modalities and therapeutic procedures shall be limited to a total of three separate CPT®-coded services per day. CPT® codes 97001, 97002, 97003, or 97004 are not subject to this limit. An additional unit of time (15 minute increment) for the same CPT® code is not counted as a separate code.

(c) All modality codes requiring constant attendance (97032, 97033, 97034, 97035, 97036, and 97039) are time-based. Chart notes must clearly indicate the time treatment begins and the time treatment ends for the day.

(d) CPT® codes 97010 through 97028 shall not be paid unless they are performed in conjunction with other procedures or modalities which require constant attendance or knowledge and skill of the licensed medical provider.

(e) When multiple treatments are provided simultaneously by a machine, device or table there shall be a notation on the bill that treatments were provided simultaneously by a machine, device or table and there shall be one charge.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.248

Hist.: WCD 9-1999, f. 5-27-99, cert. ef. 7-1-99; WCD 2-2000, f. 3-15-00, cert. ef. 4-1-00; WCD 2-2001, f. 3-8-01, cert. ef. 4-1-01; WCD 3-2002, f. 2-25-02 cert. ef. 4-1-02; WCD 6-2003, f. 5-28-03, cert. ef. 7-1-03; WCD 3-2004, f. 3-5-04 cert. ef. 4-1-04; WCD 3-2006, f. 3-14-06, cert. ef. 4-1-06; WCD 2-2007, f. 5-23-07, cert. ef. 7-1-07

436-009-0070

Oregon Specific Code, Other Services

(1) Except for records required in OAR 436-009-0010(3), copies of requested medical records shall be paid under OSC-R0001.

(2) A brief narrative by the attending physician or authorized nurse practitioner, including a summary of treatment to date and current status, and, if requested, brief answers to one to five specific questions related to the attending physician's or authorized nurse practitioner's current or proposed treatment, shall be paid under OSC-N0001.

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(3) A complex narrative by the attending physician or authorized nurse practitioner, may include past history, history of present illness, attending physician's or authorized nurse practitioner's treatment to date, current status, impairment, prognosis, and medically stationary information, shall be paid under OSC-N0002.

(4) Fees for a PCE and a WCE shall be based upon the type of evaluation requested. The description of each level of evaluation and the maximum allowable payment shall be as follows:

(a) **FIRST LEVEL PCE:** This is a limited evaluation primarily to measure musculoskeletal components of a specific body part. These components include such tests as active range of motion, motor power using the 5/5 scale, and sensation. This level requires not less than 45 minutes of actual patient contact. A first level PCE shall be paid under OSC-99196 which includes the evaluation and report. Additional 15-minute increments may be added if multiple body parts are reviewed and time exceeds 45 minutes. Each additional 15 minutes shall be paid under OSC-99193 which includes the evaluation and report.

(b) **SECOND LEVEL PCE:** This is a PCE to measure general residual functional capacity to perform work or provide other general evaluation information, including musculoskeletal evaluation. It may be used to establish Residual Functional Capacities for claim closure. This level requires not less than two hours of actual patient contact. The second level PCE shall be paid under OSC-99197 which includes the evaluation and report. Additional 15 minute increments may be added to measure additional body parts, to establish endurance and to project tolerances. Each additional 15 minutes shall be paid under OSC-99193 which includes the evaluation and report.

(c) **WCE:** This is a residual functional capacity evaluation which requires not less than 4 hours of actual patient contact. The evaluation may include a musculoskeletal evaluation for a single body part. A WCE shall be paid under OSC-99198 which includes the evaluation and report. Additional 15 minute increments (per additional body part) may be added to determine endurance (e.g. cardiovascular) or to project tolerances (e.g., repetitive motion). Each additional 15 minutes shall be paid under OSC-99193 which includes the evaluation and report. Special emphasis should be given to:

(A) The ability to perform essential physical functions of the job based on a specific job analysis as related to the accepted condition;

(B) The ability to sustain activity over time; and

(C) The reliability of the evaluation findings.

(5) When an attorney requires a consultation with a medical provider, the medical provider shall bill under OSC-D0001.

(6) The fee for a deposition shall be billed under OSC-D0002. This code should include time for preparation, travel and deposition. Upon request of one of the parties, the director may limit payment of the provider's hourly rate to a fee charged by similar providers.

(7) When an insurer obtains an Independent Medical Examination (IME):

(a) The medical service provider doing the IME shall bill under OSC-D0003. This code shall be used for a report, file review or examination;

(b) If the insurer asks the medical service provider to review the IME report and respond, the medical service provider shall bill for the time spent reviewing and responding using OSC-D0019. Billing should include documentation of time spent.

(8) The fee for interpretive services shall be billed under OSC-D0004.

(9) Fees for all arbiters and panel of arbiters used for director reviews pursuant to OAR 436-030-0165 shall be established by the director. This fee determination will be based on the complexity of the examination, the report requirements and the extent of the record review. The level of each category is determined by the director based on the individual complexities of each case as compared to the universe of claims in the medical arbiter process. When the examination is scheduled, the director shall notify the medical arbiter and the parties of the authorized fee for that medical arbiter review based on a combination of separate components.

(a) **Level 1 — OSC-AR001 Exam:**

Level 2 — OSC-AR002 Exam

Level 3 — OSC-AR003 Exam

Limited — OSC-AR004 Exam

As determined by the director, a level 1 exam generally involves a basic medical exam with no complicating factors. A level 2 exam generally involves a moderately complex exam and may have complicating factors. A level 3 exam generally involves a very complex exam and may have several complicating factors. A limited exam generally involves a newly accepted condition, or some other partial exam.

(b) **Level 1 — OSC-AR011 Report:**

Level 2 — OSC-AR012 Report

Level 3 — OSC-AR013 Report

As determined by the director, a level 1 report generally includes standard questions. A level 2 report generally includes questions regarding complicating factors. A level

3 report generally includes questions regarding multiple complicating factors.

(c) **Level 1 — OSC-AR021 File Review:**

Level 2 — OSC-AR022 File Review

Level 3 — OSC-AR023 File Review

Level 4 — OSC-AR024 File Review

Level 5 — OSC-AR025 File Review

As determined by the director, a level 1 file review generally includes review of a limited record. A level 2 file review generally includes review of an average record. A level 3 file review generally includes review of a large record or disability evaluation without an exam. A level 4 file review generally includes an extensive record. A level 5 file review generally includes an extensive record with unique factors.

(d) The director will notify the medical arbiter and the insurer of the approved code for each component to establish the total fee for the medical arbiter review. If a worker fails to appear for a medical arbiter examination without giving each medical arbiter at least 48 hours notice, each medical arbiter shall be paid at 50 percent of the examination or testing fee. A medical arbiter must also be paid for any file review completed prior to cancellation.

(e) If the director determines that a supplemental medical arbiter report is necessary to clarify information or address additional issues, an additional report fee may be established. The fee is based on the complexity of the supplemental report as determined by the director. The additional fees are established as follows:

Limited — OSC-AR031

Complex — OSC-AR032

(f) Prior to completion of the reconsideration process, the medical arbiter may request the director to redetermine the authorized fee by providing the director with rationale explaining why the physician believes the fee should be different than authorized.

(g) The director may authorize testing which shall be paid according to OAR 436-009.

(h) Should an advance of costs be necessary for the worker to attend a medical arbiter exam, a request for advancement shall be made in sufficient time to ensure a timely appearance. After receiving a request, the insurer must advance the costs in a manner sufficient to enable the worker to appear on time for the exam. If the insurer believes the request is unreasonable, the insurer shall contact the director in writing. If the director agrees the request is unreasonable, the insurer may decline to advance the costs. Otherwise, the advance must be made timely as required in this subsection.

(10) A single physician selected under ORS 656.327 or 656.260, to review treatment, perform reasonable and appropriate tests, or examine the worker, and submit a report to the director shall be paid at an hourly rate up to a maximum of 4 hours for record review and examination.

(a) The physician will be paid for preparation and submission of the report. Billings for services by a single physician shall be billed under OSC-P0001 for the examination and under OSC-P0003 for the report.

(b) Physicians selected under OAR 436-010-0008, to serve on a panel of physicians shall each receive payment based on an hourly rate up to a maximum of 4 hours for record review and panel examination. Each physician shall bill for the record review and panel examination under OSC-P0002. The panel member who prepares and submits the panel report shall receive an additional payment under OSC-P0003.

(c) The director may in a complex case requiring extensive review by a physician pre-authorize an additional fee. Complex case review shall be billed under OSC-P0004.

(d) If a worker fails to appear for a director required examination without providing the physician with at least 48 hours notice, each physician shall bill under OSC-P0005. The insurer must pay the physician for the appointment time and any time spent reviewing the record completed prior to the examination time. The billing must document the physician's time spent reviewing the record.

(e) Should an advance of costs be necessary for the worker to attend an exam under ORS 656.327 or 656.260, a request for advancement shall be made in sufficient time to ensure a timely appearance. After receiving a request, the insurer must advance the costs in a manner sufficient to enable the worker to appear on time for the exam. If the insurer believes the request is unreasonable, the insurer shall contact the director in writing. If the director agrees the request is unreasonable, the insurer may decline to advance the costs. Otherwise, the advance must be made timely as required in this subsection.

(11) The fee for a Worker Requested Medical Examination shall be billed under OSC-W0001. This code shall be used for a report, file review, or examination.

(12) The table below lists the Oregon Specific Codes for Other Services.

Codes — Relative Value — Description

R0001 — — Copies of medical records when requested shall be paid at \$10.00 for the first page and \$.50 for each page thereafter and identified on billings

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N0001 — 1.71 — Brief narrative by the attending physician or authorized nurse practitioner
N0002 — 3.41 — Complex narrative by the attending physician or authorized nurse practitioner
99196 — 3.00 — First Level PCE
99197 — 5.36 — Second Level PCE
99198 — 11.31 — WCE
99193 — 0.77 — Additional 15 minutes
D0001 — 0.00 — Attorney consultation time
D0002 — 0.00 — Deposition time
D0003 — 0.00 — Independent Medical Examination (IME) and report
D0004 — 0.00 — Interpretive services
D0019 — 0.00 — Medical service provider review and response to IME report
AR001 — 5.12 — Level 1 arbiter exam
AR002 — 6.82 — Level 2 arbiter exam
AR003 — 8.53 — Level 3 arbiter exam
AR004 — 2.56 — Level 4 arbiter exam
AR011 — 0.88 — Level 1 arbiter report
AR012 — 1.32 — Level 2 arbiter report
AR013 — 1.77 — Level 3 arbiter report
AR021 — 0.88 — Level 1 arbiter file review
AR022 — 2.21 — Level 2 arbiter file review
AR023 — 5.30 — Level 3 arbiter file review
AR024 — 10.23 — Level 4 arbiter file review
AR025 — 13.65 — Level 5 arbiter file review
AR031 — 0.88 — Limited arbiter report
AR032 — 1.77 — Complex arbiter report
P0001 — 4.27 — Director single medical review/exam
P0002 — 4.27 — Director panel medical review/exam
P0003 — 2.17 — Director single medical review/report
P0004 — 5.12 — Director complex case review/exam
P0005 — 2.17 — Failure to appear director required examination
W0001 — 0.00 — Worker Requested Medical Examination and report
Stat. Auth.: ORS 656.726(4)
Stats. Implemented: ORS 656.248
Hist.: WCD 9-1999, f. 5-27-99, cert. ef. 7-1-99; WCD 2-2000, f. 3-15-00, cert. ef. 4-1-00; WCD 2-2001, f. 3-8-01, cert. ef. 4-1-01; WCD 13-2001, f. 12-17-01, cert. ef. 1-1-02; WCD 3-2002, f. 2-25-02 cert. ef. 4-1-02; WCD 6-2003, f. 5-28-03, cert. ef. 7-1-03; WCD 14-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 6-28-04; WCD 3-2004, f. 3-5-04 cert. ef. 4-1-04; WCD 2-2005, f. 3-24-05, cert. ef. 4-1-05; WCD 3-2006, f. 3-14-06, cert. ef. 4-1-06; WCD 2-2007, f. 5-23-07, cert. ef. 7-1-07

436-009-0080

Durable Medical Equipment and Medical Supplies

(1) Durable medical equipment (DME) is equipment that is primarily and customarily used to serve a medical purpose, can withstand repeated use, could normally be rented and used by successive patients, is appropriate for use in the home, and not generally useful to a person in the absence of an illness or injury. For example: Transcutaneous Electrical Nerve Stimulation (TENS), MicroCurrent Electrical Nerve Stimulation (MENS), home traction devices, heating pads, reusable hot/cold packs, etc. Fees for durable medical equipment shall be paid as follows:

(a) The insurer shall pay for the purchase of all compensable DME that are ordered and approved by the physician, at 85% of the manufacturer's suggested retail price (MSRP). If no MSRP is available or the provider can demonstrate that 85% of the MSRP is less than 140% of the actual cost to the provider, the insurer shall pay the provider 140% of the actual cost to the provider for the item as documented on a receipt of sale.

(b) The DME provider is entitled to payment for any labor and reasonable expenses directly related to any subsequent modifications other than those performed at the time of purchase, or repairs. A subsequent modification is one done other than as a part of the initial set-up at the time of purchase. The insurer shall pay for labor at the provider's usual rate.

(c) The provider may offer a service agreement at an additional cost.

(d) Rental of all compensable DME shall be billed at the provider's usual rate. Within 90 days of the beginning of the rental, the insurer may purchase the DME or device at the fee provided in this rule, with a credit for rental paid up to 2 months.

(2) A prosthetic is an artificial substitute for a missing body part or any device aiding performance of a natural function. For example: hearing aids, eye glasses, crutches, wheelchairs, scooters, artificial limbs, etc. The insurer shall pay the fee for a prosthetic at the provider's usual rate.

(a) Testing for hearing aids must be done by a licensed audiologist or an otolaryngologist.

(b) Based on current technology, the preferred types of hearing aids for most workers are programmable BTE, ITE, and CIC multi channel. Any other types of hearing aids needed for medical conditions will be considered based on justification from the attending physician or authorized nurse practitioner.

(c) Without approval from the insurer or director, hearing aids should not exceed \$5000 for a pair of hearing aids, or \$2500 for a single hearing aid.

(3) An orthosis is an orthopedic appliance or apparatus used to support, align, prevent or correct deformities, or to improve the function of a

moveable body part. For example: brace, splint, shoe insert or modification, etc. The insurer shall pay the fee for an orthosis at the provider's usual rate.

(4) Medical supplies are materials that may be reused multiple times by the same person, but a single supply is not intended to be used by more than one person, including, but not limited to incontinent pads, catheters, bandages, elastic stockings, irrigating kits, sheets, and bags. The insurer shall pay the fees for medical supplies at the provider's usual rate.

(5) The worker may select the service provider, except for claims enrolled in a managed care organization (MCO) where service providers are specified by the MCO contract.

(6) Except as provided in subsection (2)(c) of this rule, this rule does not apply to a worker's direct purchase of DME and medical supplies, and does not limit a worker's right to reimbursement for actual out-of-pocket expenses under OAR 436-009-0025.

(7) DME, medical supplies and other devices dispensed by a hospital (inpatient or outpatient) shall be billed and paid according to OAR 436-009-0020.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.248

Hist.: WCD 9-1999, f. 5-27-99, cert. ef. 7-1-99; WCD 2-2001, f. 3-8-01, cert. ef. 4-1-01; WCD 3-2002, f. 2-25-02 cert. ef. 4-1-02; WCD 14-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 6-28-04; WCD 3-2004, f. 3-5-04 cert. ef. 4-1-04; WCD 2-2005, f. 3-24-05, cert. ef. 4-1-05; WCD 3-2006, f. 3-14-06, cert. ef. 4-1-06; WCD 2-2007, f. 5-23-07, cert. ef. 7-1-07

Rule Caption: Director's authority to refuse, suspend, or revoke a worker leasing company license.

Adm. Order No.: WCD 3-2007(Temp)

Filed with Sec. of State: 5-31-2007

Certified to be Effective: 6-1-07 thru 11-27-07

Notice Publication Date:

Rules Amended: 436-050-0005, 436-050-0400, 436-050-0420, 436-050-0440, 436-050-0450, 436-050-0460, 436-050-0480

Subject: These temporary rules:

- Define terms and clarify existing definitions related to worker leasing companies;
- Clarify that a worker leasing company license fee is due upon application approval and prior to licensure;
- Require submission of additional information with the application for initial license or renewal of license;
- Provide that the director may request additional information as needed to clarify information submitted with the worker leasing company application;
- Provide that the director may refuse to issue or renew a license, or disqualify the person from making further application, based on:
 - A background investigation;
 - Information submitted with the worker leasing company application;
 - Misrepresentation;
 - Failure to meet any of the requirements of ORS 656.850, 656.855, or the director's rules;
 - Describe the appeal rights of a person denied a worker leasing company license;
 - Provide that any 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 that takes over its operations;
 - Require that a worker leasing company notify the director if any information submitted with the application has changed;
 - Clarify reasons and provide additional reasons that are the basis for suspension or revocation of a worker leasing company license; and
 - Provide that a person or controlling person may be subject to 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

ADMINISTRATIVE RULES

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) "Authorized Representative" means an individual who acts on behalf of a person.
- (3) "Board" means the Workers' Compensation Board of the Department of Consumer and Business Services.
- (4) "Client" means a person to whom workers are provided under contract and for a fee on a temporary or leased basis.
- (5) "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.
- (6) "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.
- (7) "Days" means calendar days unless otherwise specified.
- (8) "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.
- (9) "Department" means the Department of Consumer and Business Services.
- (10) "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.
- (11) "Division" means the Workers' Compensation Division of the Department of Consumer and Business Services.
- (12) "Double Coverage" means more than one guaranty contract is on file with the director for the same period of time.
- (13) "Fiscal Year" means the twelve-month period beginning July 1 and ending June 30.
- (14) "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.
- (15) "Hearings Division" means the Hearings Division of the Workers' Compensation Board.
- (16) "Insurer" means a guaranty contract insurer.
- (17) "Leased Worker" means any worker provided by a worker leasing company on other than a "temporary basis" as described in OAR 436-050-0420.
- (18) "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.
- (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 (18) 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

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 continues 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

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

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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

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) Names and contact information of authorized representatives, including the Oregon representative;

(k) List of controlling persons including their names, titles, residence addresses, telephone numbers, email addresses, and dates of birth;

(l) A letter of verification and good standing from the controlling regulatory agency of those states in which a worker leasing license or certification 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 worker leasing experience in any state, by the person or any controlling person, and an explanation of that experience;

(o) A record of any bankruptcies 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 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.

(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.

(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

436-050-0450

Recordkeeping

(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 authorized 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

436-050-0460

Disqualification, Suspension, 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 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) Conviction, within the last ten years, of a worker leasing company or controlling person for a crime involving fraud, theft, embezzlement, forgery, or money laundering on the part of the worker leasing company or controlling person;

(e) Nonpayment of taxes, fees, assessments, or any other monies due the State of Oregon;

(f) 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

(g) 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

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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

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

Rule Caption: Standards of professional conduct for health care providers conducting independent medical examinations.

Adm. Order No.: WCD 4-2007(Temp)

Filed with Sec. of State: 6-7-2007

Certified to be Effective: 6-7-07 thru 12-3-07

Notice Publication Date:

Rules Amended: 436-010-0265

Subject: These amended rules implement enrolled House Bill 2943. ORS 656.328 requires the director to adopt 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.

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>

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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 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:

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(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 656.325.

(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 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;

(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

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(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

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Department of Fish and Wildlife Chapter 635

Rule Caption: Temporarily opening Lower Umatilla River to angling for spring Chinook salmon over Memorial Day weekend.

Adm. Order No.: DFW 34-2007(Temp)

Filed with Sec. of State: 5-23-2007

Certified to be Effective: 5-26-07 thru 9-30-07

Notice Publication Date:

Rules Amended: 635-019-0090

Subject: Amends rule to implement opening of the Lower Umatilla River to angling for spring Chinook salmon over Memorial Day weekend.

Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-019-0090

Inclusions and Modifications

(1) The 2007 Oregon Sport Fishing Regulations provide requirements for the Northeast Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the 2007 Oregon Sport Fishing Regulations.

(2) The McKay Reservoir (Umatilla County) is open to angling March 1 through September 30, 2007. The daily catch limit for bass is 3 per day and minimum length is 15 inches.

(3) The Umatilla River from Highway 730 Bridge upstream to Three Mile Dam is closed to angling for spring chinook salmon effective Thursday, May 10, 2007 at 12:01 a.m.

(4) The Umatilla River from Highway 730 Bridge upstream to Three Mile Dam is re-opened temporarily to angling for spring chinook salmon effective Saturday, May 26, 2007 at 12:01 a.m. thru Monday, May 28, 2007 at 11:59 p.m. (Memorial Day weekend).

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

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: 496.162 & 506.129

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 57-1994(Temp), f. 8-30-94, cert. ef. 10-1-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 70-1995, f. 8-29-95, cert. ef. 9-1-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 27-1996(Temp), f. 5-24-96, cert. ef. 5-25-96; FWC 57-1996(Temp), f. 9-27-96, cert. ef. 10-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 26-1997(Temp), f. 4-23-97, cert. ef. 5-17-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 13-1998(Temp), f. & cert. ef. 2-26-98 thru 4-15-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 5-1999(Temp), f. 2-5-99, cert. ef. 2-6-99 thru 2-19-99; DFW 8-1999(Temp), f. & cert. ef. 2-23-99 thru 4-15-99; DFW 37-1999(Temp), f. 5-24-99, cert. ef. 5-29-99 thru 6-5-99; DFW 43-1999(Temp), f. & cert. ef. 6-10-99 thru 6-13-99; DFW 45-1999(Temp), f. & cert. ef. 6-14-99 thru 6-20-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-

00; DFW 17-2000(Temp), f. 4-10-00, cert. ef. 4-16-00 thru 6-30-00; DFW 64-2000(Temp), f. 9-21-00, cert. ef. 9-22-00 thru 3-20-01; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 5-2001(Temp), f. 2-22-01, cert. ef. 2-24-01 thru 4-15-01; DFW 39-2001(Temp), f. 5-23-01, cert. ef. 5-26-01 thru 7-1-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 45-2001(Temp), f. 6-1-01, cert. ef. 6-2-01 thru 7-31-01; DFW 49-2001(Temp), f. 6-19-01, cert. ef. 6-22-01 thru 7-31-01; DFW 70-2001, f. & cert. ef. 8-10-01; DFW 71-2001(Temp), f. 8-10-01, cert. ef. 9-1-01 thru 12-31-01; DFW 96-2001(Temp), f. 10-4-01, cert. ef. 12-1-01 thru 12-31-01; DFW 122-2001(Temp), f. & cert. ef. 12-31-01 thru 5-31-02; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 52-2002(Temp), f. 5-22-02, cert. ef. 5-26-02 thru 7-1-02; DFW 53-2002(Temp), f. 5-24-02, cert. ef. 5-26-02 thru 7-1-02; DFW 57-2002(Temp), f. & cert. ef. 5-30-02 thru 7-1-02; DFW 91-2002(Temp), f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 44-2003(Temp), f. 5-23-03, cert. ef. 5-28-03 thru 7-1-03; DFW 48-2003(Temp), f. & cert. ef. 6-5-03 thru 7-1-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 40-2004(Temp), f. 5-7-04, cert. ef. 5-13-04 thru 7-1-04; DFW 46-2004(Temp), f. 5-21-04, cert. ef. 5-22-04 thru 7-1-04; DFW 55-2004(Temp), f. 6-16-04, cert. ef. 6-19-04 thru 7-5-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 42-2005(Temp), f. & cert. ef. 5-13-05 thru 9-1-05; DFW 61-2005(Temp), f. 6-22-05, cert. ef. 6-25-05 thru 7-4-05; Administrative correction 7-20-05; DFW 99-2005(Temp), f. 8-24-05, cert. ef. 8-26-05 thru 9-30-05; Administrative correction 10-19-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 28-2006(Temp), f. & cert. ef. 5-15-06 thru 6-30-06; DFW 33-2006(Temp), f. 5-24-06, cert. ef. 5-25-06 thru 6-30-06; Administrative correction 7-21-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 12-2007(Temp), f. 2-28-07, cert. ef. 3-1-07 thru 8-27-07; DFW 30-2007(Temp), f. 5-9-07, cert. ef. 5-10-07 thru 9-30-07; DFW 34-2007(Temp), f. 5-25-07, cert. ef. 5-26-07 thru 9-30-07

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Rule Caption: Ocean sport Pacific halibut closure from Leadbetter Point, Washington to Cape Falcon, Oregon.

Adm. Order No.: DFW 35-2007(Temp)

Filed with Sec. of State: 5-25-2007

Certified to be Effective: 5-26-07 thru 8-2-07

Notice Publication Date:

Rules Amended: 635-039-0085

Subject: Amends rule to close the sport fishery for Pacific halibut in the area between Leadbetter Point, Washington and Cape Falcon, Oregon, at 11:59 p.m. on May 26, 2007 when the quota of 14,264 pounds is projected to have been taken. This rule is consistent with regulations that have been implemented by the federal government and the International Pacific Halibut Commission for the 2007 Oregon recreational fishery for Pacific halibut.

Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-039-0085

Halibut Seasons

(1) The Pacific halibut sport fishery in Oregon is regulated by the federal government and the International Pacific Halibut Commission (IPHC). OAR chapter 635, division 039 incorporates into Oregon Administrative Rules, by reference, modifications or additions to provisions determined by the IPHC and to the extent they are consistent with Title 50 of the Code of Federal Regulations, Part 300, Subpart E (61FR35550, July 5, 1996) Volume 72, Number 49, dated March 14, 2007 and as amended by Federal Regulations.

(2) Effective 11:59 p.m., Saturday May 26, 2007 through Thursday August 2, 2007 the Columbia River sub-area (Cape Falcon, OR to Leadbetter Pt., WA) is **closed** to the retention of Pacific halibut.

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

Stat. Auth.: ORS 496.138, 496.162, 506.036, 506.109, 506.119 & 506.129

Stats. Implemented: ORS 496.162 & 506.129

Hist.: DFW 56-2005, f. 6-21-05, cert. ef. 7-1-05; DFW 89-2005(Temp), f. & cert. ef. 8-12-05 thru 12-12-05; DFW 107-2005(Temp), f. 9-14-05, cert. ef. 9-15-05 thru 10-31-05; DFW 121-2005(Temp), f. 10-12-05, cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-19-06; DFW 34-2006(Temp), f. 5-25-06, cert. ef. 5-27-06 thru 8-3-06; Administrative correction 8-22-06; DFW 3-2007, f. & cert. ef. 1-12-07; DFW 35-2007(Temp), f. 5-25-07, cert. ef. 5-26-07 thru 8-2-07

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Rule Caption: Thief Valley Reservoir sport game fish harvest opportunity.

Adm. Order No.: DFW 36-2007(Temp)

Filed with Sec. of State: 5-25-2007

Certified to be Effective: 5-26-07 thru 9-30-07

Notice Publication Date:

Rules Amended: 635-021-0090

Subject: Amend rule to authorize catch limits for sport harvest of game fish in Thief Valley Reservoir from Saturday May 26 until the reservoir is drained of storage water sometime in late July. This rule will provide anglers the opportunity to harvest many of the resident trout before they are lost due to draining of the reservoir. Failure to

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adopt this rule would result in lost opportunity for harvest of this valuable resource by the sport fishing public.

Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-021-0090

Inclusions and Modifications

(1) **2007 Oregon Sport Fishing Regulations** provide requirements for the Southeast Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the **2007 Oregon Sport Fishing Regulations**.

(2) Thief Valley Reservoir is open to angling for all game species from May 26 through September 30, 2007 with the following restrictions:

- (a) The trout daily bag limit is 15 with no possession limit.
- (b) The bass daily bag limit is 15 with no possession limit.
- (c) There are no minimum length requirements.

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

Stat. Auth.: ORS 183.325, 496.138 & 496.146

Stats. Implemented: ORS 496.162

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 76-1994(Temp), f. & cert. ef. 10-17-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 55-2001(Temp), f. & cert. ef. 6-29-01 thru 12-26-01; DFW 56-2001(Temp), f. & cert. ef. 6-29-01 thru 12-26-01; DFW 85-2001(Temp), f. & cert. ef. 8-30-01 thru 12-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 54-2002(Temp), f. 5-24-02, cert. ef. 6-15-02 thru 12-1-02; DFW 91-2002(Temp), f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 93-2002(Temp), f. 8-22-02, cert. ef. 8-24-02 thru 12-31-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 80-2003(Temp), f. & cert. ef. 8-22-03 thru 9-30-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 101-2005(Temp), f. 8-31-05, cert. ef. 9-2-05 thru 9-30-05; Administrative correction 10-19-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 36-2007(Temp), f. 5-25-07, cert. ef. 5-26-07 thru 9-30-07

Rule Caption: Modified sport spring Chinook salmon seasons in the Columbia River.

Adm. Order No.: DFW 37-2007(Temp)

Filed with Sec. of State: 5-31-2007

Certified to be Effective: 5-31-07 thru 7-30-07

Notice Publication Date:

Rules Amended: 635-023-0125

Subject: Amend rules to modify recreational fishing seasons for spring Chinook salmon in the Columbia River. Modifications are consistent with the Joint State Action taken May 30, 2007 by the Columbia River Compact.

Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-023-0125

Spring Sport Fishery

(1) The **2007 Oregon Sport Fishing Regulations** provide requirements for the Columbia River Zone and the Snake River Zone. However, additional regulations may be adopted in this rule division from time to time, and, to the extent of any inconsistency, they supersede the **2007 Oregon Sport Fishing Regulations**.

(2) The Columbia River is open from January 1 through April 15, 2007 from the mouth at Buoy 10 upstream to the I-5 Bridge; from March 16 through May 3, 2007 from the Tower Island power lines (approximately 6 miles below The Dalles Dam) upstream to McNary Dam plus the Oregon bank between Bonneville Dam and the Tower Island power lines; and from May 16-June 15, 2007 or until guideline is reached from the Rocky Point-Tongue Point line upstream to the I-5 Bridge with the following restrictions:

- (a) Adipose fin-clipped chinook salmon, adipose fin-clipped steelhead and shad may be retained.
- (b) All non-adipose fin-clipped chinook salmon and non-adipose fin-clipped steelhead must be released immediately unharmed.
- (c) Catch limits are two adult adipose fin-clipped salmon or two adult adipose fin-clipped steelhead per day. Catch limits for jacks remain in effect as per permanent regulations.

(3) For the mainstem Columbia River salmon and steelhead fishery upstream of the Rocky Point-Tongue Point line from May 16 through June 15, 2007, it is unlawful when fishing from vessels which are less than 30 feet in length, substantiated by Coast Guard documentation or Marine Board registration, to totally remove from the water any salmon or steelhead required to be released.

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

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162 & 506.129

Hist.: DFW 11-2004, f. & cert. ef. 2-13-04; DFW 17-2004(Temp), f. & cert. ef. 3-10-04 thru 7-31-04; DFW 29-2004(Temp), f. 4-15-04, cert. ef. 4-22-04 thru 7-31-04; DFW 30-2004(Temp), f. 4-21-04, cert. ef. 4-22-04 thru 7-31-04; DFW 36-2004(Temp), f. 4-29-04, cert. ef. 5-1-04 thru 7-31-04; DFW 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 51-2004(Temp), f. 6-9-04, cert. ef. 6-16-04 thru 7-31-04; Administrative correction 8-19-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 35-2005(Temp), f. 5-4-05, cert. ef. 5-5-05 thru 10-16-05; DFW 38-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 44-2005(Temp), f. 5-17-05, cert. ef. 5-22-05 thru 10-16-05; DFW 51-2005(Temp), f. 6-3-05, cert. ef. 6-4-05 thru 7-31-05; Administrative correction 11-18-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 21-2006(Temp), f. 4-13-06, cert. ef. 4-14-06 thru 5-15-06; DFW 27-2006(Temp), f. 5-12-06, cert. ef. 5-13-06 thru 6-15-06; DFW 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 28-2007(Temp), f. & cert. ef. 4-26-07 thru 7-26-07; DFW 33-2007(Temp), f. 5-15-07, cert. ef. 5-16-07 thru 7-30-07; DFW 37-2007(Temp), f. & cert. ef. 5-31-07 thru 7-30-07

Rule Caption: Sturgeon retention prohibition in the Columbia River between John Day and McNary dams.

Adm. Order No.: DFW 38-2007(Temp)

Filed with Sec. of State: 5-31-2007

Certified to be Effective: 5-31-07 thru 11-26-07

Notice Publication Date:

Rules Amended: 635-023-0095

Subject: Amend rule to prohibit retention of sturgeon in the Columbia River and tributaries between the John Day Dam and McNary Dam. Revision is consistent with Joint State Action taken by the states of Oregon and Washington on May 30, 2007.

Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-023-0095

Sturgeon Season

(1) The **2007 Oregon Sport Fishing Regulations** provide requirements for the Columbia River Zone and the Snake River Zone. However, additional regulations may be adopted in this rule division from time to time, and, to the extent of any inconsistency, they supersede the **2007 Oregon Sport Fishing Regulations**.

(2) The Columbia River from Wauna powerlines (River Mile 40) upstream to Bonneville Dam is open to the retention of white sturgeon during the following periods:

- (a) Monday, January 1, 2007 through Wednesday January 31, 2007 three days per week, Thursday, Friday, and Saturday; and
 - (b) Thursday February 1 through Tuesday July 31, 2007 and Monday, October 1, 2007 through Monday, December 31, 2007 four days per week, Thursday, Friday, Saturday and Sunday.
- (3) The retention of white sturgeon in the area identified in subsection (2) of this rule is prohibited August 1, 2007 through September 30, 2007.

(4) The Columbia River from Wauna powerlines (River Mile 40) downstream to the mouth at Buoy 10, including Youngs Bay is open to the retention of white sturgeon seven days per week during the following periods:

- (a) Monday, January 1, 2007 through Monday, April 30, 2007, and
 - (b) Saturday, May 12, 2007 through Wednesday, July 4, 2007.
- (5) The retention of white sturgeon in the area identified in subsection (4) of this rule is prohibited May 1, 2007 through May 11, 2007 and from July 5, 2007 through December 31, 2007.

(6) During the fishing period as identified in subsection (4)(a) of this rule, only white sturgeon between 42-60" in overall length may be retained.

(7) During the fishing period as identified in subsection (4)(b) of this rule, only white sturgeon between 45-60" in overall length may be retained.

(8) The Columbia River and tributaries between The Dalles Dam and John Day Dam are closed to the retention of sturgeon effective 12:00 Midnight, March 28, 2007.

(9) The Columbia River and tributaries between John Day Dam and McNary Dam are closed to the retention of sturgeon effective 12:00 Midnight, Sunday June 10, 2007.

(10) Angling for sturgeon is prohibited from Marker 85 upstream to Bonneville Dam, from Highway 395 Bridge upstream to McNary Dam, and from the west end of the grain silo at Rufus upstream to John Day Dam during May 1, 2007 through July 31, 2007.

(11) The retention of green sturgeon is prohibited effective January 1, 2007.

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

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162 & 506.129

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Hist.: DFW 129-2004(Temp), f. 12-23-04, cert. ef. 1-1-05 thru 2-28-05; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 22-2005(Temp), f. 4-1-05, cert. ef. 4-30-05 thru 7-31-05; DFW 50-2005(Temp), f. 6-3-05, cert. ef. 6-11-05 thru 11-30-05; DFW 60-2005(Temp), f. 6-21-05, cert. ef. 6-24-05 thru 12-21-05; DFW 65-2005(Temp), f. 6-30-05, cert. ef. 7-10-05 thru 12-31-05; DFW 76-2005(Temp), f. 7-14-05, cert. ef. 7-18-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 145-2005(Temp), f. 12-21-05, cert. ef. 1-1-06 thru 3-31-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 19-2006(Temp), f. 4-6-06, cert. ef. 4-8-06 thru 7-31-06; DFW 54-2006(Temp), f. 6-29-06, cert. ef. 7-1-06 thru 12-27-06; DFW 62-2006(Temp), f. 7-13-06, cert. ef. 7-24-06 thru 12-31-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 131-2006(Temp), f. 12-20-06, cert. ef. 1-1-07 thru 6-29-07; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 20-2007(Temp), f. 3-26-07, cert. ef. 3-28-07 thru 7-30-07; DFW 38-2007(Temp), f. & cert. ef. 5-31-07 thru 11-26-07

Rule Caption: Modified sport spring Chinook salmon seasons in the Columbia River.

Adm. Order No.: DFW 39-2007(Temp)

Filed with Sec. of State: 6-5-2007

Certified to be Effective: 6-6-07 thru 7-31-07

Notice Publication Date:

Rules Amended: 635-023-0125

Subject: Amend rules to modify recreational fishing seasons for spring Chinook salmon in the Columbia River. Modifications are consistent with the Joint State Action taken June 5, 2007 by the Columbia River Compact.

Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-023-0125

Spring Sport Fishery

(1) The 2007 Oregon Sport Fishing Regulations provide requirements for the Columbia River Zone and the Snake River Zone. However, additional regulations may be adopted in this rule division from time to time, and, to the extent of any inconsistency, they supersede the 2007 Oregon Sport Fishing Regulations.

(2) The Columbia River is open from January 1 through April 15, 2007 from the mouth at Buoy 10 upstream to the I-5 Bridge; from March 16 through May 3, 2007 and June 6 through 15, 2007 from the Tower Island power lines (approximately 6 miles below The Dalles Dam) upstream to McNary Dam plus the Oregon bank between Bonneville Dam and the Tower Island power lines; from May 16-June 15, 2007 or until guideline is reached from the Rocky Point-Tongue Point line upstream to the I-5 Bridge; and from June 6 through 15, 2007 from the I-5 Bridge upstream to Bonneville Dam with the following restrictions:

(a) Adipose fin-clipped chinook salmon, adipose fin-clipped steelhead and shad may be retained.

(b) All non-adipose fin-clipped chinook salmon and non-adipose fin-clipped steelhead must be released immediately unharmed.

(c) Catch limits are two adult adipose fin-clipped salmon or two adult adipose fin-clipped steelhead per day. Catch limits for jacks remain in effect as per permanent regulations.

(3) For the mainstem Columbia River salmon and steelhead fishery upstream of the Rocky Point-Tongue Point line from May 16 through June 15, 2007, it is unlawful when fishing from vessels which are less than 30 feet in length, substantiated by Coast Guard documentation or Marine Board registration, to totally remove from the water any salmon or steelhead required to be released.

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

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162 & 506.129

Hist.: DFW 11-2004, f. & cert. ef. 2-13-04; DFW 17-2004(Temp), f. & cert. ef. 3-10-04 thru 7-31-04; DFW 29-2004(Temp), f. 4-15-04, cert. ef. 4-22-04 thru 7-31-04; DFW 30-2004(Temp), f. 4-21-04, cert. ef. 4-22-04 thru 7-31-04; DFW 36-2004(Temp), f. 4-29-04, cert. ef. 5-1-04 thru 7-31-04; DFW 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 51-2004(Temp), f. 6-9-04, cert. ef. 6-16-04 thru 7-31-04; Administrative correction 8-19-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 35-2005(Temp), f. 5-4-05, cert. ef. 5-5-05 thru 10-16-05; DFW 38-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 44-2005(Temp), f. 5-17-05, cert. ef. 5-22-05 thru 10-16-05; DFW 51-2005(Temp), f. 6-3-05, cert. ef. 6-4-05 thru 7-31-05; Administrative correction 11-18-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 21-2006(Temp), f. 4-13-06, cert. ef. 4-14-06 thru 5-15-06; DFW 27-2006(Temp), f. 5-12-06, cert. ef. 5-13-06 thru 6-15-06; DFW 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 28-2007(Temp), f. & cert. ef. 4-26-07 thru 7-26-07; DFW 33-2007(Temp), f. 5-15-07, cert. ef. 5-16-07 thru 7-30-07; DFW 37-2007(Temp), f. & cert. ef. 5-31-07 thru 7-30-07; DFW 39-2007(Temp), f. 6-5-07, cert. ef. 6-6-07 thru 7-31-07

Rule Caption: Treaty Indian commercial trap net fishery for shad in the Columbia River.

Adm. Order No.: DFW 40-2007(Temp)

Filed with Sec. of State: 6-5-2007

Certified to be Effective: 6-6-07 thru 12-2-07

Notice Publication Date:

Rules Amended: 635-041-0072

Subject: Amend rule to implement a Treaty Indian commercial shad trap-net fishery at the outlet to The Dalles Dam Fish Ladder, on the Oregon shore, from June 6 thru July 31, 2007. Salmon and steelhead caught in the trap-net fishery are to be released unharmed. Revision is consistent with tribal fishing regulations and Joint State Action taken by the Columbia River Compact on June 5, 2007.

Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-041-0072

Carp and Other Nongame Fish

It is *unlawful* to fish for or possess carp and other nongame fish from the Columbia River for commercial purposes except:

(1) As authorized by ORS 508.106 (Permit to take carp or other food-fish).

(2) During open commercial fishing periods with gear authorized for those open commercial fishing periods.

(3) Shad may be taken for commercial purposes during the trap-net fishery at the outlet to The Dalles Dam Fish Ladder, on the Oregon shore, from June 6 thru July 31, 2007. Any salmon or steelhead caught in the trap fishery must be released unharmed.

Stat. Auth.: ORS 183.325 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: DFW 2-1999(Temp), f. & cert. ef. 2-1-99 thru 2-19-99; DFW 9-1999, f. & cert. ef. 2-26-99; DFW 40-2007(Temp), f. 6-5-07, cert. ef. 6-6-07 thru 12-2-07

Rule Caption: Commercial ocean Dungeness crab fishery permits valid only off Oregon coast and buoy tag replacement.

Adm. Order No.: DFW 41-2007

Filed with Sec. of State: 6-8-2007

Certified to be Effective: 6-8-07

Notice Publication Date: 5-1-07

Rules Amended: 635-005-0042, 635-005-0055

Rules Repealed: 635-005-0042(T), 635-005-0055(T)

Subject: These rules implement Oregon's authority to regulate the crab fishery as agreed to in the Tri-State Dungeness Crab Committee. Effective January 1, 2007, California law restricts that state's vessels from fishing off Oregon's coast. The state of Washington adopted similar regulations in 2005. These rules implement complementary measures in Oregon, restricting Oregon's vessels from fishing in California waters. These rules also provide commercial crab permit holders the opportunity to obtain replacements for crab buoy tags which have been lost under extraordinary circumstances. In addition, these rules specify previously replaced buoy tags, when recovered, are null and void and must be immediately returned to the department.

Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-005-0042

Areas

Oregon Dungeness crab permits are valid only in Oregon state waters and the Pacific Ocean in federal waters south of an east-west line extending westward at 46° 15' 00" N. Latitude (Oregon/Washington border) and north of an east-west line at 42° 00' 00" N. Latitude (Oregon/California border).

Stat. Auth.: ORS 506.109, 506.119 & 506.129

Stats. Implemented: ORS 506.129

Hist.: DFW 117-2005, f. 10-7-05, cert. ef. 12-1-05; DFW 129-2006(Temp), f. 12-12-06, cert. ef. 1-1-07 thru 6-29-07; DFW 41-2007, f. & cert. ef. 6-8-07

635-005-0055

Fishing Gear

It is *unlawful* for commercial purposes to:

(1) Take crab by any means other than crab rings or crab pots (ORS 509.415); a crab ring is any fishing device that allows crab unrestricted entry or exit while fishing.

(2) Use any crab pot which is greater than thirteen cubic feet in volume, calculated using external dimensions.

(3) Use any crab pot which does not include a minimum of two circular escape ports of at least 4-1/4 inches inside diameter located on the top

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or side of the pot. If escape ports are placed on the side of the pot, they shall be located in the upper half of the pot.

(4) Use any crab pot which does not have a release mechanism. Acceptable release mechanisms are:

(a) Iron lid strap hooks constructed of iron or "mild" steel rod (not stainless steel) not to exceed 1/4-inch (6mm) in diameter;

(b) A single loop of untreated cotton or other natural fiber twine, or other twine approved by the Department not heavier than 120 thread size between pot lid tiedown hooks and the tiedown straps; or

(c) Any modification of the wire mesh on the top or side of the pot, secured with a single strand of 120 thread size untreated cotton, natural fiber, or other twine approved by the Department which, when removed, will create an opening of at least five inches in diameter.

(5) Place, operate, or leave crab rings or pots in the Pacific Ocean and Columbia River or in any bay or estuary during the closed season, except that in only the Pacific Ocean and Columbia River, rings or pots may be placed no more than 64 hours immediately prior to the date the Dungeness crab season opens. In addition, unbaited crab rings or pots with open release mechanisms may be left in the Pacific Ocean (not including the Columbia River) for a period not to exceed 14 days following the closure of the Dungeness crab season.

(6) Use commercial crab pots in the Columbia River or Pacific Ocean unless the pots are individually marked with a surface buoy bearing, in a visible and legible manner, the brand of the owner and an ODFW buoy tag, provided that:

(a) The brand is a number registered with and approved by the Department;

(b) Only one unique buoy brand shall be registered to any one permitted vessel;

(c) All crab pots fished by a permitted vessel must use only the Oregon buoy brand number registered to that vessel in the area off of Oregon;

(d) The Department shall issue crab buoy tags to the owner of each commercial crab permit in the amount determined by OAR 635-006-1015(1)(g)(E);

(e) All buoy tags eligible to a permit holder must be purchased from the Department at cost and attached to the gear prior to setting gear; and

(f) Buoys attached to a crab pot must have the buoy tag securely attached to the first buoy on the crab pot line (the buoy closest to the crab pot) at the end away from the crab pot line;

(g) Additional buoy tags to replace lost tags will be issued by the Department as follows:

(A) After 45 days following the season opening in the area fished, up to ten percent of the tags initially issued for that season; or

(B) For a catastrophic loss, defined as direct loss of non-deployed gear in the event of a vessel being destroyed due to fire, capsizing, or sinking. Documentation of a catastrophic loss may include any information the Department considers appropriate, such as fire department or US Coast Guard reports; 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 must obtain, complete, and sign a declaration of loss under penalty of perjury in the presence of an authorized Department employee. The declaration shall state the number of buoy tags lost, the specific tag number of each lost tag, the location and date where lost gear or tags were last observed, and the presumed cause of the loss. All buoy tags identified as lost become null and void upon signing of declaration and remain so even if recovered at a later date. Any lost buoy tags that are recovered shall be immediately returned to ODFW Headquarters.

(7) Remove, damage, or otherwise tamper with crab buoy or pot tags except when lawfully applying or removing tags on the vessel's buoys and pots.

(8) Possess, use, control, or operate any crab pot not bearing a tag identifying the pot as that vessel's, or buoys not bearing tags issued by the Department to that vessel, except:

(a) To set gear as allowed under OAR 635-006-1015; or

(b) Under a waiver granted by the Department to allow one time retrieval of permitted crab gear to shore by another crab permitted vessel provided that:

(A) Vessel is incapacitated due to major mechanical failure or destroyed due to fire, capsizing, or sinking;

(B) Circumstances beyond the control of the permit holder created undue hardship as defined by OAR 635-006-1095(7)(d);

(C) A Request must be in writing and a waiver approved and issued prior to retrieval.

(D) A copy of the waiver must be on board the vessel making the retrieval. (Contact Oregon Department of Fish and Wildlife License Services, Salem for guidelines.)

(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 provided that:

(A) The vessel is authorized to participate in the Dungeness crab fishery of an adjacent state; and

(B) The ODFW Marine Resources Program in Newport has received notice in writing 48 hours prior to transit with vessel name, number of pots, departure location and destination, and approximate time of departure and arrival.

(9) Attach one crab pot to another crab pot or ring net by a common groundline or any other means that connects crab pots together,

(10) Take crabs for commercial purposes by crab pots from any bay or estuary except the Columbia River.

(11) Operate more than 15 crab rings from any one fishing vessel in bays or estuaries, except the Columbia River.

(12) Take or fish for Dungeness crab for commercial purposes in the Columbia River or Pacific Ocean adjacent to the state of Oregon unless a crab pot allocation has been issued to the permit required under OAR 635-006-1015(1)(g).

(13) Deploy or fish more crab pots than the number of pots assigned by the crab pot allocation certificate or to use any vessel other than the vessel designated on the crab pot allocation, except to set gear as allowed under OAR 635-006-1015.

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.109 & 506.129

Hist.: FC 246, f. 5-5-72, ef. 5-15-72; FC 285(74-20), f. 11-27-74, ef. 12-25-74, Renumbered from 625-010-0160; FWC 49-1978, f. & ef. 9-27-78, Renumbered from 635-036-0130; FWC 56-1982, f. & ef. 8-27-82; FWC 81-1982, f. & ef. 11-4-82; FWC 82-1982(Temp), f. & ef. 11-9-82; FWC 13-1983, f. & ef. 3-24-83; FWC 11-1984, f. 3-30-84, ef. 9-16-84, except section (5) per FWC 45-1984, f. & ef. 8-30-84; FWC 72-1984, f. & ef. 10-22-84; FWC 30-1985, f. 6-27-85, ef. 7-1-85; FWC 78-1986 (Temp), f. & ef. 12-1-86; FWC 97-1987(Temp), f. & ef. 11-17-87; FWC 102-1988, f. 11-29-88, cert. ef. 12-29-88; FWC 107-1990, f. & cert. ef. 10-1-90; FWC 70-1993, f. 11-9-93, cert. ef. 11-11-93; FWC 84-1994, f. 10-31-94, cert. ef. 12-1-94; FWC 68-1996(Temp), f. & cert. ef. 12-5-96; FWC 2-1997, f. 1-27-97, cert. ef. 2-1-97; DFW 45-2006, f. 6-20-06, cert. ef. 12-1-06; 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 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

Rule Caption: 2007 tag numbers and/or season regulation for Controlled Antelope, Sheep, Mountain Goat, Deer, Elk, Squirrel.

Adm. Order No.: DFW 42-2007

Filed with Sec. of State: 6-14-2007

Certified to be Effective: 6-14-07

Notice Publication Date: 4-1-07

Rules Amended: 635-065-0090, 635-065-0635, 635-065-0740, 635-067-0000, 635-067-0004, 635-068-0000, 635-069-0000, 635-070-0000, 635-071-0000, 635-071-0010, 635-073-0000, 635-073-0050, 635-073-0065, 635-073-0070, 635-073-0090

Subject: Established 2007 controlled hunt tag numbers and/or season regulations for the hunting of pronghorn antelope, bighorn sheep, Rocky Mountain goat, deer and elk.

Rules Coordinator: Casaria Tuttle—(503) 947-6033

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 physician 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 dis-

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abled. 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

635-065-0635

Winter Range Closure Areas

The following winter closures shall be effective during the specified periods each year:

(1) Tumalo Winter Range: December 1 through March 31, — That part of the Upper Deschutes Unit as follows: 125 square miles in Townships 15, 16, 17, 18, and 19 South, Ranges 10 and 11 East.

(2) Bear Valley: Closed to motor vehicle use year round — That part of the Keno Unit as follows: six square miles in Township 40 South, Ranges 7 and 8 East.

(3) Lost River: December 1 through April 15 — That part of the Klamath Falls Unit as follows: 6 square miles in Township 39 South, Ranges 11, 11-1/2, and 12 East.

(4) Lost River: December 1 through April 15 — That part of the Interstate Unit as follows: 6 square miles in Township 41 South, Range 14 East.

(5) Cabin Lake-Silver Lake: December 1 through March 31 — That part of the Paulina Unit as follows: 342 square miles in Townships 23, 24, 25, 26, 27, 28, and 29 South, Ranges 11, 12, 13, 14, 15, and 16 East.

(6) Spring Creek Winter Range: December 15 through April 30 — That part of the Starkey Unit as follows: 14 square miles in Townships 2 and 3 South, Range 36 East.

(7) McCarty Winter Range: December 15 through March 31 — That part of the Starkey Unit as follows: 12 square miles in Townships 4 and 5 South, Ranges 34 and 35 East.

(8) Metolius Winter Range: December 1 through March 31 — That part of the Metolius Unit as follows: 40 square miles in Townships 11, 12, and 13 South and Ranges 11 and 12 East

(9) Bryant Mountain: November 1 through April 15 — That part of the Klamath Falls Unit as follows: 50 square miles in Townships 39, 40, and 41 South and Ranges 12 and 13 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 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 47-1999, f. & cert. ef. 6-16-99; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; 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

635-065-0740

Hunting Prohibited

It is unlawful:

(1) To hunt with a centerfire or muzzleloading rifle during eastern Oregon controlled buck season (September 29 — October 10, 2007) 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. 17 — Nov. 25, 2007) 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 Wagonfire 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. 17– Nov. 25, 2007).

(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. & cert. ef. 6-9-77; 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 41-1987, f. & cert. 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

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 "2007 Oregon Big Game Regulations," into Oregon Administrative Rules. Therefore, persons must consult the "2007 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.

ADMINISTRATIVE RULES

(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

635-067-0004

Cougar Hunting Regulations

(1) Tag Requirement: Any person hunting cougar shall have on his/her person a general season cougar tag or a additional cougar tag. General season cougar tags may be purchased through any authorized license agent;

(2) Hunt Area: Hunt zones, and harvest quotas for each hunt zone, are established in OAR 635-067-0015;

(a) Hunters may hunt within all hunt zones;

(b) Hunt zones will be closed to hunting when individual zone harvest quotas are reached.

(3) All hunters are required to check in the hide with skull and proof of sex attached of any cougar killed within ten days of harvest at a Department of Fish and Wildlife office;

(a) Hunters are also required to submit the reproductive tract of any female cougar taken.

(4) No person shall hunt or assist another to hunt a cougar during an authorized cougar season unless in possession of an unused cougar tag or accompanied by the holder of an cougar tag which is valid for that area and time period.

(5) No person shall use dogs to hunt or pursue cougar.

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 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 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 42-2007, f. & cert. ef. 6-14-07

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 "2007 Oregon Big Game Regulations," into Oregon Administrative Rules. Therefore, persons must consult the "2007 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

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 "2007 Oregon Big Game Regulations," into Oregon Administrative Rules. Therefore, persons must consult the "2007 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

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 "2007 Oregon Big Game Regulations," into Oregon Administrative Rules. Therefore, persons must consult the "2007 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

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 into 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 "2007 Oregon Big Game Regulations," into Oregon Administrative

ADMINISTRATIVE RULES

Rules. Therefore, persons must consult the “2007 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. & cert. ef. 1-1-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 82-2000, f. & cert. ef. 1-1-01; DFW 47-2001, 6-13-01; DFW 121-2001, f. & 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. & 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. & cert. ef. 4-1-05; DFW 53-2005, f. & cert. ef. 6-14-05; DFW 132-2005, f. & cert. ef. 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. & cert. ef. 4-1-07; DFW 42-2007, f. & cert. ef. 6-14-07

635-071-0010

Controlled Rocky Mountain Antlerless Elk Rifle Hunts

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 37-1982, f. & cert. ef. 6-25-82; FWC 28-1983, 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 76-1985(Temp), f. & cert. ef. 12-6-85; FWC 71-1985, f. & cert. ef. 11-8-85; FWC 35-1986, f. & cert. ef. 8-7-86; FWC 45-1987, f. & cert. ef. 7-6-87; FWC 42-1988, f. & cert. ef. 6-13-88; FWC 69-1989, f. & cert. ef. 8-15-89; FWC 115-1989(Temp), f. & cert. ef. 11-16-89; FWC 61-1990, f. & cert. ef. 6-21-90; FWC 116-1990(Temp), f. & cert. ef. 10-11-90; FWC 64-1991, f. & cert. ef. 6-24-91; FWC 115-1991, f. & cert. ef. 9-30-91; FWC 49-1992, f. & cert. ef. 7-15-92; FWC 36-1993, f. & cert. ef. 6-14-93; FWC 46-1993, f. & cert. ef. 8-4-93; FWC 18-1994, f. & cert. ef. 5-1-94; FWC 40-1994, f. & cert. ef. 6-28-94; FWC 63-1994(Temp), f. & cert. ef. 9-13-94; FWC 6-1995, f. & cert. ef. 1-23-95, cert. ef. 4-1-95; FWC 54-1995, f. & cert. ef. 6-20-95; FWC 17-1996, f. & cert. ef. 4-10-96, cert. ef. 4-15-96; FWC 17-1996, f. & cert. ef. 4-10-96, cert. ef. 4-15-96; FWC 9-1997, f. & cert. ef. 2-27-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 22-2006(Temp), f. & cert. ef. 4-7-06 thru 10-4-06; DFW 41-2006, f. & cert. ef. 6-14-06; DFW 42-2007, f. & cert. ef. 6-14-07

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 “2007 Oregon Big Game Regulations,” into Oregon Administrative Rules. Therefore, persons must consult the “2007 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. & cert. ef. 5-1-94; FWC 17-1996, f. & cert. ef. 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. & cert. ef. 1-1-00; DFW 21-2000(Temp), f. & cert. ef. 4-12-00 thru 6-30-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 82-2000, f. & cert. ef. 1-1-01; DFW 47-2001, f. & cert. ef. 6-13-01; DFW 121-2001, f. & cert. ef. 1-1-02; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 3-2003, f. & cert. ef. 1-17-03, cert. ef. 1-20-03; DFW 50-2003, f. & cert. ef. 6-13-03; DFW 122-2003, f. & 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. & cert. ef. 12-21-04, cert. ef. 2-1-05; DFW 53-2005, f. & cert. ef. 6-14-05; DFW 130-2005, f. & cert. ef. 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. & cert. ef. 12-7-06, cert. ef. 2-1-07; DFW 42-2007, f. & cert. ef. 6-14-07

635-073-0050

Controlled Antlerless Deer Youth Hunts

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 66-1991, f. & cert. ef. 6-24-91; FWC 51-1992, f. & cert. ef. 7-15-92; FWC 36-1993, f. & cert. ef. 6-14-93; FWC 46-1993, f. & cert. ef. 8-4-93; FWC 72-1993(Temp), f. & cert. ef. 11-19-93, cert. ef. 11-20-93; FWC 18-1994, f. & cert. ef. 5-1-94; FWC 40-1994, f. & cert. ef. 6-28-94; FWC 6-1995, f. & cert. ef. 1-23-95, cert. ef. 4-1-95; FWC 54-1995, f. & cert. ef. 6-20-95;

FWC 17-1996, f. & cert. ef. 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; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 113 2001(Temp), f. & cert. ef. 12-13-01 thru 1-31-02; Administrative correction 1-13-05; DFW 22-2006(Temp), f. & cert. ef. 4-7-06 thru 10-4-06; DFW 41-2006, f. & cert. ef. 6-14-06; DFW 42-2007, f. & cert. ef. 6-14-07

635-073-0065

Early Western Oregon Bowhunting Seasons

(1) General Deer Bowhunting Seasons — Western Oregon.

(a) Open Season: August 25 — September 23, 2007;

(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 25 — September 23, 2007;

(b) Bag Limit and Hunt Area: The bag limit is one legal bull elk in the Sixes, Powers, and Chetco 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

635-073-0070

Early Eastern Oregon Bowhunting Seasons

(1) General Deer Bowhunting Seasons — Eastern Oregon.

(a) Open Season: August 25 — September 23, 2007;

(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, Chesnimnus, Minam, Catherine Creek, Sumpter, Lookout Mountain, Keating, Pine Creek, Imaha, 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 Chesnimnus Unit shall be closed to deer bowhunting during the general bowhunting season unless the hunter also has a Chesnimnus 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, Maupin and White River (outside the National Forest) units.

(2) General Elk Bowhunting Seasons — Eastern Oregon.

(a) Open Season: August 25 — September 23, 2007;

(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, Chesnimnus, Minam, Keating, Snake River, Approximately 40 square miles of the Starkey Experimental Forest within the Starkey Unit shall be closed to all bowhunting. The Chesnimnus Unit shall be closed to all elk bowhunting unless the hunter has a valid, controlled Chesnimnus 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

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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.), 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, Wagontire, 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

635-073-0090

Controlled Antlerless Deer and Elk Youth Hunting Regulations

(1) General Regulations: Tags shall be issued by a controlled hunt drawing following the procedures established in OAR chapter 635, division 060. Hunters must be 12 to 17 years of age at the time they hunt. Youths must be accompanied by an adult at least 21 years of age, who may not hunt, except for adults accompanying youths with tags for Saddle Mountain Unit 610T, Scappoose Unit 611T, Wilson Unit 612T, Trask Unit 614T, Stott Mtn. Unit 617T, Alsea Unit 618T, or North Siuslaw 620T. Adults must accompany not more than two juveniles. Juveniles must have a hunter education certificate, a valid hunting license, and a controlled hunt permit valid for that area and time period in possession while hunting. A hunter successful in drawing one of the controlled 600 series deer youth hunt tags may hunt in any general deer season or controlled buck deer hunt, and as provided in OAR chapter 635, division 090; if possessing the proper tag for the area and time period being hunted. A youth hunter obtaining a "left over" tag through the first-come, first-served process also may hunt during the season for which that tag was issued.

(2) A hunter successful in drawing a controlled antlerless elk youth hunt tag shall not hunt in any other elk season, except as provided in OAR chapter 635, division 090.

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 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 47-2001, f. & cert. ef. 6-13-01; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 118-2003, f. 12-4-03, cert. ef. 1-1-04; DFW 42-2007, f. & cert. ef. 6-14-07

Rule Caption: Extend spring Chinook sport fishery on the Snake River below Hells Canyon Dam.

Adm. Order No.: DFW 43-2007(Temp)

Filed with Sec. of State: 6-14-2007

Certified to be Effective: 6-19-07 thru 7-2-07

Notice Publication Date:

Rules Amended: 635-023-0134

Subject: Amend rule to extend the spring Chinook fishery from Dug Bar Boat Ramp upstream to the deadline below Hells Canyon Dam on the Snake River through July 2, 2007.

Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-023-0134

Snake River Fishery

(1) Notwithstanding, all other specifications and restrictions as outlined in the current 2007 Oregon Sport Fishing Regulations, the following conditions apply.

(2) The Snake River from Dug Bar boat ramp upstream to the deadline below Hell's Canyon Dam is open effective May 11, 2007 through July 16, 2007 during the following periods:

- (a) Friday through Monday May 11 to May 14;
- (b) Friday through Monday May 18 to May 21;
- (c) Friday through Monday May 25 to May 28;
- (d) Friday through Monday June 1 to June 4;
- (e) Friday through Monday June 8 to June 11;
- (f) Friday through Monday June 15 to June 18;
- (g) Friday through Monday June 22 to June 25; and
- (h) Friday through Monday June 29 to July 2.

(3) Daily bag limit is two adipose fin-clipped spring Chinook, one of which may be an adult or 2 jack salmon per day.

(4) Barbless hooks are required.

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

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162 & 506.129

Hist.: DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 47-2005(Temp), f. 5-19-05, cert. ef. 5-21-05 thru 6-20-05; Administrative correction 7-20-05; DFW 31-2006(Temp), f. 5-18-06, cert. ef. 5-20-06 thru 6-19-06; Administrative correction 7-21-06; DFW 31-2007(Temp), f. 5-9-07, cert. ef. 5-11-07 thru 6-18-07; DFW 43-2007(Temp), f. 6-14-07, cert. ef. 6-19-07 thru 7-2-07

Rule Caption: Mainstem Columbia River commercial spring Chinook gill net season in modified Area 2S.

Adm. Order No.: DFW 44-2007(Temp)

Filed with Sec. of State: 6-14-2007

Certified to be Effective: 6-14-07 thru 9-17-07

Notice Publication Date:

Rules Amended: 635-042-0022

Subject: Amend rule to implement a commercial harvest of salmon, shad and sturgeon in the mainstem Columbia River from the true north/south line through navigation marker #50 near the mouth of the Sandy River upstream to navigation marker #85 (lower boundary of sturgeon spawning sanctuary defined by a line from Marker 85 to a boundary sign on the Oregon shore). Modifications are consistent with the action taken June 13, 2007 by the Columbia River Compact.

Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-042-0022

Spring Chinook Gill Net and Tangle Net Fisheries

(1) Adipose fin-clipped Chinook salmon, white sturgeon and shad may be taken by gill net for commercial purposes from the true north/south line through navigation marker #50 near the mouth of the Sandy River upstream to navigation marker #85 (lower boundary of sturgeon spawning sanctuary defined by a line from Marker 85 to a boundary sign on the Oregon shore). A maximum of five white sturgeon may be possessed or sold by each participating vessel:

(a) Individual fishing periods will not exceed sixteen hours in length during small mesh fisheries and twenty-four hours in length during large mesh fisheries. Fishing periods may occur on Tuesdays and Thursdays, depending upon results from test fisheries or full fleet fisheries conducted prior to each specified weekday;

(b) White sturgeon possession and sales restrictions by each participating vessel will be determined inseason based on gear type and number of fish remaining on the fish guideline.

(2) An adipose fin clip salmon is defined as a hatchery salmon with a clipped adipose fin and having a healed scar at the location of the fin. The adipose fin is the small fatty fin on salmonids located between the dorsal fin and tail.

(3) During the spring Chinook gill net fishery:

(a) It is *unlawful* to use a gill net having a mesh size less than 8 inches or more than 9-3/4 inches. Use of monofilament nets is allowed. Nets not specifically authorized for use in this fishery may be onboard the vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater. Nets authorized for this fishery, and nets with a mesh size of ≤ 2 inches or ≥ 9 inches are not required to be properly stored. Other permanent gear regulations remain in effect;

(b) Mesh size for the fishery is determined as described in OAR 635-042-0010(3);

(c) Retention of green sturgeon is prohibited. From the area as described in section (1) of this rule, adipose fin-clipped Chinook salmon, white sturgeon and shad may be taken for commercial purposes by gill net during the following open period: 9:00 p.m. Thursday June 14 to 5:00 a.m. Friday June 15, 2007.

(4) During the spring Chinook tangle net fishery:

(a) It is *unlawful* to use other than a single-wall multi-filament net. Monofilament tangle nets are not allowed. Maximum mesh size is 4-1/4 inches stretched taut;

(b) Mesh size is determined by placing three consecutive meshes under hand tension and the measurement is taken from the inside of one vertical knot to the outside of the opposite vertical knot of the center mesh. Hand tension means sufficient linear tension to draw opposing knots of meshes into contact.

(5) Nets shall not exceed 900 feet (150 fathoms) in length. A red cork must be placed on the corkline every 25 fathoms as measured from the first mesh of the net. Red corks at 25-fathom intervals must be in color contrast to the corks used in the remainder of the net.

(6) On tangle nets, an optional use of a steelhead excluder panel of mesh may be hung between the corkline and the 4-1/4 inch maximum mesh

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size tangle net. The excluder panel web must be a minimum mesh size of 12 inches when stretched taut under hand tension. Monofilament mesh is allowed for the excluder panel. The excluder panel (including any associated hangings) must be a minimum of 5 linear feet in depth and not exceed 10 linear feet in depth, as measured from the corkline to the upper margin of the tangle net mesh as the net hangs naturally from a taut corkline. Weedlines or droppers (bobber-type) may be used in place of the steelhead excluder panel. A weedline-type excluder means the net is suspended below the corkline by lines of no less than five feet in length between the corkline and the upper margin of the tangle net. A dropper-type excluder means the entire net is suspended below the surface of the water by lines of no less than five feet in length extending from individual surface floats to a submerged corkline. The corkline cannot be capable of floating the net in its entirety (including the headline) independent of the attached floats. Weedlines or droppers must extend a minimum of 5 feet above the 4-1/4 inch maximum mesh size tangle net:

(a) Tangle nets constructed with a steelhead excluder panel, weedlines, or droppers, may extend to a maximum length of 1,050 feet (175 fathoms);

(b) Tangle nets constructed with a steelhead excluder panel, weedlines, or droppers, along with a red cork every 25 fathoms as required in (5) above, must have two red corks at each end of the net.

(7) There are no restrictions on the hang ratio. The hang ratio is used to horizontally add slack to the net. The hang ratio is determined by the length of the web per length of the corkline.

(8) There are no restrictions on the use of slackers or stringers to slacken the net vertically.

(9) Nets shall be fished for no longer than 45 minutes per set. The time of fishing is measured from when the first mesh of the net is deployed into the water until the last mesh of the net is fully retrieved from the water.

(10) It is *unlawful* for a net in whole or in part to be anchored, tied, staked, fixed, or attached to the bottom, shore, or a beached boat; left unattended at any time it is fished; or attended by more than one boat while being fished.

(11) It is *unlawful* to fish more than one net from a licensed commercial fishing boat at any one time.

(12) Nets fished from sunset to sunrise shall have lighted buoys on both ends of the net unless the net is attached to the boat then one lighted buoy on the opposite end of the net from the boat is required.

(13) Non-legal sturgeon, nonadipose fin-clipped Chinook salmon, and steelhead must be released immediately with care and the least possible injury to the fish to the river without violence or into an operating recovery box:

(a) One operating recovery box with two chambers or two operating recovery boxes with one chamber each to aid survival of released fish must be on board each fishing vessel participating in the fishery. Recovery boxes shall be operating during any time that a net is being retrieved or picked;

(b) All salmon and steelhead that are bleeding, in lethargic condition, or appearing dead must be placed in the recovery box for rehabilitation purposes prior to release to the river;

(c) Each chamber of the recovery box must meet the following dimensions as measured from within the box; the inside length measurement must be at or within 39-1/2 to 48 inches, the inside width measurement must be at or within 8 to 10 inches, and the inside height measurement must be at or within 14 to 16 inches;

(d) Each chamber of the recovery box must include an operating water pumping system capable of delivering a minimum flow of 16 gallons per minute not to exceed 20 gallons per minute of fresh river water into each chamber. The fisher must demonstrate to ODFW and WDFW employees, fish and wildlife enforcement officers, or other peace officers, upon request, that the pumping system is delivering the proper volume of fresh river water into each chamber;

(e) Each chamber of the recovery box must include a water inlet hole between 3/4 inch and 1 inch in diameter, centered horizontally across the door or wall of chamber and 1-3/4 inches from the floor of the chamber.

(f) Each chamber of the recovery box must include a water outlet that is at least 1-1/2 inches in diameter. The center of the outlet hole must be located a minimum of 12 inches above the floor of the box or chamber, on either the same or opposite end as the inlet;

(g) All fish placed in recovery boxes must be released to the river prior to landing or docking.

(14) At least one fisher on each boat engaged in the fishery must have in possession a valid certificate issued by a representative of the Oregon Department of Fish and Wildlife (ODFW) or the Washington Department of Fish and Wildlife (WDFW) that indicates the fisher had attended a one-

day workshop hosted by ODFW or WDFW to educate fishers on regulations and best methods for conduct of the fishery. No individual may obtain more than one tangle net certificate. The certificate must be displayed to ODFW and WDFW employees, fish and wildlife enforcement officers, or other peace officers upon request.

(15) Nothing in this section sets any precedent for any fishery after the 2006 spring Chinook fishery. The fact that an individual may hold a tangle net certificate in spring 2006 does not entitle the certificate holder to participate in any other fishery. If ODFW authorizes a tangle net fishery in spring 2007 or at any other time, ODFW may establish qualifications and requirements that are different from those established for 2006. In particular, ODFW may consider an individual's compliance with these rules in determining that individual's eligibility to participate in any future tangle net fisheries.

(16) As authorized by OAR 635-006-0140 owners or operators of commercial fishing vessels must cooperate with Department fishery observers, or observers collecting data for the Department, when asked by the Department to carry and accommodate an observer on fishing trips for observation and sampling during an open fishery.

(17) Closed waters, as described in OAR 635-042-0005 for Grays River, Elokomin-B sanctuary, Abernathy Creek, Cowlitz River, Kalama-B sanctuary, and Lewis-B sanctuary are in effect during the open fishing periods identified.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162, 506.129 & 507.030

Hist.: DFW 11-2004, f. & cert. ef. 2-13-04; DFW 12-2004(Temp), f. & cert. ef. 3-1-04, thru 7-31-04; DFW 13-2004(Temp), f. & cert. ef. 3-3-04 thru 7-31-04; DFW 16-2004(Temp), f. & cert. ef. 3-8-04 thru 7-31-04; DFW 18-2004(Temp), f. & cert. ef. 3-10-04 thru 7-31-04; DFW 20-2004(Temp) f. & cert. ef. 3-15-04 thru 7-31-04; DFW 21-2004(Temp), f. & cert. ef. 3-18-04 thru 7-31-04; DFW 25-2004(Temp), f. & cert. ef. 3-23-04 thru 7-31-04; DFW 26-2004(Temp), f. & cert. ef. 3-25-04 thru 7-31-04; DFW 27-2004(Temp), f. & cert. ef. 3-29-04 thru 7-31-04; Administrative correction 8-19-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 9-2005(Temp), f. & cert. ef. 3-1-05 thru 7-31-05; DFW 11-2005(Temp), f. & cert. ef. 3-2-05, cert. ef. 3-3-05 & 7-31-05; DFW 13-2005(Temp), f. & cert. ef. 3-7-05 thru 7-31-05; DFW 14-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; DFW 20-2005(Temp), f. & cert. ef. 3-29-05 thru 3-30-05; DFW 21-2005(Temp), f. & cert. ef. 3-31-05 thru 4-1-05; Administrative correction, 4-20-05; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 7-2006(Temp), f. & cert. ef. 2-23-06 thru 7-31-06; DFW 9-2006(Temp), f. & cert. ef. 3-2-06 thru 7-31-06; DFW 10-2006(Temp), f. & cert. ef. 3-6-06, cert. ef. 3-7-06 thru 7-31-06; DFW 11-2006(Temp), f. & cert. ef. 3-9-06 thru 7-31-06; DFW 12-2006(Temp), f. & cert. ef. 3-13-06, cert. ef. 3-14-06 thru 7-31-06; DFW 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; DFW 30-2006(Temp), f. & cert. ef. 5-18-06 thru 7-31-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; Administrative correction 8-22-06; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 17-2007(Temp), f. & cert. ef. 3-20-07 thru 9-15-07; DFW 19-2007(Temp), f. & cert. ef. 3-22-07 thru 9-17-07; DFW 44-2007(Temp), f. & cert. ef. 6-14-07 thru 9-17-07

Rule Caption: Summer salmon gill net seasons in mainstem Columbia River and Select Area fisheries.

Adm. Order No.: DFW 45-2007(Temp)

Filed with Sec. of State: 6-15-2007

Certified to be Effective: 6-25-07 thru 7-31-07

Notice Publication Date:

Rules Amended: 635-042-0027, 635-042-0145

Subject: This rule will provide a summer salmon gill net commercial fishery in the Columbia River mainstem consistent with provisions of the *US v Oregon* management agreement. Implementation is consistent with action taken June 14, 2007 by the Columbia River Compact.

Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-042-0027

Summer Salmon Season

(1) Chinook salmon, coho salmon, white sturgeon and shad may be taken by gill net for commercial purposes in all of Zones 1 thru 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 (as identified in OAR 635-042-0001).

(2) It is unlawful to use a gill net having a mesh size less than 8 inches.

(3) The open fishing periods in the area described in section (1) above are:

(a) 7:00 p.m. Monday June 25, 2007 to 5:00 a.m. Tuesday June 26, 2007 (10 hours);

(b) 7:00 p.m. Monday July 2, 2007 to 5:00 a.m. Tuesday July 3, 2007 (10 hours); and

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(c) 7:00 p.m. Monday July 9, 2007 to 5:00 a.m. Tuesday July 10, 2007 (10 hours).

(4) A maximum of five white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) the fishery is open. The five sturgeon possession/sales limit includes both mainstem and Select Area fisheries.

(5) Closed waters, as described in OAR 635-042-0005 for Grays River, Elokomina-A, Cowlitz River, Kalama-A, Lewis-A, Washougal River and Sandy River sanctuaries are in effect during open fishing periods identified above.

Stat. Auth.: ORS 496.118, 506.109 & 506.129

Stats. Implemented: ORS 506.119 & 507.030

Hist.: DFW 5-2006, f. & cert. ef. 2-15-06; DFW 47-2006(Temp), f. 6-20-06, cert. ef. 6-26-06 thru 7-31-06; DFW 51-2006(Temp), f. & cert. ef. 6-29-06 thru 7-31-06; DFW 57-2006(Temp), f. 7-5-06, cert. ef. 7-6-06 thru 7-31-06; DFW 63-2006(Temp), f. 7-14-2006, cert. ef. 7-16-06 thru 7-31-06; DFW 68-2006(Temp), f. 7-28-06, cert. ef. 7-30-06 thru 7-31-06; Administrative correction 8-22-06; DFW 45-2007(Temp), f. 6-15-07, cert. ef. 6-25-07 thru 7-31-07

635-042-0145

Youngs Bay Salmon Season

(1) Salmon, white sturgeon, and shad may be taken for commercial purposes in those waters of Youngs Bay:

(a) The open fishing periods are established in three segments categorized as the winter fishery, paragraph (A); the spring fishery, paragraph (B); and summer fishery, paragraph (C), as follows:

(A) Winter Season:

(i) Entire Youngs Bay: 6:00 p.m. Wednesday February 14, 2007 to 12:00 noon Thursday February 15, 2007; 6:00 p.m. Sunday February 18, 2007 to 12:00 noon Monday February 19, 2007; 6:00 p.m. Wednesday February 21, 2007 to 12:00 noon Thursday February 22, 2007; 6:00 p.m. Sunday February 25, 2007 to 12:00 noon Monday February 26, 2007; 6:00 p.m. Wednesday February 28, 2007 to 12:00 noon Thursday March 1, 2007; 6:00 p.m. Sunday March 4, 2007 to 12:00 noon Monday March 5, 2007; 6:00 p.m. Wednesday March 7, 2007 to noon Thursday March 8, 2007; 6:00 p.m. Sunday March 11, 2007 to 12:00 noon Monday March 12, 2007; and 3:00 p.m. to 7:00 p.m. Wednesday March 14, 2007;

(ii) Walluski Area: 12:00 noon Sunday March 18, 2007 to 6:00 a.m. Monday March 19, 2007; 6:00 a.m. to 6:00 p.m. Tuesday March 20, 2007; 6:00 a.m. to 6:00 p.m. Thursday March 22, 2007; 12:00 noon Sunday March 25, 2007 to 6:00 a.m. Monday March 26, 2007; 6:00 a.m. to 6:00 p.m. Tuesday March 27, 2007; 6:00 a.m. to 6:00 p.m. Thursday March 29, 2007; 12:00 noon Sunday April 1, 2007 to 6:00 a.m. Monday April 2, 2007; 6:00 a.m. to 6:00 p.m. Tuesday April 3, 2007; 6:00 a.m. to 6:00 p.m. Thursday April 5, 2007; 12:00 noon Sunday April 8, 2007 to 6:00 a.m. Monday April 9, 2007; 6:00 a.m. to 6:00 p.m. Tuesday April 10, 2007.

(B) Spring Season:

(i) Entire Youngs Bay: 6:00 p.m. Monday April 23, 2007 to 6:00 a.m. Tuesday April 24, 2007; 6:00 p.m. Thursday April 26, 2007 to 6:00 a.m. Friday April 27, 2007; 6:00 p.m. Monday April 30, 2007 to 12:00 noon Tuesday May 1, 2007; 6:00 p.m. Thursday May 3, 2007 to 12:00 noon Friday May 4, 2007; 12:00 noon Monday May 7, 2007 to 12:00 noon Friday May 11, 2007; 12:00 noon Monday May 14, 2007 to 12:00 noon Friday May 18, 2007; 12:00 noon Monday May 21, 2007 to 12:00 noon Friday May 25, 2007; 12:00 noon Monday May 28, 2007 to 12:00 noon Friday June 1, 2007; 12:00 noon Monday June 4, 2007 to 12:00 noon Friday June 8, 2007; 12:00 noon Tuesday June 12, 2007 to 12:00 noon Friday June 15, 2007.

(C) Summer Season:

(i) 6:00 a.m. Wednesday June 20, 2007 to 6:00 a.m. Friday June 22, 2007; 6:00 a.m. Wednesday June 27, 2007 to 6:00 a.m. Friday June 29, 2007; 6:00 a.m. Wednesday July 4, 2007 to 12:00 noon Thursday July 5, 2007; 6:00 a.m. Wednesday July 11, 2007 to 12:00 noon Thursday July 12, 2007; 6:00 a.m. Wednesday July 18, 2007 to 12:00 noon Thursday July 19, 2007; 6:00 a.m. Wednesday July 25, 2007 to 12:00 noon Thursday July 26, 2007.

(b) The fishing areas for the winter, spring and summer fisheries are:

(A) From February 14, 2007 through March 12, 2007 and from April 19, 2007 through July 26, 2007, the fishing area is identified as the waters of Youngs Bay from the Highway 101 Bridge upstream to the upper boundary markers at the confluence of the Klaskanine and Youngs rivers; except for those waters which are closed southerly of the alternate Highway 101 Bridge (Lewis and Clark River);

(B) On March 14, 2007, the fishing area extends from old Youngs Bay Bridge upstream to the confluence of the Youngs and Klaskanine rivers;

(C) From March 18, 2007 through April 10, 2007 the fishing area extends from the first overhead powerlines downstream of the Walluski River upstream to the confluence of the Youngs and Klaskanine rivers.

(2) Gill nets may not exceed 1,500 feet (250 fathoms) in length and weight may not exceed two pounds per any fathom. A red cork must be placed on the corkline every 25 fathoms as measured from the first mesh of the net. Red corks at 25-fathom intervals must be in color contrast to the corks used in the remainder of the net:

(a) It is *unlawful* to use a gill net having a mesh size that is less than 7-inches during the winter season from February 14, 2007 to April 10, 2007. From March 6 through 31, 2007 nets not specifically authorized for use in this fishery may be onboard the vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater. Nets authorized for this fishery, and nets with a mesh size of ≤ 2 inches or ≥ 9 inches are not required to be properly stored. Other permanent gear regulations remain in effect. It is *unlawful* to use a gill net having a mesh size that is more than 8-inches during the spring and summer seasons from April 19, 2007 to July 26, 2007;

(b) The use of additional weights or anchors attached directly to the leadline is allowed upstream of markers at the mouth of the Walluski River during all Youngs Bay commercial fisheries.

(3) A maximum of three white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fisheries are open through June 24, 2007. Effective June 25, 2007 a maximum of five white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fisheries are open. During the fishing periods identified in (1)(a)(A), (1)(a)(B) and (1)(a)(C), the weekly aggregate sturgeon limit applies to possessions and sales in the Youngs Bay fishery and other open Select Area fisheries through June 24, 2007. From June 25 until further notice, the weekly aggregate sturgeon limit applies to possessions and sales in both Select Area fisheries and mainstem Columbia River fisheries.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162, 506.129 & 507.030

Hist.: FWC 32-1979, f. & cert. ef. 8-22-79; FWC 28-1980, f. & cert. ef. 6-23-80; FWC 42-1980(Temp), f. & cert. ef. 8-22-80; FWC 30-1981, f. & cert. ef. 8-14-81; FWC 42-1981(Temp), f. & cert. ef. 11-5-81; FWC 54-1982, f. & cert. ef. 8-17-82; FWC 37-1983, f. & cert. ef. 8-18-83; FWC 61-1983(Temp), f. & cert. ef. 10-19-83; FWC 42-1984, f. & cert. ef. 8-20-84; FWC 39-1985, f. & cert. ef. 8-15-85; FWC 37-1986, f. & cert. ef. 8-11-86; FWC 72-1986(Temp), f. & cert. ef. 10-31-86; FWC 64-1987, f. & cert. ef. 8-7-87; FWC 73-1988, f. & cert. ef. 8-19-88; FWC 55-1989(Temp), f. & cert. ef. 8-7-89, cert. ef. 8-20-89; FWC 82-1990(Temp), f. & cert. ef. 8-14-90, cert. ef. 8-19-90; FWC 86-1991, f. & cert. ef. 8-18-91; FWC 123-1991(Temp), f. & cert. ef. 10-21-91; FWC 30-1992(Temp), f. & cert. ef. 4-27-92; FWC 35-1992(Temp), f. & cert. ef. 5-22-92, cert. ef. 5-25-92; FWC 74-1992 (Temp), f. & cert. ef. 8-10-92, cert. ef. 8-16-92; FWC 28-1993(Temp), f. & cert. ef. 4-26-93; FWC 48-1993, f. & cert. ef. 8-9-93; FWC 21-1994(Temp), f. & cert. ef. 4-22-94, cert. ef. 4-25-94; FWC 51-1994, f. & cert. ef. 8-19-94, cert. ef. 8-22-94; FWC 64-1994(Temp), f. & cert. ef. 9-14-94, cert. ef. 9-15-94; FWC 66-1994(Temp), f. & cert. ef. 9-20-94; FWC 27-1995, f. & cert. ef. 3-29-95, cert. ef. 4-1-95; FWC 48-1995(Temp), f. & cert. ef. 6-5-95; FWC 66-1995, f. & cert. ef. 8-22-95, cert. ef. 8-27-95; FWC 69-1995, f. & cert. ef. 8-25-95, cert. ef. 8-27-95; FWC 8-1995, f. & cert. ef. 2-28-96, cert. ef. 3-1-96; FWC 37-1996(Temp), f. & cert. ef. 6-12-96; FWC 41-1996, f. & cert. ef. 8-12-96; FWC 45-1996(Temp), f. & cert. ef. 8-16-96, cert. ef. 8-19-96; FWC 54-1996(Temp), f. & cert. ef. 9-23-96; FWC 4-1997, f. & cert. ef. 1-30-97; FWC 47-1997, f. & cert. ef. 8-15-97; FWC 8-1998(Temp), f. & cert. ef. 2-5-98 thru 2-28-98; FWC 14-1998, f. & cert. ef. 3-3-98; FWC 18-1998(Temp), f. & cert. ef. 3-9-98, cert. ef. 3-11-98 thru 3-31-98; FWC 60-1998(Temp), f. & cert. ef. 8-7-98 thru 8-21-98; FWC 67-1998, f. & cert. ef. 8-24-98; FWC 10-1999, f. & cert. ef. 2-26-99; FWC 52-1999(Temp), f. & cert. ef. 8-2-99 thru 8-6-99; FWC 55-1999, f. & cert. ef. 8-12-99; FWC 9-2000, f. & cert. ef. 2-25-00; FWC 42-2000, f. & cert. ef. 8-3-00; FWC 3-2001, f. & cert. ef. 2-6-01; FWC 66-2001(Temp), f. & cert. ef. 8-6-01 thru 8-14-01; FWC 76-2001(Temp), f. & cert. ef. 8-20-01 thru 10-31-01; FWC 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; FWC 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; FWC 82-2002(Temp), f. & cert. ef. 8-5-02, cert. ef. 8-7-02 thru 9-1-02; FWC 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; FWC 12-2003, f. & cert. ef. 2-14-03; FWC 17-2003(Temp), f. & cert. ef. 2-27-03, cert. ef. 3-1-03 thru 8-1-03; FWC 32-2003(Temp), f. & cert. ef. 4-23-03 thru 8-1-03; FWC 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; FWC 36-2003(Temp), f. & cert. ef. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; FWC 37-2003(Temp), f. & cert. ef. 5-7-03 thru 10-1-03; FWC 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; FWC 89-2003(Temp), f. & cert. ef. 9-9-03 thru 12-31-03; FWC 11-2004, f. & cert. ef. 2-13-04; FWC 19-2004(Temp), f. & cert. ef. 3-12-04 thru 3-31-04; FWC 22-2004(Temp), f. & cert. ef. 3-18-04 thru 3-31-04; FWC 28-2004(Temp), f. & cert. ef. 4-12-04 thru 4-15-04; FWC 39-2004(Temp), f. & cert. ef. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; FWC 44-2004(Temp), f. & cert. ef. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; FWC 79-2004(Temp), f. & cert. ef. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; FWC 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; FWC 6-2005, f. & cert. ef. 2-14-05; FWC 15-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; FWC 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; FWC 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; FWC 28-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05; FWC 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; FWC 40-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; FWC 46-2005(Temp), f. & cert. ef. 5-17-05, cert. ef. 5-18-05 thru 10-16-05; FWC 73-2005(Temp), f. & cert. ef. 7-11-05 thru 7-31-05; FWC 77-2005(Temp), f. & cert. ef. 7-14-05, cert. ef. 7-18-05 thru 7-31-05; FWC 85-2005(Temp), f. & cert. ef. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; FWC 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; FWC 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; FWC 116-2005(Temp), f. & cert. ef. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; FWC 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; FWC 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; FWC 5-2006, f. & cert. ef. 2-15-06; FWC 14-2006(Temp), f. & cert. ef. 3-15-06, cert. ef. 3-16-06 thru 7-27-06; FWC 15-2006(Temp), f. & cert. ef. 3-23-06 thru 7-27-06; FWC 17-2006(Temp), f. & cert. ef. 3-29-06, cert. ef. 3-30-06 thru 7-27-06; FWC 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; FWC 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; FWC 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; FWC 52-2006(Temp), f. & cert. ef. 6-28-06 thru 7-27-06;

ADMINISTRATIVE RULES

DFW 73-2006(Temp), f. 8-1-06, cert. ef. 8-2-06 thru 12-31-06; DFW 103-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 119-2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 16-2007(Temp), f. & cert. ef. 3-14-07 thru 9-9-07; DFW 25-2007(Temp), f. 4-17-07, cert. ef. 4-18-07 thru 7-26-07; DFW 45-2007(Temp), f. 6-15-07, cert. ef. 6-25-07 thru 7-31-07

Rule Caption: Allowable sales of fish caught during Tribal Treaty fisheries in the Columbia River and tributaries.

Adm. Order No.: DFW 46-2007(Temp)

Filed with Sec. of State: 6-15-2007

Certified to be Effective: 6-16-07 thru 9-13-07

Notice Publication Date:

Rules Amended: 635-041-0076

Subject: This rule allow commercial sales of fish caught in Tribal Treaty fisheries in the Columbia River and tributaries. Implementation is consistent with action taken June 14, 2007 by the Columbia River Compact.

Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-041-0076

Summer Salmon Season

(1) Commercial sale of platform and hook-and-line caught fish from Zone 6 of the mainstem Columbia River is allowed beginning 6:00 a.m. Saturday June 16, 2007 until further notice:

(a) Gear is restricted to: hoop nets, dip nets, and rod and reel with hook-and-line;

(b) Closed areas are as set forth in OAR 635-041-0020.

(2) Chinook salmon, coho salmon, steelhead, walleye, carp and shad, may be taken for commercial purposes and subsistence from the Columbia River Treaty Indian Fishery, from 6:00 a.m. Monday June 18 to 6:00 p.m. Wednesday June 20, 2007 in all of Zone 6:

(a) During the summer salmon season it shall be *unlawful* to use gill nets with a mesh size of less than 7 inches;

(b) Sockeye salmon may not be sold but may be retained for subsistence. Sturgeon may not be sold. Sturgeon between 48–60 inches in The Dalles and John Day pools and between 45–60 inches in the Bonneville pool, may be retained for subsistence;

(c) Closed areas are as set forth in OAR 635-041-0045 with the exception of Spring Creek Hatchery.

(3) Sale of fish caught in the Big White Salmon River, Klickitat River, and Wind River is allowed beginning 6:00 a.m. Monday June 18, 2007, during those days and hours when the tributaries are open under lawfully enacted tribal fishing periods.

Stat. Auth.: ORS 496.118 & 506.119

Stats. Implemented: ORS 506.109, 506.129 & 507.030

Hist.: DFW 5-2006, f. & cert. ef. 2-15-06; DFW 39-2006(Temp), f. & cert. ef. 6-8-06 thru 7-31-06; DFW 46-2006(Temp), f. & cert. ef. 6-20-06 thru 7-31-06; DFW 49-2006(Temp), f. 6-26-06, cert. ef. 6-27-06 thru 7-31-06; DFW 56-2006(Temp), f. 6-30-06, cert. ef. 7-3-06 thru 7-31-06; DFW 58-2006(Temp), f. 7-6-06, cert. ef. 7-10-06 thru 7-31-06; Administrative correction 8-22-06; DFW 46-2007(Temp), f. 6-15-07, cert. ef. 6-16-07 thru 9-13-07

Department of Human Services, Addictions and Mental Health Division:

Addiction Services

Chapter 415

Rule Caption: Amend fee rules that are now contained in Department-wide rules under 407-003.

Adm. Order No.: ADS 2-2007

Filed with Sec. of State: 5-25-2007

Certified to be Effective: 5-25-07

Notice Publication Date: 5-1-07

Rules Amended: 415-012-0050, 415-012-0080

Subject: The Division is amending OAR's 415-012-0050 & 415-012-0080 to remove references to fees now covered in OAR 407-003, & to update the rules.

Rules Coordinator: Richard Luthe—(503) 947-1186

415-012-0050

Onsite Reviews

(1) Scheduled Inspections: The Office shall inspect the facilities and must review procedures utilized:

(a) Before issuing a LOA/license to an applicant; and

(b) Before renewal of an existing LOA/license.

(2) Discretionary Onsite Inspections: The Office may conduct onsite inspections:

(a) Upon receipt of verbal or written complaints of violations that allege conditions that may threaten the health, safety, or welfare of clients or for any other reason to be concerned for client welfare; or

(b) Any time the Office has reason to believe it is necessary to assure if a provider is in compliance with the administrative rules or with conditions placed upon the LOA/license.

(3) Substance of Reviews: The review may include, but is not limited to, case record audits and interviews with staff and clients, consistent with the confidentiality safeguards of state and federal laws.

(4) Access to Facilities and Records: Each applicant or provider agrees, as a condition of LOA/license approval:

(a) To permit designated representatives of the Office to inspect premises of programs to verify information contained in the application or to assure compliance with all laws, rules, and regulations during all hours of operation of the facility and at any other reasonable hour;

(b) To permit properly designated representatives of the department to audit and collect statistical data from all records maintained by the approved/licensed program; and

(c) That such right of immediate entry and inspection shall, under due process of law, extend to any premises on which the Office has reasons to believe a program is being operated by the provider in violation of these rules.

(5) Access if Requirement for LOA/License: An applicant or provider shall not be approved/licensed which does not permit inspection by the Office or examination of all records, including financial records as appropriate, methods of administration, the disbursement of drugs and method of supply, and any other records the Office deems relevant to the establishment of such a program.

(6) Inspection by Other Agencies: Each applicant or provider agrees, as a condition of LOA/license approval that:

(a) State or local fire inspectors shall be permitted access to enter and inspect the facility regarding fire safety upon the request of the Office; and

(b) State or local health inspectors shall be permitted access to enter and inspect the facility regarding health safety upon the request of the Office.

(7) Notice: The Office has authority to conduct inspections with or without advance notice to the administrator, staff, or clients:

(a) The Office is not required to give advance notice of any onsite inspection if the Office reasonably believes that notice might obstruct or seriously diminish the effectiveness of the inspection or enforcement of these administrative rules; and

(b) If Office staff are not permitted access for inspection, a search warrant may be sought.

(8) Review Process and Reports: For renewal of a LOA/license:

(a) The Office will designate a lead specialist and other onsite review members as appropriate, such as a peer reviewer or the designee of the CMHP, to perform a formal onsite review of the service element(s);

(b) The lead specialist will submit a draft report of the onsite review to the program and team members for their review and comment;

(c) The lead specialist will then issue a final report and a LOA/license if indicated; and

(d) Final reports will routinely be issued within 60 days except where the Assistant Director determines that there are mitigating circumstances necessitating further review.

(9) Access to Reports: Public access to final reports of onsite inspections, except for confidential information, shall be available upon written request from the Division during business hours in accordance with OAR chapter 407, division 003.

(10) Corrective Action Plan. Programs issued a provisional LOA/license will submit an action plan to the Assistant Director or his/her designee for approval no later than 30 days following receipt of the final onsite report. The corrective action plan shall include, but not be limited to:

(a) Specific problem areas cited as out of compliance;

(b) A delineation of corrective measures to be taken by the program to bring the program into compliance; and

(c) A delineation of target dates for completion of corrective measures for each problem area.

(11) Failure to Take Corrective Action: Failure to demonstrate compliance with the corrective action plan, may result in an extension, suspension or revocation of the provisional LOA/license.

Stat. Auth.: ORS 409.410 & 409.420

Stats. Implemented: ORS 426.450, 430.010-041, 430.260, 430.306, 430.405, 430.450, 430.630, 430.850, 443.400, 813.020, 813.260 & 813.500

Hist.: ADAP 2-1993, f. & cert. ef. 11-5-93; ADS 2-2007, f. & cert. ef. 5-25-07

ADMINISTRATIVE RULES

415-012-0080

Complaints

(1) Investigation of Complaints: Any person who believes that administrative rules have been violated may file a complaint with the Office:

(a) The Office may require that complainant exhaust grievance procedures available to them through the provider prior to initiation of an investigation;

(b) The Office shall investigate complaints and notify the provider of the results of the investigation and any proposed action.

(2) Records of Complaints: A record shall be maintained by the Office of all complaints and any action taken on the complaint and shall:

(a) Be placed into the public file. (Any information regarding the investigation of the complaint will not be filed in the public file until the investigation has been completed.);

(b) Protect the identification of the complainant; and

(c) Treat the identities of the witnesses and clients as confidential information.

(3) Inspection of Records: Any person may inspect and receive a photocopy of the public complaint files maintained by the Division upon requesting an appointment to do so. A fee will be charged in accordance with OAR chapter 407, division 003.

(4) Substantiated Complaint Grounds for Action: Providers who acquire substantiated complaints pertaining to the health, safety, or welfare of clients may have their LOAs/licenses suspended, revoked, or not renewed and arrangements made to move the clients.

(5) Retaliation Toward Client Forbidden: The provider shall not retaliate against any client for filing a complaint with the Office by:

(a) Increasing charges; decreasing services; rights or privileges;

(b) Threatening to increase charges or decrease services, rights, or privileges;

(c) Taking or threatening to take any action to coerce or compel the client to leave the facility; or

(d) Abusing or threatening to harass or abuse a client in any manner.

(6) Retaliation Toward Employee or Witness: Any complainant, witness, or employee of a facility shall not be subject to retaliation by a provider for making a report to or for being interviewed by the Office about a complaint including restriction to access to the program or to a client or, if an employee, to dismissal or harassment.

Stat. Auth.: ORS 409.410 & 409.420

Stats. Implemented: ORS 426.450, 430.010-041, 430.260, 430.306, 430.405, 430.450, 430.630, 430.850, 443.400, 813.020, 813.260 & 813.500

Hist.: ADAP 2-1993, f. & cert. ef. 11-5-93; ADS 2-2007, f. & cert. ef. 5-25-07

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Rule Caption: Renumber Residential Facilities Rules From OAR Chapter 410 to 415.

Adm. Order No.: ADS 3-2007

Filed with Sec. of State: 5-25-2007

Certified to be Effective: 5-25-07

Notice Publication Date: 5-1-07

Rules Renumbered: 410-008-0000 to 415-054-0300, 410-008-0005 to 415-054-0310, 410-008-0010 to 415-054-0320, 410-008-0015 to 415-054-0330, 410-008-0020 to 415-054-0340, 410-008-0025 to 415-054-0350, 410-008-0030 to 415-054-0360, 410-008-0035 to 415-054-0370

Subject: The Division is renumbering rules in OAR chapter 410 to 415, as they are no longer used by programs in OAR chapter 410, & are used by programs in OAR chapter 415

Rules Coordinator: Richard Luthe—(503) 947-1186

415-054-0300

Definitions

As used in this Division, unless the context requires otherwise:

(1) "Assistant Director" means the Assistant Director, Oregon Department of Human Services, responsible for the Office.

(2) "Client" means an individual who is a first-time violator of ORS 475.992(3)(f) and who has signed a written consent which complies with **Section 2.35** of the federal confidentiality regulations (**42 CFR Part 2**), and is either:

(a) An adult who has a Marijuana Diversion Agreement; or

(b) A juvenile who has been referred under ORS 419.507(10).

(3) "Evaluation Specialist" means an individual who possesses a valid Letter of Approval issued under this Division.

(4) "Letter of Approval" means the letter issued to an individual by the Office which states that the person meets the standards set out in this Division.

(5) "Level I Services" means certain designated education services approved by the Office for use in a marijuana education program under OAR division 410-009.

(6) "Level II Services" means certain designated education and treatment services approved by the Office for use in a marijuana treatment program under OAR division 410-009.

(7) "Marijuana Diversion Agreement" means a petition for possession of marijuana agreement which has been signed and dated by a court pursuant to Chapter 1075, Oregon Laws 1989, (Enrolled House Bill 2479).

(8) "Office" means the Office of Alcohol and Drug Abuse Programs in the Director's Office of the Department of Human Resources.

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 409.050

Hist.: HR 2-1989(Temp), f. & cert. ef. 10-16-89; HR 11-1990, f. & cert. ef. 4-13-90;

Renumbered from 410-008-0000 by ADS 3-2007, f. & cert. ef. 5-25-07

415-054-0310

Required Duties of an Evaluation Specialist

(1) Evaluation: An evaluation specialist shall promptly evaluate referred clients using, at a minimum, assessment instruments designated by the Assistant Director. Based upon the evaluation, the evaluation specialist shall determine whether Level I or Level II services are appropriate for a client and what program meets the client's needs.

(2) Referral: On the basis of the evaluation, the evaluation specialist shall promptly refer the client to a program providing the appropriate Level I services or Level II services. Whenever possible, referrals of juveniles to programs providing Level II services shall be to programs with juvenile treatment capacity. All referrals must be made on a form approved by the Office. If the service provider and the evaluation specialist disagree as to the appropriate level of treatment for a client, the service provider and the evaluation specialist shall collectively agree on an appropriate program for the client.

(3) Monitoring: The evaluation specialist shall:

(a) Directly contact each client's service provider at least once a month to verify that the client is fully participating in the service program and complying with its requirements;

(b) Communicate promptly with appropriate judicial or other justice system staff concerning the client's compliance with service program requirements; and

(c) Where a client is in a Level I services program, confer with the service provider between the third and sixth week of service to determine if the client should be placed in a Level II services program, and take appropriate actions, if necessary.

(4) Records: The evaluation specialist shall maintain a file on each individual which includes:

(a) Evaluation results and evaluation instruments used in the evaluation;

(b) Evidence of indigency, if appropriate, consisting of a document signed and dated by the Adult and Family Services Division indicating eligibility for the federal food stamp program;

(c) A record of the fee payments made and balance owed on the client's account;

(d) Documentation showing compliance with all provisions of this Division;

(e) Copies of reports on the client made to the Office; and

(f) A copy of the written consent signed by the client for compliance with **Section 2.35** of **42 CFR Part 2**;

(g) Other relevant information as required by the Office.

(5) Record Retention: The evaluation specialist shall retain all records regarding each client for a period of seven years following the date of completion or discontinuance of treatment or services.

(6) Reports: The evaluation specialist shall send complete reports to the Office on forms and by dates prescribed by the Office.

(7) Confidentiality: The evaluation specialist shall comply with all federal and state confidentiality laws, including those contained in **42 CFR Part 2**.

(8) Continuing Education: The evaluation specialist shall fulfill all continuing education requirements prescribed by the Office.

(9) Cooperation: The evaluation specialist shall assist the Office by:

(a) Providing all information requested by the Office at the time and place and in the form designated by the Office;

(b) Assisting in the conduct of all reviews of the evaluation specialist's job performance and compliance with this Division;

(c) Promptly undertaking and completing all corrective actions required in writing by the Office.

ADMINISTRATIVE RULES

(10) Sobriety: During all working hours, an evaluation specialist shall not be under the influence of nor use or have present in any amounts in his or her body any alcohol or controlled substance, unless pursuant to a current prescription from a licensed physician.

Stat. Auth.: ORS 409.050
Stats. Implemented: 409.050
Hist.: HR 2-1989(Temp), f. & cert. ef. 10-16-89; HR 11-1990, f. & cert. ef. 4-13-90;
Renumbered from 410-008-0005 by ADS 3-2007, f. & cert. ef. 5-25-07

415-054-0320

Reimbursement for Service to Indigent Clients

(1) A marijuana evaluation specialist is eligible to seek reimbursement in the manner required by the Office for services provided to an indigent client under this Division if the following is in the client's record:

(a) Documentation, dated and signed by the Adult and Family Services Division, verifying the client's eligibility for the federal food stamp program over the period included in the reimbursement request; and

(b) Documentation that the crime or violation committed by the client leading to the need for the evaluation for which reimbursement is sought was possession of less than an ounce of marijuana.

(2) Reimbursement for evaluation under this rule is subject to the availability of funds for that purpose under Chapter 1075, Oregon Laws 1989, (Enrolled House Bill 2479), and to the maximum rate for evaluation approved by the Ways and Means Committee and/or Emergency Board of the Oregon Legislative Assembly for this purpose.

(3) The marijuana evaluation specialist will promptly and fully return any payments made when an Office audit reveals that the program was ineligible to seek reimbursement for service to a client.

Stat. Auth.: ORS 409.050
Stats. Implemented: 409.050
Hist.: HR 2-1989(Temp), f. & cert. ef. 10-16-89; HR 11-1990, f. & cert. ef. 4-13-90;
Renumbered from 410-008-0010 by ADS 3-2007, f. & cert. ef. 5-25-07

415-054-0330

Applications and Requirements

Any applicant requesting a Letter of Approval as an Evaluation Specialist must submit an application form which demonstrates compliance with the following:

(1) Education or Experience:

(a) Graduation from an accredited four-year college or university with a Bachelors degree in social sciences, psychology, sociology, substance abuse, or related field with course work specific to alcohol or other drug education, treatment, or counseling; or

(b) Two years of full-time supervised experience in alcohol or other drug treatment, evaluation, education, or counseling; or

(c) Two years of training in alcohol or drug treatment, evaluation, education, or counseling.

(2) Reference Letters: Three acceptable letters of reference from persons in the human services field with personal knowledge of the applicant who attest to the applicant's character, work habits, and qualifications. An applicant proposing to serve adolescents under this Division must submit, as one of the three letters, a letter of recommendation from a youth serving agency.

(3) Court Designation: A written statement from a court which designates the applicant to perform marijuana evaluations for the court.

(4) Sobriety Requirement: A statement that the applicant is not suffering from acute alcoholism or drug dependency.

Stat. Auth.: ORS 409.050
Stats. Implemented: 409.050
Hist.: HR 2-1989(Temp), f. & cert. ef. 10-16-89; HR 11-1990, f. & cert. ef. 4-13-90;
Renumbered from 410-008-0015 by ADS 3-2007, f. & cert. ef. 5-25-07

415-054-00340

Approval for Training; Training

(1) The Office shall review applications for compliance with applicable requirements and notify the applicant within 60 days of the date the application is received as to whether the applicant has been approved for training.

(2) An applicant who is approved for training may receive training by the Office on the following subjects:

(a) Evaluation techniques for use with adult and adolescent offenders;

(b) Methods for determining appropriate education and treatment service levels;

(c) Referral procedures and reports;

(d) Client supervision and monitoring;

(e) Data reporting and program evaluation;

(f) Confidentiality laws;

(g) The criminal justice and juvenile court systems;

(h) Urinalysis monitoring; and

(i) Other information as appropriate.

Stat. Auth.: ORS 409.050
Stats. Implemented: 409.050
Hist.: HR 2-1989(Temp), f. & cert. ef. 10-16-89; HR 11-1990, f. & cert. ef. 4-13-90;
Renumbered from 410-008-0020 by ADS 3-2007, f. & cert. ef. 5-25-07

415-054-0350

Letters of Approval; Renewal

(1) After approval of an applicant for training and successful completion of a training program outlined in OAR 415-054-0340, the Office may issue a Letter of Approval which is valid for six months from the date of issuance.

(2) During the six-month period, the Office will review the evaluation specialist's job performance and compliance with this Division. If the job performance and compliance with this Division are satisfactory, the Office may extend the validity of the Letter of Approval for an additional period, not to exceed 18 months.

(3) Prior to expiration of a Letter of Approval, an evaluation specialist may request renewal of any Letter of Approval which has been extended pursuant to section (2) of this rule or previously renewed. Unless revoked, suspended, or denied under OAR 415-054-0360, the Office may renew a Letter of Approval for a two-year period.

Stat. Auth.: ORS 409.050
Stats. Implemented: 409.050
Hist.: HR 2-1989(Temp), f. & cert. ef. 10-16-89; HR 11-1990, f. & cert. ef. 4-13-90;
Renumbered from 410-008-0025 by ADS 3-2007, f. & cert. ef. 5-25-07

415-054-0360

Revocation; Suspension, or Denial of Letter of Approval; Appeal

(1) The Office shall deny, suspend, revoke, or refuse to renew a Letter of Approval where it finds that:

(a) There has been substantial failure to comply with part or all of any rules in this Division or there has been a substantial noncompliance with relevant federal or state law;

(b) The applicant, within the previous three years, has been convicted of:

(A) Any crime or violation under ORS Chapter 475, including but not limited to the Uniform Controlled Substances Act, or under ORS 813.010, driving under the influence of intoxicants;

(B) A substantially similar crime or violation in any other state; or

(C) Any felony.

(c) The applicant has entered into within the past three years, a diversion agreement under ORS 813.230 or section 7 of 1989 Oregon Laws Chapter 1075, or a diversion agreement under a substantially similar law in any other state;

(d) Subsequent to the time of issuance of any letter of Approval, and regardless of the current validity of that letter, the person who was issued the letter is convicted of any of the crimes or violations referred to in subsection (1)(b) or (c) of this rule.

(2) The Office may deny, suspend, revoke or refuse to renew a Letter of Approval where it finds that an applicant or holder of a Letter of Approval:

(a) Submits fraudulent or untrue information to the Office;

(b) Has a prior denial, suspension, revocation, or refusal to renew a Letter of Approval;

(c) Has jeopardized or injured the health, safety, or welfare of any client; or

(d) Has at any time been convicted of any of the crimes or violations referred to in subsection (1)(b) or (c) of this rule.

(3) When a Letter of Approval is denied, suspended, or revoked, or the Office refuses to renew it, notice of that action shall be sent by certified mail, and shall include a statement that a contested case hearing to challenge the action may be requested, but that such request must be made within 15 days of the date of mailing of the letter.

Stat. Auth.: ORS 409.050
Stats. Implemented: 409.050
Hist.: HR 2-1989(Temp), f. & cert. ef. 10-16-89; HR 11-1990, f. & cert. ef. 4-13-90;
Renumbered from 410-008-0030 by ADS 3-2007, f. & cert. ef. 5-25-07

415-054-0370

Variances

(1) The Assistant Director may grant variances to rules in this Division for a period of time, not to exceed two years.

(2) An individual requesting a variance shall submit, in writing, through the Community Mental Health Program to the Assistant Director, a request containing:

(a) The section of the rule from which the variance is sought;

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- (b) The reason for the proposed variance;
- (c) The alternative practice proposed;
- (d) A plan and timetable for compliance with the section of the rule from which the variance is sought; and
- (e) Signed documentation from the Community Mental Health Program indicating its review and comment on the proposed variance.

(3) Variances may be granted only in cases where selected sections or subsections of the rules in this Division can be met only by a waiver of such provisions, or in cases where such variances can be reasonably expected to improve services to clients. Variance shall not be granted when such variance would be in violation of any existing state or federal law or could be detrimental to the health, safety, or welfare of clients.

(4) The Office shall notify the individual requesting the variance and the Community Mental Health Program of the decision.

(5) Appeal of the denial of the variance request shall be to the Assistant Director, whose decision shall be final.

(6) A variance granted by the Office shall be attached to, and become part of, the Letter of Approval for as long as the letter is valid.

Stat. Auth.: ORS 409.050

Stats. Implemented: 409.050

Hist.: HR 2-1989(Temp), f. & cert. ef. 10-16-89; HR 11-1990, f. & cert. ef. 4-13-90;

Renumbered from 410-008-0035 by ADS 3-2007, f. & cert. ef. 5-25-07

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

Rule Caption: Amend & repeal fee rules that are now contained in Department-wide rules under 407-003.

Adm. Order No.: MHS 4-2007

Filed with Sec. of State: 5-25-2007

Certified to be Effective: 5-25-07

Notice Publication Date: 5-1-07

Rules Amended: 309-012-0070

Rules Repealed: 309-012-0065, 309-012-0080, 309-012-0085, 309-012-0090

Subject: The Division is repealing OAR 309-012; 309-012-0080; 309-012-0085 & 309-012-0090 "Charges for Reproduction of Medical Records & Charges for Mental Health Division Central Office Documents" as these rules have been replaced by Department of Human Services Department-wide rules in OAR 407-003 "Public Record Fees."

The division is amending OAR 309-012-0070 to remove references to fees now covered in OAR 407-003, & to update the rule.

Rules Coordinator: Richard Luthe—(503) 947-1186

309-012-0070

Policy

(1) Requests for copies of medical records must be made in writing with proper consent and must be specific to assure that only the essential portions of the medical record are copied and released.

(2) A patient or resident shall not be denied access to the medical record because of inability to pay. The patient may review his or her record in the Medical Record Department at no charge.

(3) A copy of the most recent release summary shall be furnished free of charge to authorized persons or agencies providing follow-up care.

(4) A copy of required portions of medical records may be provided without charge to the following agencies and individuals. When a substantial part or all of a medical record is requested, the Division may charge for copies in accordance with OAR chapter 407, division 003:

- (a) Community mental health programs;
- (b) Courts;
- (c) Hospitals;
- (d) Individuals or agencies providing follow-up care for the patient;
- (e) Insurance carriers paying for patient's or resident's care; and
- (f) Physicians.

(5) All other requests for public records shall be charged in accordance with OAR chapter 407, division 003.

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 409.050

Hist.: MHD 2-1983(Temp), f. & ef. 2-18-83; MHD 10-1983, f. & ef. 6-8-83; MHS 4-2007, f. & cert. ef. 5-25-07

Rule Caption: Updating OAR 309-033 regarding administration of medicines and treatments, and to correct a reference.

Adm. Order No.: MHS 5-2007

Filed with Sec. of State: 5-25-2007

Certified to be Effective: 5-25-07

Notice Publication Date: 5-1-07

Rules Adopted: 309-033-0625

Rules Amended: 309-033-0435

Subject: The Addictions & Mental Health Division is:

Adopting OAR 309-033-0625 "Administration of Medication and Treatment Without the Informed Consent of a Person in Custody" to correct an earlier filing error that meant to adopt this rule; and

Amend OAR 309-033-0435 "Client Rights With Regards to a Secure Transportation Provider" to update a reference to Criminal History Checks.

Rules Coordinator: Richard Luthe—(503) 947-1186

309-033-0435

Client Rights with Regards to a Secure Transport Provider

(1) A secure transport provider shall maintain written policies and procedures with regard to client rights. The policies and procedures must assure that a client has the right to be treated with consideration, respect, and full recognition of human dignity and individuality. These rights are in addition to any other rights provided for in law.

(2) The client care policies and procedures must include but are not limited to:

- (a) Considerate and respectful care;
- (b) Reasonable privacy concerning a client's transportation and care;
- (c) Confidentiality of all communications and records relating to client transportation and care except to the extent otherwise required by law;

(d) An environment in the secure transport that is free from recognized hazards.

(3) A secure transport provider shall keep a record of any formal complaint or report of misconduct made against an employee. The record must contain a copy of the complaint or report or a detailed written summary of the allegation. A provider shall investigate the accuracy of the complaint, report, or allegation and shall include a summary of the investigation and resulting action taken, if any, in the record. These records must be included in the driver's file with a copy provided to the Division.

(4) A secure transport provider shall report any client abuse in accordance with OAR 309-040-0200 through 309-004-0290.

(5) A secure transport provider shall obtain criminal offender information on all employees who are Transporting a Person in Custody or on Division in accordance with OAR chapter 410, division 007.

Stat. Auth.: ORS 430.041

Stats. Implemented: ORS 426.005 - 426.309

Hist.: MHD 3-2000(Temp), f. 1-25-00, cert. ef. 1-25-00 thru 7-22-00; MHD 10-2000, f. & cert. ef. 7-21-00; MHS 5-2007, f. & cert. ef. 5-25-07

309-033-0625

Administration of Medication and Treatment without the Informed Consent of a Person in Custody

(1) Hospitals or Nonhospital Facilities Authorized. Only a physician at a hospital or nonhospital facility approved under OAR 309-033-0500 through 309-033-0560 may administer medication and treatment without the informed consent of a person in custody.

(2) What constitutes an emergency. The fact that a person is in custody under the provisions of ORS 426.232 or 426.233 shall not be the sole justification that an emergency exists. An emergency exists if in the opinion of the physician, and either a consulting physician or qualified mental health profession:

(a) Immediate action is required to preserve the life or physical health of the person and it is not practical to obtain informed consent as provided in OAR 309-033-0620(5); or

(b) Immediate action is required because the behavior of the person creates a substantial likelihood of immediate physical harm to the person, or others in the facility and it is not practical to obtain informed consent as provided in OAR 309-033-0620(5).

(3) Grounds for the administration of medication and treatment without informed consent. As provided by ORS 426.072(2)(c), a physician shall administer medication and treatment to a person in custody without obtaining prior informed consent, only in the following circumstances:

- (a) If an emergency exists as described in OAR 309-033-0625(2), or

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(b) If the physician, in consultation with another physician or qualified mental health profession, the person is unable to give informed consent as described in OAR 309-033-0620(4)(a).

(4) Procedures and limitations for the administration of medication or treatment without consent. When administering medication or treatment without the informed consent of a person in custody, the physician shall:

(a) Administer medication and treatment in accordance with medical standards in the community;

(b) Not administer electro-shock therapy or unduly hazardous treatment as set forth in ORS 426.072(2)(c);

(c) Document in the person's record the specific nature of each emergency and the procedure that was used to deal with the emergency, or if the person is unable to give consent, document that fact in the person's record;

(d) If the person is a minor or has a guardian, make a reasonable effort to contact the legal guardian prior to the administration of medication or treatment, but if efforts to contact the guardian are not successful, the physician may only administer medication or treatment in an emergency and shall notify the legal guardian as soon as possible, otherwise the physician shall not administer medication until consent is obtained from the guardian;

(e) Review the medication and treatment with the treatment team within a reasonable period of time after the medicine or treatment is administered without consent and, if applicable, administer medication or treatment designed to correct the behavior creating the emergency;

(f) Not continue to administer medication or treatment after the emergency has subsided or the person has regained the ability to consent to treatment, without obtaining the person's informed consent; and

(g) Immediately proceed as provided in OAR 309-033-0600 through 309-033-0650 if the person who was in custody is committed and the physician believes the person remains unable to give consent and it is necessary to continue involuntary administration of medication or treatment; the physician may only continue the administration of medication or treatment under the provisions of OAR 309-033-0625 for seven days pending a decision under OAR 309-033-0640.

Stat. Auth.: ORS 426.072, 426.231 and 426.236
Stats. Implemented: ORS 426.005 through 426.309
Hist.: MHS 5-2007, f. & cert. ef. 5-25-07

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Rule Caption: Amend the "Abuse" definition for Residential Treatment Homes, Residential Treatment Facilities, and Adult Foster Homes.

Adm. Order No.: MHS 6-2007(Temp)

Filed with Sec. of State: 5-25-2007

Certified to be Effective: 5-25-07 thru 11-21-07

Notice Publication Date:

Rules Amended: 309-035-0105, 309-035-0260, 309-040-0305

Subject: The Addictions and Mental Health Division is amending the "abuse" definition in:

OAR's 309-035-0105; 309-035-0260 & 309-040-0305 to update the definitions, and to align all three rules with a common definition.

Rules Coordinator: Richard Luthe—(503) 947-1186

309-035-0105

Definitions

As used in these rules the following definitions apply:

(1) "Abuse" includes but is not limited to:

(a) Any death caused by other than accidental or natural means or occurring in unusual circumstances;

(b) Any physical injury caused by other than accidental means, or that appears to be at variance with the explanation given of the injury;

(c) Willful infliction of physical pain or injury;

(d) Sexual harassment or exploitation including, but not limited to, any sexual contact between an employee of a community facility or community program, or provider, or other caregiver and the adult. For situations other than those involving an employee, provider, or other caregiver and an adult, sexual harassment or exploitation means unwelcome verbal or physical sexual contact including requests for sexual favors and other verbal or physical conduct directed toward the adult;

(e) Neglect that leads to physical harm or significant mental injury through withholding of services necessary to maintain health and well being;

(f) Abuse does not include spiritual treatments by a duly accredited practitioner of a recognized church or religious denomination when voluntarily consented to by the adult;

(g) Abuse also includes:

(A) Failure to act and/or neglect that results in imminent danger of causing physical injury, through negligent omission, treatment, or maltreatment of an adult, including but not limited to failure by a provider or staff to provide an adult with adequate food, clothing, shelter, medical care, supervision, or through tolerating or permitting abusive conduct toward an adult by any other person. However, no person will be deemed neglected or abused for the sole reason that he or she voluntarily relies on treatment through prayer alone in lieu of medical treatment;

(B) Verbal mistreatment by subjecting an adult to the use of derogatory names, phrases, profanity, ridicule, harassment, coercion or intimidation and threatening injury or withholding of services or supports, including implied or direct threat of termination of services;

(C) Placement of restrictions on a resident's freedom of movement. Restriction to an area of the residence or restricting access to ordinarily accessible areas of the residence is not allowed, unless arranged for and agreed to on the Personal Care Plan;

(D) Financial exploitation by a caregiver including, but not limited to, unauthorized rate increases, borrowing from or loaning money to residents, witnessing wills in which a caregiver is beneficiary, adding caregiver's name to resident's bank accounts or other personal property without approval of the resident or his/her guardian or conservator and the PCP team; and

(E) Inappropriate expenditure of a resident's personal funds, theft of a resident's personal funds, use of a resident's personal funds for caregivers own benefit, commingling of a resident's funds with caregiver or other resident's funds, or a caregiver becoming guardian or conservator.

(2) "Administrator" means the person designated by the licensee as responsible for the daily operation and maintenance of the facility.

(3) "Adult" means an individual 18 years of age or older.

(4) "Aid to Physical Functioning" means any special equipment ordered for a resident by a Licensed Medical Professional or other qualified health care professional which maintains or enhances the resident's physical functioning.

(5) "Applicant" means the person(s) or entity who owns the business and is applying for the license.

(6) "Approved" means authorized or allowed by the Department.

(7) "Building Code" means the Oregon Structural Specialty Code adopted by the Building Codes Division of the Oregon Department of Consumer and Business Services.

(8) "Care" means services such as supervision; protection; assistance with activities of daily living such as bathing, dressing, grooming or eating; management of money; transportation; recreation; and the providing of room and board.

(9) "Community Mental Health Program (CMHP)" means the organization of all or a portion of services for persons with mental or emotional disorders, and developmental disabilities operated by, or contractually affiliated with, a local mental health authority, operated in a specific geographic area of the state under an intergovernmental agreement or direct contract with the Office of Mental Health and Addiction Services (OMHAS).

(10) "Contract" means a formal written agreement between the community mental health program, Oregon Health Plan contractor or Office of Mental Health and Addiction Services (OMHAS) and a Residential Treatment Facility owner.

(11) "Crisis-Respite Services" means the provision of services to individuals for up to 30 days. Individuals receiving crisis-respite services are RTF residents.

(12) "DSM" means the "Diagnostic and Statistical Manual of Mental Disorders (DSM-IV)," published by the American Psychiatric Association.

(13) "Department" means the Office of Mental Health and Addiction Services (OMHAS) of the Oregon Department of Human Services.

(14) "Direct Care Staff Person" means an employee responsible for providing services to residents.

(15) "Emergency Admission" means an admission to an RTF made on an urgent basis due to the pressing service needs of the individual.

(16) "Evacuation Capability" means the ability of occupants, including residents and staff as a group, to either evacuate the building or relocate from a point of occupancy to a point of safety as defined in the Oregon Structural Specialty Code. The category of evacuation capability is determined by documented evacuation drill times or scores on NFPA 101A worksheets. There are three categories of evacuation capability:

(a) Impractical (SR-2): A group, even with staff assistance, that cannot reliably move to a point of safety in a timely manner, determined by an evacuation capability score of five or greater or with evacuation drill times in excess of 13 minutes.

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(b) Slow (SR-1): A group that can move to a point of safety in a timely manner, determined by an evacuation capability score greater than 1.5 and less than five or with evacuation drill times over three minutes but not in excess of 13 minutes.

(c) Prompt: A group with an evacuation capability score of 1.5 or less or equivalent to that of the general population or with evacuation drill times of three minutes or less. OMHAS is authorized to determine evacuation capability for RTFs in accordance with the National Fire Protection Association (NFPA) 101A 2000 edition. Facilities that are determined to be "Prompt" may be used in Group R occupancies classified by the building official, in accordance with the building code.

(17) "Facility" means one or more buildings and adjacent grounds on contiguous properties that are used in the operation of a Residential Treatment Facility.

(18) "Fire Code" means the Oregon Fire Code as adopted by the State of Oregon Fire Marshal.

(19) "Licensed Medical Professional (LMP)" means a person who meets the following minimum qualifications as documented by the Local Mental Health Authority (LMHA) or designee:

(a) Holds at least one of the following educational degrees and valid licensures:

(A) Physician licensed to practice in the State of Oregon;

(B) Nurse Practitioner licensed to practice in the State of Oregon; or

(C) Physician's Assistant licensed to practice in the State of Oregon;

and

(b) Whose training, experience and competence demonstrates the ability to conduct a Comprehensive Mental Health Assessment and provide medication management.

(20) "Licensee" means the person(s) or entity legally responsible for the operation of the facility to which the Department has issued a license.

(21) "Local Mental Health Authority (LMHA)" means the county court or board of county commissioners of one or more counties who choose to operate a CMHP or MHO; or, if the county declines to operate or contract for all or part of a CMHP or MHO, the board of directors of a public or private corporation which contracts with OMHAS to operate a CMHP or MHO for that county.

(22) "Medication" means any drug, chemical, compound, suspension, or preparation in suitable form for use as a curative or remedial substance either internally or externally by any person.

(23) "Mental or Emotional Disorder" means a primary Axis I or Axis II DSM diagnosis, other than mental retardation or a substance abuse disorder, that limits an individual's ability to perform activities of daily living.

(24) "Mental Health Assessment" means a determination by a Qualified Mental Health Professional of the client's need for mental health services. It involves collection and assessment of data pertinent to the client's mental health history and current mental health status obtained through interview, observation, testing, and review of previous treatment records. It concludes with determination of a DSM diagnosis or other justification of priority for mental health services, or a written statement that the person is not in need of community mental health services.

(25) "Mental Health Organization (MHO)" means an approved organization that provides most mental health services through a capitated payment mechanism under the Oregon Health Plan. MHOs can be fully capitated health plans, community mental health programs, private mental health organizations or combinations thereof.

(26) "Nursing Care" means the practice of nursing by a licensed nurse, including tasks and functions that are delegated by a registered nurse to a person other than a licensed nurse, which are governed by ORS Chapter 678 and rules adopted by the Oregon State Board of Nursing in OAR chapter 851.

(27) "Office of Mental Health and Addiction Services (OMHAS)" means the Department of Human Services (DHS) agency responsible for the administration of state mental health and addiction services in accordance with federal and state laws, rules and regulations. OMHAS may delegate a portion of this responsibility to the CMHPs and to MHOs.

(28) "Owner" means the person(s) or entity legally responsible for the operation of the facility.

(29) "P.r.n. (pro re nata) Medications and Treatments" means those medications and treatments which have been ordered to be given as needed.

(30) "Program" means the residential treatment facility and may refer to the owner, staff and/or services as applicable to the context.

(31) "Progress Notes" means the notations in the resident record documenting significant information concerning the resident and summarizing

progress made relevant to the objectives outlined in the residential service plan.

(32) "Protection" means the necessary actions taken by the program to prevent abuse or exploitation of the residents, to prevent self-destructive acts, and to safeguard residents, property and funds.

(33) "Resident" means any adult residing in a facility who receives services on a 24-hour basis, except as excluded under ORS 443.400(3).

(34) "Residential Service Plan" means an individualized, written plan outlining the care and treatment to be provided to a resident in or through the facility based upon an individual assessment of care and treatment needs. The residential service plan may be a section or subcomponent of the individual's overall plan for mental health treatment when the RTF is operated by a mental health service agency that provides other services to the resident.

(35) "Residential Treatment Facility (RTF)" means a facility that is operated to provide services on a 24-hour basis for six or more residents.

(36) "Restraints" means any chemical or physical methods or devices that are intended to restrict or inhibit the movement, functioning, or behavior of a resident.

(37) "Seclusion" means placing an individual in a locked room. A locked room includes a room with any type of door locking device, such as a key lock, spring lock, bolt lock, foot pressure lock, or physically holding the door shut.

(38) "Secure Residential Treatment Facility" means any residential treatment facility, or portion thereof, that restricts a resident's exit from the facility or its grounds through the use of approved locking devices on resident exit doors, gates or other closures. Such locking devices will be installed in accordance with Building Code requirements.

(39) "Services" means the care and treatment provided to residents as part of the Residential Treatment Facility program.

(40) "Supervision" means the daily observation, and monitoring of residents by direct care staff or oversight of staff by the administrator or administrator's designee, as applicable to the context.

(41) "Termination of Residency" means the time at which the resident ceases to live in the RTF, and includes the transfer of the resident to another facility, but does not include absences from the facility for the purpose of taking a planned vacation, visiting family or friends, or receiving time-limited medical or psychiatric treatment.

(42) "Treatment" means a planned, individualized program of medical, psychological or rehabilitative procedures, experiences and activities consistent with ORS 443.400(12).

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

Stat. Auth.: ORS 409.010 & 443.450

Stats. Implemented: ORS 443.400 - 443.455 & 443.991(2)

Hist.: MHD 9-1984(Temp), f. & ef. 12-10-84; MHD 9-1985, f. & ef. 6-7-85; MHD 4-1998, f. 5-21-98, cert. ef. 6-1-98; MHD 4-2005, f. & cert. ef. 4-1-05; MHS 6-2007(Temp), f. & cert. ef. 5-25-07 thru 11-21-07

309-035-0260

Definitions

As used in these rules the following definitions apply:

(1) "Abuse" includes but is not limited to:

(a) Any death caused by other than accidental or natural means or occurring in unusual circumstances;

(b) Any physical injury caused by other than accidental means, or that appears to be at variance with the explanation given of the injury;

(c) Willful infliction of physical pain or injury;

(d) Sexual harassment or exploitation including, but not limited to, any sexual contact between an employee of a community facility or community program, or provider, or other caregiver and the adult. For situations other than those involving an employee, provider, or other caregiver and an adult, sexual harassment or exploitation means unwelcome verbal or physical sexual contact including requests for sexual favors and other verbal or physical conduct directed toward the adult;

(e) Neglect that leads to physical harm or significant mental injury through withholding of services necessary to maintain health and well being;

(f) Abuse does not include spiritual treatments by a duly accredited practitioner of a recognized church or religious denomination when voluntarily consented to by the adult;

(g) Abuse also includes:

(A) Failure to act and/or neglect that results in imminent danger of causing physical injury, through negligent omission, treatment, or maltreatment of an adult, including but not limited to failure by a provider or staff to provide an adult with adequate food, clothing, shelter, medical care, supervision, or through tolerating or permitting abusive conduct toward an adult by any other person. However, no person will be deemed neglected or

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abused for the sole reason that he or she voluntarily relies on treatment through prayer alone in lieu of medical treatment;

(B) Verbal mistreatment by subjecting an adult to the use of derogatory names, phrases, profanity, ridicule, harassment, coercion or intimidation and threatening injury or withholding of services or supports, including implied or direct threat of termination of services;

(C) Placement of restrictions on a resident's freedom of movement. Restriction to an area of the residence or restricting access to ordinarily accessible areas of the residence is not allowed, unless arranged for and agreed to on the Personal Care Plan;

(D) Financial exploitation by a caregiver including, but not limited to, unauthorized rate increases, borrowing from or loaning money to residents, witnessing wills in which a caregiver is beneficiary, adding caregiver's name to resident's bank accounts or other personal property without approval of the resident or his/her guardian or conservator and the PCP team; and

(E) Inappropriate expenditure of a resident's personal funds, theft of a resident's personal funds, use of a resident's personal funds for caregivers own benefit, commingling of a resident's funds with caregiver or other resident's funds, or a caregiver becoming guardian or conservator.

(2) "Administrator" means the person designated by the licensee as responsible for the daily operation and maintenance of the RTH.

(3) "Adult" means an individual 18 years of age or older.

(4) "Aid to Physical Functioning" means any special equipment ordered for a resident by a Licensed Medical Professional or other qualified health care professional which maintains or enhances the resident's physical functioning.

(5) "Applicant" means the person(s) or entity that owns the business and is applying for the license.

(6) "Approved" means authorized or allowed by the Department.

(7) "Building Code" means the state building code as defined in ORS 455.010 and includes the Oregon Structural Specialty Code, One and Two Family Dwelling Code and other specialty codes adopted by the Building Codes Division of the Oregon Department of Consumer and Business Services.

(8) "Care" means services such as supervision; protection; assistance with activities of daily living such as bathing, dressing, grooming, or eating; management of money; transportation; recreation; and the providing of room and board.

(9) "Community Mental Health Program (CMHP)" means the organization of all or a portion of services for persons with mental or emotional disorders, and developmental disabilities operated by, or contractually affiliated with, a local mental health authority, operated in a specific geographic area of the state under an intergovernmental agreement or direct contract with the Office of Mental Health and Addiction Services Department.

(10) "Contract" means a formal written agreement between the community mental health program, Mental Health Organization or the Office of Mental Health and Addiction Services Department and a residential treatment home owner.

(11) "Crisis-Respite Services" means the provision of services to individuals for up to 30 days. Individuals receiving crisis-respite services are RTH residents.

(12) "DSM" means the "Diagnostic and Statistical Manual of Mental Disorders (DSM-IV)" published by the American Psychiatric Association.

(13) "Department" means the Office of Mental Health and Addiction Services (OMHAS) of the Oregon Department of Human Services.

(14) "Direct Care Staff Person" means an employee responsible for providing services to residents.

(15) "Electrical Code" means the Uniform Building and Fire Codes adopted on October 1, 2004 by the Building Codes Division of the Oregon Department of Consumer and Business Services.

(16) "Emergency Admission" means an admission to an RTH made on an urgent basis due to the pressing service needs of the individual.

(17) "Evacuation Capability" means the ability of occupants, including residents and staff as a group, to either evacuate the building or relocate from a point of occupancy to a point of safety as defined for SR Occupancies in the Uniform Building and Fire Codes adopted on October 1, 2004. The category of evacuation capability is determined by documented evacuation drill times or scores on the worksheet for rating residents in Group SR Occupancies in NFPA 101A. There are three categories of evacuation capability:

(a) Impractical (SR-2): A group, even with staff assistance, that cannot reliably move to a point of safety in a timely manner, determined by an evacuation capability score of five or greater or with evacuation drill times in excess of 13 minutes.

(b) Slow (SR-1) for more than 16 residents) and (SR-4 for 6 to 16 residents): A group that can move to a point of safety in a timely manner, determined by an evacuation capability score greater than 1.5 and less than five or with evacuation drill times over three minutes but not in excess of 13 minutes. SR-3 occupancies are those homes with five or fewer occupants having evacuation capabilities of impractical or slow with assistance.

(c) Prompt: A group with an evacuation capability score of 1.5 or less or equivalent to that of the general population or with evacuation drill times of three minutes or less. OMHAS is authorized to determine evacuation capability for RTHs in accordance with the National Fire Protection Association (NFPA) 101A 2000 edition. Facilities that are determined to be "Prompt" may be used in Group R occupancies classified by the building official, in accordance with the building code.

(18) "Fire Code" means the Oregon Fire Code as adopted by the Office of State Fire Marshal and as amended by local jurisdictions.

(19) "Home" means the building and grounds where the residential treatment home program is operated.

(20) "Licensed Medical Professional (LMP)" means a person who meets the following minimum qualifications as documented by the Local Mental Health Authority (LMHA) or designee:

(a) Holds at least one of the following educational degrees and valid licenses:

(A) Physician licensed to practice in the State of Oregon;

(B) Nurse Practitioner licensed to practice in the State of Oregon; or

(C) Physician's Assistant licensed to practice in the State of Oregon;

and

(b) Whose training, experience, and competence demonstrates the ability to conduct a Comprehensive Mental Health Assessment and provide medication management.

(21) "Licensee" means the person(s) or entity legally responsible for the operation of the RTH to which the Department has issued a license.

(22) "Local Mental Health Authority (LMHA)" means the county court or board of county commissioners of one or more counties who choose to operate a CMHP or MHO; or, if the county declines to operate or contract for all or part of a CMHP or MHO, the board of directors of a public or private corporation which contracts with OMHAS to operate a CMHP or MHO for that county.

(23) "Mechanical Code" means the Oregon Mechanical Specialty Code adopted by the Building Codes Division of the Oregon Department of Consumer and Business Services.

(24) "Medication" means any drug, chemical, compound, suspension, or preparation in suitable form for use as a curative or remedial substance either internally or externally by any person.

(25) "Mental or Emotional Disorder" means a primary Axis I or Axis II DSM diagnosis, other than mental retardation or a substance abuse disorder, that limits an individual's ability to perform activities of daily living.

(26) "Mental Health Assessment" means a determination by a Qualified Mental Health Professional of the client's need for mental health services. It involves collection and assessment of data pertinent to the client's mental health history and current mental health status obtained through interview, observation, testing, and review of previous treatment records. It concludes with determination of a DSM diagnosis or other justification of priority for mental health services, or a written statement that the person is not in need of community mental health services.

(27) "Mental Health Organization (MHO)" means an approved organization that provides most mental health services through a capitated payment mechanism under the Oregon Health Plan. MHOs can be fully capitated health plans, community mental health programs, private mental health organizations or combinations thereof.

(28) "Nursing Care" means the practice of nursing by a licensed nurse, including tasks and functions that are delegated by a registered nurse to a person other than a licensed nurse, which are governed by ORS Chapter 678 and rules adopted by the Oregon State Board of Nursing in OAR chapter 851.

(29) "Office of Mental Health and Addiction Services (OMHAS)" means the Department of Human Services (DHS) agency responsible for the administration of state mental health and addiction services in accordance with federal and state laws, rules and regulations. OMHAS may delegate a portion of this responsibility to the CMHPs and MHOs.

(30) "Owner" means the person(s) or entity legally responsible for the operation of the facility.

(31) "Plumbing Code" means the Oregon Plumbing Specialty Code adopted by the Building Codes Division of the Oregon Department of Consumer and Business Services.

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(32) "Pr.n. (pro re nata) Medications and Treatments" means those medications and treatments that have been ordered to be given as needed.

(33) "Program" means the residential treatment home and may refer to the owner, staff, and/or services as applicable to the context.

(34) "Progress Notes" means the notations in the resident record documenting significant information concerning the resident and summarizing progress made relevant to the objectives outlined in the residential service plan.

(35) "Protection" means the necessary actions taken by the program to prevent abuse or exploitation of the residents, to prevent self-destructive acts, and to safeguard residents, property, and funds.

(36) "Qualified Health Care Professional" means a health care professional licensed to practice in the state of Oregon who is approved to perform certain health care tasks referenced in the relevant section of these rules consistent with the scope of practice specified by the licensing board for the profession. In accordance with the referenced health care task, the qualified health care professional may include a physician, a physician's assistant, a nurse practitioner, a registered nurse, or a pharmacist.

(37) "Qualified Mental Health Professional (QMHP)" means a Licensed Medical Practitioner (LMP) or any other person meeting the following minimum qualifications as documented by the LMHA or designee:

- (a) Graduate degree in psychology;
- (b) Bachelor's degree in nursing and licensed by the State of Oregon;
- (c) Graduate degree in social work;
- (d) Graduate degree in behavioral science field;
- (e) Graduate degree in recreational, art, or music therapy; or
- (f) Bachelor's degree in occupational therapy and licensed by the State of Oregon; and

(g) Whose education and experience demonstrates the competencies to identify precipitating events; gather histories of mental and physical disabilities, alcohol and drug use, past mental health services and criminal justice contacts; assess family, social and work relationships; conduct a mental status examination; document a multiaxial DSM diagnosis; write and supervise a Treatment Plan; conduct a Comprehensive Mental Health Assessment; and provide individual, family, and/or group therapy within the scope of his or her practice.

(38) "Resident" means any adult residing in the RTH who receives services on a 24-hour basis, except as excluded under ORS 443.400(3).

(39) "Residential Service Plan" means an individualized, written plan outlining the care and treatment to be provided to a resident in or through the RTH based upon an individual assessment of care and treatment needs. The residential service plan may be a section or subcomponent of the individual's overall plan for mental health treatment when the RTH is operated by a mental health service agency that provides other services to the resident.

(40) "Residential Treatment Home (RTH)" means a home that is operated to provide services on a 24-hour basis for five or fewer residents.

(41) "Restraints" means any chemical or physical methods or devices that are intended to restrict or inhibit the movement, functioning, or behavior of a resident.

(42) "Seclusion" means placing an individual in a locked room. A locked room includes a room with any type of door locking device, such as a key lock, spring lock, bolt lock, foot pressure lock, or physically holding the door shut.

(43) "Secure Residential Treatment Facility" means any residential treatment facility, or portion thereof, that restricts a resident's exit from the facility or its grounds through the use of approved locking devices on resident exit doors, gates or other closures.

(44) "Services" means the care and treatment provided to residents as part of the RTH program.

(45) "Supervision" means the daily observation, and monitoring of residents by direct care staff or oversight of staff by the administrator or administrator's designee, as applicable to the context.

(46) "Termination of Residency" means the time at which the resident ceases to live in the RTH and includes the transfer of the resident to another facility, but does not include absences from the RTH for the purpose of taking a planned vacation, visiting family or friends, or receiving time-limited medical or psychiatric treatment.

(47) "Treatment" means a planned, individualized program of medical, psychological or rehabilitative procedures, experiences and activities consistent with ORS 443.400(12).

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

Stats. Implemented: ORS 443.400 - 443.455 & 443.991(2)

Hist.: MHD 7-1999, f. 11-15-99, cert. ef. 12-1-99; MHD 5-2005, f. & cert. ef. 4-1-05; MHS 6-2007(Temp), f. & cert. ef. 5-25-07 thru 11-21-07

309-040-0305

Definitions

As used in these rules the following definitions apply:

(1) "Abuse" includes but is not limited to:

(a) Any death caused by other than accidental or natural means or occurring in unusual circumstances;

(b) Any physical injury caused by other than accidental means, or that appears to be at variance with the explanation given of the injury;

(c) Willful infliction of physical pain or injury;

(d) Sexual harassment or exploitation including, but not limited to, any sexual contact between an employee of a community facility or community program, or provider, or other caregiver and the adult. For situations other than those involving an employee, provider, or other caregiver and an adult, sexual harassment or exploitation means unwelcome verbal or physical sexual contact including requests for sexual favors and other verbal or physical conduct directed toward the adult;

(e) Neglect that leads to physical harm or significant mental injury through withholding of services necessary to maintain health and well being;

(f) Abuse does not include spiritual treatments by a duly accredited practitioner of a recognized church or religious denomination when voluntarily consented to by the adult.

(g) Abuse also includes:

(A) Failure to act and/or neglect that results in imminent danger of causing physical injury, through negligent omission, treatment, or maltreatment of an adult, including but not limited to failure by a provider or staff to provide an adult with adequate food, clothing, shelter, medical care, supervision, or through tolerating or permitting abusive conduct toward an adult by any other person. However, no person will be deemed neglected or abused for the sole reason that he or she voluntarily relies on treatment through prayer alone in lieu of medical treatment;

(B) Verbal mistreatment by subjecting an adult to the use of derogatory names, phrases, profanity, ridicule, harassment, coercion or intimidation and threatening injury or withholding of services or supports, including implied or direct threat of termination of services;

(C) Placement of restrictions on a resident's freedom of movement. Restriction to an area of the residence or restricting access to ordinarily accessible areas of the residence is not allowed, unless arranged for and agreed to on the Personal Care Plan;

(D) Financial exploitation by a caregiver including, but not limited to, unauthorized rate increases, borrowing from or loaning money to residents, witnessing wills in which a caregiver is beneficiary, adding caregiver's name to resident's bank accounts or other personal property without approval of the resident or his/her guardian or conservator and the PCP team; and

(E) Inappropriate expenditure of a resident's personal funds, theft of a resident's personal funds, use of a resident's personal funds for caregivers own benefit, commingling of a resident's funds with caregiver or other resident's funds, or a caregiver becoming guardian or conservator.

(2) "Abuse Investigation and Protective Services" means an investigation and any subsequent services or supports necessary to prevent further abuse as required by ORS 430.745 to 430.765 and, OAR 410-009-0050 through 410-009-0160, or any other rules established by the Department applicable to allegations of abuse of residents of an Adult Foster Home licensed by OMHAS.

(3) "Activities of Daily Living (ADL)" are those individual skills necessary for a resident's Continued well being including eating/nutrition, dressing, personal hygiene, mobility, and toileting.

(4) "Administration of Medication" means administration of medicine or a medical treatment to a resident as prescribed by a Licensed Medical Practitioner.

(5) "Adult Foster Home (AFH)" means any home licensed by the Department of Human Services (DHS), Office of Mental Health and Addiction Services (OMHAS) in which residential care is provided to five or fewer adults who are not related to the provider by blood or marriage as described in ORS 443.705 through 443.825. For the purpose of these rules, if an adult family member receives care, he/she must be included as one of the residents within the total license capacity of the home. A home or person that advertises, including word-of-mouth advertising, to provide room, board, and care and services for adults, is deemed to be an Adult Foster Home. For the purpose of these rules, an Adult Foster Home does not include facilities referenced in ORS 443.715(1)(2)(3)(4).

(6) "Applicant" means any person or entity that makes an application for a license that is also the owner of the business.

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(7) "Assessment" means an evaluation of a resident and the resident's level of function completed by a case manager and provides the basis for the development of the resident's Personal Care Plan.

(8) "Authorized Department Representative" means an employee of the Department of Human Services (DHS), Office of Mental Health and Addiction Services (OMHAS) or the designee of the local Community Mental Health Program.

(9) "Behavioral Interventions" means those interventions that will modify the resident's behavior or the resident's environment.

(10) "Bill of Rights" means civil, legal or human rights afforded to Adult Foster Home residents, which are in accord with those rights afforded to all other U.S. citizens, including but not limited to those rights delineated in the Adult Foster Home Bill of Rights as described in OAR 309-040-0390(7).

(11) "Board of Nursing Rules" means the standards for Registered Nurse Teaching and Delegation and assignments to Unlicensed Persons according to the statutes and rule of the Oregon State Board of Nursing, chapter 851, division 47, ORS 678.010 to 678.445.

(12) "Care" means the provision of but is not limited to services of room, board, services and assistance with activities of daily living, such as assistance with bathing, dressing, grooming, eating, money management, recreational activities, and medication management. Care also means services that promote maximum resident independence and enhance quality of life.

(13) "Case Management" means identified services provided by qualified persons to residents by local, regional or state allied agencies or other service providers. Case management includes advocating for the resident's treatment needs, providing assistance in obtaining entitlements based on mental or emotional disability, accessing housing or residential programs, coordinating services including mental health treatment, educational or vocational activities, and arranging alternatives to inpatient hospital services.

(14) "Case Manager" means a person employed by a local, regional, or state allied agency approved by OMHAS to provide case management services. In accordance with OAR 309-032-0545(2)(g-j), Standards for Adult Mental Health Services, when a resident resides in a Adult Foster Home, the case manager will assist in development of the Personal Care Plan. Additionally, the case manager must evaluate the appropriateness of services in relation to the consumer's assessed need and review the Personal Care Plan every 180 days.

(15) "Community Mental Health Program (CMHP)" means the organization of all services for persons with mental or emotional disturbances, drug abuse problems, mental retardation or other developmental disabilities, and alcoholism and alcohol abuse problems, operated by, or contractually affiliated with, a local mental health authority, operated in a specific geographic area of the state under an intergovernmental agreement or direct contract with the Department of Human Services, Office of Mental Health and Addiction Services (OMHAS).

(16) "Compensation" means payments made by or on behalf of a resident to a provider in exchange for room and board, care and services, including services described in the resident's Personal Care Plan.

(17) "Complaint Investigation" means an investigation of any allegation that a provider has taken action, which is perceived as contrary to law, rule, or policy but does not meet the criteria for an abuse investigation.

(18) "Condition" means a provision attached to a new or existing license, which limits or restricts the scope of the license or imposes additional requirements on the licensee.

(19) "Contested Case Hearing" means an arbitrated hearing resulting in a directed or recommended action. The hearing is held at the request of the provider or OMHAS in response to an action, sanction, or notice of finding issued by OMHAS that would result in the loss of license of the provider or other sanctions that would adversely affect the license of the provider. The hearing group is composed of:

(a) The provider and if the provider chooses, the provider's attorney;

(b) The Office of Mental Health and Addiction Services as represented by the Attorney General's Office; and

(c) The Office of Administration Hearings Administrative Law Judge.

(20) "Contract" means a written agreement between a provider and the Department to provide room and board, care and services for compensation for residents of a licensed Adult Foster Home.

(21) "Controlled Substance" means any drug classified as schedules one through five under the Federal Controlled Substance Act.

(22) "Criminal History Check (CHC)" means the Oregon Criminal History Check and when required, a National Criminal History check and/or a State-Specific Criminal History check, and the processes and pro-

cedures required by the rules OAR 410-007-0200 through 410-007-0380 Criminal History Check Rules.

(23) "Day Care" means care and services in an Adult Foster Home for a person who is not a resident of the Adult Foster Home. Children under the age of five living in the Adult Foster Home are included in the licensed capacity of the home.

(24) "Declaration for Mental Health Treatment" means a document that states the consumer's preferences or instructions regarding mental health treatment as defined by ORS 127.700 through 127.737.

(25) "Department" means the State of Oregon, Department of Human Services.

(26) "Director" means the Director of the Department of Human Services or that person's designee.

(27) "Discharge Summary" means a document that describes the conclusion of the planned course of services described in the resident's individualized personal care plan, regardless of outcome or attainment of goals described in the resident's individualized personal care plan. In addition, the discharge summary addresses resident's monies, financial assets and monies, medication and personal belongings at time of discharge.

(28) "Exempt Area" means a county agency that provides similar programs for licensing and inspection of Adult Foster Homes which the Director finds equal to or superior to the requirements of ORS 443.705 to 443.825 and which has entered into an agreement with the Department to license, inspect, and collect fees according to the provisions of ORS 443.705 to 443.825.

(29) "Family Member" for the purposes of these rules, means a husband or wife, natural parent, child, sibling, adopted child, domestic partner, adopted parent, stepparent, stepchild, stepbrother, stepsister, father-in-law, mother-in-law, son-in-law, brother-in-law, sister-in-law, grandparent, grandchild, aunt, uncle, niece, nephew, or first cousin.

(30) "Home" means the Adult Foster Home.

(31) "Homelike Environment" means an Adult Foster Home setting, which promotes the dignity, safety, independence, security, health and comfort of residents through the provision of personalized care and services to encourage independence, choice, and decision making of the residents.

(32) "House Rules" means those written standards governing house activities developed by the provider and approved by the Department or designee. These standards must not conflict with the Adult Foster Home Bill of Rights.

(33) "Incident Report" means a written description and account of any occurrence including but not limited to, any injury, accident, acts of physical aggression, use of physical restraints, medication error, any unusual incident involving a resident or the home and/or providers.

(34) "Informed Consent for Services" means that the services to be provided by the Adult Foster Home provider to the person have been explained to the person and guardian, if applicable, and explained in a manner that they may comprehend.

(35) "Initial Personal Care Plan (IPCP)" means a written document developed for a resident within 24 hours of admission to the home. The document must address the care and services to be provided for the resident during the first 30 days or less until the Personal Care Plan can be developed. At a minimum the IPCP must contain goals that address the following: Immediate health care support needs, medication management issues, safety and supervision needs, Activities of Daily Living that the resident needs assistance with completing as well as any pertinent information as required by the case manager or their designee at the time of the admission. The provider must develop an Initial Personal Care Plan (IPCP) within 24 hours of admission to the Adult Foster Home.

(36) "Level One Adult Foster Home" means an Adult Foster Home licensed by the Office of Mental Health and Addiction Services to provide care and services to individuals with severe and persistent mental illness, who may also have limited medical conditions.

(37) "License" means a document issued by the Department to applicants who are determined by the Department or designee to be in substantial compliance with these rules.

(38) "Licensed Medical Practitioner (LMP)" means any person who meets the following minimum qualifications as documented by the CMHP or designee and holds at least one of the following educational degrees and a valid license:

(a) Physician licensed to practice in the State of Oregon; or

(b) Nurse practitioner licensed to practice in the State of Oregon.

(39) "Licensee" means the person or entity to whom a license is issued and whose name(s) is on the license.

(40) "Local Mental Health Authority (LMHA)" means the county court or board of county commissioners of one or more counties who

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choose to operate a community mental health program, or in the case of a Native American reservation, the tribal council, or if the county declines to operate or contract for all or part of a community mental health program, the board of directors of a public or private corporation which directly contracts with the Department to operate a CMHP for that county.

(41) "Mandatory Reporter" means any public or private official who, while acting in an official capacity, comes in contact with and has reasonable cause to believe that the adult has suffered abuse, or that any person with whom the official contact while acting in an official capacity, has abused the adult. Pursuant to ORS 430.765(2) psychiatrists, psychologists, clergy, and attorneys are not mandatory reporters with regard to information received through communications that are privileged under ORS 40.225 to 40.295.

(42) "Medication" means any drug, chemical, compound, suspension or preparation in suitable form for use as a curative or remedial substance taken either internally or externally by any person.

(43) "Mental or Emotional Disturbances (MED)" means a disorder of emotional reactions, thought processes, or behavior that results in substantial subjective distress or impaired perceptions of reality or impaired ability to control or appreciate the consequences of the person's behavior and constitutes a substantial impairment of the person's social, educational, or economic functioning. Medical diagnosis and classification must be consistent with the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association (DSM-IV). As used in these rules, this term is functionally equivalent to "serious and persistent mental illness."

(44) "National Criminal History Check" means obtaining and reviewing criminal history outside Oregon's borders. This information may be obtained from the Federal Bureau of Investigation through the use of fingerprint cards and from other criminal information resources in accordance with OAR 410-007-0200 through 410-007-0380 Criminal History Check Rules.

(45) "Neglect" means an action or inaction that leads to physical harm through withholding of services necessary to maintain health and well-being. For purposes of this paragraph, "neglect" does not include a failure of the state or a community program to provide services due to a lack of funding available to provide the services.

(46) "Nurse Practitioner" means a registered nurse who has been certified by the board as qualified to practice in an expanded specialty role within the practice of nursing.

(47) "Nursing Care" means the practice of nursing by a licensed nurse, including tasks and functions relating to the provision of nursing care that are delegated under specified conditions by a registered nurse to persons other than licensed nursing personnel, which is governed by ORS chapter 678 and rules adopted by the Oregon State Board of Nursing in OAR Chapter 851.

(48) "Nursing Delegation" means that a registered nurse authorizes an unlicensed person to perform special tasks of client/nursing care in selected situations and indicates that authorization in writing. The delegation process includes nursing assessment of a client in a specific situation, evaluation of the ability of the unlicensed person, teaching the task and ensuring supervision.

(49) "Personal Care Plan (PCP)" means a written plan outlining the care and services to be provided to a resident. The PCP is based upon the review of current assessment, referral, observations, resident preference, and input from members of the Personal Care Plan Team. The plan identifies the care, services, activities, and opportunities to be provided by the caregiver to promote the resident's recovery and independence.

(50) "Personal Care Plan Team (PCP Team)" means a group composed of the resident, the case manager or other designated representative CMHP representative, the provider and or resident manager, and others needed including the resident's legal guardian, representatives of all current service providers, advocates or others determined appropriate by the resident receiving services. If the resident is unable or does not express a preference, other appropriate team membership must be determined by the PCP team members.

(51) "Personal Care Services" means services prescribed by a physician or other designated person in accordance with the individual's plan of treatment. The services are provided by a caregiver that is qualified to provide the service and is not a member of the individual's immediate family. For those Adult Foster Home individuals who are Medicaid eligible, Personal Care services are funded under Medicaid.

(52) "Practice of Registered Nursing" means the application of knowledge drawn from broad in-depth education in the social and physical sciences in assessing, planning, ordering, giving, delegating, teaching and

supervising care which promotes the person's optimum health and independence.

(53) "Provider" means the person or entity licensed to operate and is responsible for the daily operation of the Adult Foster Home. "Provider" does not include the owner or lessor of the building in which the adult foster home is situated unless the owner or lessor is also the operator of the Adult Foster Home.

(54) "Psychiatric Security Review Board (PSRB)" means the Board consisting of five members appointed by the Governor and subject to confirmation by the Senate under Section Four, Article 111 of the Oregon Constitution and described in ORS 161.295 through 161.400 and OAR 309-032-0450 through 309-032-0515.

(55) "Registered Nurse" means an individual licensed and registered to practice nursing by the State of Oregon Board of Nursing in accordance with ORS Chapter 678 and 851.

(56) "Related" means spouse, domestic partner, natural parent, child sibling, adopted child, adopted parent, stepparent, stepchild, stepbrother, stepsister, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandparent, grandchild, aunt, uncle, niece, nephew or first cousin.

(57) "Relative" means any person identified as family members.

(58) "Resident" means any person age 18 or older who receives room, board, care, and services in an Adult Foster Home.

(59) "Resident Manager" means an employee of the provider who is approved by the Department to live in the Adult Foster Home and is responsible for the care and services of residents on a day-to-day basis.

(60) "Residential Care" means the provision of room, board, and services that assist the resident in activities of daily living, such as assistance with bathing, dressing, grooming, eating, medication management, money management or recreation. Residential care includes 24 hour supervision; being aware of the residents' general whereabouts; monitoring the activities of the resident while on the premises of the Adult Foster Home to ensure their health, safety, and welfare; providing social and recreational activities; and assistance with money management as requested.

(61) "Residents' Bill of Rights" means residents of the Adult Foster Home have the following rights as defined in ORS 443.739. Each resident has a right to:

- (a) Be treated as an adult, with respect and dignity;
- (b) Be informed of all resident rights and all house rules;
- (c) Be encouraged and assisted to exercise legal rights, including the right to vote;
- (d) Be informed of the resident's medical condition and the right to consent to or refuse treatment;
- (e) Receive appropriate care and services, and prompt medical care as needed;
- (f) A safe and secure environment;
- (g) Be free from mental and physical abuse;
- (h) Be free from chemical or physical restraints except as ordered by a physician or other qualified practitioner;
- (i) Complete privacy when receiving treatment or personal care;
- (j) Associate and communicate privately with any person the resident chooses;
- (k) Send and receive personal mail unopened;
- (l) Participate in activities of social, religious and community groups;
- (m) Have medical and personal information kept confidential;
- (n) Keep and use a reasonable amount of personal clothing and belongings, and to have a reasonable amount of private, secure storage space;
- (o) Manage the resident's own money and financial affairs unless legally restricted;
- (p) Be free from financial exploitation. The provider must not charge or ask for application fees or nonrefundable deposits and must not solicit, accept or receive money or property from a resident other than the amount agreed to for services;
- (q) A written agreement regarding the services to be provided and the rate schedule to be charged. The provider must give 30 days' written notice before any change in the rates or the ownership of the home;
- (r) Not to be transferred or moved out of the adult foster home without 30 days' advance written notice and an opportunity for a hearing. A provider may transfer or discharge a resident only for medical reasons including a medical emergency described in ORS 443.738(11)(a), or for the welfare of the resident or other residents, or for nonpayment;
- (s) Be free of discrimination in regard to race, color, national origin, sexual orientation, disability, sex or religion;
- (t) Make suggestions and complaints without fear of retaliation.

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(62) "Respite Care" means the provision of room, board, care, and services in an Adult Foster Home for a period of up to 14 days. Respite care residents will be counted in the total licensed capacity of the home. Respite care is not crisis respite care.

(63) "Restraints" means any physical hold, device, or chemical substance, which restricts, or is meant to restrict, the movement or normal functioning of a resident.

(64) "Room and Board" means the provision of meals, a place to sleep, laundry and housekeeping.

(65) "Seclusion" means the involuntary confinement of an individual to a room or area where the person is physically prevented from leaving.

(66) "Self-Administration of Medication" means the act of a resident placing a medication in or on their own body. The resident identifies the medication and the times and manners of administration, and placed the medication internally or externally on their own body without assistance.

(67) "Self Preservation" in relation to fire and life safety means the ability of residents to respond to an alarm without additional cues and be able to reach a point of safety without assistance.

(68) "Services" means those activities which are intended to help the residents develop appropriate skills to increase or maintain their level of functioning and independence. Services include coordination and consultation with other service providers or entities to assure residents access to necessary medical care, treatment, and/or services identified in the resident's personal care plan.

(69) "Substitute Caregiver" means any person meeting the qualifications of a caregiver who provides care and services in an Adult Foster Home under the jurisdiction of the Department in the absence of the provider or resident manager. A resident may not be a substitute caregiver.

(70) "Unusual Incident" means those incidents involving acts of physical aggression, serious illnesses or accidents, any injury or illness of a resident requiring a non-routine visit to a health care practitioner, suicide attempts, death of a resident, a fire requiring the services of a fire Department, or any incident requiring an abuse investigation.

(71) "Variance" means an exception from a regulation or provision of these rules, granted in writing by the Department, upon written application from the provider.

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

Stat. Auth.: ORS 409.010, 409.050

Stats. Implemented: ORS 443.705 - 443.825

Hist.: MHD 19-1985(Temp), f. & ef. 12-27-85; MHD 6-1986, f. & ef. 7-2-86; MHD 1-1992, f. & cert. ef. 1-7-92 (and corrected 1-31-92); MHD 6-1999, f. 8-24-99, cert. ef. 8-26-99; Renumbered from 309-040-0005, MHD 3-2005, f. & cert. ef. 4-1-05; MHS 6-2007(Temp), f. & cert. ef. 5-25-07 thru 11-21-07

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Rule Caption: Renumber Residential Facilities Rules From OAR Chapter 410 to 309.

Adm. Order No.: MHS 7-2007

Filed with Sec. of State: 5-25-2007

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Notice Publication Date: 5-1-07

Rules Renumbered: 410-004-0001 to 309-035-0500, 410-005-0080 to 309-035-0550, 410-005-0085 to 309-035-0560, 410-005-0090 to 309-035-0570, 410-005-0095 to 309-035-0580, 410-005-0100 to 309-035-0590, 410-005-0105 to 309-035-0600

Subject: The division is renumbering rules in OAR chapter 410 to 309, as they are no longer used by programs in OAR chapter 410, & are used by programs in OAR chapter 309.

Rules Coordinator: Richard Luthe—(503) 947-1186

309-035-0500

Residential Facilities

(1) Effective September 1, 1988, and except as otherwise provided in this rule, the capacity of all **Residential Facilities** or home for adults, including foster care homes, group care facilities or residential treatment, training or care facilities, located throughout the state shall not exceed a target based on the number of beds available in 1979, updated at the rate of ten percent per year, as distributed on the basis of the Oregon population by county. The distribution shall be determined by the Department of Human Services annually.

(2) Where a county possesses less than one percentile of the State population, then the county with the lowest percentile within a Department of Human Services' region shall be grouped until such time as the group reaches one percentile of the State population in determining the distribution target.

(3) Nothing in this rule is intended to prevent placement of a person who was not initially a resident of the county in a domiciliary care facility in the county. The targeted number of beds shall not require reduction in any domiciliary care facility capacity existing on October 4, 1977. No domiciliary care facility will be required to suspend operations, nor will the Department of Human Services support be denied such facilities on the basis of the facility being located in a county or county grouping which exceeds the distribution target.

(4) Adult Foster Care Homes as described in section (1) of this rule does not include Adult Foster Care Homes in which the clients of these homes are directly related by blood or marriage to the operator of the homes.

(5) In cases for which the distribution target for residential facilities, except Adult Foster Care Homes, allows for additional capacity in a county or county grouping and such additional capacity is less than ten beds, then one additional facility of the same type of ten-bed capacity may be authorized.

(6) This rule applies only to those residential care facilities as described in sections (1) and (4) of this rule which are established by, contracted for, or operated by the Department of Human Services or any of its divisions.

(7) Nothing in this rule will exempt any residential facility from the regulations of funding limitations of the Department of Human Services or any of its divisions.

(8) Subject to the appropriate licensing requirements, the governing body of a county may authorize a residential facility located in the county to exceed the capacity limit upon:

(a) Request of an individual or organization operating or proposing to operate a residential facility;

(b) Consultation with an advisory committee appointed by the governing body and consisting of persons who are particularly interested in the type of residential facility contemplated; and

(c) Finding of good cause following notice and public hearing.

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

Stat. Auth.: ORS 409.050

Stats. Implemented: 409.050

Hist.: HR 1-1978, f. & ef. 2-16-78; HR 17-1979, f. & ef. 11-19-79; HR 5-1988, f. & cert. ef. 9-1-88; Renumbered from 410-004-0001, MHS 7-2007, f. & cert. ef. 5-25-07

309-035-0550

Purpose

(1) OAR 309-035-0060 through 309-035-0090 establish a long-range goal wherein ultimately residential care and adult foster home clients of the Department of Human Services, whose primary service needs are associated with mental retardation or other developmental disabilities, or mental or emotional disturbance, or alcohol or drug abuse or dependence, will reside in Adult Residential Care Facilities and Adult Foster Homes under the jurisdiction of the Mental Health and Developmental Disability Services Division serving only such category of residents. Those clients not having such primary service needs will reside in facilities under the jurisdiction of the Senior and Disabled Services Division, serving only such category of residents.

(2) The goal is realized by assigning certain facilities to the jurisdiction of the Mental Health and Developmental Disability Services Division with interim procedures for case management of mixed clients and by prescribing those facilities to which new placements will be made.

Stat. Auth.: ORS 409.050

Stats. Implemented: 409.050

Hist.: HR 2-1984(Temp), f. & ef. 7-16-84; HR 3-1985, f. 2-28-85, ef. 3-1-85; Renumbered from 410-005-0080, MHS 7-2007, f. & cert. ef. 5-25-07

309-035-0560

Definitions

As used in OAR 309-035-0060 through 309-035-0090:

(1) "Mental Retardation" means:

(a) A person with significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period. Persons of borderline intelligence may be considered mentally retarded if there is also serious impairment of adaptive behavior. Definitions and classifications shall be consistent with the **Manual on Terminology and Classification in Mental Retardation** of the American Association on Mental Deficiency, **1977 Revision**, by this reference made a part hereof. Mental retardation is synonymous with mental deficiency;

(b) For community case management and program purposes, mental retardation includes those persons of borderline intelligence who have a history of residency in a state training center.

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(2) "Developmental Disability" means a disability attributable to mental retardation, cerebral palsy, epilepsy, or other neurological handicapping conditions which require training similar to that required by mentally retarded individuals, and the disability:

(a) Originates before the individual attains age 22 except that in the case of mental retardation the condition must be manifested before the age of 18;

(b) Has continued, or can be expected to continue, indefinitely; and

(c) Constitutes a substantial handicap to the individual's ability to function in society.

(3) "Mental or Emotional Disturbance" means a disorder of emotional reactions, thought processes, behavior, or relationships (excluding mental retardation, alcoholism and drug abuse or dependency) which results in substantial subjective distress, impaired perceptions of reality, or impaired ability to control or appreciate the consequences of one's behavior, and which constitutes a substantial impairment of personal, interpersonal, work, educational or civic functioning. If a medical diagnosis is made, classification shall be consistent with the current **Diagnostic and Statistical Manual of Mental Disorders** of the American Psychiatric Association 1980, by this reference made a part hereof.

(4) "Alcohol or Drug Abuse" or "Dependence" means a person who has lost the ability to control the use of alcohol or controlled substances or other substances with abuse potential, or who uses alcohol or such substances to the extent that the person's health or that of others is substantially impaired or endangered or the person's social or economic functions are substantially disrupted. An alcohol or drug dependent person may be physically dependent, a condition in which the body requires a continuing supply of alcohol, a drug, or controlled substance to avoid characteristic withdrawal symptoms, or psychologically dependent, a condition characterized by an overwhelming mental desire for continued use of alcohol, a drug, or a controlled substance.

(5) "Residents" mean persons who are clients of the Department of Human Services who reside in Adult Residential Care Facilities and Adult Foster Homes.

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

Stat. Auth.: ORS 409.050

Stats. Implemented: 409.050

Hist.: HR 2-1984(Temp), f. & ef. 7-16-84; HR 3-1985, f. 2-28-85, ef. 3-1-85; Renumbered from 410-005-0085, MHS 7-2007, f. & cert. ef. 5-25-07

309-035-0570

Jurisdiction Over Homes and Centers

(1) The Mental Health and Developmental Disability Services Division shall have jurisdiction over and shall license all Adult Residential Care Homes and Centers and certify Adult Foster Homes having residents 60 percent or more of which have primary service needs associated with mental retardation or other developmental disabilities, or mental or emotional disturbance or alcohol or drug abuse dependence.

(2) Adult Residential Care Homes and Centers and Adult Foster Homes not within the criteria in section (1) of this rule shall be under the jurisdiction of and be licensed or certified by the Senior and Disabled Services Division.

Stat. Auth.: ORS 409.050

Stats. Implemented: 409.050

Hist.: HR 2-1984(Temp), f. & ef. 7-16-84; HR 3-1985, f. 2-28-85, ef. 3-1-85; Renumbered from 410-005-0090, MHS 7-2007, f. & cert. ef. 5-25-07

309-035-0580

Case Management

(1) Those residents in homes and centers under the jurisdiction of Mental Health and Developmental Disability Services Division, whose primary service needs are not associated with mental retardation or other developmental disabilities, or mental or emotional disturbances or alcohol or drug abuse or dependence shall be Senior and Disabled Services Division clients and shall receive case management from such Division. All other residents in such facilities shall be Mental Health and Developmental Disability Services Division clients and shall receive case management from such Division.

(2) Those residents in Adult Residential Care Homes and Centers and Adult Foster Homes under the jurisdiction of the Senior and Disabled Services Division whose primary service needs are associated with mental retardation or other developmental disabilities, or mental or emotional disturbance or alcohol or drug abuse or dependence, shall be Mental Health and Developmental Disability Services Division clients and shall receive case management from such Division. All other residents in such facilities shall be Senior and Disabled Services Division clients and receive case management from such Division.

Stat. Auth.: ORS 409.050

Stats. Implemented: 409.050

Hist.: HR 2-1984(Temp), f. & ef. 7-16-84; HR 3-1985, f. 2-28-85, ef. 3-1-85; Renumbered from 410-005-0095, MHS 7-2007, f. & cert. ef. 5-25-07

309-035-0590

Placement

(1) Residential Care and Adult Foster Home clients shall be newly placed on the basis of primary service needs -- Those having such needs as those described in OAR 309-035-0070(1) will be placed in the facilities described in that paragraph and those not having such needs shall be placed in those facilities described in OAR 309-035-0070(2).

(2) Exceptions may be made only when a client cannot be placed because of the unavailability of an appropriate facility and the facility in which the client is placed is capable of serving the needs of the client. Exceptions will be granted by the Division responsible for the receiving facility.

Stat. Auth.: ORS 409.050

Stats. Implemented: 409.050

Hist.: HR 2-1984(Temp), f. & ef. 7-16-84; HR 3-1985, f. 2-28-85, ef. 3-1-85; Renumbered from 410-005-0100, MHS 7-2007, f. & cert. ef. 5-25-07

309-035-0600

Effective Date

OAR 309-035-0550 through 309-035-0590 are prospective as well as retroactive to July 1, 1982. Such prospective and retroactive effect is each severable of the other.

Stat. Auth.: ORS 409.050

Stats. Implemented: 409.050

Hist.: HR 2-1984(Temp), f. & ef. 7-16-84; HR 3-1985, f. 2-28-85, ef. 3-1-85; Renumbered from 410-005-0105, MHS 7-2007, f. & cert. ef. 5-25-07

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 11-2007(Temp)

Filed with Sec. of State: 6-1-2007

Certified to be Effective: 6-1-07 thru 11-27-07

Notice Publication Date:

Rules Amended: 413-200-0272, 413-200-0306, 413-200-0335

Subject: 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. OAR 413-200-0306 and OAR 413-200-0272 are being amended to remove the definition of "firearm" which is no longer needed with the amendments to OAR 413-200-0335. A certified family could independently choose not to permit guns on property which is lawfully owned or possessed by the certified family, but the Department cannot, as a condition of receiving a foster care certificate of approval, require the certified family to permit or prohibit access to firearms or ammunition.

A copy of the temporary rules can be accessed at the child welfare policy website: http://www.dhs.state.or.us/policy/childwelfare/cross_index.htm

Rules Coordinator: Annette Tesch—(503) 945-6067

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.

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(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

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) "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.

(16) "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.

(17) "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.

(18) "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.

(19) "Revocation" means an administrative act by the Department that rescinds an existing Certificate of Approval.

(20) "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

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;

(b) Have adequate space for each member of the household, including space for safe and appropriate sleeping arrangements:

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(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.

(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

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

Rule Caption: Requests for Public Records.

Adm. Order No.: DMAP 3-2007

Filed with Sec. of State: 6-1-2007

Certified to be Effective: 6-1-07

Notice Publication Date: 5-1-07

Rules Amended: 410-120-1980

Subject: The Division of Medical Assistance Programs' (DMAP) General Rules program governs payment for services provided to clients. DMAP amended 410-120-1980 to align with the Department of Human Services rules 407-003-0000 and 407-003-0010 that address what fees can be charged for public records requests.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-120-1980

Requests for Information and Public Records

(1) The Division of Medical Assistance Programs (DMAP) will make non-exempt public records available for inspection to persons making a public records request under ORS 192.410 to 192.500.

(2) DMAP may charge a fee for copies of non-exempt public records to cover actual costs per OAR 407-003-0010.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 192.410 - 192.500

Hist.: HR 32-1993, f. & cert. ef. 11-1-93; OMAP 39-2005, f. 9-2-05, cert. ef. 10-1-05; DMAP 3-2007, f. & cert. ef. 6-1-07

Rule Caption: Pharmaceutical rule revisions for July 1, 2007.

Adm. Order No.: DMAP 4-2007

Filed with Sec. of State: 6-14-2007

Certified to be Effective: 7-1-07

Notice Publication Date: 5-1-07

Rules Amended: 410-121-0030, 410-121-0040, 410-121-0145, 410-121-0150

Subject: The Pharmaceutical Rules govern Division of Medical Assistance Programs payment for pharmaceutical products provided to certain clients. All rules listed above were amended to make

ADMINISTRATIVE RULES

housekeeping corrections, if necessary; otherwise, DMAP amended rules as follows:

410-121-0030: to update the Plan Drug List (PDL) to reflect new additions and deletions of drugs to the list.

410-121-0040: to delete references to drug criteria recommended by the U.S. Food and Drug Administration.

410-121-0145: to amend prescription requirements for Over-the-Counter (OTC) Plan B drugs.

410-121-0150: to amend billing requirements for OTC Plan B drug products and to clarify changes in billing requirements as a result of the National Provider Identifier (NPI).

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-121-0030

Practitioner-Managed Prescription Drug Plan (PMPDP)

(1) The Practitioner-Managed Prescription Drug Plan (PMPDP) is a plan that ensures that fee for service clients of the Oregon Health Plan will have access to the most effective prescription drugs appropriate for their clinical conditions at the best possible price:

(a) Licensed health care practitioners (informed by the latest peer reviewed research), make decisions concerning the clinical effectiveness of the prescription drugs;

(b) The licensed health care practitioners also consider the health condition of a client or characteristics of a client, including the client's gender, race or ethnicity.

(2) PMPDP Plan Drug List (PDL):

(a) The PDL is the primary tool that the Department of Human Services (DHS) has developed to inform licensed health care practitioners about the results of the latest peer-reviewed research and cost effectiveness of prescription drugs;

(b) The PDL consists of prescription drugs in selected classes that DHS, in consultation with the Health Resources Commission (HRC), has determined represent effective drug(s) available at the best possible price;

(c) For each selected drug class, the PDL will identify a drug(s) as the benchmark drug that DHS determines to be the most effective drug(s) available for the best possible price;

(d) The PDL will include other drugs in the class that are Medicaid reimbursable and which the Food and Drug Administration (FDA) has determined to be safe and effective if the relative cost is less than the benchmark drug(s). If pharmaceutical manufacturers enter into supplemental discount agreements with DHS that reduce the cost of their drug below that of the benchmark drug for the class, DHS will include their drug in the PDL;

(e) A copy of the current PDL is available on the web at www.dhs.state.or.us/policy/healthplan/guides/pharmacy/.

(3) PMPDP PDL Selection Process:

(a) DHS will utilize the recommendations made by the HRC, which result from an evidence-based evaluation process, as the basis for identifying the most effective drug(s) within a selected drug class;

(b) DHS will determine the drug(s) identified in (3)(a) that is (are) available for the best possible price and will consider any input from the HRC about other FDA-approved drug(s) in the same class that are available for a lesser relative price. DHS will determine relative price using the methodology described in subsection (4);

(c) DHS will review drug classes and selected drug(s) for the drug classes periodically:

(A) Review will occur more frequently at the discretion of DHS if new safety information or the release of new drugs in a class or other information makes a review advisable;

(B) DHS will not add new drugs to the PDL until they have been reviewed by the HRC;

(C) DHS will make all changes or revisions to the PDL, using the rulemaking process and will publish the changes on DHS's Pharmaceutical Services provider rules Web page.

(4) Relative cost and best possible price determination:

(a) DHS will determine the relative cost of all drugs in each selected class that are Medicaid reimbursable and that the FDA has determined to be safe and effective;

(b) DHS may also consider dosing issues, patterns of use and compliance issues. DHS will weigh these factors with any advice provided by the HRC in reaching a final decision;

(c) DHS will determine the benchmark drug based on (4)(b) and on the Estimated Acquisition Cost (EAC) on the first of the month (OAR 410-121-0155) in which DHS reviews that specific drug class;

(d) Once the cost of the benchmark drug is determined, DHS will recalculate the cost of the other FDA-approved drugs in the class using the EAC in effect for retail pharmacies on the first of the month in which DHS reviews that specific drug class less average available rebate. DHS will include drugs with prices under the benchmark drug cost on the PDL.

(5) Regardless of the PDL, pharmacy providers shall dispense prescriptions in the generic form, unless the practitioner requests otherwise, subject to the regulations outlined in OAR 410-121-0155. Table 121-0030-1, PMPDP PDL.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.06

Hist.: OMAP 25-2002, f. 6-14-02 cert. ef. 7-1-02; OMAP 31-2002, f. & cert. ef. 8-1-02; OMAP 36-2002, f. 8-30-02, cert. ef. 9-1-02; OMAP 29-2003, f. 3-31-03 cert. ef. 4-1-03; OMAP 35-2003, f. & cert. ef. 5-1-03; OMAP 47-2003, f. & cert. ef. 7-1-03; OMAP 57-2003, f. 9-5-03, cert. ef. 10-1-03; OMAP 70-2003(Temp), f. 9-15-03, cert. ef. 10-1-03 thru 3-15-04; OMAP 82-2003, f. 10-31-03, cert. ef. 11-1-03; OMAP 9-2004, f. 2-27-04, cert. ef. 3-1-04; OMAP 29-2004, f. 4-23-04 cert. ef. 5-1-04; OMAP 34-2004, f. 5-26-04 cert. ef. 6-1-04; OMAP 45-2004, f. 7-22-04 cert. ef. 8-1-04; OMAP 81-2004, f. 10-29-04 cert. ef. 11-1-04; OMAP 89-2004, f. 11-24-04 cert. ef. 12-1-04; OMAP 19-2005, f. 3-21-05, cert. ef. 4-1-05; OMAP 32-2005, f. 6-21-05, cert. ef. 7-1-05; OMAP 58-2005, f. 10-27-05, cert. ef. 11-1-05; OMAP 16-2006, f. 6-12-06, cert. ef. 7-1-06; OMAP 32-2006, f. 8-31-06, cert. ef. 9-1-06; OMAP 48-2006, f. 12-28-06, cert. ef. 1-1-07; DMAP 4-2007, f. 6-14-07, cert. ef. 7-1-07

410-121-0040

Prior Authorization Required for Drugs and Products

(1) Prescribing practitioners are responsible for obtaining Prior Authorization (PA) for the drugs and categories of drugs requiring PA in this rule, using the procedures required in OAR 410-121-0060.

(2) All drugs and categories of drugs, including but not limited to those drugs and categories of drugs that require PA as described in this rule, are subject to the following requirements for coverage:

(a) Each drug must be prescribed for conditions funded by OHP in a manner consistent with the Prioritized List of Health Services and its corresponding treatment guidelines, included within the client's benefit package of covered services, and not otherwise excluded or limited.

(b) Each drug must also meet other criteria applicable to the drug or category of drug in these Pharmacy Provider rules, including PA requirements imposed in this rule.

(3) The Department of Human Services (DHS) may require PA for individual drugs and categories of drugs to ensure that the drugs prescribed are indicated for conditions funded by OHP and consistent with the Prioritized List of Health Services and its corresponding treatment guidelines (see OAR 410-141-0480). The drugs and categories of drugs for which DHS requires PA for this purpose are listed in **Table 410-121-0040-1**, with their approval criteria.

(4) DHS may require PA for individual drugs and categories of drugs to ensure medically appropriate use or to address potential client safety risk associated with the particular drug or category of drug, as recommended by the Drug Use Review (DUR) Board and adopted by the Department in this rule (see OAR 410-121-0100 for a description of the DUR program). The drugs and categories of drugs for which DHS requires PA for this purpose are included in **Table 410-121-0040-2**, with their approval criteria.

(5) PA is required for brand name drugs that have two or more generically equivalent products available. Criteria for approval are:

(a) If criteria established in subsection (3) or (4) of this rule applies, follow that criteria.

(b) If (5)(a) does not apply, the prescribing practitioner must document that the use of the generically equivalent drug is medically contraindicated, and provide evidence that either the drug has been used and has failed or that its use is contraindicated based on evidence-based peer reviewed literature that is appropriate to the client's medical condition.

(6) PA will not be required:

(a) When the prescription ingredient cost plus the dispensing fee is less than the PA processing fees as determined by DHS; or,

(b) For over-the-counter (OTC) covered rugs when prescribed for conditions covered under OHP.

(7) Psychotropic prescriptions for children under the age of six cannot be processed when a default 999999 provider number has been entered. If such a default provider number is used, the drug may not be dispensed until PA has been obtained. The PA process will include providing the correct provider number.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: AFS 56-1989, f. 9-28-89, cert. ef. 10-1-89; AFS 2-1990, f. & cert. ef. 1-16-90; HR 29-1990, f. 8-31-90, cert. ef. 9-1-90, Renumbered from 461-016-0170; HR 10-1991, f. & cert. ef. 2-19-91; HR 14-1993, f. & cert. ef. 7-2-93; HR 25-1994, f. & cert. ef. 7-1-94; HR 6-1995, f. 3-31-95, cert. ef. 4-1-95; HR 18-1996(Temp), f. & cert. ef. 10-1-96; HR 8-1997, f. 3-13-97, cert. ef. 3-15-97; OMAP 1-1999, f. & cert. ef. 2-1-99; OMAP 29-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 31-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 44-2002, f. & cert. ef. 10-

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1-02; OMAP 66-2002, f. 10-31-02, cert. ef. 11-1-02; OMAP 29-2003, f. 3-31-03 cert. ef. 4-1-03; OMAP 40-2003, f. 5-27-03, cert. ef. 6-1-03; OMAP 43-2003(Temp), f. 6-10-03, cert. ef. 7-1-03 thru 12-15-03; OMAP 49-2003, f. 7-31-03 cert. ef. 8-1-03; OMAP 84-2003, f. 11-25-03 cert. ef. 12-1-03; OMAP 87-2003(Temp), f. & cert. ef. 12-15-03 thru 5-15-04; OMAP 9-2004, f. 2-27-04, cert. ef. 3-1-04; OMAP 71-2004, f. 9-15-04, cert. ef. 10-1-04; OMAP 74-2004, f. 9-23-04, cert. ef. 10-1-04; OMAP 89-2004, f. 11-24-04 cert. ef. 12-1-04; OMAP 4-2006(Temp), f. & cert. ef. 3-15-06 thru 9-7-06; OMAP 32-2006, f. 8-31-06, cert. ef. 9-1-06; OMAP 41-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 4-2007, f. 6-14-07, cert. ef. 7-1-07

410-121-0145

Prescription Requirements

(1) Division of Medical Assistance Programs (DMAP) will make payment for covered drugs supplied on drug order or prescription of a licensed practitioner and dispensed by a pharmacist. Dispensings include new prescriptions, refills of existing prescriptions, and over-the-counter (OTC) medications.

(a) Each drug order or prescription filled for a DMAP client must be retained in the pharmacy's file at the pharmacy's place of business; and,

(b) All drug orders or prescriptions must comply with the Oregon State Board of Pharmacy rules and regulations as listed in OAR 855 division 041.

(2) Notwithstanding subsection (1) of this rule, the following rules shall apply to over-the-counter Plan B emergency contraceptive drugs:

(a) DMAP may reimburse a pharmacy for distributing over-the-counter Plan B emergency contraceptive drug products to women who are 18 years old and older and who are Medicaid eligible; and,

(b) As a condition of reimbursement for over-the-counter Plan B emergency contraceptive drugs, DMAP may require that the pharmacy show proof that it has complied with Oregon Board of Pharmacy rules pertaining to the distribution of over-the-counter Plan B emergency contraceptive drugs.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: PWC 818(Temp), f. 10-22-76, ef. 11-1-76; PWC 831, f. 2-18-77, ef. 3-1-77; PWC 869, f. 12-30-77, ef. 1-1-78; AFS 44-1982, f. 4-30-82 & AFS 52-1982, f. 5-28-82, ef. 5-1-82; AFS 53-85, f. 9-20-85, ef. 10-1-85 for providers located in the geographical areas covered by the branch offices of North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices; AFS 53-1985, f. 9-20-85, ef. 10-1-85; AFS 4-1989, f. 1-31-89, cert. ef. 2-1-89; AFS 56-1989, f. 9-28-89, cert. ef. 10-1-89, Renumbered from 461-016-0020; HR 29-1990, f. 8-31-90, cert. ef. 9-1-90, Renumbered from 461-016-0200; HR 25-1994, f. & cert. ef. 7-1-94; OMAP 1-1999, f. & cert. ef. 2-1-99; OMAP 18-2004, f. 3-15-04 cert. ef. 4-1-04; DMAP 4-2007, f. 6-14-07, cert. ef. 7-1-07

410-121-0150

Billing Requirements

(1) When billing the Division of Medical Assistance Programs (DMAP) for drug products, the provider must not bill in excess of the usual and customary charge to the general public.

(2) The National Drug Code (NDC), as it appears on the package from which the prescribed medications are dispensed, must be indicated.

(3) Actual metric decimal quantity dispensed, must be billed.

(4) The provider must accurately furnish all information required on the 5.1 Universal Claims Form if submitting a paper claim.

(5) The prescribing provider's Medicaid Provider Identification (ID) Number is mandatory on all fee-for-service client drug prescription claims. Claims will deny for a missing or invalid prescriber Medicaid Provider ID Number. Exceptions to this include, but are not limited to, the following:

(a) A miscellaneous Medicaid provider number of 999999 may be used for:

(A) Out-of-state prescribing providers; and

(B) Inactive Oregon Medicaid Providers;

(b) Prescribing providers who do not have a Medicaid Provider ID Number for billing, but who prescribe for fee-for-service prescriptions for clients under prepaid health plans (PHP), long-term care, or other capitated contracts are to be identified with the:

(A) Non-billing Provider ID Number assigned for prescription writing only;

(B) Clinic or facility Medicaid Provider ID Number until an individual Non-billing Provider ID Number is obtained; or

(C) Supervising physician's Provider ID Number when billing for prescriptions written by the physician assistant, physician students, physician interns, or medical professionals who have prescription writing authority.

(c) A miscellaneous Medicaid Provider ID Number of 999999 may not be used for psychotropic prescriptions for children under the age of six.

(d) A Medicaid Provider ID number of BBBB must be used in order for a pharmacy to be reimbursed for distributing the emergency contraceptive drug product Plan B over-the-counter to women who are 18 years old or older and who are Medicaid eligible.

(6) When clients have private insurance, providers are required to bill the private insurance as primary and DMAP as secondary.

(7) When clients have Medicare prescription drug coverage, providers are required to bill Medicare as primary and DMAP as secondary.

(8) Billing for Death With Dignity services – Death With Dignity:

(a) Claims for Death With Dignity services cannot be billed through the Point-of-Sale system.

(b) Services must be billed directly to DMAP, even if the client is in a PHP.

(c) Prescriptions must be billed on a 5.1 Universal Claims Form paper claim form using an NDC number.

(d) Claims must be submitted on paper billing forms to DMAP at PO Box 14165, Salem, Oregon 97308-0992.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: AFS 15-1987, f. 3-31-87, ef. 4-1-87; AFS 56-1989, f. 9-28-89, cert. ef. 10-1-89, Renumbered from 461-016-0093; HR 29-1990, f. 8-31-90, cert. ef. 9-1-90, Renumbered from 461-016-0240; HR 20-1994, f. 4-29-94, cert. ef. 5-1-94; OMAP 44-1998(Temp), f. 12-1-98, cert. ef. 12-1-98 thru 5-1-99; OMAP 11-1999(Temp), f. & cert. ef. 4-1-99 thru 9-1-99; OMAP 25-1999, f. & cert. ef. 6-4-99; OMAP 5-2000, f. 3-31-00, cert. ef. 4-1-00; OMAP 29-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 31-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 7-2002, f. & cert. ef. 4-1-02; OMAP 40-2003, f. 5-27-03, cert. ef. 6-1-03; OMAP 43-2003(Temp), f. 6-10-03, cert. ef. 7-1-03 thru 12-15-03; OMAP 49-2003, f. 7-31-03 cert. ef. 8-1-03; OMAP 18-2004, f. 3-15-04 cert. ef. 4-1-04; OMAP 9-2005, f. 3-9-05, cert. ef. 4-1-05; OMAP 16-2006, f. 6-12-06, cert. ef. 7-1-06; DMAP 4-2007, f. 6-14-07, cert. ef. 7-1-07

Rule Caption: Clarify current policies: technical changes due to CPT coding updates and payment methodology for obstetric labor management.

Adm. Order No.: DMAP 5-2007

Filed with Sec. of State: 6-14-2007

Certified to be Effective: 7-1-07

Notice Publication Date: 5-1-07

Rules Amended: 410-130-0180, 410-130-0200, 410-130-0220, 410-130-0255, 410-130-0368, 410-130-0580, 410-130-0595

Subject: The Medical-Surgical Services program rules govern the Division of Medical Assistance Programs' (DMAP) payments for services provided to certain clients. In the rules listed above, DMAP amended current policies and procedures for Medical-Surgical providers to ensure Oregon Administrative Rules (OARs) are not open to interpretation by the provider or outside parties and to help eliminate confusion possibly resulting in non-compliance.

The amendments that pertain to reimbursement update current rule with CPT coding changes and minor operational changes within DMAP. Rules are amended as follows: 410-130-0180 (Drugs), 410-130-0200 (Prior Authorization/Prior Notification), 410-130-0220 (Not Covered/Bundled Services), and 410-130-0255 (Immunizations and Immune Globulins): for CPT coding changes; 410-130-0580 (Hysterectomies and Sterilizations) and 410-130-0595 (Maternity Case Management) respectively; update to the sterilization consent form and its submission requirements, and language clarification on MCM "Emergencies"; and 410-130-0368 (Anesthesia Services): to allow an appropriate flat rate payment for obstetric labor management epidurals (as a result of discussions with Oregon Anesthesia Society).

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-130-0180

Drugs

(1) The Division of Medical Assistance Programs' (DMAP) Medical-Surgical Services Program reimburses practitioners for drugs only when administered by the practitioner in the office, clinic or home settings. DMAP does not reimburse practitioners for drugs that are self-administered by the client, EXCEPT contraceptives such as birth control pills, spermicides and patches:

(a) Use an appropriate CPT therapeutic injection code for administration of injections;

(b) Use an appropriate HCPCS code for the specific drug. Do not bill for drugs under code 99070;

(c) When billing unclassified drugs and other drug codes listed below, bill at acquisition cost (purchase price plus postage) and use the following codes:

(A) J1815-J1816;

(B) J3490;

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- (C) J7699;
- (D) J7799;
- (E) J8499;
- (F) J8999
- (G) J9999;

(H) Include the name of the drug, NDC number, and dosage.

(d) Do not bill for local anesthetics. Reimbursement is included in the payment for the tray and/or procedure.

(2) DMAP requires both the NDC number and HCPCS codes for claim submission on the electronic 837P form.

(3) For Not Covered/Bundled services or Prior Authorization Requirements refer to OAR 410-130-0200 Table 130-0200-1 and 410-130-0220 Table 130-0220-1.

(4) Not covered services include:

- (a) Laetrile;
- (b) Home pregnancy kits and products designed to promote fertility;
- (c) DMSO, except for instillation into the urinary bladder for symptomatic relief of interstitial cystitis;
- (d) Infertility drugs;
- (e) Sodium hyaluronate and Synvisc (J7319).

(5) Follow criteria outlined in the following:

- (a) Billing Requirements — OAR 410-121-0150;
- (b) Brand Name Pharmaceuticals — OAR 410-121-0155;
- (c) Prior Authorization Procedures — OAR 410-121-0060;
- (d) Drugs and Products Requiring Prior Authorization — OAR 410-121-0040;

(e) Drug Use Review — OAR 410-121-0100;

(f) Participation in Medicaid's Prudent Pharmaceutical Purchasing Program — OAR 410-121-0157.

(6) Clozapine Therapy:

(a) Clozapine is covered only for the treatment of clients who have failed therapy with at least two anti-psychotic medications;

(b) Clozapine Supervision is the management and record keeping of Clozapine dispensing as required by the manufacturer of Clozapine:

(A) Providers billing for Clozapine supervision must document all of the following:

(i) Exact date and results of White Blood Counts (WBC), upon initiation of therapy and at recommended intervals per the drug labeling;

(ii) Notations of current dosage and change in dosage;

(iii) Evidence of an evaluation at intervals recommended per the drug labeling requirements approved by the FDA;

(iv) Dates provider sent required information to manufacturer.

(B) Only one provider (either a physician or pharmacist) may bill per week per client;

(C) Limited to five units per 30 days per client;

(D) Use code 90862 with modifier TC to bill for Clozapine supervision.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: AFS 5-1989(Temp), f. 2-9-89, cert. ef. 3-1-89; AFS 48-1989, f. & cert. ef. 8-24-89; HR 10-1990, f. 3-30-90, cert. ef. 4-1-90, Renumbered from 461-014-0620; HR 19-1991, f. 4-12-91, cert. ef. 5-1-91; HR 43-1991, f. & cert. ef. 10-1-91; HR 6-1994, f. & cert. ef. 2-1-94; HR 42-1994, f. 12-30-94, cert. ef. 1-1-95; HR 10-1996, f. 5-31-96, cert. ef. 6-1-96; HR 4-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 3-1998, f. 1-30-98, cert. ef. 2-1-98; OMAP 31-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 13-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 40-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 2-2002, f. 2-15-02, cert. ef. 4-1-02; OMAP 33-2002, f. & cert. ef. 8-1-02; OMAP 39-2002, f. 9-13-02, cert. ef. 9-15-02; OMAP 52-2002, f. & cert. ef. 10-1-02; OMAP 23-2003, f. 3-26-03 cert. ef. 4-1-03; OMAP 69-2003 f. 9-12-03, cert. ef. 10-1-03; OMAP 13-2004, f. 3-11-04, cert. ef. 4-1-04; OMAP 8-2005, f. 3-9-05, cert. ef. 4-1-05; OMAP 26-2006, f. 6-14-06, cert. ef. 7-1-06; DMAP 5-2007, f. 6-14-07, cert. ef. 7-1-07

410-130-0200

Prior Authorization/Prior Notification

(1) Prior Authorization (PA):

(a) PA for services provided to clients enrolled in a prepaid health plan (PHP) must be obtained from the appropriate PHP. Contact the PHP for their PA requirements and billing instructions.

(b) PA is not required for services covered by Medicare to clients who have both Medicare and Medical Assistance Program coverage. However, PA is required for most transplants, even if they are covered by Medicare.

(c) PA is not required for kidney and cornea transplants unless they are performed out-of-state.

(d) PA must be obtained from the Division of Medical Assistance Program's (DMAP) Transplant Coordinator for transplants and non-emergent, non-urgent out-of-state services. Refer to the DMAP Transplant Services rules (chapter 410, division 124) for further information on transplants and refer to the DMAP General Rules (chapter 410, division 120) for further information concerning out-of-state services.

(e) PA must be obtained from the Department of Human Services (DHS) Medically Fragile Children's Unit (MFCU) for services provided to MFCU clients.

(f) PA for services provided to clients enrolled in the fee-for-service (FFS) High Risk Medical Case Managed program must be obtained from the Case Management Contractor shown on the client's Medical Care ID. See the Medical-Surgical Services Supplemental Information guide for details.

(g) PA is required for all procedure codes listed in Table 130-0200-1 in this rule. PA for these procedures must be obtained from the Oregon Medical Professional Review Organization (OMPRO) regardless of the setting they are performed in. A second opinion may be requested by DMAP or OMPRO before PA is given for a surgery;

(h) PA is not required for hospital admissions unless the procedure requires PA;

(i) PA is not required for emergent or urgent procedures or services;

(j) PA must be obtained by the treating and performing practitioners;

(k) Refer to Table 130-0200-1 for all services/procedures requiring prior authorization.

(2) Prior Notification:

(a) Prior notification is required before performing the following radiology tests:

(A) MRIs;

(B) MRAs;

(C) CTs;

(D) CTAs; and

(E) SPECT scans.

(b) Prior notification is not required when these tests are performed during an emergency department visit or an inpatient stay;

(c) Providers ordering these tests must submit a prior notification form to DMAP prior to the performance of the tests;

(d) Refer to the Medical-Surgical Supplemental Information guide for instructions and forms;

(e) Refer to Table 130-0200-2 for radiology codes requiring prior notification.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: AFS 868, f. 12-30-77, ef. 2-1-78; AFS 65-1980, f. 9-23-80, ef. 10-1-80; AFS 27-1982, f. 4-22-82 & AFS 51-1982, f. 5-28-82, ef. 5-1-82 for providers located in the geographical areas covered by the AFS branch offices located in North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices; AFS 23-1986, f. 3-19-86, ef. 5-1-86; AFS 38-1986, f. 4-29-86, ef. 6-1-86; AFS 50-1986, f. 6-30-86, ef. 8-1-86; AFS 5-1989(Temp), f. 2-9-89, cert. ef. 3-1-89; AFS 48-1989, f. & cert. ef. 8-24-89, Renumbered from 461-014-0045; HR 10-1990, f. 3-30-90, cert. ef. 4-1-90, Renumbered from 461-014-0630; HR 25-1990(Temp), f. 8-31-90, cert. ef. 9-1-90; HR 44-1990, f. & cert. ef. 11-30-90; HR 17-1991(Temp), f. 4-12-91, cert. ef. 5-1-91; HR 24-1991, f. & cert. ef. 6-18-91; HR 40-1992, f. 12-31-92, cert. ef. 2-1-93; HR 6-1994, f. & cert. ef. 2-1-94; HR 42-1994, f. 12-30-94, cert. ef. 1-1-95; HR 4-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 3-1998, f. 1-30-98, cert. ef. 2-1-98; OMAP 17-1999, f. & cert. ef. 4-1-99; OMAP 31-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 23-2003, f. 3-26-03 cert. ef. 4-1-03; OMAP 69-2003 f. 9-12-03, cert. ef. 10-1-03; OMAP 13-2004, f. 3-11-04, cert. ef. 4-1-04; OMAP 58-2004, f. 9-10-04, cert. ef. 10-1-04; OMAP 8-2005, f. 3-9-05, cert. ef. 4-1-05; OMAP 50-2005, f. 9-30-05, cert. ef. 10-1-05; OMAP 26-2006, f. 6-14-06, cert. ef. 7-1-06; DMAP 5-2007, f. 6-14-07, cert. ef. 7-1-07

410-130-0220

Not Covered/Bundled Services

(1) Refer to the Oregon Health Plan Administrative Rules (chapter 410, division 141) and General Rules (chapter 410, division 120) for coverage of services. Refer to Table 130-0220-1 for additional information regarding not covered services or for services that are considered by the Division of Medical Assistance Programs (DMAP) to be bundled.

(2) The following are examples of not covered services:

(a) Psychotherapy services (covered only through local Mental Health Clinics and Mental Health Organizations);

(b) Routine postoperative visits (included in the payment for the surgery) during 90 days following major surgery (global period) or 10 days following minor surgery;

(c) Services provided at the client's request in a location other than the practitioner's office that are normally provided in the office;

(d) Telephone calls for purposes other than tobacco cessation and maternity case management.

(3) This is not an inclusive list. Specific information is included in the DMAP General Rules, Medical Assistance Benefits: Excluded Services and Limitations (OAR 410-120-1200)..

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: AFS 5-1989(Temp), f. 2-9-89, cert. ef. 3-1-89; AFS 48-1989, f. & cert. ef. 8-24-89; HR 10-1990, f. 3-30-90, cert. ef. 4-1-90, Renumbered from 461-014-0640; HR 14-1991(Temp),

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f. & cert. ef. 3-7-91; HR 21-1991, f. 4-16-91, cert. ef. 5-1-91; HR 42-1994, f. 12-30-94, cert. ef. 1-1-95; HR 4-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 3-1998, f. 1-30-98, cert. ef. 2-1-98; OMAP 16-1998(Temp), f. & cert. ef. 5-1-98 thru 9-1-98; OMAP 30-1998, f. & cert. ef. 9-1-98; OMAP 17-1999, f. & cert. ef. 4-1-99; OMAP 37-1999, f. & cert. ef. 10-1-99; OMAP 31-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 40-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 69-2003 f. 9-12-03, cert. ef. 10-1-03; OMAP 13-2004, f. 3-11-04, cert. ef. 4-1-04; OMAP 58-2004, f. 9-10-04, cert. ef. 10-1-04; OMAP 8-2005, f. 3-9-05, cert. ef. 4-1-05; OMAP 45-2005, f. 9-9-05, cert. ef. 10-1-05; OMAP 26-2006, f. 6-14-06, cert. ef. 7-1-06; DMAP 5-2007, f. 6-14-07, cert. ef. 7-1-07

410-130-0255

Immunizations and Immune Globulins

(1) Use standard billing procedures for vaccines that are not part of the Vaccines for Children (VFC) Program.

(2) The Division of Medical Assistance Programs (DMAP) covers Synagis (palivizumab-rsv-igm) only for high-risk infants and children as defined by the American Academy of Pediatric guidelines. Bill 90378 for Synagis.

(3) Providers are encouraged to administer combination vaccines when medically appropriate and cost effective.

(4) VFC Program:

(a) Under this federal program, vaccine serums are free for clients' ages 0 through 18. DMAP will not reimburse the cost of privately purchased vaccines that are provided through the VFC Program, but will reimburse for the administration of those vaccines;

(b) Only providers enrolled in the VFC Program can receive free vaccine serums. To enroll as a VFC provider, contact the Public Health Immunization Program. For contact information, see the Medical-Surgical Supplemental Information;

(c) DMAP will reimburse providers for the administration of any vaccine provided by the VFC Program. Whenever a new vaccine becomes available through the VFC Program, administration of that vaccine is also covered by DMAP;

(d) Refer to Table 130-0255-1 for immunization codes provided through the VFC Program. Recommendations as to who may receive influenza vaccines vary from season to season and may not be reflected in Table 130-0255-1;

(e) Use the following procedures when billing for the administration of a VFC vaccine:

(A) When the sole purpose of the visit is to administer a VFC vaccine, the provider should bill the appropriate vaccine procedure code with modifier -26 or -SL for each injection. Do not bill CPT code 90465-90474 or 99211;

(B) When the vaccine is administered as part of an Evaluation and Management service (e.g., well-child visit) the provider should bill the appropriate immunization code with modifier -26, or -SL for each injection in addition to the Evaluation and Management code.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 4-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 3-1998, f. 1-30-98, cert. ef. 2-1-98; OMAP 17-1999, f. & cert. ef. 4-1-99; OMAP 4-2000, f. 3-31-00, cert. ef. 4-1-00; OMAP 31-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 13-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 40-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 2-2002, f. 2-15-02, cert. ef. 4-1-02; OMAP 51-2002, f. & cert. ef. 10-1-02; OMAP 23-2003, f. 3-26-03 cert. ef. 4-1-03; Renumbered from 410-130-0800, OMAP 69-2003 f. 9-12-03, cert. ef. 10-1-03; OMAP 13-2004, f. 3-11-04, cert. ef. 4-1-04; OMAP 58-2004, f. 9-10-04, cert. ef. 10-1-04; OMAP 45-2005, f. 9-9-05, cert. ef. 10-1-05; OMAP 26-2006, f. 6-14-06, cert. ef. 7-1-06; DMAP 5-2007, f. 6-14-07, cert. ef. 7-1-07

410-130-0368

Anesthesia Services

(1) Anesthesia is not covered for procedures that are below the funding line on the Health Services Commission's Prioritized List of Health Services (see OAR 410-141-0520).

(2) Reimbursement is based on the base units listed in the current American Society of Anesthesiology Relative Value Guide plus one unit per each 15 minutes of anesthesia time, except for anesthesia for neuraxial labor analgesia/anesthesia/anesthesia (code 01967). See item 3 below for reporting neuraxial labor analgesia/anesthesia.

(a) For anesthesia services billed (excluding OB code 01967), do not bill the "base units" plus "time units" as the total quantity of service units. (DMAP will automatically calculate the base units for the billed anesthesia code using current year ASA listing of base units.)

(b) Bill only, the total quantity of time units on one line. 1 unit of time equals one 15minute increment of anesthesia time: (For example, 1 hour (60 minutes) equals 4 units of anesthesia time.) DMAP will then add the billed time units to the anesthesia code base units to determine total units for payment.

(C) For the last fraction of time less than 15 minutes, bill one unit for 8-14 minutes. Do not bill a unit for 1-7 minutes of time.

(3) Anesthesia for neuraxial labor analgesia/anesthesia (01967) will be paid at a flat rate. DMAP will disregard the number of units in the unit field and pay a flat rate/unit of one. OB Services that do not include labor (i.e. 01958-10966) and code billed in conjunction with 01967 (i.e. 01968 and 01969) should be reported with the appropriate time units only (see item 2b above).

(4) Reimbursement for qualifying circumstances codes 99100-99140 and modifiers P1-P6 is bundled in the payment for codes 00100-01999. Do not add charges for 99100-99140 and modifiers P1-P6 in charges for 00100-01999.

(5) A valid consent form is required for all hysterectomies and sterilizations.

(6) If prior authorization (PA) was not obtained on a procedure that requires PA, then the anesthesia services may not be paid. Refer to OAR 410-130-0200 PA Table 130-0200-1.

(7) Anesthesia services are not payable to the provider performing the surgical procedure except for conscious sedation.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 8-2005, f. 3-9-05, cert. ef. 4-1-05; DMAP 5-2007, f. 6-14-07, cert. ef. 7-1-07

410-130-0580

Hysterectomies and Sterilization

(1) Refer to OAR 410-130-0200 Prior Authorization, Table 130-0200-1 and 410-130-0220 Not Covered/Bundled Services, Table 130-0220-1.

(2) Hysterectomies performed for the sole purpose of sterilization are not covered.

(3) All hysterectomies, except radical hysterectomies, require prior authorization (PA).

(4) A properly completed Hysterectomy Consent form (DMAP 741) or a statement signed by the performing physician, depending upon the following circumstances, is required for all hysterectomies:

(a) When a woman is capable of bearing children:

(A) Prior to the surgery, the person securing authorization to perform the hysterectomy must inform the woman and her representative, if any, orally and in writing, that the hysterectomy will render her permanently incapable of reproducing;

(B) The woman or her representative, if any, must sign the consent form to acknowledge she received that information.

(b) When a woman is sterile prior to the hysterectomy, the physician who performs the hysterectomy must certify in writing that the woman was already sterile prior to the hysterectomy and state the cause of the sterility;

(c) When there is a life-threatening emergency situation that requires a hysterectomy in which the physician determines that prior acknowledgment is not possible, the physician performing the hysterectomy must certify in writing that the hysterectomy was performed under a life-threatening emergency situation in which he or she determined prior acknowledgment was not possible and describe the nature of the emergency.

(5) In cases of retroactive eligibility: The physician who performs the hysterectomy must certify in writing one of the following:

(a) The woman was informed before the operation that the hysterectomy would make her permanently incapable of reproducing;

(b) The woman was previously sterile and states the cause of the sterility;

(c) The hysterectomy was performed because of a life-threatening emergency situation in which prior acknowledgment was not possible and describes the nature of the emergency.

(6) Do not use the Consent to Sterilization form (DMAP 742) for hysterectomies.

(7) Submit a copy of the Hysterectomy consent form with the claim.

(8) Sterilization Male & Female: A copy of a properly completed Consent to Sterilization form (DMAP 742), the consent form in the federal brochure DHHS Publication No. (05) 79-50062 (Male), DHHS Publication No. (05) 79-50061 (Female) or another federally approved form must be submitted to DMAP for all sterilization. The original consent form must be retained in the clinical records. Prior authorization is not required.

(9) Voluntary Sterilization:

(a) Consent for sterilization must be an informed choice. The consent is not valid if signed when the client is:

(A) In labor;

(B) Seeking or obtaining an abortion; or

(C) Under the influence of alcohol or drugs.

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(b) Ages 15 years or older who are mentally competent to give informed consent:

(A) At least 30 days, but not more than 180 days, must have passed between the date of the informed written consent (date of signature) and the date of the sterilization except:

(i) In the case of premature delivery by vaginal or cesarean section the consent form must have been signed at least 72 hours before the sterilization is performed and more than 30 days before the expected date of confinement;

(ii) In cases of emergency abdominal surgery (other than cesarean section), the consent form must have been signed at least 72 hours before the sterilization was performed.

(B) The client must sign and date the consent form before it is signed and dated by the person obtaining the consent. The date of signature must meet the above criteria. The person obtaining the consent must sign the consent form anytime after the client has signed but before the date of the sterilization. If an interpreter is provided to assist the individual being sterilized, the interpreter must also sign the consent form on the same date as the client;

(C) The client must be legally competent to give informed consent. The physician performing the procedure, and the person obtaining the consent, if other than the physician, must review with the client the detailed information appearing on the Consent to Sterilization form regarding effects and permanence of the procedure, alternative birth control methods, and explain that withdrawal of consent at any time prior to the surgery will not result in any loss of other program benefits.

(10) Involuntary Sterilization — Clients who lack the ability to give informed consent and are 18 years of age or older:

(a) Only the Circuit Court of the county in which the client resides can determine that the client is unable to give informed consent;

(b) The Circuit Court must determine that the client requires sterilization;

(c) When the court orders sterilization, it issues a Sterilization Order. The order must be attached to the billing invoice. No waiting period or additional documentation is required.

(11) Submit the Consent to Sterilization Form (DMAP 742) along with the claim. The Consent to Sterilization form must be completed in full:

(a) Consent forms submitted to DMAP without signatures and/or dates of signature by the client or the person obtaining consent are invalid;

(b) The client and the person obtaining consent may not sign or date the consent retroactively;

(c) The performing physician must sign the consent form. The date of signature must be either the date the sterilization was performed or a date following the sterilization.

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

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: PWC 803(Temp), f. & ef. 7-1-76; PWC 813, f. & ef. 10-1-76; PWC 834, f. 3-31-77, ef. 5-1-77; PWC 868, f. 12-30-77, ef. 2-1-78; AFS 4-1979(Temp), f. & ef. 3-8-79; AFS 11-1979, f. 6-18-79, ef. 7-1-79; AFS 50-1981(Temp), f. & ef. 8-5-81; AFS 79-1981, f. 11-24-81, ef. 12-1-81; AFS 27-1982, f. 4-22-82 & AFS 51-1982, f. 5-28-82, ef. 5-1-82 for providers located in the geographical areas covered by the AFS branch offices located in North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices; AFS 42-1985, f. & ef. 7-1-85; AFS 50-1986, f. 6-30-86, ef. 8-1-86; Renumbered from 461-014-0030, AFS 5-1989(Temp), f. 2-9-89, cert. ef. 3-1-89; AFS 48-1989, f. & cert. ef. 8-24-89; HR 10-1990, f. 3-30-90, cert. ef. 4-1-90, Renumbered from 461-014-0840; HR 43-1991, f. & cert. ef. 10-1-91; HR 23-1992, f. 7-31-92, cert. ef. 8-1-92; HR 6-1994, f. & cert. ef. 2-1-94; OMAP 31-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 23-2003, f. 3-26-03 cert. ef. 4-1-03; OMAP 69-2003 f. 9-12-03, cert. ef. 10-1-03; OMAP 58-2004, f. 9-10-04, cert. ef. 10-1-04; OMAP 26-2006, f. 6-14-06, cert. ef. 7-1-06; DMAP 5-2007, f. 6-14-07, cert. ef. 7-1-07

410-130-0595

Maternity Case Management (MCM)

(1) The primary purpose of the MCM program is to optimize pregnancy outcomes including reducing the incidence of low birth weight babies. MCM services are tailored to the individual client needs. These services are provided face-to-face, unless specifically indicated in this rule, throughout the client's pregnancy.

(2) This program:

(a) Is available to all pregnant clients receiving Medical Assistance Program coverage;

(b) Expands perinatal services to include management of health, economic, social and nutritional factors through the end of pregnancy and a two-month postpartum period;

(c) Must be initiated during the pregnancy and before delivery;

(d) Is an additional set of services over and above medical management of pregnant clients;

(e) Allows for billing for intensive nutritional counseling services.

(3) Any time there is a significant change in the health, economic, social, or nutritional factors of the client, the prenatal care provider must be notified.

(4) In situations where multiple providers are seeing one client for MCM services, the case manager must coordinate care to ensure duplicate claims are not submitted to the Division of Medical Assistance Programs (DMAP) if services are duplicated.

(5) Definitions:

(a) Case Management — An ongoing process to assist the individual client in obtaining access to and effective utilization of necessary health, social, economic, nutritional, and other services as defined in the Client Service Plan (CSP) or other documentation;

(b) Case Management Visit — A face-to-face encounter between a maternity case manager and the client that must include two or more specific training and education topics, addresses the CSP and provides ongoing relationship development between the client and the case manager;

(c) Client Service Plan (CSP) — A written systematic, client coordinated plan of care which lists goals and actions required to meet the needs of the client as identified in the Initial Assessment and includes a client discharge plan/summary;

(d) High Risk Case Management — Intensive case management services provided to a client identified and documented by the maternity case manager or prenatal care provider as being high risk;

(e) High Risk Client — Includes clients who have current (within the last year) documented alcohol, tobacco or other drug (ATOD) abuse history, or who are 17 or under, or have other conditions identified in the initial assessment or during the course of service delivery;

(f) Home/Environmental Assessment — A visit to the client's primary place of residence to assess health and safety of the client's living conditions;

(g) Initial Assessment — Documented, systematic collection of data with planned interventions as outlined in a CSP to determine current status and identify needs and strengths, in physical, psychosocial, behavioral, developmental, educational, mobility, environmental, nutritional, and emotional areas;

(h) Nutritional Counseling — Intensive nutritional counseling for clients who have at least one of the conditions listed under Nutritional Counseling (14);

(i) Prenatal/Perinatal Care Provider — The physician, licensed physician assistant, nurse practitioner, certified nurse midwife, or licensed direct entry midwife providing prenatal or perinatal (including labor and delivery) and/or postnatal services to the client;

(j) Telephone Case Management Visit — A non-face-to-face encounter between a maternity case manager and the client providing identical services of a Case Management Visit (G9012).

(6) Maternity Case Manager Qualifications:

(a) Maternity case managers must be currently licensed as a.

(A) Physician;

(B) Physician Assistant;

(C) Nurse Practitioner;

(D) Certified Nurse Midwife;

(E) Direct Entry Midwife;

(F) Social Worker; or

(G) Registered Nurse

(b) The Maternity Case Manager must be an enrolled provider or deliver services under an appropriate enrolled provider. See DMAP General Rules 410-120-1260 for provider enrollment qualifications.

(c) All of the above must have a minimum of two years related and relevant work experience;

(d) Other paraprofessionals may provide specific services with the exclusion of the initial assessment (G9001) while working under the supervision of one of the practitioners listed in (6)(a)(A-G) of this rule;

(e) Specific services not within the recognized scope of practice of the provider of MCM services must be referred to an appropriate discipline.

(7) Nutritional Counselor Qualifications — Nutritional counselors must:

(a) Be a registered dietician; or

(b) A Qualified Nutritionist. A qualified nutritionist is a nutrition profession who meets one or more of the following qualifications: a Masters Degree in nutrition; a Registered Dietician (RD) with the American Dietetic Association (ADA) or eligible for ADA registration; an Oregon Licensed Dietitian (LD).

(8) Documentation Requirements:

(a) Documentation is required for all MCM services in accordance with DMAP General Rules 410-120-1360; and

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(b) A correctly completed DMAP form 2470, 2471, 2472 and 2473 or their equivalents meet minimum documentation requirements for Maternity Case Management Services.

(9) G9001 — Initial Assessment must be performed by a licensed Maternity Case Manager as defined under (6)(a): above

(a) Services include:

(A) Client assessment as outlined in the “Definitions” section of this rule;

(B) Development of a CSP which addresses needs identified;

(C) Making and assisting with referrals as needed to:

(i) A prenatal care provider;

(ii) A dental health provider.

(D) Forwarding the initial assessment and other relevant information to the prenatal care provider;

(E) Communicating pertinent information to others participating in the client’s medical and social care.

(b) Data sources relied upon may include:

(A) Initial assessment;

(B) Client interviews;

(C) Available records;

(D) Contacts with collateral providers;

(E) Other professionals; and

(F) Other parties on behalf of the client.

(c) The client’s record must reflect the date and to whom the initial assessment was sent;

(d) Billable once per pregnancy per provider. No other MCM service can be performed until after an initial assessment has been completed. No other maternity management codes except a Home/Environmental Assessment (G9006) and a Case Management Visit (G9012) may be billed the same day as an initial assessment.

(10) G9002 — Case Management (Full Service) — Includes:

(a) Face-to-face client contacts;

(b) Implementation and monitoring of a CSP:

(A) The client’s records must include a CSP and written updates to the plan;

(B) The CSP activities involve determining the client’s strengths and needs, setting specific goals and utilizing appropriate resources in a cooperative effort between the client and the maternity case manager.

(c) Referral to services included in the CSP:

(A) Make referrals, provide information and assist the client in self-referral;

(B) Maintain contact with resources to ensure service delivery, share information, and assist with coordination.

(d) Ongoing nutritional evaluation with basic counseling and referrals to nutritional counseling, as indicated;

(e) Utilization and documentation of the “5 A’s” brief intervention protocol for addressing tobacco use (US Public Health Service Clinical Practice Guideline for Treating Tobacco Use and Dependence, 2000). Routinely:

(A) Ask all MCM clients about smoking status;

(B) Advise all smoking clients to quit;

(C) Assess for readiness to try to quit;

(D) Assist all those wanting to quit by referring them to the Quitline and/or other appropriate tobacco cessation counseling and provide motivational information for those not ready to quit;

(E) Arrange follow-up for interventions.

(f) Provide training and education on all mandatory topics - Refer to Table 130-0595-2;

(g) Provide linkage to labor and delivery services;

(h) Provide linkage to family planning services as needed;

(i) CSP coordination as follows:

(A) Contact with Department of Human Services (DHS) worker, if assigned;

(B) Contact with prenatal care provider;

(C) Contact with other community resources/agencies to address needs.

(j) Client advocacy as necessary to facilitate access. The case manager serves as a client advocate and intervenes with agencies or persons to help the client receive appropriate benefits or services;

(k) Assist client in achieving the goals in the CSP. The case manager will advocate for the client when resources are inadequate or the service delivery system is non-responsive;

(l) Billable once per pregnancy.

(m) Billable after the delivery when more than three months of service were provided. Services must be initiated during the prenatal period and carried through the date of delivery.

(11) G9009 — Case Management (Partial Service):

(a) Can be billed when the CSP has been developed and case management services (G9002) were initiated during the prenatal period and partially completed;

(b) Provided case management services to the client for three months or less.

(12) G9005 -- High Risk Case Management (Full Service):

(a) Enhanced level of services which are more intensive and are provided in addition to G9002;

(b) Provided at least eight Case Management Visits;

(c) Provided high risk case management services to the client for more than three months;

(d) Billable after the delivery and only once per pregnancy;

(e) Can be billed in addition to G9002.

(13) G9010 — High Risk Case Management (Partial Service):

(a) Are the same enhanced level of services provided in G9005 but the client became “high risk” during the latter part of the pregnancy or intensive high risk MCM services were initiated and partially completed but not carried through to the date of delivery;

(b) Provided less than eight Case Management Visits;

(c) Provided high risk case management services to the client for three months or less;

(d) Billable after the delivery and once per pregnancy;

(e) Can be billed in addition to G9002 or G9009.

(14) S9470 — Nutritional Counseling:

(a) Available for clients who have at least one of the following conditions:

(A) Chronic disease such as diabetes or renal disease;

(B) Hematocrit (Hct) less than 34 or hemoglobin (Hb) less than 11 during the first trimester, or Hct less than 32 or Hb less than 10 during the second or third trimester;

(C) Pre-gravida weight under 100 pounds or over 200 pounds;

(D) Pregnancy weight gain outside the appropriate WIC guidelines;

(E) Eating disorder;

(F) Gestational diabetes;

(G) Hyperemesis;

(H) Pregnancy induced hypertension (pre-eclampsia); or

(I) Other conditions identified by the maternity case manager, physician or prenatal care provider for which adequate services are not accessible through another program.

(b) Documentation must include all of the following:

(A) Nutritional assessment;

(B) Nutritional care plan;

(C) Regular client follow-up.

(c) Can be billed in addition to other MCM services;

(d) Billable once per pregnancy.

(15) G9006 — Home/Environment Assessment:

(a) Includes an assessment of the health and safety of the client’s living conditions with training and education of all topics as indicated in Table 130-0595-1;

(b) One Home/Environment Assessment may be billed per pregnancy. Additional Home/Environment Assessments may be billed with documentation of problems which necessitate a follow-up assessment or when a client moves. Documentation must be submitted with the claim to support the additional home/environment assessment.

(16) G9011 — Telephone Case Management Visit:

(a) A non-face-to-face encounter between a maternity case manager and the client, meeting all requirements of a Case Management Visit (G9012) and when a face-to-face Case Management Visit is not possible or practical;

(b) In lieu of a Case Management visit and counted towards the total number of Case Management Visits (see G9012 for limitations).

(17) G9012 — Case Management Visit:

(a) Each Case Management Visit must include an evaluation and/or revision of objectives and activities addressed in the CSP and at least two training and education topics listed in Table 130-0595-2;

(b) Four Case Management Visits may be billed per pregnancy. Telephone contacts (G9011) are included in this limitation;

(c) Six additional Case Management Visits may be billed if the client is identified as High Risk. These additional visits may not be billed until after delivery. Bills for these additional six visits may only be submitted

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with or after High-Risk Full (G9005) or Partial (G9010) case management has been billed. Telephone contacts (G9011) are included in this limitation;

(d) May be provided in the client's home or other site.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: AFS 57-1987, f. 10-29-87, ef. 11-1-87; AFS 5-1989(Temp), f. 2-9-89, cert. ef. 3-1-89; AFS 48-1989, f. & cert. ef. 8-24-89, Renumbered from 461-014-0200 & 461-014-0201; AFS 54-1989(Temp), f. 9-28-89, cert. ef. 10-1-89; AFS 71-1989, f. & cert. ef. 12-1-89; HR 10-1990, f. 3-30-90, cert. ef. 4-1-90, Renumbered from 461-014-0580; HR 19-1991, f. 4-12-91, cert. ef. 5-1-91; HR 43-1991, f. & cert. ef. 10-1-91; HR 42-1994, f. 12-30-94, cert. ef. 1-1-95; HR 4-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 34-1998, f. & cert. ef. 10-1-98; OMAP 17-1999, f. & cert. ef. 4-1-99; OMAP 31-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 40-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 51-2002, f. & cert. ef. 10-1-02; OMAP 23-2003, f. 3-26-03 cert. ef. 4-1-03; Renumbered from 410-130-0100, OMAP 69-2003 f. 9-12-03, cert. ef. 10-1-03; OMAP 58-2004, f. 9-10-04, cert. ef. 10-1-04; OMAP 26-2006, f. 6-14-06, cert. ef. 7-1-06; DMAP 5-2007, f. 6-14-07, cert. ef. 7-1-07

Rule Caption: Clarify text: prescription for prior authorization of certain services must specify the ICD-9CM diagnosis code.

Adm. Order No.: DMAP 6-2007

Filed with Sec. of State: 6-14-2007

Certified to be Effective: 7-1-07

Notice Publication Date: 5-1-07

Rules Amended: 410-129-0060

Subject: The Speech-language pathology, Audiology, and Hearing Aid Services program rules govern the Division of Medical Assistance Programs' (DMAP) payments for services provided to certain clients. DMAP amended text in 410-129-0060 to clarify that the prescription for prior authorization of a hearing aid must specify the ICD-9CM diagnosis code.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-129-0060

Prescription Required

(1) The prescription is the written order by the prescribing practitioner pursuant to state law governing speech-pathology, audiology and hearing aid services. Prescription must specify the ICD-9-CM diagnosis code for all speech-pathology, audiology and hearing aid services that require payment/prior authorization.

(2) The provision of speech therapy services must be supported by a written order and a therapy treatment plan signed by the prescribing practitioner. A practitioner means a person licensed pursuant to State law to engage in the provision of health care services within the scope of the practitioner's license and/or certification.

(3) A written order:

(a) Is required for the initial evaluation;

(b) For therapy, must specify the ICD-9-CM diagnosis code, service, amount and duration required.

(4) Written orders must be submitted with the payment (prior) authorization request and a copy must be on file in the provider's therapy record. The written order and the treatment plan must be reviewed and signed by the prescribing practitioner every six months.

(5) Authorization of payment to an audiologist or hearing aid dealer for a hearing aid will be considered only after examination for ear pathology and written prescription for a hearing aid by an ear, nose, and throat specialist (ENT) or general practitioner who has training to examine the ear and performs within the scope of his/her practice, i.e. primary care physician (not appropriate is an orthopedic specialist, chiropractor, gynecologist, etc.).

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.096

Hist.: AFS 67-1985, f. 11-19-85, ef. 12-1-85; HR 5-1991, f. 1-18-91, cert. ef. 2-1-91, Renumbered from 461-021-0301; HR 27-1993, f. & cert. ef. 10-1-93; HR 36-1994, f. 12-30-94, cert. ef. 1-1-95; OMAP 36-1999, f. & cert. ef. 10-1-99; DMAP 6-2007, f. 6-14-07, cert. ef. 7-1-07

Rule Caption: Clarify text: CPT codes, listed in Table 131-0280-1, do not require payment authorization.

Adm. Order No.: DMAP 7-2007

Filed with Sec. of State: 6-14-2007

Certified to be Effective: 7-1-07

Notice Publication Date: 5-1-07

Rules Amended: 410-131-0280

Subject: The Physical and Occupational Therapy Services program rules govern the division of Medical Assistance Programs' (DMAP) payments for services provided to certain clients. DMAP amended

text in 410-131-0280 clarify that CPT codes, listed in Table 131-0280-1, do not require payment authorization.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-131-0280

Occupational and Physical Therapy Codes

(1) Occupational therapists and physical therapists should use any of the following codes which are applicable according to their Licensure and Professional Standards.

(2) Inclusion of a CPT/HCPCS code on the following tables does not imply that a code is covered. Refer to OARs 410-141-0480, 410-141-0500, and 410-141-0520 for information on covered services.

(3) Services that do not require payment authorization appear on Table 131-0280-1.

(4) Services that require payment authorization include the following:

(a) Modalities — need to be billed in conjunction with a therapeutic procedure code;

(b) Supervised — The application of a modality that does not require direct (one-on-one) client contact by the provider. Each individual code in this series may be reported only once for each client encounter. See Table 131-0280-2.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 8-1991, f. 1-25-91, cert. ef. 2-1-91; HR 19-1992, f. & cert. ef. 7-1-92; HR 43-1994, f. 12-30-94, cert. ef. 1-1-95; HR 8-1995, f. 3-31-95, cert. ef. 4-1-95; HR 4-1996, f. & cert. ef. 5-1-96; HR 2-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 8-1998, f. & cert. ef. 3-2-98; OMAP 18-1999, f. & cert. ef. 4-1-99; OMAP 3-2000, f. 3-31-00, cert. ef. 4-1-00; OMAP 32-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 16-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 41-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 53-2002, f. & cert. ef. 10-1-02; OMAP 64-2003, f. 9-8-03, cert. ef. 10-1-03; OMAP 14-2004, f. 3-11-04, cert. ef. 4-1-04; OMAP 59-2004, f. 9-10-04, cert. ef. 10-1-04; OMAP 15-2005, f. 3-11-05, cert. ef. 4-1-05; OMAP 19-2006, f. 6-12-06, cert. ef. 7-1-06; DMAP 7-2007, f. 6-14-07, cert. ef. 7-1-07

Rule Caption: Delete sanction for "no-show" on medical transportation per federal directive.

Adm. Order No.: DMAP 8-2007

Filed with Sec. of State: 6-14-2007

Certified to be Effective: 7-1-07

Notice Publication Date: 5-1-07

Rules Amended: 410-136-0160

Subject: The Medical Transportation program rules govern the Division of Medical Assistance Programs' (DMAP) payments for services provided to certain clients.

DMAP amended rule 410-136-0160 to eliminate the sanction for "no-shows" for medical transportation rides pursuant to Centers for Medicare and Medicaid Services (CMS) directive.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-136-0160

Non-Emergency Medical Transportation

(1) The Division of Medical Assistance Programs (DMAP) will make payment for prior authorized non-emergency medical transportation including client-reimbursed travel, that does not require the services of an Emergency Medical Technician when the client's branch office or DMAP has determined the transport is medically appropriate.

(2) DMAP will not make payment for transportation to a specific provider based solely on client preference or convenience. For purposes of authorizing non-emergency medical transportation, the medical service or practitioner must be within the local area. Local area is defined as "in or nearest" the client's city or town of residence. If the service to be obtained is not available locally, transportation may be authorized to a practitioner within the accepted community standard or the nearest location where the service can be obtained or to a location deemed by DMAP to be cost-effective.

(3) A Branch may not authorize and DMAP will not make payment for non-emergency medical transportation outside of a client's local area when the client has been non-compliant with treatment or has demonstrated other behaviors that result in a local provider or treatment facility's refusing to provide further service or treatment to the client. In the event supporting documentation demonstrates inadequate or inappropriate services are being (or have been) provided by the local treatment facility or practitioner, DMAP may authorize transportation outside of the client's local area on a case-by case basis.

(4) For a client who is threatening harm to providers or others in the vehicle, or whose health conditions create health or safety concerns to the

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provider or others in the vehicle, or whose other conduct or circumstances place the provider and others at risk of harm, the State may impose certain reasonable restrictions on transportation services to that client, including but not limited to the following:

- (a) Restricting the client to a single transportation provider, or
- (b) Requiring the individual to travel with an escort.
- (5) If a managed care client selects a Primary Care Physician (PCP) or Primary Care Manager (PCM) outside of the client's local area when a PCP or PCM is available in the client's local area the client is responsible for the transportation to the PCP or PCM and this is not a covered service.

(6) The client will be required to utilize the least expensive mode of transportation that meets the medical needs and/or condition. Ride sharing by more than one client is considered to be cost effective and may be required unless written medical documentation in the branch record indicates ride sharing is not appropriate for a particular client. When more than one Medical Assistance client ride-shares to medical appointments, DMAP will reimburse mileage to only one client. The written documentation will be made available for review upon request by DMAP.

(7) The provider must submit billings for non-emergency ambulance transports provided to clients enrolled in Fully Capitated Health Plans (FCHP) to the FCHP. The Plan will review for medical appropriateness prior to payment. Depending on the individual FCHP the FCHP may or may not require authorization in advance of services.

Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: PWC 815, f. & ef. 10-1-76; AFS 54-1981, f. 8-19-81, ef. 10-1-81; AFS 6-1982(Temp), f. 1-22-82, ef. 2-1-82; AFS 73-1982, f. & ef. 7-22-82; AFS 64-1986, f. 9-8-86, ef. 10-1-86; HR 12-1993, f. 4-30-93, cert. ef. 5-1-93, Renumbered from 461-020-0020; HR 30-1993, f. & cert. ef. 10-1-93; HR 28-1994, f. & cert. ef. 9-1-94; HR 25-1995, f. 12-29-95, cert. ef. 1-1-96; OMAP 27-1998(Temp), f. & cert. ef. 8-26-98 thru 2-1-99; OMAP 37-1998, f. & cert. ef. 10-1-98; OMAP 33-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 60-2004, f. 9-10-04, cert. ef. 10-1-04; DMAP 7-2007, f. 6-14-07, cert. ef. 7-1-07

Rule Caption: Managed Care Plan Reimbursement for Graduate Medical Education.

Adm. Order No.: DMAP 9-2007

Filed with Sec. of State: 6-14-2007

Certified to be Effective: 6-29-07

Notice Publication Date: 5-1-07

Rules Amended: 410-141-0420

Subject: The Oregon Health Plan (OHP-Division 141) administrative rules govern payment of managed care for the Division of Medical Assistance Programs' services provided to clients. Having temporarily amended 410-141-0420 to reflect the new state policy for necessary changes to the reimbursements for Graduate Medical Education (GME) by January 1, 2007, this is to permanently amend the rule, effective June 29, 2007.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-141-0420

Oregon Health Plan Prepaid Health Plan Billing and Payment Under the Oregon Health Plan

(1) All billings for Oregon Health Plan Clients to Prepaid Health Plans (PHPs) and to Division of Medical Assistance Programs (DMAP) shall be submitted within four (4) months and twelve (12) months, respectively, of the date of service, subject to other applicable DMAP billing rules. Submissions shall be made to PHPs within the four (4) month time frame except in the following cases:

- (a) Pregnancy;
- (b) Eligibility issues such as retroactive deletions or retroactive Enrollments;
- (c) Medicare is the primary payor;
- (d) Other cases that could have delayed the initial billing to the PHP (which does not include failure of Provider to certify the DMAP Member's eligibility); or
- (e) Third Party Resource (TPR). Pursuant to 42 CFR 36.61, subpart G: Indian Health Services and the amended Public Law 93-638 under the Memorandum of Agreement that Indian Health Service and 638 Tribal Facilities are the payor of last resort and is not considered an alternative resource or TPR.

(2) Providers must be enrolled with DMAP to be eligible for Fee-for-Service (FFS) payment by DMAP. Mental health Providers, except Federally Qualified Health Centers, must be approved by the Local Mental Health Authority (LMHA) and the Addictions and Mental Health Division (AMH) before enrollment with DMAP. Providers may be retroactively enrolled, in accordance with OAR 410-120-1260, Provider Enrollment.

(3) Providers, including mental health Providers, do not have to be enrolled with DMAP to be eligible for payment for services by PHPs except that Providers who have been excluded as Medicare/Medicaid Providers by DMAP, CMS or by lawful court orders are ineligible to receive payment for services by PHPs.

(4) Providers shall verify, before rendering services, that the DMAP Member is eligible for the Medical Assistance Program on the date of service and that the service to be rendered is covered under the Oregon Health Plan Benefit Package of Covered Services. Providers shall also identify the party responsible for covering the intended service and seek pre-authorizations from the appropriate payor before rendering services. Providers shall inform DMAP Members of any charges for Non-Covered Services prior to the services being delivered.

(5) Capitated Services:

(a) PHPs receive a Capitation Payment to provide services to DMAP Members. These services are referred to as Capitated Services;

(b) PHPs are responsible for payment of all Capitated Services. Such services should be billed directly to the PHP, unless the PHP or DMAP specifies otherwise. PHPs may require Providers to obtain preauthorization to deliver certain Capitated Services.

(6) Payment by the PHP to Providers for Capitated Services is a matter between the PHP and the Provider, except as follows:

(a) Pre-authorizations:

(A) PHPs shall have written procedures for processing pre-authorization requests received from any Provider. The procedures shall specify time frames for:

- (i) Date stamping pre-authorization requests when received;
- (ii) Determining within a specific number of days from receipt whether a pre-authorization request is valid or non-valid;
- (iii) The specific number of days allowed for follow up on pended preauthorization requests to obtain additional information;
- (iv) The specific number of days following receipt of the additional information that a redetermination must be made;
- (v) Providing services after office hours and on weekends that require preauthorization;
- (vi) Sending notice of the decision with Appeal rights to the DMAP Member when the determination is made to deny the requested service as specified in 410-141-0263.

(B) PHPs shall make a determination on at least 95% of Valid Pre-Authorization requests, within two working days of receipt of a preauthorization or reauthorization request related to urgent services; alcohol and drug services; and/or care required while in a skilled nursing facility. Pre-authorizations for prescription drugs must be completed and the pharmacy notified within 24 hours. If a pre-authorization for a prescription cannot be completed within the 24 hours, the PHP must provide for the dispensing of at least a 72-hour supply if the medical need for the drug is immediate. PHP shall notify Providers of such determination within 2 working days of receipt of the request;

(C) For expedited prior authorization requests in which the Provider indicates, or the PHP determines, that following the standard timeframe could seriously jeopardize the DMAP Member's life or health or ability to attain, maintain, or regain maximum function:

(i) The PHP must make an expedited authorization decision and provide notice as expeditiously as the DMAP Member's health condition requires and no later than three working days after receipt of the request for service;

(ii) The PHP may extend the three working days time period by up to 14 calendar days if the DMAP Member requests an extension, or if the PHP justifies to DMAP a need for additional information and how the extension is in the DMAP Member's interest.

(D) For all other pre-authorization requests, PHPs shall notify Providers of an approval, a denial or a need for further information within 14 calendar days of receipt of the request. PHPs must make reasonable efforts to obtain the necessary information during that 14-day period. However, the PHP may use an additional 14 days to obtain follow-up information, if the PHP justifies the need for additional information and how the delay is in the interest of the DMAP Member. The PHP shall make a determination as the DMAP Member's health condition requires, but no later than the expiration of the extension. PHPs shall notify DMAP Members of a denial within five working days from the final determination using a DMAP or AMH approved client notice format.

(b) Claims Payment:

(A) PHPs shall have written procedures for processing claims submitted for payment from any source. The procedures shall specify time frames for:

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- (i) Date stamping claims when received;
- (ii) Determining within a specific number of days from receipt whether a claim is valid or non-valid;
- (iii) The specific number of days allowed for follow up of pended claims to obtain additional information;
- (iv) The specific number of days following receipt of additional information that a determination must be made; and
- (v) Sending notice of the decision with Appeal rights to the DMAP Member when the determination is made to deny the claim.

(B) PHPs shall pay or deny at least 90% of Valid Claims within 45 calendar days of receipt and at least 99% of Valid Claims within 60 calendar days of receipt. PHPs shall make an initial determination on 99% of all claims submitted within 60 calendar days of receipt;

(C) PHPs shall provide written notification of PHP determinations when such determinations result in a denial of payment for services, for which the DMAP Member may be financially responsible. Such notice shall be provided to the DMAP Member and the treating Provider within 14 calendar days of the final determination. The notice to the DMAP Member shall be a DMAP or AMH approved notice format and shall include information on the PHPs internal appeals process, and the Notice of Hearing Rights (OMAP 3030) shall be attached. The notice to the Provider shall include the reason for the denial;

(D) PHPs shall not require Providers to delay billing to the PHP;

(E) PHPs shall not require Medicare be billed as the primary insurer for services or items not covered by Medicare, nor require non-Medicare approved Providers to bill Medicare;

(F) PHPs shall not deny payment of Valid Claims when the potential TPR is based only on a diagnosis, and no potential TPR has been documented in the DMAP Member's Clinical Record;

(G) PHPs shall not delay nor deny payments because a Co-payment was not collected at the time of service.

(c) FCHPs, PCOs, and MHOs are responsible for payment of Medicare coinsurances and deductibles up to the Medicare or PHP's allowable for Covered Services the DMAP Member receives within the PHP, for authorized referral care, and for Urgent Care Services or Emergency Services the DMAP Member receives from Non-Participating Providers. FCHPs, PCOs, and MHOs are not responsible for Medicare coinsurances and deductibles for non-urgent or non-emergent care DMAP Members receive from Non-Participating Providers;

(d) FCHPs and PCOs shall pay transportation, meals and lodging costs for the DMAP Member and any required attendant for out-of-state services (as defined in General Rules) that the FCHP and PCO has arranged and authorized when those services are available within the state, unless otherwise approved by DMAP;

(e) PHPs shall be responsible for payment of Covered Services provided by a Non-Participating Provider that were not pre-authorized if the following conditions exist:

(A) It can be verified that the Participating Provider ordered or directed the Covered Services to be delivered by a Non-Participating Provider; and

(B) The Covered Service was delivered in good faith without the pre-authorization; and

(C) It was a Covered Service that would have been pre-authorized with a Participating Provider if the PHP's referral protocols had been followed;

(D) The PHP shall be responsible for payment to Non-Participating Providers (Providers enrolled with DMAP that do not have a contract with the PHP) for Covered Services that are subject to reimbursement from the PHP, the amount specified in OAR 410-120-1295. This rule does not apply to Providers that are Type A or Type B hospitals, as they are paid in accordance with ORS 414.727.

(7) Other services:

(a) DMAP Members enrolled with PHPs may receive certain services on a DMAP FFS basis. Such services are referred to as Non-Capitated Services;

(b) Certain services must be authorized by the PHP or the Community Mental Health Program (CMHP) for some mental health services, even though such services are then paid by DMAP on a DMAP FFS basis. Before providing services, Providers should contact the PHPs identified on the DMAP Member's Medical Care Identification or, for some mental health services, the CMHP. Alternatively, the Provider may call the DMAP Provider Services Unit to obtain information about coverage for a particular service and/or pre-authorization requirements;

(c) Services authorized by the PHP or CMHP are subject to the rules and limitations of the appropriate DMAP administrative rules and supplemental information, including rates and billing instructions;

(d) Providers shall bill DMAP directly for Non-Capitated Services in accordance with billing instructions contained in the DMAP administrative rules and supplemental information;

(e) DMAP shall pay at the Medicaid FFS rate in effect on the date the service is provided subject to the rules and limitations described in the relevant rules, contracts, billing instructions and DMAP administrative rules and supplemental information;

(f) DMAP will not pay a Provider for provision of services for which a PHP has received a Capitation Payment unless otherwise provided for in OAR 410-141-0120;

(g) When an item or service is included in the rate paid to a medical institution, a residential facility or foster home, provision of that item or service is not the responsibility of DMAP, AMH, nor a PHP except as provided for in DMAP administrative rules and supplemental information (e.g., Capitated Services that are not included in the nursing facility all-inclusive rate);

(h) FCHPs and PCOs that contract with FQHCs and RHCs shall negotiate a rate of reimbursement that is not less than the level and amount of payment which the FCHP or PCO would make for the same service(s) furnished by a Provider, who is not an FQHC nor RHC, consistent with the requirements of BBA 4712(b)(2).

(8) Coverage of services through the Oregon Health Plan Benefit Package of Covered Services is limited by OAR 410-141-0500, Excluded Services and Limitations for OHP Clients.

(9) OHP Clients who are enrolled with a PCM receive services on a FFS basis:

(a) PCMs are paid a per client/per month payment to provide Primary Care Management Services, in accordance with OAR 410-141-0410, Primary Care Manager Medical Management;

(b) PCMs provide Primary Care access, and management services for Preventive Services, primary care services, referrals for specialty services, limited inpatient hospital services and outpatient hospital services. DMAP payment for these PCM managed services is contingent upon PCCM authorization;

(c) All PCM managed services are Covered Services that shall be billed directly to DMAP in accordance with billing instructions contained in the DMAP administrative rules and supplemental information;

(d) DMAP shall pay at the DMAP FFS rate in effect on the date the service is provided subject to the rules and limitations described in the appropriate DMAP administrative rules and supplemental information.

(10) All OHP Clients who are enrolled with a PCO receive inpatient hospital services on a DMAP FFS basis:

(a) May receive services directly from any appropriately enrolled DMAP Provider;

(b) All services shall be billed directly to DMAP in accordance with FFS billing instructions contained in the DMAP administrative rules and supplemental information;

(c) DMAP shall pay at the DMAP FFS rate in effect on the date the service is provided subject to the rules and limitations described in the appropriate DMAP administrative rules and supplemental information.

(11) OHP Clients who are not enrolled with a PHP receive services on a DMAP FFS basis:

(a) Services may be received directly from any appropriate enrolled DMAP Provider;

(b) All services shall be billed directly to DMAP in accordance with billing instructions contained in the DMAP administrative rules and supplemental information;

(c) DMAP shall pay at the DMAP FFS rate in effect on the date the service is provided subject to the rules and limitations described in the appropriate DMAP administrative rules and supplemental information.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 31-1993, f. 10-14-93, cert. ef. 2-1-94; HR 7-1994, f. & cert. ef. 2-1-94; HR 17-1995, f. 9-28-95, cert. ef. 10-1-95; HR 19-1996, f. & cert. ef. 10-1-96; HR 25-1997, f. & cert. ef. 10-1-97; OMAP 21-1998, f. & cert. ef. 7-1-98; OMAP 39-1999, f. & cert. ef. 10-1-99; OMAP 26-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 15-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 52-2001, f. & cert. ef. 10-1-01; OMAP 57-2002, f. & cert. ef. 10-1-02; OMAP 4-2003, f. 1-31-03, cert. ef. 2-1-03; OMAP 61-2003, 9-5-03, cert. ef. 10-1-03; OMAP 23-2004(Temp), f. & cert. ef. 3-23-04 thru 8-15-04; OMAP 33-2004, f. 5-26-04, cert. ef. 6-1-04; OMAP 37-2004(Temp), f. 5-27-04 cert. ef. 6-1-04 thru 11-15-04; OMAP 47-2004, f. 7-22-04 cert. ef. 8-1-04; OMAP 27-2005, f. 4-20-05, cert. ef. 5-1-05; OMAP 46-2005, f. 9-9-05, cert. ef. 10-1-05; OMAP 23-2006, f. 6-12-06, cert. ef. 7-1-06; OMAP 53-2006(Temp), f. 12-28-06, cert. ef. 1-1-07 thru 6-29-07; DMAP 9-2007, f. 6-14-07, cert. ef. 6-29-07

ADMINISTRATIVE RULES

Rule Caption: Clarify current FQHC/RHC policies, including criteria for reporting encounters; add policy for change in scope of service(s).

Adm. Order No.: DMAP 10-2007

Filed with Sec. of State: 6-14-2007

Certified to be Effective: 7-1-07

Notice Publication Date: 5-1-07

Rules Adopted: 410-147-0362

Rules Amended: 410-147-0040, 410-147-0500

Subject: The Federally Qualified Health Centers and Rural Health Clinics (FQHC/RHC) Services program rules govern the Division of Medical Assistance Programs' (DMAP) payments for services provided to certain clients. DMAP amended the above rules to clarify current policies and procedures for FQHC and RHC providers to ensure Oregon Administrative Rules (OARs) are not open to interpretation by the provider or outside parties and will help eliminate confusion possibly resulting in non-compliance. DMAP adopted 410-147-0362 as DMAP is required by 42 USC § 1396a(bb)(3)(B), to adjust Federally Qualified Health Centers (FQHC) and Rural Health Clinics (RHC) Prospective Payment System (PPS) encounter rates based on any increase or decrease in the scope of FQHC or RHC services, as defined by 42 USC §§ 1396d(a)(2)(B-C). The Centers for Medicare and Medicaid Services (CMS) defines a "change in scope of services" as one that affects the type, intensity, duration, and/or amount of services provided by a health center. CMS' broad definition of change in scope of services allows DMAP the flexibility to develop a more precise definition of what qualifies as a change in scope as it relates to "type," "intensity," and "duration" and procedures for implementing these adjustments. This new rule states the DMAP criteria for change in scope of service requests, and the policy for implementing FQHC and RHC PPS rate adjustments based on DMAP-approved change-in-scope of services.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-147-0040

ICD-9-CM Diagnosis and CPT/HCPCs Procedure Codes

(1) The appropriate diagnosis code or codes from 001.0 through V99.9 must be used to identify:

- (a) Diagnoses;
- (b) Symptoms;
- (c) Conditions;
- (d) Problems;
- (e) Complaints; or
- (f) Other reasons for the encounter/visit.

(2) The Division of Medical Assistance Program (DMAP) requires diagnosis codes on all claims, including those submitted by independent laboratories and portable radiology, including nuclear medicine and diagnostic ultrasound providers. A clinic must always provide the client's diagnosis to ancillary service providers when prescribing services, equipment, and supplies.

(3) Clinics must list the principal diagnosis in the first position on the claim. Use the principal diagnosis code for the diagnosis, condition, problem, or other reason for an encounter/visit shown in the medical record to be chiefly responsible for the services provided. Clinics may list up to three additional diagnosis codes on the claim for documented conditions that coexist at the time of the encounter/visit and require or affect client care, treatment, or management.

(4) Clinics must list the diagnosis codes using the highest degree of specificity available in the ICD-9-CM. Use a three-digit diagnosis code only if the diagnosis code is not further subdivided. Whenever fourth-digit or fifth-digit subcategories are provided, the provider must report the diagnosis at that specificity. DMAP considers a diagnosis code invalid if it has not been coded to its highest specificity.

(5) DMAP requires providers to use the standardized code sets required by the Health Insurance Portability and Accountability Act (HIPAA) and adopted by the Centers for Medicare and Medicaid Services (CMS). Unless otherwise directed in rule, providers must accurately code claims according to the national standards in effect for calendar years 2006 and 2007 for the date the service(s) was provided:

(a) Use codes on Dental Procedures and Nomenclature as maintained and distributed by the American Dental Association for dental services;

(b) Use the combination of Health Care Common Procedure Coding System (HCPCS) and Current Procedural Terminology (CPT) for physician services and other health care services. These services include, but are not limited to, the following:

- (A) Physician services;
- (B) Physical and occupational therapy services;
- (C) Radiology procedures;
- (D) Clinical laboratory tests;
- (E) Other medical diagnostic procedures;
- (F) Hearing and vision services.

(6) DMAP maintains unique coding and claim submission requirements for Administrative Exams and Death With Dignity services. Refer to OAR 410 Division 150, Administrative Examination and Billing Services, and OAR 410-130-0670, Death with Dignity Services, for specific requirements.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 4-1991, f. 1-15-91, cert. ef. 2-1-91; HR 7-1995, f. 3-31-95, cert. ef. 4-1-95; OMAP 19-1999, f. & cert. ef. 4-1-99; OMAP 35-1999, f. & cert. ef. 10-1-99; OMAP 20-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 21-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 8-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 19-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 62-2002, f. & cert. ef. 10-1-02. Renumbered from 410-128-0020; OMAP 63-2002, f. & cert. ef. 10-1-02. Renumbered from 410-135-0060; OMAP 71-2003, f. 9-15-03, cert. ef. 10-1-03; OMAP 27-2006, f. 6-14-06, cert. ef. 7-1-06; DMAP 10-2007, f. 6-14-07, cert. ef. 7-1-07

410-147-0362

Change in Scope of Services

(1) As required by 42 USC § 1396a(bb)(3)(B), the Division of Medical Assistance Programs (DMAP) must adjust Federally Qualified Health Centers (FQHC) and Rural Health Clinics (RHC) Prospective Payment System (PPS) encounter rates based on any increase or decrease in the scope of FQHC or RHC services, as defined by 42 USC §§ 1396d(a)(2)(B-C).

(2) The Centers for Medicare and Medicaid Services (CMS) defines a "change in scope of services" as one that affects the type, intensity, duration, and/or amount of services provided by a health center. CMS' broad definition of change in scope of services allows DMAP the flexibility to develop a more precise definition of what qualifies as a change in scope as it relates to the elements "type," "intensity," "duration," and "amount" and procedures for implementing these adjustments. This rule defines the DMAP policy for implementing FQHC and RHC PPS rate adjustments based on a change in scope of services.

(3) A change in the scope of FQHC or RHC services may occur if the FQHC or RHC has added, dropped or expanded any service that meets the definition of an FQHC or RHC service as defined by 42 USC §§ 1396d(a)(2)(B-C).

(4) A change in the cost of a service is not considered in and of itself a change in the scope of services. A FQHC or RHC must demonstrate how a change in the scope of services impacts the overall picture of health center services rather than focus on the specific change alone. For example, while health centers may increase services to higher-need populations, this increase may be offset by growth in the number of lower intensity visits. Health centers therefore need to demonstrate an overall change to health centers' services.

(5) The following examples are offered as guidance to FQHCs and RHCs to facilitate understanding the types of changes that may be recognized as part of the definition of a change in scope of services. These examples should not be interpreted as a definitive nor comprehensive delineation of the definition of scope of service. Examples include:

(a) A change in scope of services from what was initially reported and incorporated in the baseline PPS rate. Examples of eligible changes in scope of services include, but are not limited to:

(A) Changes within medical, dental or mental health (including addiction, alcohol and chemical dependency services) service areas (e.g. vision, physical/occupation therapy, internal medicine, oral surgery, podiatry, obstetrics, acupuncture, or chiropractic);

(B) Services that do not require a face-to-face visit with a FQHC or RHC provider will be recognized (e.g. laboratory, radiology, case-management, supportive rehabilitative services, and enabling services.)

(b) A change in the scope of services resulting from a change in the types of health center providers. A change in providers alone without a corresponding change in scope of services does not constitute an eligible change. Examples of eligible changes include but are not limited to:

(A) A transition from mid-level providers (e.g. nurse practitioners) to physicians with a corresponding change in scope of services provided by the health center;

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(B) The addition or removal of specialty providers (e.g., pediatric, geriatric or obstetric specialists) with a corresponding change in scope of services provided by the health center (e.g. delivery services);

(i) If a health center reduces providers with a corresponding removal of services, there may be a decrease in the scope of services;

(ii) If a health center hires providers to provide services that were referred outside of the health center, there may be an increase in the scope of services;

(c) A change in service intensity or service delivery model attributable to a change in the types of patients served including, but not limited to, homeless, elderly, migrant, or other special populations. A change in the types of patients served alone is not a valid change in scope of services. A change in the type of patients served must correspond with a change in scope of services provided by the health center;

(d) Changes in operating costs attributable to capital expenditures associated with a modification of the scope of any of the health center services, including new or expanded service facilities. A change in capital expenditures must correspond with a change in scope of services. (e.g. the addition of a radiology department);

(e) A change in applicable technologies or medical practices:

(A) Maintaining Electronic Medical Records (EMR);

(B) Updating or replacing obsolete diagnostic equipment (which may also necessitate personnel changes); or

(C) Updating practice management systems;

(f) A change in overall health center costs due to changes in state or federal regulatory or statutory requirements. Examples include but are not limited to:

(A) Changes in laws or regulations affecting health center malpractice insurance;

(B) Changes in laws or regulations affecting building safety requirements; or

(C) Changes in laws or regulations relating to patient privacy.

(6) The following changes do not qualify as a change in scope of service, unless there is a corresponding change in services as described in sections (3)–(5):

(a) A change in office hours;

(b) Adding staff for the same service-mix already provided;

(c) Adding a new site for the same service-mix provided;

(d) A change in office location or office space; or

(e) A change in the number of patients served.

(7) **Threshold Change in Cost per Visit:** To qualify for a rate adjustment, changes must result in a minimum 5% change in cost per visit. This minimum threshold may be met by changes that occur over the course of several years (e.g. health centers would use the cost report for the year in which all changes were implemented and the 5% cost/visit was met, as described in sections (13) and (14) of this rule). A change in the cost per visit is not considered in and of itself a change in the scope of services. The 5% change in cost per visit must be a result of one or more of the changes in the scope of services provided by a health center, as defined in sections (3) - (5) of this rule. The intent of this threshold is to avoid administrative burden caused by minor change in scope adjustments.

(8) If a FQHC or RHC has experienced an increase or decrease in the health center's scope of services, as described in sections (3)–(5) of this rule, and that meets the threshold requirement of section (7) of this rule, the FQHC or RHC must submit to DMAP a written application as outlined below. DMAP may also initiate a review of whether a change in scope of services has occurred at a health center:

(a) A written narrative describing the specific changes in health center services, and how these changes relate to a change in the health center's overall picture of services;

(b) An estimate of billable Medicaid encounters for the forthcoming 12-month period so the financial impact to DMAP can be accounted for;

(c) A cost statement. All costs and expenses reported must be in agreement with the principles of reasonable cost reimbursement as found at 42 CFR 413, HCFA Publication 15-1 (Provider Reimbursement Manual), and any other regulations mandated by the Federal government. Any situations not covered will be based on Generally Accepted Accounting Principals (GAAP). See Change in Scope Cost Report Instructions;

(d) Certification by the Addiction and Mental Health Division (AMH) of a health center's outpatient mental health program is required if mental health services are provided by nonlicensed providers. Refer to OAR 410-147-0320(3)(i) and (5)(h) for certification requirements; and

(e) A letter of licensure or approval by AMH is required for health centers providing addiction, alcohol and chemical dependency services. Refer to OAR 410-147-0320 (3)(j) and (5)(i); and

(f) The clinic is responsible for providing complete and accurate copies of the above documentation. Health centers may submit a maximum of one change in scope application per year.

(9) Upon receipt of a health center's written change in scope of services request, the FQHC/RHC Program Manager will:

(a) Review all documents for completeness, accuracy and compliance with program rules. An incomplete application will result in a delay in the DMAP review until the complete application is received; and

(b) Respond to the health center with a decision within 90 days of receipt of a complete application.

(10) Providers may appeal this decision in accordance with the provider appeal rules set forth in OAR 410-120-1560.

(11) Approved Change in Scope of Service requests will result in PPS rate adjustments:

(a) A separate mental health or dental PPS encounter rate will be calculated if a FQHC or RHC adds dental or mental health (including addiction, and alcohol and chemical dependency) services, and costs associated with these service categories were not included in the original cost statements used to determine the baseline PPS encounter rate;

(b) If costs associated with dental or mental health services were included in the original cost statements, whether negligible or significant, health centers have the option of having an adjusted single encounter rate, or requesting a separate dental or mental health rate.

(12) The new rate will be effective beginning the first day of the quarter immediately following the date DMAP approves the change in scope of services adjustment (e.g. January, April, July, or October 1):

(a) DMAP will not implement adjusted PPS rates (for qualifying change in scope of service requests) retroactive to the date a change in scope of services was implemented by the health center;

(b) It is a health center's responsibility to request a timely change in scope of service rate adjustment.

(13) For changes occurring on or after October 1, 2008, the effective date of this policy, FQHCs and RHCs are required to:

(a) For anticipated changes, health centers should submit prospective costs for DMAP to calculate a new per visit rate. These costs will be based on reasonable cost projections and reviewed by DMAP. Health centers may later request a subsequent rate adjustment based on actual costs;

(b) For gradual or unanticipated changes, health centers must provide at least six months of actual costs beginning the date on which the change in the cost per visit threshold is met, or beginning in the calendar year of the FQHC/RHC's fiscal year in which the changes were implemented and the cost threshold was met. For example, a health center implements a change in scope of services in 2008, but the additional costs incurred do not meet the 5% threshold criteria. In 2009 the health center implements additional scope of service changes. Additional costs incurred in 2009 together with the costs incurred for 2008 meet the 5% threshold. The health center would report costs for 2009;

(c) Health centers may submit both actual costs (for prior changes) as well as projected costs (for anticipated changes). Prior to submitting both actual and projected costs, health centers should work with the DMAP FQHC/RHC Program Manager to confirm the appropriate time periods of costs to submit.

(14) For changes that occurred prior to the effective date of this policy, October 1, 2008, FQHCs and RHCs are required to:

(a) Submit cost reports for either:

(A) The first year of actual costs beginning the date on which a change in the cost per visit threshold is met; or

(B) The calendar year or the FQHC/RHC's fiscal year in which the changes were implemented and the cost threshold was met;

(b) For changes that occurred over multiple and overlapping time periods, FQHC/RHCs will submit actual costs for the time period beginning when all changes were in effect. For example, if changes occurred in 2003 and 2004, health centers would submit their 2004 cost report that would include costs for changes implemented in both 2003 and 2004;

(c) Rate adjustments calculated using costs from prior fiscal years will be adjusted by the Medicare Economic Index (MEI) to present.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: DMAP 10-2007, f. 6-14-07, cert. ef. 7-1-07

410-147-0500

Total Encounters for Cost Reports

(1) Federally Qualified Health Centers and Rural Health Clinics (FQHC/RHCs) are required to report the total number of encounters for

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furnishing services outlined in 42 USC 1396d(a)(2)(C) and 1396d(a)(2)(B), respectively.

(2) In general, the Division of Medical Assistance Programs (DMAP) calculates a FQHC or RHC's Prospective Payment System (PPS) encounter rate by dividing the total costs incurred by a clinic for furnishing services as defined in 42 USC 1396d(a)(2)(B) or (C) by the total number of all clinic visits, or "encounters." The intent of PPS is to calculate the average cost of an encounter, and not the average cost of a Medicaid billable encounter.

(3) This rule provides guidance for cost reporting of all encounters. It is the responsibility of the FQHC and RHC to report all encounters, except when expressly directed not to elsewhere in this rule. FQHCs and RHCs are required to include ALL:

(a) Encounters for all clients regardless of payor;

(b) Encounters for FQHC or RHC services that are not covered by Medicaid, Medicare, Third Party Payor or other party, but otherwise have an associated cost for providing the service whether billed to the client (e.g. uninsured, signed waiver on file) or absorbed by the clinic; and;

(c) Encounters regardless of line placement on the Health Services Commission's Prioritized List of Health Services. For the purpose of reporting encounters according to this rule, encounters are not subject to the HSC Prioritized List, or service limitations and benefit reductions implemented by the Division of Medical Assistance Programs (DMAP).

(4) FQHCs and RHCs must report all encounters furnished to all client populations irrespective of coverage or payor source. Examples of client populations include, but are not limited to:

(a) Oregon Health Plan (OHP) clients (includes both fee-for-service and prepaid health plan (PHP) clients). Refer to OAR 410-147-0120 for more information regarding OHP encounters;

(b) Citizen/Alien-Waived Emergency Medical (CAWEM) clients. Refer also to OAR 410-120-1210(3)(f).

(c) Family Planning Expansion Program (FPEP) Title X, clients;

(d) Uninsured and/or self-pay clients;

(e) Medicare clients;

(f) Third party or private pay insurance clients;

(g) County- and/or clinic-pay clients (services paid or funded by the county or clinic); and

(h) Clients funded by federal, state, local or other grants.

(5) FQHCs and RHCs must exclude from the total number of reported encounters:

(a) Encounters attributed to non-allowable costs:

(A) Services performed under the auspices of a Women, Infant and Children (WIC) program or a WIC contract;

(B) Services performed and reimbursed under separate enrollment. e.g. Targeted Case Management;

(C) Services provided by patient advocates/ombudsmen and Outstationed Outreach Workers, employed by or under contract with the FQHC or RHC, for the primary purpose of providing outreach and/or group education sessions;

(D) Provider participation in a community meeting or group session that is not designed to provide clinical services. This includes, and is not limited to, information sessions for prospective Medicaid beneficiaries, and information presentations about available health services at the FQHC or RHC; and

(E) Health services provided as part of a large-scale "free to the public" or "nominal fee" effort, such as a mass immunization program, screening program, or community-wide service program (e.g., a health fair);

(b) Encounters for specific services outlined in 42 USC 1396d(a)(2)(B) and (C), that do not meet the criteria of a valid encounter when furnished as a stand-alone service. Costs for furnishing these services is an allowed administrative program cost and should be reported on a clinic's cost statement for calculating a clinic's PPS encounter rate. Refer to OAR 410-147-0480, Costs Statement (DMAP 3027) Instructions. Examples include, but are not limited to:

(A) Case management services for coordinating health care for a client;

(B) Enabling services, including but not limited to, sign language and oral interpreter services;

(C) Supportive, rehabilitation services including, but not limited to, environmental intervention, and supported housing and employment; skills training and activity therapy to promote community integration and job readiness;

(D) Laboratory and radiology services, including venipuncture and tuberculosis (TB) tests (the initial visit for the TB test administered to the epidermis);

(E) Prescription refills; and

(F) Services provided without the client present, except for telephone contacts as specified in this rule section (6)(c).

(6) FQHCs and RHCs are required to include encounters for services furnished by practitioners recognized by DMAP in OAR 410-147-0120(6). Examples of encounters that may be overlooked but should be included are:

(a) Encounters below the funding line on the Health Services Commission's Prioritized List of Health Services. All encounters are to be reported regardless of line placement;

(b) Encounters outside of the clinic by primary care practitioners (e.g. services furnished in a hospital or residential treatment setting);

(c) Telephone contacts as provided for in the Tobacco Cessation, OAR 410-130-0190; and Maternity Case Management (MCM), OAR 410-130-0595, programs. See also OAR 410-120-1200(2)(y);

(d) Medication management-only encounters by a behavioral health practitioner;

(e) Encounters by Registered and Licensed Practical Nurses;

(A) Home encounters in an area in which the Secretary of the Health Resources and Services Administration, Health and Human Services, has determined that there is a shortage of home health agencies (OAR 410-147-0120(10));

(B) Administration of immunizations/vaccinations encounters;

(C) "99211" encounters; and

(D) Maternity Case Management (MCM) encounters.

(7) Global procedures require attention for accurate reporting of encounters:

(a) Obstetrics procedures: Each antepartum, delivery and postpartum encounter included in a global procedure for maternity and delivery services should be reported as a separate encounter;

(b) Dental procedures: Multiple contacts for global dental procedures should be reported as a single encounter. Refer to OAR 410-147-0040(5) ICD-9-CMm Diagnosis and CPT/HCPCs Procedure Codes, for more information;

(c) Surgical procedures: Refer to OAR 410-147-0040(5), ICD-9-CM Diagnosis and CPT/HCPCs Procedure Codes, for more information:

(A) Services within a surgical package and "included" in a given CPT surgical code are reported as a single encounter. Refer to OAR 410-130-0380, Surgical Guidelines, for more information; and

(B) The initial consultation or evaluation of the problem by the provider to determine the need for surgery, and separate from a preoperative appointment, is a separate encounter.

(8) A surgical procedure furnished to an OHP client and provided by more than one surgeon employed by the FQHC or RHC does not count as multiple encounters. The exception to this rule is major surgery, including a cesarean delivery, furnished to a CAWEM client. Services provided by the primary surgeon and the assistant surgeon, when both are employed with the FQHC or RHC, may be eligible as multiple encounters if medically necessary.

(9) When two or more services are provided on the same date of service:

(a) With distinctly different diagnoses, a clinic should report multiple encounters when the criteria in OAR 410-147-0140, Multiple Encounters, is met; or

(b) With similar diagnoses, a clinic must report one encounter.

(10) Clinics must maintain, for no less than five years, all documentation relied upon by the clinic to calculate the number of encounters reported on the cost statement (DMAP 3027):

(a) All documentation supporting the number of encounters reported on the cost statement must be sufficient to withstand an audit; and

(b) The total number of encounters calculated from all sources of documentation must reconcile to the total number of encounters reported on the cost statement, and subtotaled encounters must reconcile to each documentation source relied upon.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 4-1991, f. 1-15-91, cert. ef. 2-1-91; HR 13-1993, f. & cert. ef. 7-1-93; HR 7-1995, f. 3-31-95, cert. ef. 4-1-95; OMAP 35-1999, f. & cert. ef. 10-1-99; OMAP 20-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 37-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 62-2002, f. & cert. ef. 10-1-02, Renumbered from 410-128-0380; OMAP 71-2003, f. 9-15-03, cert. ef. 10-1-03; OMAP 27-2006, f. 6-14-06, cert. ef. 7-1-06; DMAP 10-2007, f. 6-14-07, cert. ef. 7-1-07

Rule Caption: Recognize the national standard designation for Ambulatory Infusion Suite of the home infusion therapy provider in rule text.

Adm. Order No.: DMAP 11-2007

Filed with Sec. of State: 6-14-2007

Certified to be Effective: 7-1-07

ADMINISTRATIVE RULES

Notice Publication Date: 5-1-07

Rules Amended: 410-148-0020, 410-148-0040, 410-148-0100, 410-147-0300

Subject: The Enteral/Parenteral nutrition and IV services program rules govern the Division of Medical Assistance Programs' (DMAP) payments for services provided to certain clients. DMAP amended rules to clarify a national standard designation related to Home infusions provided in *Ambulatory Infusion Suite of the home infusion therapy provider (AIS)*.

The Joint Commission on Accreditation of Healthcare Organizations (JCAHO) and the Centers for Medicare and Medicaid Services (CMS) approved a new designation and modifier for the purpose of identifying when services were performed in an AIS of a Home infusion provider. The amendments recognize the CMS and JCAHO designation that became effective for use starting October 1, 2004.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-148-0020

Home Enteral/Parenteral Nutrition and IV Services

(1) The Division of Medical Assistance Programs (DMAP) will make payment for medically appropriate goods, supplies and services for home enteral/parenteral nutrition and IV therapy on written order or prescription. (a) The order or prescription must be dated and signed by a licensed prescribing practitioner, legible and specify the service required, the ICD-9-CM diagnosis codes, number of units and length of time needed.

(b) The prescription or written physician order for solutions and medications must be retained on file by the provider of service for the period of time specified in DMAP General Rules.

(c) An annual assessment and a new prescription are required once a year for ongoing services.

(d) Also covered are services for subcutaneous, epidural and intrathecal injections requiring pump or gravity delivery.

(2) All claims for Enteral/Parenteral Nutrition and IV services require a valid ICD-9-CM diagnosis code.

(a) It is the provider's responsibility to obtain the actual diagnosis code(s) from the prescribing practitioner. Reimbursement will be made according to covered services on funded lines of the Health Services Commission's Prioritized List of Health Services, and these rules.

(3) DMAP requires one initial nursing service visit to assess the home environment and appropriateness of enteral/parenteral nutrition or IV services in the home setting and to establish the client's treatment plan.

(a) This nursing service visit for assessment purposes does not require payment authorization.

(b) The nursing service assessment visit is not required when:

(A) The only service provided is oral nutritional supplementation;

(B) The services are performed in an Ambulatory Infusion Suite of the Home Infusion Therapy provider.

(4) Nursing service visits specific to this Home Enteral/Parenteral and IV services program are provided in the home, or an Ambulatory Infusion Suite of the Home Infusion Therapy Provider (AIS) and will be reimbursed by DMAP only when prior authorized, and performed by a person who is licensed by the Oregon State Board of Nursing to practice as a Registered Nurse. All registered nurse delegated or assigned nursing care tasks must comply with the Oregon State Board of Nursing, Nurse Practitioner Act and Administrative Rules regulating the practice of nursing.

(5) Payment for services identified in the Home Enteral/Parenteral Nutrition and IV Services provider rules will be made only when provided in the client's place of residence (i.e., home or nursing facility) or an Ambulatory Infusion Suite (AIS).

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: AFS 56-1989, f. 9-28-89, cert. ef. 10-1-89; HR 26-1990, f. 8-31-90, cert. ef. 9-1-90, Renumbered from 461-016-0290; HR 9-1992, f. & cert. ef. 4-1-92; HR 26-1993, f. & cert. ef. 10-1-93; HR 3-1995, f. & cert. ef. 2-1-95; OMAP 7-1998, f. 2-27-98, cert. ef. 3-1-98; OMAP 29-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 46-2001, f. 9-24-01, cert. ef. 10-1-01, Renumbered from 410-121-0640; OMAP 22-2003, f. 3-26-03, cert. ef. 4-1-03; OMAP 63-2003, f. 9-5-03, cert. ef. 10-1-03; OMAP 15-2004, f. 3-11-04, cert. ef. 4-1-04; OMAP 64-2004, f. 9-10-04, cert. ef. 10-1-04; DMAP 11-2007, f. 6-14-07, cert. ef. 7-1-07

410-148-0040

Requirements for Home Enteral/Parenteral Nutrition and IV Services

(1) Home Enteral/Parenteral Nutrition and IV Services:

(a) Home enteral/parenteral nutrition and IV services must include training and/or education of client or support person on nutritional supplement and /or equipment operation;

(b) When enteral/parenteral nutrition and IV services are initiated in a hospital setting, reimbursement for training is included in the hospital reimbursement and will not be made separately;

(c) Reimbursement for enteral/parenteral and IV services training when done in the home is included in the payment for the nursing visit(s);

(d) Per diem reimbursement includes: administrative service, pharmacy professional and cognitive services, including drug admixture, patient assessment, clinical monitoring, and care coordination, and all necessary infusion related supplies and equipment. Enteral/parenteral formula, drugs and nursing visits are not included in per diem rates and must be billed separately.

(2) Home enteral nutrition:

(a) Home enteral nutrition is considered medically appropriate to maintain body mass and prevent nutritional depletion, which occurs with some illnesses or pathological conditions;

(b) Home enteral therapy may be administered orally or by enteral tube feeding, i.e., nasogastric, jejunostomy or gastrostomy delivery systems.

(3) Home parenteral nutrition:

(a) Is considered medically appropriate for treatment of gastrointestinal dysfunction such as severe short bowel syndrome, chronic radiation enteritis, severe Crohn's disease, or other conditions where adequate nutrition by the oral and enteral routes is not possible;

(b) Initiation of home parenteral nutrition services must include client or support person education on catheter care, infusion technique, solution preparation, sterilization technique, and equipment operation;

(c) Parenteral nutrition is appropriate only when oral or enteral feeding is inadequate or contraindicated.

(4) Home intravenous (IV) services:

(a) Home intravenous (IV) services are covered by the Division of Medical Assistance Programs (DMAP) for the administration of antibiotics, analgesics, chemotherapy, hydration fluids or other intravenous medications in a client's residence, (i.e., home or nursing facility) or an Ambulatory Infusion Suite (AIS).

(b) In addition, the provision of all goods and services needed for maintaining venous or arterial access and required monitoring is covered.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 26-1990, f. 8-31-90, cert. ef. 9-1-90; HR 9-1992, f. & cert. ef. 4-1-92; HR 22-1993(Temp), f. & cert. ef. 9-1-93; HR 34-1993(Temp), f. & cert. ef. 12-1-93; HR 11-1994, f. 2-25-94, cert. ef. 2-27-94; HR 3-1995, f. & cert. ef. 2-1-95; OMAP 29-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 46-2001, f. 9-24-01, cert. ef. 10-1-01, Renumbered from 410-121-0660; OMAP 22-2003, f. 3-26-03, cert. ef. 4-1-03; DMAP 11-2007, f. 6-14-07, cert. ef. 7-1-07

410-148-0100

Reimbursement

(1) Drug ingredients (medications) shall be reimbursed as defined in the Pharmaceutical Services Guide.

(2) The following service/goods will be reimbursed on a fee-for-service basis according to the Division of Medical Assistance Programs (DMAP) Maximum Allowable Fees found in the Pharmaceutical Services Guide on the DMAP website: www.dmap.hr.state.or.us/providernfo/:

(a) Enteral Formula;

(b) Oral Nutritional Supplements which are medically appropriate and meet the criteria specified in 410-148-0260(3);

(c) Parenteral Nutrition Solutions;

(3) Reimbursement for services will be based on the lesser of the amount billed, the DMAP maximum allowable rate. When the service is covered by Medicare, reimbursement will be based on the lesser of the amount billed, Medicare's allowed amount, or the DMAP maximum allowable rate.

(4) Reimbursement for supplies that require authorization or services/supplies that are listed as Not Otherwise Classified (NOC) or By Report (BR) must be billed to DMAP at the providers' Acquisition Cost, and will be reimbursed at such rate.

(a) For purposes of this rule, Acquisition Cost is defined as the actual dollar amount paid by the provider to purchase the item directly from the manufacturer (or supplier) plus any shipping and/or postage for the item. Submit documentation identifying acquisition cost with your authorization request;

(b) Per diem, as it relates to reimbursement, represents each day that a given patient is provided access to a prescribed therapy. This definition is valid for per diem therapies of up to and including every 72 hours.

(c) Per diem reimbursement includes, but is not limited to:

(A) Professional Pharmacy services;

(i) Initial and ongoing assessment/clinical monitoring;

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(ii) Coordination with medical professionals, family and other caregivers;

(iii) Sterile procedures, including IV admixtures, clean room upkeep and all biomedical procedures necessary for a safe environment;

(iv) Compounding of medication/medication set-up.

(B) Infusion therapy related supplies:

(i) Durable, reusable or elastomeric disposable infusion pumps;

(ii) All infusion or other administration devices;

(iii) Short peripheral vascular access devices;

(iv) Needles, gauze, sterile tubing, catheters, dressing kits, and other supplies necessary for the safe and effective administration of infusion therapy.

(C) Comprehensive, 24-hour per day, seven days per week delivery and pickup services (includes mileage).

(5) Reimbursement will not be made for the following:

(a) Central Catheter insertion or transfusion of blood/blood products in the client's home;

(b) Central Catheter insertion in the Nursing Facility;

(c) Intradialytic parenteral nutrition in the client's home or Nursing Facility;

(d) Oral Infant formula that is available through the WIC program;

(e) Oral nutritional supplements that are in addition to consumption of food items or meals.

(f) Tocolytic pumps for pre-term labor management;

(g) Home Enteral/Parenteral Nutrition or IV services outside of the client's place of residence (i.e. home, nursing facility or AIS).

Stat. Auth.: ORS 184.750 & 184.770

Stats. Implemented: ORS 414.065

Hist.: HR 26-1990, f. 8-31-90, cert. ef. 9-1-90; OMAP 46-2001, f. 9-24-01, cert. ef. 10-1-01,

Renumbered from 410-121-0720; OMAP 3-2003, f. 1-31-03, cert. ef. 2-1-03; OMAP 22-

2003, f. 3-26-03, cert. ef. 4-1-03; OMAP 64-2004, f. 9-10-04, cert. ef. 10-1-04; DMAP 11-

2007, f. 6-14-07, cert. ef. 7-1-07

410-148-0300

Other Home IV and Enteral/ Parenteral Administration Services

(1) Codes that have "PA" indicated require prior authorization. Codes with "BR" indicated are covered by report.

(2) Catheter Care Kits. All catheter care kit allowable amounts are determined on a per diem basis (1 day = 1 unit):

(a) When performed as a stand alone therapy, or during days not covered under per diem by another therapy, bill using catheter care codes S5497 through S5521;

(b) The following supplies for non-routine catheter procedures may be billed separately from per diem reimbursement:

(A) S5517 Catheter declotting supply kit, 1 day = 1 unit;

(B) S5518 Catheter repair supply kit, 1 day = 1 unit;

(C) S5520 PICC insertion supply kit, 1 day = 1 unit;

(D) S5521 Midline insertion supply kit, 1 day = 1 unit.

(E) E0776 IV Pole — Purchase.

(F) E0776 with modifier RR IV Pole — Rental, 1 day = 1 unit

(3) Home Nursing Visits:

(a) When enteral/parenteral services are performed in the home, only a single provider of skilled home health nursing services may obtain authorization and/or bill for such services for the same dates of service;

(b) Requests made by providers for any intravenous or enteral/parenteral related skilled nursing services, either solely or in combination with any other skilled nursing services in the home are to be reviewed for prior authorization by the Division of Medical Assistance Programs (DMAP) Medical Unit;

(c) Procedure Codes:

(A) 99601, Home infusion/specialty drug administration, per visit (up to 2 hours). Modifier SS is used to indicate — Home infusion services provided in the infusion suite of the IV therapy provider — 1 visit = 1 unit — PA;

(B) 99602, each additional hour. List separately in addition to code for primary procedure). Modifier SS is used to indicate — Home infusion services provided in the infusion suite of the IV therapy provider. Use 99602 in conjunction with 99601 — PA;

(C) T1001, Home Nursing Visit for Assessment — 1 visit = 1 Unit.

(4) Not Otherwise Classified (NOC) — S9379, NOC for Home IV Supplies — PA/BR.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 26-1990, f. 8-31-90, cert. ef. 9-1-90; HR 46-1990, f. & cert. ef. 12-28-90; HR 26-

1993, f. & cert. ef. 10-1-93; OMAP 7-1998, f. 2-27-98, cert. ef. 3-1-98; OMAP 29-2000, f.

9-29-00, cert. ef. 10-1-00; OMAP 46-2001, f. 9-24-01, cert. ef. 10-1-01, Renumbered from

410-121-0880; OMAP 22-2003, f. 3-26-03, cert. ef. 4-1-03; OMAP 63-2003, f. 9-5-03, cert.

ef. 10-1-03; OMAP 15-2004, f. 3-11-04, cert. ef. 4-1-04; DMAP 11-2007, f. 6-14-07, cert. ef.

7-1-07

Department of Human Services,

Public Health Division

Chapter 333

Rule Caption: Fees for Public Records.

Adm. Order No.: PH 7-2007

Filed with Sec. of State: 5-30-2007

Certified to be Effective: 6-1-07

Notice Publication Date: 5-1-07

Rules Repealed: 333-001-0010

Subject: The Department of Human Services, Public Health Division is permanently repealing Oregon Administrative Rule (OAR) 333-001-0010 related to fees for public records. The Division will be following the Department-wide rules on public record fees adopted in OAR 407-003-0000 through OAR 407-003-0010 that became effective on February 15, 2007.

Rules Coordinator: Christina Hartman—(971) 673-1291

Department of Human Services,

Seniors and People with Disabilities Division

Chapter 411

Rule Caption: Fees for Public Records.

Adm. Order No.: SPD 7-2007

Filed with Sec. of State: 6-1-2007

Certified to be Effective: 6-1-07

Notice Publication Date: 5-1-07

Rules Repealed: 411-005-0100

Subject: The Department of Human Services, Seniors and People with Disabilities Division (SPD) is permanently repealing Oregon Administrative Rule (OAR) 411-005-0100 related to fees for public records. SPC will be following the DHS rules on public record fees, OAR 407-003-0000 through 407-003-0010, that became effective on February 15, 2007.

Rules Coordinator: Christina Hartman—(503) 945-6398

Department of Transportation

Chapter 731

Rule Caption: Electronic Bidding for ODOT Highway Public Improvement Construction Projects.

Adm. Order No.: DOT 4-2007

Filed with Sec. of State: 5-23-2007

Certified to be Effective: 5-23-07

Notice Publication Date: 4-1-07

Rules Adopted: 731-005-0505

Rules Amended: 731-005-0430, 731-005-0470, 731-005-0520, 731-005-0530, 731-005-0540, 731-005-0550, 731-005-0590

Subject: These rules relate to the solicitation, bidding and awarding of contracts for highway public improvement construction projects. The adoption of a new rule and amendments to existing rules will enable ODOT to implement an electronic bidding process. The amendments establish definitions and provide for electronic advertising and bidding within the current rules. The new rule establishes the process for electronic advertisement and bidding. It was necessary to adopt these rules before the system provider could be retained and the two-way electronic bidding system could be made available to potential bidders. In the past, several contractors voiced their desire for the capability to submit bids electronically and expressed support of ODOT's movement toward electronic bidding.

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

Rules Coordinator: Lauri Salisbury—(503) 986-3171

731-005-0430

Definitions

All capitalized terms have the meanings set forth below, unless otherwise defined in the chapter 731, division 005 rules.

(1) Addendum or Addenda: An addition or deletion to, a material change in, or general interest explanation of the Solicitation Document.

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Addenda shall be labeled as such and distributed to all interested entities in accordance with these rules.

(2) Bid: A competitive Offer, binding on the Bidder and submitted in response to an Invitation to Bid:

(a) Lump Sum Bid: A Bid that is the total completed project price;

(b) Unit Price Bid: A Bid that provides unit prices based upon estimated quantities.

(3) Bidder: An Entity that submits a Bid in response to an Invitation to Bid.

(4) Closing: The date and time announced in the Solicitation Document as the deadline for submitting Offers.

(5) Competitive Range: The number of Proposers within a given scoring range ODOT will negotiate with if ODOT intends to negotiate in accordance with OAR 731-005-0650. The Competitive Range must be stated in the Solicitation Document, but will be decreased if the number of Proposers that submit Proposals is less than the specified number, or may be increased by ODOT in accordance with OAR 731-005-0650.

(6) Conduct Disqualification: A Disqualification pursuant to ORS 279C.440.

(7) Contract: The Written agreement, resulting from the Solicitation Document that defines the Work to be completed and sets forth the rights and obligations of the parties.

(8) Contract Amount: Sum of the amounts computed by multiplying the Bid item quantities by the unit price in the schedule of Contract prices of the Contract as awarded.

(9) Contract Price: The total of the awarded Bid or Proposal amount, including any approved alternates, and any fully executed change orders or amendments.

(10) Contract Review Authority: The Director of the Oregon Department of Transportation.

(11) Contractor: The Entity awarded the Contract in response to the Solicitation Document.

(12) DAS: Oregon Department of Administrative Services.

(13) Days: Calendar days unless otherwise specified by these rules.

(14) DBE Disqualification: A Disqualification pursuant to ORS 200.065, 200.075 or 279A.110.

(15) Descriptive Literature: The Offeror's materials submitted to provide information concerning the products and/or services available in response to the Solicitation Document.

(16) Disqualification: The preclusion of an Entity from contracting with ODOT for a period of time. Disqualification may be a Conduct Disqualification as defined above, performance disqualification for failure to meet standards listed in OAR 734-010-0290(4), DBE Disqualification or disqualification for lack of specific demonstrated experience (special pre-qualification as described in OAR 734-010-0230). ODOT is authorized to disqualify an Entity in accordance with OAR 731-005-0710.

(17) Electronic Advertisement: ODOT's Solicitation Document, or other document inviting participation in ODOT's procurements made available over the Internet via:

(a) The World Wide Web or some other Internet protocol; or

(b) ODOT's Electronic Procurement System.

(18) Electronic Data Interchange Operating Agreement or EDI Operating Agreement: A series of standards that provide computer to computer exchange of business documents between organizations over telephone lines or computer networks. An EDI document is a document that has been transmitted pursuant to an EDI Operating Agreement.

(19) Electronic Offer: A response to ODOT's Solicitation Document submitted to ODOT via:

(a) The World Wide Web or some other Internet protocol; or

(b) ODOT's Electronic Procurement System.

(20) Electronic Procurement System or Electronic Procurement: An information system that persons may access through the Internet using the World Wide Web or some other Internet protocol or that persons may otherwise remotely access using a computer, that enables persons to send Electronic Offers and ODOT to post Electronic Advertisements, receive Electronic Offers, and conduct other activities related to a procurement.

(21) Entity: A natural person capable of being legally bound, sole proprietorship, limited liability company, corporation, partnership, limited liability partnership, limited partnership, profit and nonprofit unincorporated association, business trust, two or more persons having a joint or common economic interest, or any other person with legal capacity to contract, or a government or governmental subdivision.

(22) Facsimile: A document that has been transmitted to and received by ODOT in a format that is capable of being received via a device commonly known as a Facsimile machine (e.g. a Facsimile Bid). A Facsimile

machine allows hard copy documents (Written, typed or drawn material) to be sent over telephone lines and printed in another location.

(23) Invitation to Bid or ITB: A notice to Contractors disseminating information pertaining to bidding of Public Improvement projects including availability of Solicitation Documents.

(24) Non-Resident Contractor: A Contractor that is not domiciled in or registered to do business in the State of Oregon. See OAR 731-005-0750.

(25) ODOT: The Oregon Department of Transportation.

(26) Offer: A Bid or Proposal as applicable.

(27) Offeror: A Bidder or Proposer as applicable.

(28) Opening: The date, time and place announced in the Solicitation Document for the public Opening of Written sealed Offers or Electronic Offers.

(29) Product Sample: A representative specimen of the item offered by the Offeror in response to the Solicitation Document. Unless otherwise provided in the Solicitation Document, the Product Sample shall be the exact product or a representative portion of that product offered by the Offeror.

(30) Proposal: A competitive Offer, binding on the Proposer and submitted in response to a Request for Proposals. See Offer.

(31) Proposer: An Entity that submits a Proposal in response to a Request for Proposals. See Offeror.

(32) Public Improvement: Projects relating to maintenance or construction of highways, bridges, parks or other transportation facilities by or for ODOT. "Public improvement" does not include emergency Work, minor alteration, ordinary repair or maintenance necessary in order to preserve a Public Improvement.

(33) Request for Proposals or RFP: A Solicitation Document calling for Proposals.

(34) Responsible Offeror (also, Responsible Bidder or Responsible Proposer, as applicable): Is an Entity that has submitted an Offer and meets the standards set forth in OAR 731-005-0670(1)(c)(H) and that has not been disqualified by ODOT under OAR 731-005-0710.

(35) Responsive Offer (also, Responsive Bid or Responsive Proposal, as applicable): An Offer that substantially complies with applicable solicitation procedures and requirements and the Solicitation Document.

(36) Signed or Signature: Any mark, word or symbol executed or adopted by an Entity evidencing intent to be bound, which may include electronic or digital signature.

(37) Solicitation Document: Documents that define the procurement of a Public Improvement project including but not limited to Bid or Proposal booklet, plans, Specifications, requirements, provisions and includes all documents incorporated by reference.

(38) Specification: Any description of the physical or functional characteristics, or of the nature of a supply, service or construction item, including any requirement for inspecting, testing, or preparing a supply, service, or construction item for delivery and the quantities or qualities of materials to be furnished under the Contract. Specifications generally will state the result to be obtained and may, on occasion, describe the method and manner of doing the Work to be performed.

(39) Tie Offers: Tie Offers shall have the meaning set forth in OAR 731-005-0660.

(40) Work: The furnishing of all materials, equipment, labor, and incidentals necessary to successfully complete any individual item or the entire Contract and the successful completion of all duties and obligations imposed by the Contract.

(41) Written or Writing: Conventional paper documents either manuscript or printed, in contrast to spoken words. It includes electronic transmissions if the Solicitation Document or Contract permits.

Stat. Auth.: ORS 184.616, 184.619, 279A.050 & 279A.065

Stats. Implemented: ORS 279A & 279C

Hist.: DOT 2-2005, f. 2-16-05, cert. ef. 3-1-05; DOT 4-2007, f. & cert. ef. 5-23-07

731-005-0470

Solicitation Methods

(1) Policy. It is the policy of the State of Oregon to encourage open and impartial competition in public contracting. ODOT may establish Competition by comparing price, product and service quality, product performance, and an Entity's ability to perform, technical competence and ability to make timely deliveries. ODOT must make every effort to construct Public Improvements at the least cost to ODOT.

(2) Solicitation Methods. ODOT may encourage meaningful competition through a variety of solicitation methods. ODOT shall choose the solicitation method that is most likely to encourage Offers representing optimal value to ODOT:

ADMINISTRATIVE RULES

(a) ODOT may use an Invitation to Bid if ODOT believes it will receive optimal value by selecting the lowest priced Offer that meets the technical requirements of ODOT's Specifications;

(b) ODOT may use a Request for Proposal if ODOT believes it will receive optimal value:

(A) By selecting an Offer using both price and non-price related factors; or

(B) By selecting an Offer using both price and non-price related factors and permitting negotiations pursuant to OAR 731-005-0650.

(c) ODOT may permit negotiations under a Request for Proposal pursuant to OAR 731-005-0650 if:

(A) ODOT intends to consider alternative terms and conditions to reduce Agency cost or enhance the value of the product or service requested; or

(B) ODOT finds negotiation is required to effect a successful procurement (e.g. the Specifications are complex and ODOT expects numerous queries as to the proper interpretation of the Specification; the Work requires a high level of technical or managerial competence that cannot be defined adequately in the Specifications; or ODOT believes negotiations are necessary to gauge the Proposer's understanding of complex Specifications).

(3) Solicitation Documents. The Solicitation Document shall include the following:

(a) General Information:

(A) Notice of any pre-Offer conference as follows:

(i) The time, date and location of any pre-Offer conference;

(ii) Whether attendance at the conference will be mandatory or voluntary; and

(iii) That statements made by ODOT's representatives at the conference are not binding upon ODOT unless confirmed by Written Addendum.

(B) The deadline for submitting mandatory prequalification applications and the class or classes of Work for which Offerors must be prequalified if prequalification is a requirement;

(C) The name and title of the authorized Agency person designated for receipt of Offers and contact person (if different);

(D) Instructions and information concerning submission requirements including the address of the office to which Offers must be delivered and any other special information, e.g., whether Offers may be submitted by Facsimile, Electronic Data Interchange or Electronic Procurement (See OAR 731-005-0500, 731-005-0505 and 731-005-0510 for required provisions for Facsimile, Electronic Data Interchange or Electronic Procurement);

(E) The time, date and place of Opening;

(F) The time and date of Closing after which ODOT will not accept Offers, which time shall be not less than five Days after the date of the last publication of the advertisement. The interval between the date of issuance of the Solicitation Document and a Closing should not be less than 14 Days for an ITB and not less than 30 Days for an RFP unless ODOT finds a shorter interval is in the public's interest. If ODOT is issuing an ITB that may result in a Contract for a Public Improvement with a value in excess of \$75,000, ODOT shall not designate a time of Closing that falls when ODOT is closed to the public or after 12 noon on Friday (see also, OAR 731-007-0260; for timing issues relating to Addenda see OAR 731-005-0580(3));

(G) The form and submission of Offers and any information required therein, including Bid or Proposal security, if any;

(H) The office where the plans and Specifications for the Work or goods may be reviewed;

(I) A statement that each Offeror to an ITB or RFP must identify whether the Bidder or Proposer is a "resident bidder," as defined in ORS 279A.120;

(J) If the Contract resulting from a Solicitation will be a Contract for a Public Work subject to ORS 279C.800 to 279C.870 or the Davis-Bacon Act (40 U.S.C. 276a), a statement that no Offer will be received or considered by ODOT unless the Offer contains a statement by the Offeror as a part of its Offer that "Contractor agrees to be bound by and will comply with the provisions of ORS 279C.830 or 40 U.S.C. 276a;"

(K) If the Work so requires, a statement that ODOT will not receive or consider an Offer from an Entity when the Entity is not registered with the Construction Contractors Board or is not licensed by the State Landscape Contractors Board as required by ORS 671.530;

(L) Whether a Contractor or a subcontractor under the Contract must be licensed under ORS 468A.720;

(M) Contractor's certification of nondiscrimination in obtaining required subcontractors in accordance with ORS 279A.110. (See OAR 731-005-0670(3)); and

(N) How ODOT will notify Offerors of Addenda and how ODOT will make Addenda available. See OAR 731-005-0580.

(b) Agency Need. The character of the Work or goods ODOT is purchasing including, if applicable, a description of the acquisition, Specifications, delivery or performance schedule, inspection and acceptance requirements;

(c) Evaluation process:

(A) A statement that ODOT may reject any Offer not in compliance with all prescribed solicitation bidding procedures and requirements and other applicable laws, and that ODOT may reject for good cause any or all Offers upon ODOT's finding that it is in the public interest to do so;

(B) The anticipated solicitation schedule, deadlines, protest process, and evaluation process, if any;

(C) Evaluation criteria, including the relative value applicable to each criterion, that ODOT will use to determine the Responsible Bidder with the lowest Responsive Bid or the Responsible Proposer with the best Responsive Proposal and the evaluation criteria ODOT will use to determine acceptability of any Work or goods to be purchased:

(i) If Contract award is to be based upon low Bid, ODOT shall set forth objective evaluation criteria in the Solicitation Document. Examples of such criteria that may be used in determining low Bid include, but are not limited to, conversion costs, transportation cost, volume weighing, trade-in allowances, cash discounts, depreciation allowances, cartage penalties, ownership or life-cycle cost formulas, performance history on other private and public Contracts, experience of key personnel, adequacy of equipment and physical plant, financial wherewithal, sources of supply, references and warranty provisions. Evaluation criteria need not be precise predictors of actual future costs. However, to the extent possible, such evaluation factors shall be reasonable estimates based upon information ODOT has available concerning future use;

(ii) If the Solicitation Document is a Request for Proposal, ODOT shall set forth selection criteria in the Solicitation Document. Examples of evaluation criteria include price or cost, quality of a product or service, past performance, management, capability, personnel qualification, prior experience, compatibility, reliability, operating efficiency, expansion potential, experience of key personnel, adequacy of equipment or physical plant, financial wherewithal, sources of supply, references and warranty provisions. Evaluation factors need not be precise predictors of actual future costs and performance, but to the extent possible, such factors shall be reasonable estimates based on information available to ODOT; or

(iii) If the Solicitation Document is a Request For Proposal and ODOT is willing to negotiate terms and conditions of the Contract, ODOT must identify the specific terms and conditions in the Solicitation Document that are subject to negotiation and authorize Offerors to propose certain alternative terms and conditions in lieu of the terms and conditions ODOT has identified as authorized for negotiation. ODOT must describe the evaluation and negotiation process in accordance with OAR 731-005-0650, including the Competitive Range; and

(D) Reference to statutory preference for materials and supplies manufactured from recycled materials under ORS 279A.125.

(d) Terms and conditions. ODOT shall include all Contract terms and conditions, including warranties and bonding requirements, ODOT considers necessary. Without limiting the preceding sentence, ODOT must include all applicable Contract provisions required by ORS 279C.500 through 279C.870 as follows:

(A) Payment of all Entities furnishing labor or material, contributions to Industrial Accident Fund, liens and withholding taxes (ORS 279C.505);

(B) If the Contract is for a Public Improvement, a condition that the Contractor shall demonstrate it has established a drug-testing program for its employees;

(C) If the Contract calls for demolition Work described in ORS 279C.510, a condition requiring the Contractor to salvage or recycle construction and demolition debris, if feasible and cost-effective;

(D) If the Contract calls for lawn or landscape maintenance, a condition requiring the Contractor to compost or mulch yard waste material at an approved site, if feasible and cost effective (ORS 279C.510);

(E) Payment of claims by public officers (ORS 279C.515);

(F) Contractor and first-tier subcontractor liability for late payment on Public Improvement Contracts pursuant to ORS 279C.515;

(G) Entity's right to file a complaint with the Construction Contractors Board for all Contracts related to a Public Improvement Contract (ORS 279C.515);

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- (H) Hours of labor in compliance with ORS 279C.520 and 279C.540;
- (I) Environmental and natural resources regulations (ORS 279C.525);
- (J) Payment for medical care and providing workers' compensation (ORS 279C.530);
- (K) Maximum hours and overtime (ORS 279C.540);
- (L) Claims for overtime (ORS 279C.545);
- (M) Prevailing wage rates (ORS 279C.800 to 279C.870);
- (N) Fee paid to BOLI (ORS 279C.825);
- (O) Retainage (ORS 279C.550 through 279C.570);
- (P) Prompt payment policy (ORS 279C.570);
- (Q) Contractor's relations with subcontractors (ORS 279C.580);
- (R) Notice of claim (ORS 279C.605);
- (S) With respect to state Agencies, provisions regarding use of recovered resources and recycled materials and to the extent economically feasible, use of recycled paper and PETE products (ORS 279A.150 and 279A.155);

(T) Contractor's certification of compliance with the Oregon tax laws in accordance with ORS 305.385;

(U) A Contract provision substantially as follows: "All employers, including Contractor, that employ subject workers who work under this Contract in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Contractor shall ensure that each of its subcontractors complies with these requirements." (ORS 279C.530);

(V) Contractor's certification that all subcontractors performing Work described in ORS 701.005 (i.e., construction Work) will be registered with the Construction Contractors Board or licensed by the State Landscape Contractors Board in accordance with ORS 701.035 to 701.055 before the subcontractors commence Work under the Contract; and

(W) Price escalation and de-escalation Contract Provision relating to steel materials. As used in this paragraph, "steel material" includes any steel products used for and permanently incorporated in the construction, reconstruction or major renovation of a road or highway. "Escalation and de-escalation" relate to and shall be applied to the raw steel in the steel materials listed in the Contract Provision.

(e) If federal funds are involved, the federal laws, rules and regulations applicable to the fund requirements shall govern in the event they conflict with a provision required by ORS 279A.120 to 279A.155;

(f) Unless otherwise provided in the Contract, the Contractor shall not assign, sell, dispose of, or transfer rights, nor delegate duties under the Contract, either in whole or in part, without ODOT's prior Written consent. Unless otherwise agreed by ODOT in Writing, such consent shall not relieve the Contractor of any obligations under the Contract. Any assignee or transferee shall be considered the agent of the Contractor and be bound to abide by all provisions of the Contract. If ODOT consents in Writing to an assignment, sale, disposal or transfer of the Contractor's rights or delegation of Contractor's duties, the Contractor and its surety, if any, shall remain liable to ODOT for complete performance of the Contract as if no such assignment, sale, disposal, transfer or delegation had occurred unless ODOT otherwise agrees in Writing.

Stat. Auth.: ORS 184.616, 184.619, 279A.050 & 279A.065

Stats. Implemented: ORS 279A.030, 279A.120, 279C.300, 279C.345, 279C.365, 279C.375, 279C.390, 279C.500 - 279C.870, 305.385, 701.005 & 701.055

Hist.: DOT 2-2005, f. 2-16-05, cert. ef. 3-1-05; DOT 4-2006, f. & cert. ef. 2-16-06; DOT 4-2007, f. & cert. ef. 5-23-07

731-005-0505

Electronic Procurement

(1) General. ODOT may utilize Electronic Advertisement of Public Improvement Contracts in accordance with ORS 279C.360, provided that advertisements of such Contracts with an estimated Contract Price in excess of \$125,000 are also published in a trade newspaper of general statewide circulation. ODOT may post notices of intent to award electronically as provided by ORS 279C.410.

(2) Alternative Procedures. In the event that ODOT desires to direct or permit the submission and receipt of Offers for a Public Improvement Contract by electronic means, as allowed under ORS 279C.365, it shall first promulgate supporting procedures substantially in conformance with OAR chapter 731 division 5, taking into account ORS Chapter 279C requirements for Written Bids, opening Bids publicly, Bid security, first-tier subcontractor disclosure and inclusion of prevailing wage rates.

(3) Interpretation. Nothing in this rule shall be construed as prohibiting ODOT from making procurement documents for Public Improvement Contracts available in electronic format as well as in hard copy when Bids are to be submitted only in hard copy.

(4) Electronic Procurement Authorized:

(a) ODOT may conduct all phases of a Procurement, including without limitation the posting of Electronic Advertisements and the receipt of Electronic Offers, by electronic methods if and to the extent ODOT specifies in a Solicitation Document, or any other Written instructions on how to participate in the Procurement;

(b) ODOT shall open an Electronic Offer in accordance with electronic security measures in effect at ODOT at the time of its receipt of the Electronic Offer. Unless ODOT provides procedures for the secure receipt of Electronic Offers, the Person submitting the Electronic Offer assumes the risk of premature disclosure due to submission in unsealed form;

(c) ODOT's use of electronic or digital Signatures shall be consistent with applicable statutes and rules. ODOT may limit the use of electronic methods of conducting a procurement as advantageous to the contracting agency;

(d) If ODOT determines that Bid or Proposal security is or will be required, ODOT shall not authorize Electronic Offers unless it has established methods for receipt of such security.

(5) Rules Governing Electronic Procurements. ODOT shall conduct all portions of an Electronic Procurement in accordance with OAR chapter 731 division 5, unless otherwise set forth in this rule.

(6) Preliminary Matters. As a condition of participation in an electronic Procurement ODOT may require potential Contractors to:

(a) Register with ODOT before the date and time on which ODOT will first accept Offers;

(b) Agree to the terms, conditions, or other requirements of a Solicitation Document; or

(c) Agree to terms and conditions governing the procurement, such as procedures that ODOT may use to attribute, authenticate or verify the accuracy of an Electronic Offer, or the actions that constitute an electronic or digital Signature.

(7) Offer Process. ODOT may specify that persons must submit an Electronic Offer by a particular date and time.

(8) Receipt of Electronic Offers:

(a) If ODOT permits Electronic Offers in the Solicitation Document, the Offeror may submit Electronic Offers in accordance with the Solicitation Document. ODOT shall not consider Facsimile or Electronic Offers unless authorized by the Solicitation Document;

(b) When ODOT conducts an electronic procurement that provides that all Electronic Offers must be submitted by a particular date and time, ODOT shall receive the Electronic Offers in accordance with OAR chapter 731 division 5;

(c) A person may withdraw an Electronic Offer at any time prior to the specified date and time in accordance with solicitation documents.

(9) Failure of the Electronic Procurement System. In the event of a failure of ODOT's Electronic Procurement System that interferes with the ability of Persons to submit Electronic Offers, protest or to otherwise participate in the procurement, the contracting agency may cancel the procurement in accordance with OAR 731-005-0730, or may extend the date and time for receipt of Electronic Offers by providing notice of the extension immediately after the Electronic Procurement System becomes available.

Stat. Auth.: ORS 184.616, 184.691, 279A.065

Stats. Implemented: ORS 279A.065 & ORS 279C.365

Hist.: DOT 4-2007, f. & cert. ef. 5-23-07

731-005-0520

Notice and Advertising Requirements; Posting

(1) Notice and Distribution Fee. ODOT shall furnish Notice as set forth in subsections (a) through (c) of this section, to a number of entities sufficient for the purpose of fostering and promoting competition. The Notice shall indicate where, when, how, and for how long the Solicitation Document may be obtained and generally describe the Work. The Notice may contain any other appropriate information. ODOT may charge a fee or require a deposit for the Solicitation Document. ODOT may furnish Notice using any method determined to foster and promote competition, including:

(a) Mailing Notice of the availability of Solicitation Documents ("Notice") to Entities that have expressed an interest in ODOT's procurements;

(b) Placing Notice on ODOT's Electronic Procurement System; or

(c) Placing Notice on ODOT's internet web site.

(2) Advertising. Pursuant to ORS 279C.360 and this rule, ODOT shall advertise every Solicitation for competitive Bids or competitive Proposals for a Public Improvement Contract, unless ODOT has exempted the Solicitation from the advertisement requirement as part of a competitive Bidding exemption under ORS 279C.335:

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(a) Unless ODOT publishes by Electronic Advertisement as permitted under subsection (b) of this section, ODOT shall publish the advertisement for Offers at least once in at least one newspaper of general circulation in the area where the Contract is to be performed and in as many additional issues and publications as ODOT may determine to be necessary or desirable to foster and promote competition;

(b) ODOT may publish by Electronic Advertisement;

(c) In addition to ODOT's publication required under subsection (a) or (b) of this section, ODOT shall also publish an advertisement for Offers in at least one trade newspaper of general statewide circulation if the Contract is for a Public Improvement with an estimated cost in excess of \$125,000;

(d) All advertisements for Offers shall set forth:

(A) The Public Improvement project;

(B) The scheduled Closing, that shall not be less than five Days after the date of the last publication of the advertisement;

(C) The date that Entities must file applications for prequalification if prequalification is a requirement and the class or classes of Work for which Entities must be prequalified;

(D) The nature of the Work to be performed or the goods to be purchased;

(E) The office where the Solicitation Documents may be reviewed;

(F) The name, title and address of ODOT person authorized to receive Offers;

(G) The scheduled Opening; and

(H) If applicable, that the Contract is for a Public Work subject to ORS 279C.800 to 279C.870 or the Davis-Bacon Act (40 U.S.C. 276(a)).

(3) Minority, Women and Emerging Small Business. ODOT shall provide timely notice of all solicitations to the Advocate for Minority, Women and Emerging Small Business if the estimated Contract Price exceeds \$5,000.

Stat. Auth.: ORS 184.616, 184.619, 279A.050 & 279A.065

Stats. Implemented: ORS 200.035 & 279C.360

Hist.: DOT 2-2005, f. 2-16-05, cert. ef. 3-1-05; DOT 4-2007, f. & cert. ef. 5-23-07

731-005-0530

Offer Preparation

(1) Instructions. An Offeror shall submit and Sign its Offer in accordance with the Solicitation Document. An Offeror shall initial and submit any correction or erasure to its Offer prior to the Opening in accordance with the requirements for submitting an Offer under the Solicitation Document.

(2) Forms. An Offeror shall submit its Offer on the form(s) provided in the Solicitation Document, unless an Offeror is otherwise instructed in the Solicitation Document.

(3) Documents. An Offeror shall provide ODOT with all documents and Descriptive Literature required under the Solicitation Document.

(4) Facsimile, EDI or Electronic Submissions. If the Solicitation Document permitted Facsimile, EDI or Electronic Offers under OAR 731-005-0470(3)(a)(D), an Offeror may submit its Offer by Facsimile, EDI or Electronic submissions. ODOT shall not consider Facsimile, EDI or Electronic Offers unless authorized by the Solicitation Document.

Stat. Auth.: ORS 184.616, 184.619, 279A.050 & 279A.065

Stats. Implemented: ORS 279C.365

Hist.: DOT 2-2005, f. 2-16-05, cert. ef. 3-1-05; DOT 4-2007, f. & cert. ef. 5-23-07

731-005-0540

Offeror Submissions

(1) Product Samples and Descriptive Literature. ODOT may require Product Samples or Descriptive Literature if it is necessary or desirable to evaluate the quality, features or characteristics of the offered items. ODOT will dispose of Product Samples, or return or make available for return Product Samples to the Offeror in accordance with the Solicitation Document.

(2) Identification of Offers:

(a) To ensure proper identification and handling, Offers shall be submitted in a sealed envelope appropriately marked or in the envelope provided by ODOT, whichever is applicable. If ODOT permits Facsimile or Electronic Offers in the Solicitation Document, the Offeror may submit and identify Facsimile or Electronic Offers in accordance with the Solicitation Document;

(b) ODOT is not responsible for Offers submitted in any manner, format or to any delivery point other than as required in the Solicitation Document.

(3) Receipt of Offers. The Offeror is responsible for ensuring ODOT receives its Offer at the required delivery point prior to the Closing, regardless of the method used to submit or transmit the Offer.

Stat. Auth.: ORS 184.616, 184.619, 279A.050 & 279A.065

Stats. Implemented: ORS 279C.365

Hist.: DOT 2-2005, f. 2-16-05, cert. ef. 3-1-05; DOT 4-2007, f. & cert. ef. 5-23-07

731-005-0550

Bid or Proposal Security

(1) Security Amount. If ODOT requires Bid or Proposal security, it shall be 10% of the Offeror's Bid or Proposal. ODOT shall not use Bid or Proposal security to discourage competition. ODOT shall expressly provide for any Bid or Proposal security in its Solicitation Document.

(2) Public Improvement Contracts. Unless ODOT has otherwise exempted a solicitation or class of solicitations from Bid or Proposal security pursuant to ORS 279C.390, ODOT shall require Bid or Proposal security for its solicitation of Offers for Public Improvements. ODOT may require Bid or Proposal security even if it has exempted a class of solicitations from Bid or Proposal security.

(3) Form of Bid or Proposal Security. Accompany each Proposal with a guaranty in the amount of 10% of the total amount of the Proposal. The guaranty shall be either a surety bond or security in the form of a cashier's check or certified check made payable to the "Oregon Department of Transportation." If a surety bond is submitted, use ODOT's standard Proposal bond form, which is included with the Proposal booklet. Submit the original of the bond with the surety company's seal affixed, or in the case of Electronic Offers, the bid bond may be submitted electronically:

(a) Acceptable surety companies are limited to those authorized to do business in the State of Oregon;

(b) ODOT shall return or release the Bid or Proposal security of all unsuccessful Offerors after a Contract has been executed and a performance bond provided (if such performance bond is required), or after all Offers have been rejected. ODOT may return the Bid or Proposal security of unsuccessful Offerors prior to award if the return does not prejudice Contract award and the security of at least the Bidders with the three lowest Bids, or the Proposers with the three highest scoring Proposals, is retained pending execution of a Contract;

(c) The Offeror shall forfeit Bid or Proposal security after award if the Offeror fails to Sign the Contract promptly and properly.

Stat. Auth.: ORS 184.616, 184.619, 279A.050 & 279A.065

Stats. Implemented: ORS 279C.365, 279C.380, 279C.385 & 279C.390

Hist.: DOT 2-2005, f. 2-16-05, cert. ef. 3-1-05; DOT 4-2007, f. & cert. ef. 5-23-07

731-005-0590

Pre-Opening Modification or Withdrawal of Offers

(1) Electronic Offers: Modifications or Withdrawals of Electronic Offers. Offeror may modify or withdraw an offer prior to closing time as instructed in the Solicitation documents. The most recent Offer will be the final Offer.

(2) Paper Offers:

(a) Modifications: An Offeror may modify its Offer in Writing prior to the Closing. An Offeror shall prepare and submit any modification to its Offer to ODOT in accordance with OAR 731-005-0530 and 731-005-0540, unless otherwise specified in the Solicitation Document. Any modification must include the Offeror's statement that the modification amends and supersedes the prior Offer. The Offeror shall mark the submitted modification as follows:

(A) Bid (or Proposal) Modification; and

(B) Solicitation Number (or Other Identification as specified in the Solicitation Document).

(b) Withdrawals:

(A) An Offeror may withdraw its Offer by Written notice submitted on the Offeror's letterhead, including the Offeror's Bid or Proposal document number if one has been assigned, Signed by an individual who is authorized to sign the Offer, delivered to the location specified in the Solicitation Document (or the place of Closing if no location is specified), and received by ODOT prior to the Closing. Proof of authorization to sign the Offer must accompany the withdrawal request. The Offeror or authorized representative of the Offeror may also withdraw its Offer in person prior to the Closing, upon presentation of appropriate identification and satisfactory evidence of authority;

(B) ODOT may release an unopened Offer, withdrawn under paragraph (A) of this subsection, to the Offeror or its authorized representative, after voiding any date and time stamp mark;

(C) The Offeror shall mark the Written request to withdraw an Offer as follows:

(i) Bid (or Proposal) Withdrawal; and

(ii) Solicitation Number (or Other Identification as specified in the Solicitation Document).

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(3) Documentation. ODOT shall include all documents relating to the modification or withdrawal of Offers in the appropriate solicitation file.

Stat. Auth.: ORS 184.616, 184.619, 279A.050 & 279A.065

Stats. Implemented: ORS 279A.065, 279C.360, 279C.365, 279C.375 & 279C.395

Hist.: DOT 2-2005, f. 2-16-05, cert. ef. 3-1-05; DOT 4-2007, f. & cert. ef. 5-23-07

Department of Transportation, Board of Maritime Pilots Chapter 856

Rule Caption: Amends training for licensure on the Columbia-Willamette River pilotage ground.

Adm. Order No.: BMP 2-2007

Filed with Sec. of State: 5-22-2007

Certified to be Effective: 5-22-07

Notice Publication Date: 1-1-07

Rules Amended: 856-010-0010

Subject: Amends 856-010-0010(4)(c) only. The permanent filing is for fixing an inadvertent text error made in the previous filing.

Rules Coordinator: Susan Johnson—(971) 235-1530

856-010-0010

Original Licensing Requirements

In addition to the qualifications required for licensing of pilots under ORS 776, the applicant shall:

(1) Present an application in writing to the administrator of the board on the form provided by the board for the pilotage ground for which the applicant intends to become licensed. The application shall be filed not less than 30 days prior to appearance before the board for a written examination and may be supplemented at any time until the examination is taken. The board shall consider the application and upon approval, the written examination will be scheduled. The examination shall be proctored by the board's administrator. The examination for each pilotage ground shall be prepared by the board with the assistance of the board's licensed training organization for that pilotage ground. The examination will test for skill and knowledge of those factors identified in ORS 776.035(2) and 776.325(1)(b). The examination will be graded by the board member from the pilotage ground for which the applicant is seeking a license. If requested by the training course monitor, up to two additional pilots selected by the training course monitor and approved by the board may participate with the board member in grading the exam. The examination will be pass/fail.

(2) Accompany the application with a physical examination form provided by the Board and signed by an Oregon licensed physician verifying that the applicant meets the physical and mental criteria in subsections (a) through and including (l):

(a) Eyesight: Has visual acuity of at least 20/200 in each eye uncorrected and correctable to at least 20/40 in each eye as determined by Snellen test or its equivalent unless applicant qualified for a waiver from the Officer in Charge, Marine Inspection, or the Commandant, U.S. Coast Guard. Vision correctable to 20/40 in each eye is sufficient to satisfy the requirements of this subsection if the applicant carries a spare pair of correcting lenses while performing piloting duties;

(b) Color perception: Has normal color vision per pseudo isochromatic plates, Ishihara or Keystone test. If the applicant fails this test, the Farnsworth or Williams Lantern tests or their equivalent may be used to determine the applicant's ability to distinguish primary colors;

(c) Hearing: An audiometer test is only required if the applicant has, or is suspected to have, impaired hearing. A hearing loss of over 40 decibels is considered impaired hearing;

(d) Heart: Has no current clinical diagnosis of myocardial infarction, angina pectoris, coronary insufficiency, thrombosis, or any other cardiovascular disease of a variety known to be accompanied by syncope, dyspnea, collapse, or congestive cardiac failure;

(e) Blood pressure: Has no current clinical diagnosis of high blood pressure. Blood pressure shall be recorded with either spring or mercury column type of sphygmomanometer. If the blood pressure is consistently above 160/90 mm. Hg, further tests may be necessary to determine whether the applicant is qualified to pilot a vessel;

(f) Has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control;

(g) Has no established medical history or clinical diagnosis of a respiratory dysfunction;

(h) Has no established medical history or clinical diagnosis of rheumatic, arthritic, orthopedic muscular, neuromuscular, or vascular disease;

(i) Has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness;

(j) Has no mental, nervous, organic, or functional disease or psychiatric disorder;

(k) Has submitted to a test indicating the applicant is free of illegal substance abuse. Testing will be for the presence of Cocaine, Opiates, Marijuana (THC), Amphetamines and PCP (phencyclidine). Testing will be in accordance with the Department of Transportation (Coast Guard) guidelines outlined in the Code of Federal Regulations 46, CFR § 16 (1994). Urine specimens are to be analyzed by a laboratory that meets DHHS regulations set forth by the National Institute of Drug Abuse (NIDA); and

(l) Has no current clinical diagnosis of alcoholism, unless the applicant has completed an in-patient program of rehabilitation and treatment under the care of a physician;

(m) Based on information on the physical examination form, and any other medical information or opinions provided to the Board by the applicant, the Board will determine whether the applicant's health is satisfactory for performance of the duties of a maritime pilot.

(3) Have actual experience as a pilot handling ships over the pilotage ground for which a state license is sought and state in the application the names of ships piloted, dates, draft, gross tonnage, and length over all, as specified in (but not limited to) (4), (5), (6) and/or (7) in this section, and:

(a) Hold a valid license as Master endorsed for Radar Observer issued by the U.S. Coast Guard;

(b) Hold an unlimited federal pilot's endorsement for the ground for which a state license is sought; and

(c) Have served at least two years as Master aboard vessels, or when applying for a license over the Columbia and Willamette River pilotage ground, have completed a program of apprenticeship training which has been approved by the Board.

(4) In addition to the requirements in OAR 856-010-0010(1), (2), (3), to qualify for a Grade "C" license over the Columbia and Willamette River pilotage ground, the applicant shall, prior to taking the board's examination required under section (1) above:

(a) Have served at least 730 active working days as captain of towing vessels on the Columbia River and its tributaries, or have completed a program of apprenticeship training which has been approved by the Board, as specified in OAR 856-010-0014;

(b) Complete at least six trips under the supervision of an unlimited state-licensed pilot within 270 days preceding the examination while on the bridge of a ship of not less than 500 feet length over-all (L.O.A.) through the bridges in the upper harbor in Portland, up to and including the Broadway Bridge, which shall be made with and without the aid of a tug or towboat, including at least one trip in each direction, and also including at least six ship turns in the Willamette River;

(c) Complete at least 110 transits while on the bridge of a ship of not less than 500 feet L.O.A. within the six months preceding the examination, with at least 70 of these transits made under the supervision of an unlimited state-licensed pilot and at least 80 of the transits completed within 150 days after the first transit is completed;

(d) When combining trip segments to establish a transit, each trip segment may be used only once;

(e) Complete at least six trips under the supervision of an unlimited state-licensed pilot within the 270 days preceding the examination while on the bridge of a ship of not less than 500 feet L.O.A. in a combination of the following directions, with at least three trips in each direction:

(A) From the Willamette River, turning east (upstream) into the Columbia River; and

(B) From the Columbia River upstream of the mouth of the Willamette River, turning south into the Willamette River.

(f) Complete at least 10 trips in either direction between Astoria and Longview or Kalama under the supervision of an unlimited state-licensed pilot;

(g) Train at least 35 additional days as directed by the training course monitor, with assignments chosen at the discretion of the training course monitor that may include, but need not be limited to, shipboard training, electronic navigation training, manned model training, attendance at meetings with maritime-related governmental agencies or exposure to maritime related administrative activities;

(h) Present recommendations from the training course monitor and from at least ten unlimited state-licensed pilots who participated in the training, certifying that the applicant has demonstrated sufficient knowledge and shiphandling skills to pilot ocean-going ships up to 570 feet L.O.A. on the pilotage ground.

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(5) When applying for a license on the Coos Bay bar pilotage ground, the applicant shall:

(a) Hold a valid license as Master endorsed for Radar Observer issued by the U.S. Coast Guard and shall have served at least two years as Master aboard vessels;

(b) Obtain an unlimited federal pilots endorsement for the Coos Bay bar pilotage ground;

(c) Complete at least one hundred (100) crossings of the Coos Bay bar while under the supervision of an unlimited state-licensed Coos Bay bar pilot, with at least ten crossings with each unlimited state-licensed Coos Bay bar pilot and with at least 25 of the bar crossings completed during hours of darkness;

(d) Dock and undock at least 25 ships under the supervision of an unlimited state-licensed pilot;

(e) Make at least 25 trips through each of the bridges; and

(f) Submit letters from each of the Coos Bay bar pilots who have supervised the training of the applicant, certifying that the applicant has demonstrated local knowledge of the pilotage ground and shiphandling skills sufficient to pilot ocean-going ships on the pilotage ground.

(6) When applying for a license on the Yaquina Bay bar pilotage ground the applicant shall:

(a) Hold a valid license as Master endorsed for Radar Observer issued by the U.S. Coast Guard and shall have served at least two years as Master aboard vessels;

(b) Obtain an unlimited federal pilots endorsement for the Yaquina Bay bar pilotage ground;

(c) Complete at least one hundred (100) crossings of the Yaquina Bay bar while under the supervision of an unlimited state-licensed Yaquina Bay bar pilot, or after completing one year of piloting with a state license in Coos Bay, the number of bar crossings at Yaquina Bay may be reduced to 12, with at least one such crossing with each unlimited state-licensed Yaquina Bay bar pilot and with at least twenty-five percent (25%) of the bar crossings completed during the hours of darkness;

(d) Dock and undock at least 25 ships under the supervision of an unlimited state-licensed Yaquina Bay bar pilot, or after completing one year of piloting with a state license in Coos Bay, the number of dockings and undockings may be reduced to 12;

(e) Make at least twenty-five (25) trips through the bridge, or after completing one year of piloting with a state license in Coos Bay, the number of trips may be reduced to 12; and

(f) Submit letters from each of the Yaquina Bay bar pilots who have supervised training of the applicant, certifying that the applicant has demonstrated local knowledge of the pilotage ground and shiphandling skills sufficient to pilot ocean-going ships on the pilotage ground.

(7) When applying for an original license on the Columbia River bar pilotage ground the applicant shall:

(a) Hold a valid license issued by the U.S. Coast Guard as "Unlimited Master any oceans — any tonnage", endorsed for Radar Observer;

(b) Have served at least two years as Master of an offshore merchant ship of 5,000 gross tons or more, certified by Certificates of Discharge or Continuous Discharge Book;

(c) Obtain a federal pilot's endorsement for the Columbia River bar pilotage ground, after which a minimum of one hundred (100) crossings of the Columbia River bar shall be made under the supervision of an unlimited state-licensed Pilot, and make crossings with at least five unlimited state-licensed Columbia River bar pilots;

(d) Be on board a minimum of ten ships docking or undocking from the Astoria Port Docks, Tongue Point, and other facilities;

(e) Make approximately twenty-five percent (25%) of the crossings of the Columbia River bar during the hours of darkness.

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

Stat. Auth.: ORS 776.115

Stats. Implemented: ORS 776.115, 776.300

Hist.: PC 1, f. 10-29-57, ef. 7-1-57; PC 7, f. 6-13-73, ef. 7-15-73; MP 2-1984, f. & ef. 10-4-84; MP 3-1988, f. & cert. ef. 11-9-88; MP 1-1992, f. & cert. ef. 4-29-92; MP 3-1995, f. & cert. ef. 3-16-95; MP 1-1996, f. & cert. ef. 5-9-96; BMP 2-1999, f. & cert. ef. 6-24-99; BMP 3-2001, f. & cert. ef. 10-30-01; BMP 1-2003, f. & cert. ef. 2-26-03; BMP 3-2006, f. 9-29-06, cert. ef. 10-1-06; BMP 1-2007, f. 1-25-07, cert. ef. 1-26-07; BMP 2-2007, f. & cert. ef. 5-22-07

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

Rule Caption: Renewal of Driver License, Identification Card and Commercial Driver License.

Adm. Order No.: DMV 4-2007

Filed with Sec. of State: 5-24-2007

Certified to be Effective: 6-5-07

Notice Publication Date: 4-1-07

Rules Amended: 735-062-0090, 735-062-0200

Subject: DMV amended these rules to strengthen its driver license and identification card issuance process. Previously DMV allowed a person to renew a driver's license or identification card if the expiration date was within the next 13 months. State and federal driver licensing and identification card requirements will change significantly over the next few years to provide better security and identity measures in the issuance process. Allowing applicants to renew 13 months before expiration would have allowed many people to obtain an eight-year driver license or ID card that would circumvent the new requirements. Reducing the allowable renewal period to four months before expiration will remove much of this opportunity and strengthen DMV's security and identity measures in issuing driver licenses and identification cards. The amendment to OAR 735-062-0090 deletes language that exempts an applicant who renews a license by mail from providing proof of residence address. DMV no longer issues license renewals by mail.

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

Rules Coordinator: Lauri Salisbury—(503) 986-3171

735-062-0090

Renewal Driver Licenses and Identification Cards

(1) The Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) will renew the driver license of a person satisfying the requirements set forth in ORS 807.150.

(2) An applicant for the renewal of a driver license or identification card must present to DMV proofs of age and/or identity as set forth in OAR 735-062-0020.

(3) An applicant for the renewal of a driver license or identification card that includes a change of residence address must present to DMV one of the proofs of residence address listed in OAR 735-062-0030 that shows the person's current residence address. (Current residence address is the residence address to be included on the license or identification card to be issued.)

(4) DMV may renew an unexpired driver license or identification card up to four months prior to the expiration date.

(5) If a driver license has been expired more than one year, the applicant must re-apply for an original driver license and meet the requirements set forth in OAR 735-062-0000.

(6) An applicant for a renewal of a commercial driver license with a hazardous materials endorsement must retake and pass the hazardous materials knowledge test and meet the requirements set forth in OAR 735-062-0190 to retain the hazardous materials endorsement on the commercial driver license.

(7) An applicant for a renewal of a commercial driver license must meet the requirements set forth in OAR 735-074-0290.

(8) Before processing a driver license renewal, DMV will make an inquiry to the National Driver Register/Problem Driver Pointer System (NDR/PDPS) or the Commercial Driver License Information System (CDLIS), or both, to determine if the applicant's driving privileges are suspended, revoked, canceled or otherwise not valid in any other jurisdiction. Before processing a commercial driver license (CDL) renewal, DMV will make an inquiry to CDLIS to determine if the applicant has been issued a CDL in any other jurisdiction.

(9) If the applicant's driving privileges are suspended, revoked, canceled or otherwise not valid in any other jurisdiction, the applicant may not renew an Oregon driver license until the applicant submits a clearance letter that complies with OAR 735-062-0160 and shows the applicant's driving privileges are reinstated or otherwise valid in the other jurisdiction.

(10) Notwithstanding section (9) of this rule, DMV will renew the driving privileges of an applicant whose driving privileges are suspended, revoked, canceled or otherwise not valid in another jurisdiction if the only remaining reinstatement requirement in the other jurisdiction is proof of future financial responsibility.

(11) DMV will not renew an Oregon driver license or permit if the applicant has a current, valid Oregon identification card. To become eligible, the person must surrender the Oregon identification card before DMV will renew the Oregon driver license or permit. If the person's identifica-

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tion card is lost or the person no longer has the identification card in his or her possession, the person must provide a statement attesting to this fact.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 802.012 & 807.040
Stats. Implemented: ORS 802.012, 802.540, 807.040 - 807.060, 807.100, 807.150 & 807.400
Hist.: MV 14-1987, f. 9-21-87, ef. 9-27-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0009; MV 14-1992, f. & cert. ef. 10-16-92; MV 16-1992, f. & cert. ef. 12-16-92; DMV 11-1998, f. & cert. ef. 9-14-98; DMV 21-2004(Temp), f. & cert. ef. 10-1-04 thru 3-29-05; DMV 2-2005, f. 1-20-05, cert. ef. 1-31-05; DMV 4-2007, f. 5-24-07, cert. ef. 6-5-07

735-062-0200

Conversion From Another Jurisdiction's Commercial Driver License

(1) The Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) will require an applicant for a commercial driver license in this state who currently holds a CDL issued by another jurisdiction to:

(a) Take and pass the Class C knowledge test and a vision screening; and

(b) Take and pass the pre-trip inspection, drive test and knowledge test required, if the person applies for a higher class license.

(2) DMV may waive the drive tests or knowledge tests, except the Class C knowledge test and the hazardous materials endorsement knowledge test, if the applicant applies for a license equal to the CDL the applicant has been issued by another jurisdiction and the CDL has not been expired for more than one year.

(3) DMV may require any applicant to take a knowledge or drive test prior to issuing a CDL.

(4) When a person has surrendered his or her Oregon CDL to obtain a CDL from another jurisdiction, DMV may replace or renew the Oregon CDL without requiring a drive test or knowledge test if:

(a) The applicant has moved back to Oregon and can provide proof of residence address in Oregon; and

(b) The Oregon CDL is not currently expired, or if expired, has not been expired for more than one year. Rather than issue a replacement CDL, DMV will renew the Oregon CDL if it is due to expire within the next four months.

(5) DMV will not renew an Oregon CDL unless the applicant meets the requirements of OAR 735-062-0090 and 735-074-0290.

(6) DMV will submit an inquiry through the Commercial Driver License Information System (CDLIS) and the National Driver Register (NDR)/ Problem Driver Pointer System (PDPS) before issuing, replacing or renewing an Oregon CDL. DMV will not issue, replace or renew an Oregon CDL if the inquiry shows:

(a) The applicant has a current and valid CDL, issued by another jurisdiction unless the CDL is surrendered to DMV or the applicant certifies it has been lost or destroyed;

(b) The applicant's driving privileges are suspended, revoked or canceled in another jurisdiction; or

(c) The applicant is disqualified from operating a commercial motor vehicle in another jurisdiction.

(7) The driving record of the applicant from another jurisdiction will become a part of the Oregon driving record as provided in OAR 735-062-0210.

(8) A person whose driving privileges have been suspended, revoked, or canceled in another jurisdiction or who has been disqualified from operating a commercial motor vehicle in another jurisdiction, must be eligible for valid driving privileges in the other jurisdiction before an Oregon CDL may be issued. When the person is eligible for valid driving privileges in the other jurisdiction, he or she may ask that DMV check CDLIS and NDR/PDPS to verify the eligibility.

Stat. Auth.: ORS 184.616, 184.619, 807.045, 807.050 & 807.070
Stat. Implemented: ORS 807.045
Hist.: MV 6-1990, f. & cert. ef. 4-2-90; MV 14-1992, f. & cert. ef. 10-16-92; MV 12-1993, f. 10-22-93, cert. ef. 11-4-93; DMV 16-2003, f. & cert. ef. 11-18-03, Renumbered from 735-060-0015; DMV 2-2005, f. 1-20-05, cert. ef. 1-31-05; DMV 4-2007, f. 5-24-07, cert. ef. 6-5-07

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

Adm. Order No.: DMV 5-2007

Filed with Sec. of State: 5-24-2007

Certified to be Effective: 8-1-07

Notice Publication Date: 4-1-07

Rules Adopted: 735-062-0092, 735-062-0094

Rules Amended: 735-062-0000, 735-062-0010, 735-062-0030

Subject: ORS 807.024 requires the collection of biometric data, the verification of a person's identity using the biometric data, and the

mailing of an applicant's driver license, driver permit or identification card once the person's identity has been established. ORS 807.024 becomes fully operative on July 1, 2008 and DMV will begin mailing driver licenses, driver permits and identification cards in August 2007 to be better prepared for the remaining changes that will occur in 2008. 2005 Oregon Laws, Chapter 775, Section 18 allows DMV to take any action necessary to implement ORS 807.024 before its operative date. DMV will first conduct a pilot of these changes in a few offices and later to phase in the changes statewide. It may take 7-10 weeks from the first introduction of the mailing of driver licenses, driver permits and identification cards before all DMV field offices have changed to the new issuance process.

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

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

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

Rules Coordinator: Lauri Salsbury—(503) 986-3171

735-062-0000

Driver Permits or Driver Licenses

(1) Before the Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) will issue a driver permit or driver license, the person applying for the driver permit or driver license must:

(a) Satisfy all requirements set forth in ORS 807.040 and 807.060(2)(a) if under the age of 18. For purposes of ORS 807.060 and this subsection:

(A) Mother means the biological or adoptive mother of the applicant;

(B) Father means the biological or adoptive father of the applicant; and

(C) Legal guardian means an individual, or the authorized representative of an entity, private or public institution or agency appointed as guardian of the applicant by a court having jurisdiction.

(b) Satisfy all requirements set forth in ORS 807.065 and 807.066 to receive a driver license (provisional) if under 18 years of age;

(c) Present to DMV documentary proof of the person's age and identity as described in OAR 735-062-0020;

(d) Present to DMV documentary proof of the person's residence address as described in OAR 735-062-0030;

(e) Present to DMV proof, as described in OAR 735-016-0070, that the person is domiciled in or a resident of Oregon;

(f) Surrender to DMV all driver permits and driver licenses in the person's possession that have been issued by:

(A) Another state;

(B) A Canadian province or territory; or

(C) A U.S. territory.

(g) In addition to all requirements in subsections (a) through (f) of this section, a person who holds a commercial driver license from another jurisdiction must satisfy all requirements set forth in ORS 807.045 and OAR 735-062-0200.

(2) A person is not eligible for driving privileges under ORS 807.060(4) or (5) and DMV will not issue or renew driving privileges or replace a driver license or driver permit if on an application for driving privileges or a replacement license or permit a person:

(a) Answers yes to the question "Do you have a vision condition or impairment that has not been corrected by glasses, contacts or surgery that affects your ability to drive safely?" and the person is unable to pass a DMV vision screening;

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(b) Answers yes to the question "Do you have any physical or mental conditions or impairments that affect your ability to drive safely?"

(c) Answers yes to the question "Do you use alcohol, inhalants, or controlled substances to a degree that affects your ability to drive safely?"

(3) A person who is denied issuance or renewal of driving privileges or replacement of a driver license or driver permit under section (2) of this rule will be allowed to establish or reestablish eligibility by passing DMV examinations under ORS 807.070, by getting a certificate of eligibility from the State Health Officer under ORS 807.090 or both, as determined by DMV. The requirement may be waived if DMV determines the application was completed in error and the person is eligible for driving privileges.

(4) Upon receipt of an application for a driver license or driver permit, DMV will make an inquiry to the National Driver Register/Problem Driver Pointer System (NDR/PDPS) or the Commercial Driver License Information System (CDLIS) or both to determine if the applicant's driving privileges are suspended, revoked, canceled or otherwise not valid in any other jurisdiction. For issuance of a commercial driver license (CDL), DMV will also make an inquiry to CDLIS to determine if the applicant has been issued a CDL in another jurisdiction.

(5) DMV may require the applicant to provide a clearance letter in compliance with OAR 735-062-0160, indicating the applicant has valid driving privileges from any jurisdiction in which an inquiry with the National Driver Register/Problem Driver Pointer System (NDR/PDPS) or the Commercial Driver License Information System (CDLIS) or both indicates the applicant's driving privilege is not fully valid.

(6) DMV will not issue driving privileges to a person until his or her driving privilege is reinstated in all jurisdictions, unless the only remaining reinstatement requirement in the other jurisdiction is proof of financial responsibility. Nothing in this section prohibits DMV from issuing a regular Class C driver license to a person whose CDL driving privileges are not valid as long as the person's regular Class C or equivalent driving privileges are valid.

(7) DMV will not issue a driver license or permit to a person with a current, valid Oregon identification card (ID card). To become eligible, the person must surrender the ID card before DMV may issue the Oregon driver license or permit. If the person's ID card is lost or destroyed, the person must make a statement that the card is lost or destroyed and that it will be returned to DMV if found.

(8) A driver license of an applicant with a February 29 birth date expires:

- (a) On February 29 if the expiration year is a leap year; or
- (b) On March 1 if the expiration year is not a leap year.

(9) After determining that an applicant has met all requirements under this rule, DMV will issue the license or permit and mail it to the address provided by the applicant at the time of the application.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.040, 807.050, 807.060, 807.120, 809.310
Stats. Implemented: ORS 807.040, 807.060 & 807.066
Hist.: MV 14-1987, f. 9-21-87, ef. 9-27-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0000; MV 6-1990, f. & cert. ef. 4-2-90; MV 14-1992, f. & cert. ef. 10-16-92; MV 16-1992, f. & cert. ef. 12-16-92; DMV 12-2000, f. & cert. ef. 9-21-00; DMV 3-2003, f. & cert. ef. 4-21-03; DMV 2-2005, f. 1-20-05, cert. ef. 1-31-05; DMV 27-2005, f. 12-14-05 cert. ef. 1-1-06; DMV 5-2007, f. 5-24-07, cert. ef. 8-1-07

735-062-0010

Identification Cards

(1) Pursuant to ORS 807.400, the Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) will issue an identification card to any person who does not have a valid driver license.

(2) Before DMV will issue an identification card, the person applying for the identification card must:

(a) Satisfy all identification card requirements set forth in ORS 807.400 and 807.410, except as described under section (7) of this rule;

(b) Present to DMV documentary proof of the person's age and identity as described in OAR 735-062-0020; and

(c) Present to DMV documentary proof of the person's residence address as described in OAR 735-016-0070 and 735-062-0030.

(3) Identification cards issued to persons for whom DMV has created an Oregon driving record will reflect the same number as that on the existing record.

(4) An applicant in possession of a driver license issued by another jurisdiction must surrender that license to DMV before an identification card will be issued. The person must provide a statement to DMV if the person's license is lost, destroyed or the person no longer has the license in his or her possession, and must agree that the license will be surrendered to DMV if found.

(5) Applicants for an identification card must personally apply at a DMV office to receive an identification card.

(6) All identification cards must include a photograph of the cardholder.

(7) DMV will waive the fee requirements set forth in ORS 807.410 for those persons applying for an identification card when:

(a) The person voluntarily surrenders an Oregon license or driver permit to DMV based upon the person's recognition that the person is no longer competent to drive; or

(b) The person's driving privileges are suspended under ORS 809.419(1) and the person voluntarily surrenders the person's license or driver permit to DMV.

(8) An identification card of an applicant with a February 29 birth date expires:

- (a) On February 29 if the expiration year is a leap year; or
- (b) On March 1 if the expiration year is not a leap year.

(9) The issuance of an identification card does not constitute proof of legal presence in the United States.

(10) After determining that an applicant has met all requirements under this rule, DMV will issue the identification card and mail it to the address provided by the applicant at the time of application.

Stat. Auth.: ORS 184.616, 184.619, 807.040, 807.050 & 807.400
Stats. Implemented: ORS 807.400

Hist.: MV 14-1987, f. 9-21-87, ef. 9-27-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0003; MV 19-1990, f. 12-17-90, cert. ef. 1-1-91; DMV 12-2000, f. & cert. ef. 9-21-00; DMV 24-2001, f. 12-14-01, cert. ef. 1-1-02; DMV 5-2007, f. 5-24-07, cert. ef. 8-1-07

735-062-0030

Proof of Residence Address

(1) The Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) requires all applicants for an original driver permit, driver license, or identification card to present to DMV at least one document showing the applicant's name and current residence address. Current residence address is the address where the applicant actually lives, and DMV will include this address on the permit, license, or identification card. Acceptable documents include any of the items listed in section (3) of this rule.

(2) DMV requires all applicants who apply for a renewal or replacement driver permit, driver license, or identification card at a DMV field office to present to DMV at least one document showing the applicant's current residence address if the applicant's address has changed since the last time the driver permit, driver license or identification card was issued or renewed. Acceptable documents include any of the items listed in section (3) of this rule.

(3) Proof of residence address includes any of the following documents that show the applicant's current residence address:

(a) Any one of the proofs of identity listed in OAR 735-062-0020(10) or (11).

(b) Mortgage documents.

(c) A statement from the parent, step-parent or guardian of an applicant attesting to the applicant's residence address. The parent, step-parent or guardian must reside at the same address as the applicant and sign a statement attesting to the applicant's residence address. In addition, the parent, step-parent or guardian must present one acceptable proof of address document as set forth in this rule that shows the current residence address of the applicant.

(d) A statement of the applicant's spouse. The spouse must reside at the same residence as the applicant and sign a statement attesting to the applicant's residence address. In addition, the spouse must present one other acceptable proof of address document as set forth in this rule that shows the current residence address of the applicant.

(e) Utility hook-up order.

(f) Payment booklet.

(g) Mail that is dated within 60 days of the application for the license, permit or identification card. DMV will accept mail from the following sources:

(A) Credit card companies;

(B) U.S. Treasury;

(C) Social Security Administration;

(D) State or Federal Revenue Department;

(E) Government agencies;

(F) Utility companies;

(G) Financial institutions;

(H) Insurance companies; and

(I) Originators of out-of-state clearance letter.

(h) Oregon vehicle title or registration documents.

(i) Oregon manufactured structure ownership documents.

(j) Oregon voter registration card.

ADMINISTRATIVE RULES

- (k) Selective Service card.
- (l) Medical or health benefits card.
- (m) Educational institution transcript forms or other school documents showing enrollment for the current school year.
- (n) An unexpired professional license issued by an agency in the United States.
- (o) Form DS2019, Certificate of Eligibility for Exchange Visitor (J-1) Status.

(p) Letter from a caseworker at a homeless shelter verifying that the applicant resides at the shelter address.

(4) If the applicant does not have a residence address, DMV may accept a descriptive address with a mailing address. DMV may require the applicant to provide proof that no residence address has been assigned to the property. Such proof may include, but is not limited to, a statement from the U.S. Postal Service or from the Assessor's office in the county in which the property is located.

(5) An applicant who is homeless may use a descriptive address of the location where he/she actually resides, e.g., "under the west end of Burnside Bridge." The applicant must prove that he or she is a resident or domiciled in Oregon pursuant to OAR 735-016-0040. In addition to the descriptive address, the applicant also must provide a mailing address.

(6) An applicant who travels continuously may use a descriptive address of "continuous traveler." The applicant must prove that he or she is a resident or domiciled in Oregon pursuant to OAR 735-016-0040. In addition to the descriptive address, the applicant also must provide a mailing address.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.050, 807.150 & 807.400
Stats. Implemented: ORS 807.110, 807.160 & 807.400
Hist.: MV 14-1987, f. 9-21-87, ef. 9-27-87; March 1988, Renumbered from 735-031-0017; DMV 2-1995, f. & cert. ef. 2-10-95; DMV 12-1997, f. & cert. ef. 11-17-97; DMV 34-2003(Temp), f. 12-15-03 cert. ef. 1-1-04 thru 6-28-04; DMV 5-2004, f. & cert. ef. 3-25-04; DMV 21-2004(Temp), f. & cert. ef. 10-1-04 thru 3-29-05; DMV 8-2005, f. & cert. ef. 2-16-05; DMV 16-2005(Temp), f. & cert. ef. 6-17-05 thru 12-13-05; DMV 23-2005, f. & cert. ef. 11-18-05; DMV 9-2006, f. & cert. ef. 8-25-06; DMV 5-2007, f. 5-24-07, cert. ef. 8-1-07

735-062-0092

Mailing Driver Licenses, Driver Permits and Identification Cards

(1) The Driver and Motor Vehicle Services Division of the Oregon Department of Transportation (DMV) will mail a driver license, driver permit or identification card to the address provided by the applicant at the time of application.

(2) The delivery of the driver license, driver permit or identification card may be expedited if:

- (a) The person requests expedited service at time of application;
- (b) DMV determines that there is an opportunity to pull the license out of the normal mailing process in order to expedite delivery and otherwise approves the request; and
- (c) The person pays additional monies to cover the cost of special handling and shipping.

Stat. Auth.: ORS 184.616, 184.619, 802.010, Ch. 775, OL 2005
Stats. Implemented: ORS 807.310, Ch. 775, OL 2005
Hist.: DMV 5-2007, f. 5-24-07, cert. ef. 8-1-07

735-062-0094

Interim Cards

(1) For purposes of this rule:

(a) "Interim identification card" means an applicant temporary identification card under 2005 Oregon Laws, Chapter 775, Section 10.

(b) "Interim driver card" means an applicant temporary driver permit under ORS 807.310 that grants the privilege of a commercial driver license, non-commercial driver license or driver permit with or without endorsement(s) depending on what the applicant has applied and qualified for.

(2) Once an applicant has met all requirements set forth in ORS 807.040 the Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) will issue an interim driver card for the applicant to use until the interim is invalid as described in section (5) of this rule.

(3) Once an applicant has met all requirements set forth in ORS 807.400 DMV will issue an interim identification card for the applicant to use until the interim is invalid as described in section (5) of this rule.

(4) DMV will issue an interim driver card or interim identification card for a period not to exceed 30 days.

(5) An interim driver card or interim identification card is invalid when:

- (a) The driver license, driver permit or identification card is received in the mail;
- (b) Driving privileges or rights to an identification card have been suspended, cancelled or revoked; or
- (c) The interim driver card or interim identification card expires.

(6) A holder of an interim driver card must have the interim driver card on the holder's person while operating a motor vehicle. The interim driver card will indicate the class of license granted and any endorsements granted.

Stat. Auth.: ORS 184.616, 184.619, 802.010, Ch 775, OL 2005
Stats. Implemented: ORS 807.310, Ch 775, OL 2005
Hist.: DMV 5-2007, f. 5-24-07, cert. ef. 8-1-07

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

Adm. Order No.: DMV 6-2007

Filed with Sec. of State: 5-24-2007

Certified to be Effective: 9-1-07

Notice Publication Date: 4-1-07

Rules Amended: 735-062-0040

Subject: OAR 735-062-0040 specifies that a person may not cheat on a knowledge test. As amended, the rule specifies that an applicant may not obtain an answer from another person. If a person is caught cheating on a knowledge test, the test will be stopped and recorded as an automatic failure and the person must wait 90 days before taking another test. The rule provides that a person determined by DMV to be cheating may request an administrative review of that determination. The rule amendment also authorizes DMV to waive the waiting period if it will impose an extreme hardship on the person. DMV will visibly publicize the sanction through signage in field offices and notification on the tests with the intent of stopping people from cheating during the knowledge test. Other changes clarify and update the rule language.

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

Rules Coordinator: Lauri Salisbury—(503) 986-3171

735-062-0040

Knowledge Test

(1) Applicants for an original driver permit or license must pass the knowledge test required under ORS 807.070(2) and, if applicable, ORS 807.065(1)(b).

(2) The knowledge test will be specific to the class of license sought. The test will examine the applicant's knowledge and understanding of traffic laws, safe driving practices and factors that cause accidents.

(3) The knowledge test is closed book. During the test an applicant is not allowed to use any study guides, manuals, notes, electronic devices or any other items to assist the applicant in obtaining answers to the test questions. During the test an applicant may not obtain an answer to any test question from another person.

(4) The first knowledge test for a driver license, permit or endorsement may be conducted the day the applicant becomes eligible for the test. If the applicant fails the first knowledge test, additional tests shall be conducted, as needed, with the following frequency:

(a) A second test may be conducted on any day after the day of the first test;

(b) A third test may be conducted on any day after the day of the second test;

(c) A fourth test may be conducted on any day after the third test;

(d) A fifth test may be conducted no sooner than 28 days after the fourth test; and

(e) Any subsequent test may be conducted no sooner than 28 calendar days after the previous test.

(5) If a compelling reason is shown the Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) may waive the waiting period for a knowledge test required by section (4) of this rule. Reasons for waiving the waiting period include, but are not limited to:

(a) The person can demonstrate he or she failed the test due to a cognitive or functional impairment. A statement from the person's doctor describing how the impairment affects the person's ability to pass a knowledge test is required;

(b) The person can demonstrate that failure to pass the test will result in loss of his or her job or a job opportunity;

(c) The person was not given an oral test when an oral test was requested; or

(d) The person requested but was not given the test in his/her native language and the test is available in the language requested.

ADMINISTRATIVE RULES

(6) The waiting period between knowledge test failures is determined by the number of times an applicant fails a specific type of test. For example, the failure of a Class C driver license knowledge test and a Class A commercial driver license knowledge test the same day is considered as one test failure for each knowledge test, not two failures.

(7) An applicant is cheating on a knowledge test if during the test a DMV employee observes behaviors such as, but not limited to, the following:

(a) The applicant clearly using notes, a study guide, a copy of the test, or any other kind of written material that may provide the answer to a test question.

(b) The applicant clearly using an electronic device with the capability for sound, email, text messages, web access including, but not limited to, a cellular phone, personal digital assistant or wireless handheld device.

(c) The applicant clearly obtaining answers to test questions from another person, either verbally or through the use of any type of physical gesture or signal.

(8) DMV will determine that the applicant is cheating if a DMV office manager, office team leader, or designee confirms the observation of the DMV employee as described in section (7) of this rule. If DMV determines that an applicant is cheating DMV will stop the test and record a failing score.

(9) Except as otherwise provided in this section, if DMV stops a test because of cheating, the applicant must wait 90 days before he or she may take a subsequent knowledge test. DMV may waive the 90-day waiting period required under this section if the person provides proof the waiting period creates an extreme hardship. The person must provide evidence of the hardship such as, but not limited to:

(a) A statement from an employer that the person's inability to obtain driving privileges or an endorsement will result in the loss of a job or of a job opportunity because the job requires driving a motor vehicle; or

(b) A statement from a physician that the person or a member of the person's immediate family is in need of regular medical treatment and that there is no alternative transportation.

(10) When DMV determines an applicant cheated on a knowledge test as described in section (8) of this rule, the applicant may request an administrative review. The following apply to an administrative review request:

(a) DMV will notify the applicant of the right to request an administrative review at the time the test is stopped.

(b) The applicant must request an administrative review within 60 days from the date of notice. The 90-day waiting period will remain in effect and will not be rescinded or stayed by DMV pending the outcome of the administrative review.

(c) A request for an administrative review must be in writing and must include:

(A) The person's full name;

(B) The person's complete mailing address;

(C) The person's Oregon driver license number, identification card number or customer number, if available; and

(D) A brief statement of the facts and any evidence the person wants to present showing he or she should not be subject to the 90-day waiting period or proof of extreme hardship if the person is requesting a waiver of the 90-day period as described in section (9) of this rule.

(d) A request for an administrative review should also include the person's date of birth.

(e) To be received by DMV, the request for an administrative review must be:

(A) Personally delivered to DMV Headquarters, 1905 Lana Avenue NE, Salem, OR;

(B) Delivered by mail to DMV Headquarters, 1905 Lana Avenue NE, Salem OR 97314; or

(C) Received by facsimile machine at FAX number (503) 945-5497.

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

Stats. Implemented: ORS 807.070, 807.530, 809.310

Hist.: MV 14-1987, f. 9-21-87, ef. 9-27-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0023; MV 8-1988, f. & cert. ef. 3-2-88; MV 16-1989, f. 8-25-89, cert. ef. 4-2-90; MV 7-1991, f. & cert. ef. 7-16-91; DMV 3-2002, f. & cert. ef. 3-14-02; DMV 6-2007, f. 5-24-07, cert. ef. 9-1-07; DMV 6-2007, f. 5-24-07, cert. ef. 9-1-07

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

Adm. Order No.: DMV 7-2007

Filed with Sec. of State: 5-24-2007

Certified to be Effective: 9-1-07

Notice Publication Date: 4-1-07

Rules Amended: 735-050-0020

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

The amended rule allows an applicant to provide a copy of a written authorization of self-insured status issued by the Federal Motor Carrier Safety Administration, specifies that DMV will issue a non-expiring self-insurance certificate to a self-insured public body or an agency of the federal government, and clarifies that DMV has legal authority to cancel the self-insurance certificate and specify the reasons for the cancellation.

Text of proposed and recently adopted ODOT rules can be found at web site <http://www.oregon.gov/ODOT/CS/RULES/>
Rules Coordinator: Lauri Salisbury—(503) 986-3171

735-050-0020

Self-Insurance Qualifications

(1) All applicants for self-insurance certificates pursuant to ORS 806.130 must apply by means of the "Application for Self-Insurance Certificate," Form Number 735-6798.

(2) DMV will issue a non-expiring self-insurance certificate to any applicant who:

(a) Certifies they are a local public body, as defined in ORS 30.260, which establishes a self-insurance program under ORS 30.282 for or on account of the operation of motor vehicles within the local public body's control;

(b) Certifies they are a public body, as defined in ORS 30.260, which insures the operation of motor vehicles within the public body's control under the provisions of ORS Chapter 278 or by contract with the Department of Administrative Services under ORS 30.282(4).

(c) Certifies that they are a federal agency of the United States; or

(d) Provides a certified copy of the Federal Motor Carrier Safety Administration written decision, order or letter authorizing the applicant's self-insured status.

(3) DMV will issue a self-insurance certificate that is valid for one year from the date of issuance to a qualified applicant who provides:

(a) An annual financial report issued within the last 12 months that shows to the satisfaction of the Department that the applicant has retained earnings in an amount as set forth in section (4) of this rule. The financial report must be an audited or reviewed report and contain statements and footnotes as required by generally accepted accounting principles, be signed by a licensed public accountant or a certified public accountant.

(b) A list of each vehicle that will be covered by the self-insurance certificate, including type of vehicle, plate number or vehicle identification number (VIN).

(c) A three-year motor vehicle accident history statement including the total number of motor vehicle accidents, accident claims against the applicant, claims satisfied, and judgments settled.

(d) A certification that the applicant:

(A) Has no unsettled judgments of the type described in ORS 806.040. For purposes of this subsection, a judgment is settled as described in ORS 809.470;

(B) Has more than 25 motor vehicles registered in the applicant's name; and

(C) Agrees to pay the same amounts with respect to an accident occurring while the self-insurance certificate is valid that an insurer would be obligated to pay under a motor vehicle liability policy, including uninsured motorist coverage and liability coverage to at least the limits specified in ORS 806.070.

ADMINISTRATIVE RULES

(4) In order to satisfy the department that the applicant for self-insurance is qualified, the financial report required by section (3)(a) of this rule must show retained earnings available to pay and discharge judgments described under ORS 806.040 equal to or above the limits required by this based on type and number of vehicles. A fleet of mixed vehicle types must use the figures for the predominant vehicle type. The department may require a higher retained earnings amount than is listed in this rule, as determined by the department, if from the applicant's motor vehicle accident statement the department has reason to believe the applicant's accident rate is too high. The requirements are as follows:

(a) Private Passenger, Non-Rental Fleets: Fleet Size — Retained Earnings:

- (A) 26 — 100 vehicles — \$100,000.
- (B) 101 — 250 vehicles — \$190,000.
- (C) 251 — 500 vehicles — \$295,000.
- (D) 501 — 750 vehicles — \$440,000.
- (E) 751 — 1000 vehicles — \$575,000.
- (F) 1001 — 1300 vehicles — \$770,000.
- (G) 1301 — 1600 vehicles — \$850,000.
- (H) 1601 — 2500 vehicles — \$1,150,000.
- (I) 2501 — 5000 vehicles — \$1,950,000.
- (J) 5001 — 7500 vehicles — \$3,100,000.

(b) Private Passenger, Rental Fleets: Fleet Size — Retained Earnings:

- (A) 26 — 100 vehicles — \$100,000.
- (B) 101 — 250 vehicles — \$100,000.
- (C) 251 — 500 vehicles — \$100,000.
- (D) 501 — 750 vehicles — \$160,000.
- (E) 751 — 1000 vehicles — \$210,000.
- (F) 1001 — 1300 vehicles — \$280,000.
- (G) 1301 — 1600 vehicles — \$310,000.
- (H) 1601 — 2500 vehicles — \$420,000.
- (I) 2501 — 5000 vehicles — \$710,000.
- (J) 5001 — 7500 vehicles — \$1,120,000.
- (K) 7501 — 10,000 vehicles — \$1,520,000.
- (L) 10,001 — 15,000 vehicles — \$2,120,000.
- (M) 15,001 — 20,000 vehicles — \$2,900,000.
- (N) 20,001 — 25,000 vehicles — \$3,675,000.
- (O) 25,001 — 30,000 vehicles — \$4,425,000.
- (P) 30,001 — 35,000 vehicles — \$5,200,000.

(c) Trucks, Tractors and Trailers: Fleet Size — Retained Earnings:

- (A) 26 — 100 vehicles — \$100,000.
- (B) 101 — 250 vehicles — \$190,000.
- (C) 251 — 500 vehicles — \$300,000.
- (D) 501 — 750 vehicles — \$445,000.
- (E) 751 — 1000 vehicles — \$580,000.
- (F) 1001 — 1300 vehicles — \$775,000.
- (G) 1301 — 1600 vehicles — \$900,000.
- (H) 1601 — 2500 vehicles — \$1,150,000.
- (I) 2501 — 5000 vehicles — \$2,000,000.
- (J) 5001 — 7500 vehicles — \$3,100,000.

(d) Van Pools and Towing: Fleet Size — Retained Earnings:

- (A) 26-100 vehicles — \$125,000.
- (B) 101 — 250 vehicles — \$250,000.
- (C) 251 — 500 vehicles — \$380,000.
- (D) 501 — 750 vehicles — \$570,000.
- (E) 751 — 1000 vehicles — \$750,000.
- (F) 1001 — 1300 vehicles — \$1,010,000.
- (G) 1301 — 1600 vehicles — \$1,150,000.
- (H) 1601 — 2500 vehicles — \$1,550,000.
- (I) 2501 — 5000 vehicles — \$2,650,000.
- (J) 5001 — 7500 vehicles — \$4,200,000.

(e) Taxis and Limousines: Fleet Size — Retained Earnings:

- (A) 26 — 100 vehicles — \$400,000.
- (B) 101 — 250 vehicles — \$800,000.
- (C) 251 — 500 vehicles — \$1,240,000.
- (D) 501 — 750 vehicles — \$1,920,000.
- (E) 751 — 1000 vehicles — \$2,260,000.
- (F) 1001 — 1300 vehicles — \$2,590,000.
- (G) 1301 — 1600 vehicles — \$3,550,000.
- (H) 1601 — 2500 vehicles — \$4,100,000.
- (I) 2501 — 5000 vehicles — \$9,850,000.
- (J) 5001 — 7500 vehicles — \$15,950,000.

(5) To be reissued a one-year self insurance certificate that continues the certification without interruption, the holder of a current certificate

must provide the documents and certifications described in section (3) of this rule at least 30 days prior to expiration of the current certificate.

(6) DMV may cancel a self-insurance certificate if any of the following circumstances occur:

(a) DMV has a reasonable basis to believe that any of the information contained in the application or supporting documents submitted by an applicant is false;

(b) DMV learns that the self-insurance certificate holder has failed to settle any judgment described under ORS 806.040 within 60 days after it has become final. For purposes of this subsection, a judgment is settled as described under ORS 809.470; or

(c) Authorization for self-insurance has been revoked by the Federal Motor Carrier Safety Administration.

Stat. Auth.: ORS 806.130 & 806.140

Stats. Implemented: ORS 806.130 - 806.140

Hist.: MV 8-1979, f. & ef. 10-18-79; MV 4-1985, f. 5-15-85, ef. 5-16-85; Administrative Renumbering 3-1988, Renumbered from 735-033-0025; MV 8-1987, f. 7-16-87, ef. 8-1-87; DMV 7-2007, f. 5-24-07, cert. ef. 9-1-07

Rule Caption: Adds the Term "Loaded Weight" to DMV Rule Relating to Registration Weight Trip Permit Requirements.

Adm. Order No.: DMV 8-2007(Temp)

Filed with Sec. of State: 5-24-2007

Certified to be Effective: 5-24-07 thru 11-18-07

Notice Publication Date:

Rules Amended: 735-034-0050

Subject: This temporary rulemaking implements legislation enacted by the 2007 Legislative Assembly.

Under ORS 803.430, vehicles over 10,000 pounds are registered based on vehicle weight, which is declared at the time of registration. HB 2271 clarifies that vehicles subject to declaration of registration weight include any vehicle with a "combined weight" over 10,000 pounds and any single vehicle with a "loaded weight" over 10,000 pounds.

The temporary amendment of OAR 735-034-0050 (Trip Permits) adds the term "loaded weight" to the list of vehicles that are registered by weight and subject to registration weight trip permit requirements to bring the rule language into compliance with the statutory changes made by HB 2271. Additional changes to language within the amended text are made for purposes of clarity.

Rules Coordinator: Lauri Salisbury—(503) 986-3171

735-034-0050

Issuing Trip Permits

(1) The Driver and Motor Vehicle Services Division (DMV) of the Department of Transportation hereby adopts the following procedures relating to the issuance of vehicle trip permits pursuant to ORS 803.600.

(2) Trip permits shall be issued and are valid for a period of consecutive days. The period of consecutive days a permit is valid is dependent on the type of permit being issued.

(3) Except as described in subsection (c) of this section, a registration weight trip permit is required for an Oregon-registered vehicle if:

(a) The weight of a single vehicle registered with a loaded weight of over 10,000 pounds exceeds the registration weight of the vehicle declared under ORS 803.435; or

(b) The combined weight of the vehicle, trailer and load exceed the combined vehicle registration weight declared under ORS 803.435. A permit required by this subsection may only be issued to the motor vehicle used to transport a trailer or load.

(c) Subsection (b) of this section does not apply if:

(A) The combination of vehicles weighs over 105,500 pounds and is operating under a variance permit pursuant to ORS 818.200; or

(B) 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 shall only be issued to vehicles not registered in Oregon. Either permit shall authorize 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, the truck and trailer would each require a permit. If, however, one of the two vehicles is registered, for example, the truck, then only the trailer would require a trip permit.

(5) An applicant for a recreational vehicle trip permit shall:

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(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 for which the permit will be granted. Proof includes, for example, 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 pursuant to 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, HB 2271 (effective 4-17-07)

Stats. Implemented: ORS 801.420, 803.430, 803.600, 803.625, 803.635, 803.640, 803.655 and 806.080, 810.490, HB 2271 (effective 4-17-07)

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

Economic and Community Development Department Chapter 123

Rule Caption: Amends division 65 rules to implement 2005 legislative changes.

Adm. Order No.: EDD 2-2007

Filed with Sec. of State: 6-15-2007

Certified to be Effective: 7-1-07

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Rules Adopted: 123-065-1060, 123-065-1070, 123-065-1080

Rules Amended: 123-065-0000, 123-065-0010, 123-065-0080, 123-065-0090, 123-065-0100, 123-065-0140, 123-065-0200, 123-065-0210, 123-065-0240, 123-065-0310, 123-065-0320, 123-065-0330, 123-065-0350, 123-065-1050, 123-065-1500, 123-065-1520, 123-065-1530, 123-065-1540, 123-065-1553, 123-065-1590, 123-065-1600, 123-065-1620, 123-065-1710, 123-065-1720, 123-065-1740, 123-065-2520, 123-065-2530, 123-065-2550, 123-065-3000, 123-065-3030, 123-065-3130, 123-065-3200, 123-065-3230, 123-065-3300, 123-065-3330, 123-065-3400, 123-065-3480, 123-065-3850, 123-065-4020, 123-065-4260, 123-065-4310, 123-065-4323, 123-065-4328, 123-065-4380, 123-065-4440, 123-065-4450, 123-065-4470, 123-065-4550, 123-065-4610, 123-065-4970, 123-065-4980, 123-065-4990, 123-065-7200, 123-065-7300, 123-065-7400, 123-065-7500, 123-065-8200, 123-065-8300, 123-065-8400

Rules Repealed: 123-065-0057

Rules Ren. & Amend: 123-065-0049 to 123-065-0059

Subject: These rules make minor technical corrections or enhancements to the guidelines for enterprise zones, as well as implement legislative changes found in chapters 94, 595 and 704, Oregon Laws 2005, especially requisite consultations with local taxing districts by governments (now including ports) seeking zone designation.

Rules Coordinator: Paulina Layton—(503) 986-0036

123-065-0000

Definitions

As used in this division of administrative rules, unless otherwise indicated:

(1) **Census Statistical Unit** includes any standard geographic area, legal entity or administrative designation for which data is available through the most recent federal decennial census, such as the following: County, census county subdivision, incorporated place, census urbanized area, census designated (unincorporated) place, ZIP code, census tract, census block numbering area (BNA), census block group (BG) or census block.

(2) **Department** means the State of Oregon Economic and Community Development Department, as (re) organized and created under ORS 285A.070, unless specified otherwise.

(3) **Director** means the Director of the Department appointed under ORS 285A.070.

(4) **Preexisting Enterprise Zone** means an enterprise zone:

(a) Designated within three years of an enterprise zone's being Terminated by Statute;

(b) For which at least one-half of its cosponsors comprised a majority of the cosponsors of the enterprise zone Terminated by Statute; and

(c) Recognized as the continuation of the previous enterprise zone, even though it is technically and statutorily a new zone designation.

(5) **Terminated by Statute** means the automatic termination of an enterprise zone by operation of law after more than 10 years under ORS 285C.245(2) or after more than 6 years under ORS 285C.245(6).

Stat. Auth.: ORS 285A.075(5), 285A.110(1) & 285C.060(1)

Stats. Implemented: ORS 2285C

Hist.: EDD 4-1994, f. & cert. ef. 2-24-94; EDD 10-1995, f. & cert. ef. 12-19-95; EDD 1-1997, f. & cert. ef. 1-7-97; EDD 5-1998, f. 3-12-98, cert. ef. 3-15-98; EDD 9-2000, f. & cert. ef. 5-2-00; EDD 1-2005, f. & cert. ef. 2-25-05; EDD 1-2007(Temp), f. & cert. ef. 1-8-07 thru 7-6-07; EDD 2-2007, f. 6-15-07, cert. ef. 7-1-07

123-065-0010

Local Government Enterprise Zone Sponsorship or Consent

An enterprise zone shall be sponsored by, and only by, the governing body of each city or county jurisdiction or port district in which it is located, with the following exceptions:

(1) A **port** need not cosponsor a zone, if:

(a) The zone is located inside the territory of a sponsoring city, county or two or more such jurisdictions; and

(b) The port granted consent for the zone to exist in its territory through a resolution adopted by the port's governing body.

(2) A **county** need not cosponsor a zone, if:

(a) The zone is located completely in the incorporated territory of a city/cities that/each of which sponsors the zone;

(b) The county has consented to the zone in its territory for sponsorship by a port through a resolution adopted by the governing body of the county; or

(c) The county granted consent for the zone in its unincorporated territory through a resolution adopted by the governing body of the county and the only such unincorporated territory inside the zone lies within the urban growth area between the corporate limits and the urban growth boundary of a city that sponsors the zone.

(3) A **city** need not cosponsor a zone, if:

(a) The zone is located inside the territory of a sponsoring county or of a sponsoring port with county consent;

(b) The city granted consent for the zone to exist in its territory through a resolution adopted by the city's governing body; and

(c) Less than the zone's entire area lies within less than the entire incorporated territory of the city.

(4) As otherwise consistent with sections (1) to (3) of this rule, city/county/port sponsorship or consent is permissible:

(a) In combinations not specifically described by this rule; or

(b) For an enterprise zone designation under ORS 285C.080 or 285C.250 containing tribal lands in addition to non-tribal lands inside sponsor territory.

(5) Except as provided under ORS 285C.115(3), a city, port or county does not need to sponsor a reservation enterprise zone designated under ORS 285C.306. The same is also true for an amendment to such a zone that adds land:

(a) Held in trust by the U.S. for the benefit of the Indian Tribe, for which the tribal government is the zone sponsor; and

(b) Over which the non-sponsoring city, port or county government does not effectively have jurisdictional control.

Stat. Auth.: ORS 285A.075(5), 285A.110 & 285B.668(1), 285C.066

Stats. Implemented: ORS 285C.050, 285C.065, 285C.115, 285C.250, 285C.306 & 285C.320

Hist.: EDD 4-1994, f. & cert. ef. 2-24-94; EDD 10-1995, f. & cert. ef. 12-19-95; EDD 1-1997, f. & cert. ef. 1-7-97; EDD 5-1998, f. 3-12-98, cert. ef. 3-15-98; EDD 1-2005, f. & cert. ef. 2-25-05; EDD 1-2007(Temp), f. & cert. ef. 1-8-07 thru 7-6-07; EDD 2-2007, f. 6-15-07, cert. ef. 7-1-07

123-065-0059

Maximum Number of Enterprise Zones

(1) The maximum number of enterprise zones that may be designated is 57, plus:

(a) Any designation based on a federal enterprise zone under ORS 285C.085 (see OAR 123-065-1700 to 123-065-1799), as well as re-designations of such an enterprise zone; and

(b) Any designation of a reservation enterprise zone under ORS 285C.306.

(2) At the time of the last amendment of this rule (by way of example and to establish matters for the record), 55 enterprise zones are in existence by designation of the Director (or tribal government):

(a) Seventeen under ORS 285C.065 and 285C.080 (which permit three more designations);

(b) Thirty-six under ORS 285C.065 and 285C.250 (which permit one more designation);

(c) One under ORS 285C.085; and

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(d) One under ORS 285C.306.

(3) This rule neither affects nor is it necessarily affected by the designation of any federal enterprise zone.

Stat. Auth.: ORS 285A.075(5), 285A.110(1) & 285C.060(1)
Stats. Implemented: ORS 285C.050, 285C.065, 285C.115, 285C.250, 285C.306 & 285C.320
Hist.: EDD 14-1999, f. 10-22-99, cert. ef. 10-23-99; EDD 9-2000, f. & cert. ef. 5-2-00; Renumbered from 123-065-0048, EDD 1-2005, f. & cert. ef. 2-25-05; Suspended by EDD 1-2007(Temp), f. & cert. ef. 1-8-07 thru 7-6-07; Renumbered from 123-065-0049, EDD 2-2007, f. 6-15-07, cert. ef. 7-1-07

123-065-0080

Boundaries and Dimensions

For purposes of an enterprise zone designation or boundary change:

(1) Except as allowed in OAR 123-065-0090, the straight-line distance between any two points within the zone may not exceed 12 miles.

(2) The total area of the zone may not exceed 12 square miles, not including:

(a) Areas below the ordinary high water mark of navigable bodies of water; and

(b) Roads, tracks, transmission lines or right of ways that nominally connect separate areas of the zone.

(3) Except as allowed in OAR 123-065-0090, a separate area of the zone must be five or fewer miles of straight-line distance away from another area of the zone as measured between the two closest points of each area.

(4) No part of the zone may be inside the boundaries of another enterprise zone.

(5) No part of this rule (or OAR 123-065-0090) excludes an enterprise zone designated or amended under federal law.

(6) Other than section (4), no part of this rule (or OAR 123-065-0090) excludes an enterprise zone designated or amended under ORS 285C.085 or 285C.306.

(7) Consistent with subsection (2)(a) of this rule, the zone boundary may encompass areas below the ordinary high water mark; such areas are:

(a) Naturally limited to the borders/territory of this state respective to the zone sponsor's jurisdiction, including but not limited to areas of the ocean up to three nautical miles directly from shore; and

(b) Simply ignored for purposes of the 12-square-mile maximum.

Stat. Auth.: ORS 285A.075(5), 285A.110(1) & 285C.060(1)
Stats. Implemented: ORS 285C.065 & 285C.090
Hist.: EDD 1-1997, f. & cert. ef. 1-7-97; EDD 13-1997, f. & cert. ef. 11-10-97; EDD 1-2005, f. & cert. ef. 2-25-05; EDD 1-2007(Temp), f. & cert. ef. 1-8-07 thru 7-6-07; EDD 2-2007, f. 6-15-07, cert. ef. 7-1-07

123-065-0090

Extended Distances in Rural Zones

For purposes of ORS 285C.050(18) and 285C.090(4):

(1) This rule applies only to rural enterprise zones.

(2) The maximum distance allowed in OAR 123-065-0080(1) is increased from 12 to:

(a) Twenty-five lineal miles, if no area of the zone is in a county listed in section (5) of this rule; or

(b) Twenty lineal miles, if some but not all of the area of the zone lies in a county listed in section (5) of this rule.

(3) The maximum distance allowed in OAR 123-065-0080(3) is increased from 5 to 15 lineal miles if none of the separate area is in a county listed in section (5) of this rule.

(4) In accordance with ORS 285C.120(2), the Director may waive a limitation in section (2) or (3) of this rule to allow even greater distance for a particular enterprise zone designation or boundary change:

(a) As specifically requested in resolutions adopted by the applicant for designation or the current zone sponsor and any proposed cosponsor;

(b) Such that the waiver is part of the Director's order designating or changing the boundary of the enterprise zone boundary; and

(c) If evidence or indications as evaluated by the Department satisfy points described in OAR 123-065-0095.

(5) The counties of this state that are too densely populated for purposes of this rule include:

(a) Any county for which a shrinkage of its area, growth in its population or combination thereof results in a population density for the county in excess of 100 persons per square mile (In this case, ORS 285C.120(1) would govern an enterprise zone, the dimensions of which had otherwise been allowed as described in this rule);

(b) Any future, new county for which the actual population and area correspond to a population density for the county in excess of 100 persons per square mile; and

(c) The following existing counties (unless there is a change in the county's circumstances contrariwise to subsection (a) of this section):

(A) Benton County;

(B) Clackamas County;

(C) Marion County;

(D) Multnomah County;

(E) Washington County; and

(F) Yamhill County.

(6) For purposes of section (5) of this rule, to compute population density of a county, divide the latest estimate for the county's total population by the current area of the county in terms of square miles.

(7) Nothing in this rule affects the restriction of up to but not more than 12 square miles for total enterprise zone area described in OAR 123-065-0080.

Stat. Auth.: ORS 285A.075(5), 285A.110(1) & 285C.060(1)
Stats. Implemented: ORS 285C.050, 285C.065, 285C.090, 285C.120, 285C.350
Hist.: EDD 13-1997, f. & cert. ef. 11-10-97; EDD 9-2000, f. & cert. ef. 5-2-00; EDD 1-2005, f. & cert. ef. 2-25-05; EDD 1-2007(Temp), f. & cert. ef. 1-8-07 thru 7-6-07; EDD 2-2007, f. 6-15-07, cert. ef. 7-1-07

123-065-0100

Rural and Urban Zones

(1) "Enterprise zone" means an area designated, as defined in ORS 285C.050(8), and categorized as either "rural" or "urban" under ORS 285C.050(17) or (21).

(2) As used in ORS 285C.050(21), "regional or metropolitan urban growth boundary" means:

(a) The Metro/Portland-area regional urban growth boundary; or

(b) The urban growth boundary encompassing:

(A) Bend;

(B) Corvallis;

(C) Eugene and Springfield;

(D) Medford; or

(E) Salem and Keizer.

(3) For the purposes of ORS 285C.050(21), "inside" means that an enterprise zone may be neither designated nor amended, such that the zone includes areas both inside and outside of a regional or metropolitan urban growth boundary as defined in section (2) of this rule, except for a (rural) reservation enterprise zone.

(4) If a new or newly modified regional or metropolitan urban growth boundary intersects an existing enterprise zone, the zone's categorization as either rural or urban shall remain unchanged. If a (subsequent) modification to the regional or metropolitan urban growth boundary (or to the definition thereof) situates the zone entirely outside or inside of that boundary, then the zone's categorization as rural or urban shall change accordingly.

Stat. Auth.: ORS 285A.075(5), 285A.110(1) & 285B.668(1)
Stats. Implemented: ORS 285C.050 - 285C.250
Hist.: EDD 3-1996, f. & cert. ef. 4-2-96; EDD 13-1997, f. & cert. ef. 11-10-97; EDD 1-2005, f. & cert. ef. 2-25-05; EDD 1-2007(Temp), f. & cert. ef. 1-8-07 thru 7-6-07; EDD 2-2007, f. 6-15-07, cert. ef. 7-1-07

123-065-0140

The Sponsor of an Enterprise Zone

As defined under ORS 285C.050(19), described in OAR 123-065-0010, and used in ORS 285C.050 to 285C.250 and in this division of administrative rules:

(1) "Sponsor" or "zone sponsor" means:

(a) The single city, port or county (or tribal government) that applied for the most recent designation of the enterprise zone; or

(b) Collectively, the city or cities, port or ports, county or counties and/or any combination thereof (and/or tribal government) that:

(A) Applied for the most recent designation of the enterprise zone; or

(B) Joined the zone since designation as part of a change to the zone boundary under ORS 285C.115(7) (or under ORS 285C.068 in the case of a port).

(2) Depending on the particular context, "a sponsor" or "a zone sponsor" may refer to a single sponsoring entity or **cosponsor** of the enterprise zone included in subsection (1)(b) of this rule. One shall not construe any such reference as superseding or interfering with ORS 285C.105(2), which compels all cosponsors to act jointly in fulfilling the duties of the zone sponsor and in taking any action with respect to the zone, except for:

(a) Restriction on hotel/resort eligibility by a city or county; or

(b) Local incentives as described in OAR 123-065-0240.

(3) The zone sponsor does not include and is not any city, port or county that simply consented to having part of its territory contained in the zone as described in OAR 123-065-0010.

Stat. Auth.: ORS 285A.075(5), 285A.110 & 285C.660(1)
Stats. Implemented: ORS 285C.050 - 285C.250 & 285C.320
Hist.: EDD 5-1998, f. 3-12-98, cert. ef. 3-15-98; EDD 1-2005, f. & cert. ef. 2-25-05; EDD 1-2007(Temp), f. & cert. ef. 1-8-07 thru 7-6-07; EDD 2-2007, f. 6-15-07, cert. ef. 7-1-07

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123-065-0200

Local Zone Manager

For purposes of ORS 285C.105(1)(a):

(1) The sponsor of an enterprise zone shall appoint the local zone manager through official declaration or action by each cosponsor or by all of them in collective fashion but not necessarily by resolution.

(2) The sponsor or a particular cosponsor may delegate the authority to appoint the local zone manager to a person or body including but not limited to the current local zone manager.

(3) The sponsor may make appointment of a local zone manager by way of an established position at a local agency or organization, whether public or private, as opposed to a named person.

(4) The sponsor may appoint up to but not more than two persons to serve as local co-managers of the zone.

(5) Except as explicitly proscribed by the zone sponsor, the local zone manager shall act as the agent and representative of the enterprise zone in regard to any and all ministerial, intergovernmental, technical or promotional functions of the zone sponsor.

(6) The local zone manager may be empowered by and on behalf of the sponsor or of a cosponsor of the enterprise zone to make discretionary decisions that do not specifically require adoption of a resolution by the sponsor's governing body or bodies under ORS 285C.050 to 285C.250 or as described in this division of administrative rules.

(7) Whenever a local zone manager is appointed or a new person fills the appointed position, the sponsor needs to give written notice to the Department, the Department of Revenue and the county assessor soon afterwards.

Stat. Auth.: ORS 285A.075(5), 285A.110(1) & 285C.060(1)

Stats. Implemented: ORS 285C.105

Hist.: EDD 3-1996, f. & cert. ef. 4-2-96; EDD 5-1998, f. 3-12-98, cert. ef. 3-15-98; EDD 1-2005, f. & cert. ef. 2-25-05; EDD 1-2007(Temp), f. & cert. ef. 1-8-07 thru 7-6-07; EDD 2-2007, f. 6-15-07, cert. ef. 7-1-07

123-065-0210

Reporting by the Enterprise Zone Sponsor

(1) Within six months after designation of any enterprise zone, the sponsor of the zone shall provide to the Department, the Department of Revenue, the county assessor, the contact agency for first-source hiring agreements and local institutions involved in marketing the zone the following information (even if contained in the application for designation):

(a) A description and examples of marketing plans, efforts or materials for the zone;

(b) A final inventory and references to enabling instruments (such as local ordinances) for any local incentive proposed as binding in the application;

(c) A list, map or other information necessary for identifying publicly owned land or buildings that are available for lease or purchase by an eligible business firm within the zone under ORS 285C.110 (see OAR 123-065-0255);

(d) For an urban zone, indices identifying all land within the zone (specific tax lots or street addresses needed only for property at which eligible development may occur);

(e) Description of any policies, conditions or reasonable requirements that the sponsor has adopted or will seek to implement and enforce under ORS 285C.150, 285C.155 or 285C.160 with respect to authorized business firms;

(f) Documentation of any final arrangement or agreement pursuant to OAR 123-065-1080;

(g) Confirmation/appointment of local zone manager as described in OAR 123-065-0200; and

(h) The final form of election to allow hotel, motel or destination resorts as eligible business firms in all or certain city or county jurisdictions of the enterprise zones, for which newly adopted resolution(s) are necessary to effectively change an election made by resolution(s) adopted for purposes of the application.

(2) Each year by November 1, the zone sponsor shall provide to the Department, the Department of Revenue, the county assessor, the contact agency for first-source hiring agreements and local institutions involved in marketing the enterprise zone:

(a) A list of all outstanding investments proposed by business firms that have been and remain actively authorized in the zone, but that are not yet qualified for (most of) the investment, along with any updated estimate of expected new jobs or the cost of proposed qualified property;

(b) Commentary on efforts to assist authorized and qualified business firms or the county assessor with new or ongoing enterprise zone exemptions; and

(c) Updated information or recently revised materials pertaining to:

(A) What is listed in section (1) of this rule; and

(B) Such matters as the zone boundary, public outreach, available industrial land within the zone, and local training and education resources.

Stat. Auth.: ORS 285A.075(5), 285A.110(1) & 285C.060(1)

Stats. Implemented: ORS 285C.065, 285C.070, 285C.105 & 285C.110

Hist.: EDD 3-1996, f. & cert. ef. 4-2-96; EDD 5-1998, f. 3-12-98, cert. ef. 3-15-98; EDD 1-2005, f. & cert. ef. 2-25-05; EDD 1-2007(Temp), f. & cert. ef. 1-8-07 thru 7-6-07; EDD 2-2007, f. 6-15-07, cert. ef. 7-1-07

123-065-0240

Enhanced Public Services and Other Local Incentives

For purposes of local incentives inside an enterprise zone within the applicable city, port or county jurisdiction or service territory under ORS 285C.105(1)(b):

(1) Such local incentives include but are not limited to:

(a) Enhanced availability or efficiency of local public services, such as utilities, transportation access and public safety protection;

(b) Waivers, discounts or credits for local fees, charges, business/license taxes and so forth; or

(c) Regulatory flexibility, expedited/simplified permitting, special zoning designations, exceptions from ordinances, or the like that do not significantly undermine regulations pertaining to health & safety.

(2) Unless described as discretionary, any such incentive is binding on the city, port or county sponsoring the zone and must be implemented and made available no later than six months after the effective date of the designation or boundary change, as proposed in the resolution, by which the city, port or county:

(a) Applied for designation of the zone, as described in OAR 123-065-1520(5); or

(b) Requested to be added as a cosponsor of the zone in conjunction with a request to change the boundary of the zone under ORS 285C.115(7).

(3) Within six months of the relevant effective date in section (2) of this rule, a city, port or county may formally declare and implement one or more such incentives that are in addition to and, if so indicated in the declaration, are as binding on the city or county for the life of the zone as previously proposed incentives.

(4) Except as provided in section (5) of this rule, any such incentive shall be available or provided to no fewer than all authorized business firms that qualify under ORS 285C.200 on an equal basis within that portion of the enterprise zone exclusive to the relevant jurisdiction or service territory.

(5) A city or county cosponsor may formally differentiate the incentives available to business firms operated as a hotel, motel or destination resort (if eligible in that part of the zone).

(6) For purposes of ORS 285C.245(5), in the case where the zone sponsor proposes one or more new incentives to replace an incentive or incentives that are binding according to this rule:

(a) "Comparable value" means that the new incentives or incentives, as a whole, shall be measured relative to what they would collectively replace, in terms of not only direct financial benefits to business firms, but also non-dollar factors such as convenience.

(b) In determining whether "reasonable corrections of shortcomings in existing local incentives" are being made, the Department may consider and take into account the extent to which an existing incentive significantly impairs or is reasonably expected to jeopardize the ability to provide services and incentives to eligible business firms in general, because it excessively:

(A) Benefits some or all authorized or qualified firms; or

(B) Burdens local budgetary resources or utility capacity.

(7) That such an incentive is generally used by and available to other business firms within the enterprise zone or elsewhere in the cosponsor's political or service territory does not affect its status as binding for purposes of the zone.

(8) A local incentive offered or binding in one cosponsor's jurisdiction or territory has no bearing on the incentives of any other cosponsor.

(9) In accordance with applicable state or local laws, charters, ordinances or conventions, a city, port or county that sponsors an enterprise zone may offer to authorized or qualified business firms other incentives that are not binding, although the Department shall not formally recognize such discretionary incentives in the context of:

(a) Benefits customarily offered to an eligible business firm investing in the enterprise zone for purposes of marketing and related efforts to retain, expand, start or recruit such firms; and

(b) Awarding points for competitive criteria that influence designation of a proposed zone (OAR 123-065-1570).

Stat. Auth.: ORS 285A.075(5), 285A.110(1) & 285C.660(1)

Stats. Implemented: ORS 285C.065, 285C.105, 285C.115 & 285C.245

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Hist.: EDD 5-1998, f. 3-12-98, cert. ef. 3-15-98; EDD 1-2005, f. & cert. ef. 2-25-05; EDD 1-2007(Temp), f. & cert. ef. 1-8-07 thru 7-6-07; EDD 2-2007, f. 6-15-07, cert. ef. 7-1-07

123-065-0310

Boundary Change Request by Zone Sponsor

The request by the sponsor of an enterprise zone for a change to the zone boundary under ORS 285C.115 shall address the following:

(1) Resolutions lately adopted by the governing body of each existing and proposed member comprising the zone sponsor, copies of which are included.

(2) Change or retention of the zone's official name.

(3) Definition of enterprise zone boundary in accordance with OAR 123-065-1000.

(4) Consideration of economic hardship conditions in or near any area proposed for addition to the zone, relative to economic hardship for the existing enterprise zone and local areas associated with it consistent with OAR 123-065-0365.

(5) Adherence to OAR 123-065-0320 and 123-065-0330, including but not limited to commentary about the following:

(a) Usability of land proposed for addition or removal;

(b) Location of new areas to be added respective to urban growth boundaries; and

(c) Actions and documentation of appropriate or necessary public involvement.

(6) Conformity with:

(a) Mandatory city/county/port sponsorship or consent described in OAR 123-065-0010, such that despite previous consent by resolution of a city, port or county governing body, the zone sponsor will still need further consent for any subsequent boundary change that adds area inside territory of the city, port or county, unless the previous resolution expressly granted such open-ended consent;

(b) Spatial parameters for an enterprise zone delineated in OAR 123-065-0080 or 123-065-0090; and

(c) Requirements of ORS 285C.115(2)(b) and (d) for retaining:

(A) Sites of all current, actively authorized business firms; and

(B) At least half of the land originally in the zone.

(7) For a proposed new cosponsor, as desired and contained in its resolution:

(a) Binding proposals to provide local incentives under ORS 285C.115(7)(a) (consistent with OAR 123-065-0240) to authorized or qualified business firms locating or expanding in parts of the proposed zone exclusive to that jurisdiction or port district; or

(b) A restriction in the case of a city or county under ORS 285C.115(7)(b) from hotel, motel or destination resort businesses being eligible in the enterprise zone exclusive to that city or county jurisdiction (but only if such businesses are eligible elsewhere in the existing zone under ORS 285C.070 or section 56(1), chapter 662, Oregon Laws 2003).

(8) Request for a needed waiver of maximum rural distances per OAR 123-065-0090(4).

(9) Explain, as appropriate, why the change to the zone boundary complements the zone's strategic plan or marketing efforts as formulated in or since the application for designation of the zone.

(10) Describe any immediate justification, as appropriate, for the change to the zone boundary, including but not limited to one or more of the following:

(a) The ability to immediately site and authorize a prospective investment by an eligible business firm that will result in:

(A) Significant new employment;

(B) Preservation of local full-time jobs that would otherwise be lost;

(C) Notable worker compensation levels;

(D) Valuable new training opportunities for local workers; or

(E) Diversification of the local economy;

(b) The opportunity to exploit recent changes in local land use designations and ordinances consistent with the purpose of an enterprise zone under ORS 285C.050 to 285C.250;

(c) The extension of enterprise zone benefits to a city, port or county that is not sponsoring a current enterprise zone; or

(d) Other compelling reasons of the zone sponsor.

Stat. Auth.: ORS 285A.075(5), 285A.110(1), 285C.060(1), 285C.066 285C.115(6)
Stats. Implemented: ORS 285C.060 & 285C.115

Hist.: EDD 3-1996, f. & cert. ef. 4-2-96; EDD 5-1996, f. & cert. ef. 6-24-96; EDD 1-997, f. & cert. ef. 1-17-97; EDD 5-1998, f. 3-12-98, cert. ef. 3-15-98; EDD 9-2000, f. & cert. ef. 5-2-00; EDD 1-2005, f. & cert. ef. 2-25-05; EDD 1-2007(Temp), f. & cert. ef. 1-8-07 thru 7-6-07; EDD 2-2007, f. 6-15-07, cert. ef. 7-1-07

123-065-0320

Limitations on Boundary Changes

(1) The Director or the Director's designee may approve a change in an enterprise zone's boundary as requested by the zone sponsor only if land as described in section (2) of this rule comprises:

(a) Not less than 20 percent of the land to be added (except as specifically allowed by the Department); and

(b) None of what the sponsor proposes for removal.

(2) Useable land for purposes of section (1) of this rule excludes residential or agricultural properties and includes but is not limited to sites that are:

(a) Zoned outright for uses germane to eligible business firms consistent with an acknowledged comprehensive land use plan;

(b) Free of serious impediments to development and use by eligible business firms due to cultural or environmental concerns/regulations;

(c) Provided with or can be effectively provided with infrastructure, road access, utilities and public services that are adequate for eligible business operations; and

(d) Vacant or available for substantial new occupancy, expansions or improvements by one or more eligible business firms.

(3) In order for the boundary of a rural enterprise zone to be modified, such that it contains new or expanded areas outside of any urban growth boundary, the request for the boundary change must indicate and explain as described in OAR 123-065-0310(10) to the satisfaction of the Department that there is significant justification for the change.

(4) The Director or Director's designee may not approve a boundary change if:

(a) It adds any area that is:

(A) Outside a regional or metropolitan urban growth boundary, to an urban enterprise zone; or

(B) Inside such a boundary, to a rural zone;

(b) It adds area within another current enterprise zone; or

(c) A new cosponsor to be added under ORS 285C.115(7) is a city, port or county that had sponsored an enterprise zone terminated under ORS 285C.245(4) or (5), except in the case of a county if the terminated zone was also city/port-sponsored and none of the area proposed for addition was inside the terminated zone.

(5) Neither a boundary change nor any comparable procedure allows a city, port or county government:

(a) To make hotel/resort businesses eligible unless such firms are eligible in the zone already under ORS 285C.070 or section 56(1), chapter 662, Oregon Laws 2003; or

(b) To renounce, rescind or terminate its existing sponsorship and inclusion in the zone, which is possible only by termination of the entire zone under ORS 285C.245 or by dissolution of the jurisdiction.

Stat. Auth.: ORS 285A.075(5), 285A.110(1), 285C.060(1), 285C.066 285C.115(6)

Stats. Implemented: ORS 285C.065 & 285C.115

Hist.: EDD 3-1996, f. & cert. ef. 4-2-96; EDD 5-1998, f. 3-12-98, cert. ef. 3-15-98; EDD 1-2005, f. & cert. ef. 2-25-05; EDD 1-2007(Temp), f. & cert. ef. 1-8-07 thru 7-6-07; EDD 2-2007, f. 6-15-07, cert. ef. 7-1-07

123-065-0330

Public Involvement with Boundary Change

In order for a requested change to an enterprise zone's boundary to be approved, the zone sponsor must solicit public involvement that:

(1) Occurs prior to the approval of resolutions as described in OAR 123-065-0310(1) or prior to the submission of a revised request for the boundary change under ORS 285C.115(8);

(2) Is commensurate with the scale and potential impact of the requested boundary change on members of the public, subject to the sponsor's judgment and a case-specific review by the Department, which shall recognize, for example, that a minor addition of land within an urban growth boundary will generally necessitate little or no public involvement;

(3) Potentially includes but is not necessarily dependent on such activities as: Public notice, period of public comment, dissemination of information or public meeting/hearing; and

(4) Conforms with and includes documentation stipulated in OAR 123-065-1050 for timely communication with local taxing districts, including but not limited to:

(a) Districts with territory that is already in the enterprise zone; and

(b) Special consultation if the request proposes inclusion of a new cosponsor or extensive area.

Stat. Auth.: ORS 285A.075(5), 285A.110(1), 285C.060(1) & 285C.115(6)

Stats. Implemented: ORS 285C.115

Hist.: EDD 3-1996, f. & cert. ef. 4-2-96; EDD 5-1996, f. & cert. ef. 6-24-96; EDD 5-1998, f. 3-12-98, cert. ef. 3-15-98; EDD 9-2000, f. & cert. ef. 5-2-00; EDD 1-2005, f. & cert. ef. 2-25-05; EDD 1-2007(Temp), f. & cert. ef. 1-8-07 thru 7-6-07; EDD 2-2007, f. 6-15-07, cert. ef. 7-1-07

ADMINISTRATIVE RULES

123-065-0350

Special Cases for Boundary Changes

(1) If modification of a local, state or federal definition or delineation causes a previously existing regional or metropolitan urban growth boundary to intersect a rural enterprise zone, a change to the zone boundary may not add areas within the regional or metropolitan urban growth boundary, as it existed before intersecting the zone.

(2) If a city annexes into its jurisdiction an area of an enterprise zone, of which the city is not a sponsor, or to which the city did not consent under ORS 285C.065(1):

(a) The tax exemptions of authorized or qualified business firms in the annexed area shall continue unaffected;

(b) An eligible business firm proposing an investment in qualified property at a location in the annexed area of the zone may be authorized contingent on an amendment to the zone's sponsorship as provided in subsection (c) of this section; and

(c) An eligible business firm authorized consistent with subsection (b) of this section may not qualify nor receive an enterprise zone exemption for the investment unless and until such time as the Director or the Director's designee approves a request by resolutions of the zone sponsor and the city, such that either:

(A) The city becomes a new cosponsor of the zone under ORS 285C.115(7); or

(B) The city consents consistent with ORS 285C.065(1) that the zone may contain area within the city's jurisdiction.

(3) A non-sponsoring city, port or county need neither consent nor cosponsor in order for a boundary change to add area outside its territory, even if the enterprise zone already contains territory of the city, port or county due to prior consent, changes to the jurisdiction, or the situation preceding effectiveness of chapter 704, Oregon Laws 2005 (November 4, 2005).

(4) A port's joining an existing enterprise zone under ORS 285C.068 is equivalent to a boundary change, aside from not adding or removing any area and other specific provisions of ORS 285C.115.

(5) A boundary change request must involve port consent or sponsorship in order to add area anywhere inside the territory of the port to an enterprise zone, even incorporated areas of a city sponsor.

Stat. Auth.: ORS 285A.075(5), 285A.110(1), 285C.060(1) & 285C.066
Stats. Implemented: ORS 285C.065, 285C.068 & 285C.115
Hist.: EDD 3-1996, f. & cert. ef. 4-2-96; EDD 5-1998, f. 3-12-98, cert. ef. 3-15-98; EDD 9-2000, f. & cert. ef. 5-2-00; EDD 1-2005, f. & cert. ef. 2-25-05; EDD 1-2007(Temp), f. & cert. ef. 1-8-07 thru 7-6-07; EDD 2-2007, f. 6-15-07, cert. ef. 7-1-07

123-065-1050

Notice to Local Taxing Districts

An application to designate an enterprise zone or rural renewable energy development zone or a request to change an existing enterprise zone boundary shall entail notice to and consultation with local taxing districts before making submissions to the Department:

(1) The applicant or zone sponsor must send notice to each taxing district (including but not limited to any municipal corporation or service district listed under ORS 198.010 and 198.180) that levies or has authority to levy ad valorem taxes on property within the proposed area of zone designation or of inclusion by the boundary change. Notice does not need to go to any taxing district that is:

(a) A city, port or county government applying for or sponsoring the zone; or

(b) A service district, urban renewal district, or the like with effectively the same governing body as a city, port or county applicant or sponsor.

(2) For enterprise zone designation under ORS 285C.080 or 285C.250, the notice must be sent at least 21 calendar days before the meeting described in OAR 123-065-1060 and must include, but is not limited to:

(a) An invitation for representation from each district;

(b) An established meeting place, date and time (The applicant is urged to coordinate scheduling with district officials who are known to be interested in relevant issues); and

(c) Brief background about the reasons for seeking an enterprise zone.

(3) In the case of an application for designation under ORS 285C.085 or 285C.353 or for a boundary change request under ORS 285C.115, the applicant/sponsor must send the notice at least 21 calendar days before adoption of the requisite resolution by the governing body of the applicant/sponsoring county. If there is no county applicant/sponsor, notice must precede adoption of any requisite resolution by an applicant/sponsoring city or port by 21 calendar days.

(4) The notice described in section (2) or (3) of this rule must also be sent to the county assessor, and it must:

(a) Indicate the probable schedule for consideration of city/port/county resolutions to apply for designation or to request the boundary change;

(b) Explain the limited-duration exemption(s) from taxes on potential property newly invested inside the zone boundary by businesses and how it is subject to certain requirements;

(c) Invite comments on the proposed zone or boundary change to be directed at some or all of the sponsoring city/port/county governments; and

(d) Give contact details for submitting such comments or for receiving further information.

(5) The applicant or zone sponsor must furnish the Department with the following as part of the application or boundary change request:

(a) A list of contact names and mailing addresses for all applicable taxing districts;

(b) A copy of the notice directed at such taxing districts;

(c) Any final document, materials or meeting minutes associated with consultative activities described in OAR 123-065-1060 to 123-065-1080; and

(d) A statement signed by the authorized preparer of the application or request attesting that the notification was sent by regular mail to each listed district on a specified date.

(6) For all written comments received in response to the notice from any relevant taxing district, the applicant or zone sponsor shall send copies to the Department no later than 15 calendar days following receipt or before any applicable deadline whichever is sooner.

(7) A taxing district's objection to or lack of support for the proposed zone designation or boundary change has no bearing on the zone's operation or on exemptions granted to business firms.

(8) Failure to perform any task stipulated by this rule may result in the Director's rescinding the relevant order.

(9) The tasks stipulated in this rule are in no way intended to discourage or replace other local efforts and actions to provide/ elicit public information, commentary or involvement, as circumstantially appropriate, or as required by local law, policy, custom or practice.

(10) Copies of items listed in subsections (5)(a) and (b) of this rule shall also be furnished to the Special Districts Association of Oregon (Attn: Government Affairs) by the applicant or zone sponsor.

Stat. Auth.: ORS 285A.075(5), 285A.110(1), 285C.060(1), 285C.065(3), 285C.250(4), 285C.353(2) & 285C.370
Stats. Implemented: ORS 285C.060, 285C.065, 285C.075, 285C.085, 285C.090, 285C.115, 285C.120, 285C.250 & 285C.353
Hist.: EDD 1-2005, f. & cert. ef. 2-25-05; EDD 1-2007(Temp), f. & cert. ef. 1-8-07 thru 7-6-07; EDD 2-2007, f. 6-15-07, cert. ef. 7-1-07

123-065-1060

Consultation Meeting for Enterprise Zone Applications

For purposes of ORS 285C.067, the city/port/county applicant for enterprise zone designation shall conduct a public meeting:

(1) That occurs not less than seven days before the adoption of a resolution of application by the governing body of any sponsoring city, port or county.

(2) To which the applicant sends staff and community partners, who are directly involved with the application and knowledgeable about potential business development in the proposed zone, and elected or executive officials of the governments as feasible and appropriate.

(3) At which the applicant:

(a) Makes available or reviews copies of a map of the proposed zone boundary and other such materials related to the application;

(b) Recognizes for the record any written commentary received from a district;

(c) May allot time for opening statements by each district in attendance; and

(d) Sees that the proceedings are transcribed or recorded in some manner.

(4) That involves discussion of relevant issues and addresses follow-up steps for analysis or further consultation (see OAR 123-065-1070) or for any arrangement or agreement (per OAR 123-065-1080), as well as plans for submitting the enterprise zone application and for holding public hearings to adopt resolutions.

Stat. Auth.: ORS 285A.075(5), 285A.110(1), 285C.060(1), 285C.065(3), 285C.067(2) & 285C.250(4)
Stats. Implemented: ORS 285C.060, 285C.065, 285C.067, 285C.075 & 285C.250
Hist.: EDD 1-2007(Temp), f. & cert. ef. 1-8-07 thru 7-6-07; EDD 2-2007, f. 6-15-07, cert. ef. 7-1-07

123-065-1070

Additional Consultations with Taxing Districts

In anticipation of or subsequent to the meeting described in OAR 123-054-1060, the city/port/county applicant for enterprise zone designation:

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(1) May communicate, confer or interact with one or more local taxing districts in other ways, including but not limited to additional public or nonpublic meetings or special means of eliciting feedback and dialogue with districts.

(2) Shall respond within 10 business days to a local taxing district's formal request, and make good faith efforts to fulfill such a request, for a special (one-on-one) meeting or for written comments or answers to specific questions.

(3) Shall assist one or more districts, as requested, to estimate or better understand short/long-term public revenues and service demands under particular assumptions or potentialities about enterprise zone development or (types of) business projects, or to generally quantify such benefits and costs over time (at least 10 years), when possible.

(4) May explore how to effectively resolve relevant, outstanding issues through local government permitting procedures and development standards affecting eligible business firms in the zone, including but not limited to design review, conditional use permits, comprehensive land use planning or zoning ordinances.

Stat. Auth.: ORS 285A.075(5), 285A.110(1), 285C.060(1), 285C.065(3), 285C.067(2) & 285C.250(4)

Stats. Implemented: ORS 285C.060, 285C.065, 285C.067, 285C.075 & 285C.250
Hist.: EDD 1-2007(Temp), f. & cert. ef. 1-8-07 thru 7-6-07; EDD 2-2007, f. 6-15-07, cert. ef. 7-1-07

123-065-1080

Results of Taxing District Consultations

(1) As a consequence of the consultation procedures described in OAR 123-065-1060 or 123-065-1070, the city/port/county applicant may establish arrangements or agreements with one or more districts, contingent on actual designation of the enterprise zone.

(2) If any such arrangement is made, the applicant shall document it in materials submitted with the application, including but not limited to describing follow-up steps, timelines or outstanding points for any such arrangement or agreement that remains subject to further development or finalization.

(3) Although the applicant might formally execute and document any such arrangement or agreement, the applicant may describe verbal pledges or understandings with the application, but any such description does not itself create or represent a binding obligation on or for the applicant.

(4) This rule does not create any authority over property tax collection or right to obligate or burden the county assessor.

Stat. Auth.: ORS 285A.075(5), 285A.110(1), 285C.060(1), 285C.065(3), 285C.067(2) & 285C.250(4)

Stats. Implemented: ORS 285C.060, 285C.065, 285C.067, 285C.075 & 285C.250
Hist.: EDD 1-2007(Temp), f. & cert. ef. 1-8-07 thru 7-6-07; EDD 2-2007, f. 6-15-07, cert. ef. 7-1-07

123-065-1500

Definitions

In addition to terms defined in OAR 123-065-0000, the following definitions apply to applications for designation of an enterprise zone (OAR 123-065-1500 to 123-065-1599):

(1) "Applicant" means the Sponsoring Government or Governments submitting the application for an enterprise zone designation.

(2) "Basis Point" equals one one-hundredth of a unit of a percentage rate or 1 percent of a Percentage Point.

(3) "Enterprise Zone Population" means:

(a) For rural enterprise zones, the total population of incorporated cities in which any part of the zone is located, plus the estimated population of unincorporated territory that is within the boundary of the zone; or

(b) For urban enterprise zones, the estimated population within the boundaries of the zone, plus the estimated population of any Target Community that is used for purposes of OAR 123-065-1630.

(4) "Percentage Point" equals one unit of a percentage rate. (For example, an 8.5-percent unemployment rate is two Percentage Points higher than a 6.5-percent unemployment rate)

(5) "Round of Designation" means the period, not less than 90 days, beginning when one set of enterprise zone designations has taken effect and ending with the effective date for the next set of zone designations, pursuant to separate calls for applications.

(6) "Sponsoring Government" means a county, port or city participating as an Applicant in proposing an enterprise zone (or a district that has effectively the same governing body as the county, port or city, and that contains all Sponsoring Government territory inside the proposed zone).

(7) "Strategic Plan" or "Strategic Planning" means any documentation or descriptions, as submitted with an application for designation of an enterprise zone, as described in OAR 123-065-1650.

Stat. Auth.: ORS 285A.075(5), 285A.110(1), 285C.060(1), 285C.065(3) & 285C.250(4)

Stats. Implemented: ORS 285C.065, 285C.075 & 285C.250

Hist.: EDD 1-1997, f. & cert. ef. 1-7-97; EDD 1-1999, f. & cert. ef. 1-26-99; EDD 1-2005, f. & cert. ef. 2-25-05; EDD 1-2007(Temp), f. & cert. ef. 1-8-07 thru 7-6-07; EDD 2-2007, f. 6-15-07, cert. ef. 7-1-07

123-065-1520

Enterprise Zone Application

The application for designation of an enterprise zone:

(1) Shall be accepted by the Department only if submitted pursuant to an announced Round of Designation, and if on or before the date of the application deadline specified by OAR 123-065-1550(1):

(a) The applicant has sent it, as indicated by a postmark or the receipt of a commercial deliverer; or

(b) The Department has received it at its Salem office by 5 p.m. that day if directly delivered by the Applicant.

(2) Shall include all items and information specified in OAR 123-065-1530, for which failure to perform an associated task may result in termination of the zone after designation under ORS 285C.245(5).

(3) Shall be accepted by the Department from any city, port or county or combination of cities, ports or counties in accordance with OAR 123-065-0010, except that:

(a) A city or port may be a Sponsoring Government for only one application per Round of Designation.

(b) A city with less than 100,000 population may not be a Sponsoring Government, if it is a sponsor of a current enterprise zone, unless that current enterprise zone is to be Terminated by Statute at the conclusion of the Round of Designation, or as allowed by the Director respective to near-term terminations and re-applications.

(c) An Applicant is not eligible if it includes any city, port or county that sponsored an enterprise zone terminated by order of the Director under ORS 285C.245(4) or (5), other than a county if:

(A) A city or port also sponsored the terminated zone; and

(B) None of the proposed enterprise zone area for designation was inside the terminated zone.

(4) Shall specify a name for the proposed zone corresponding to place names or common geographic or jurisdictional terms. (A Preexisting Enterprise Zone shall be distinguished from any previous designation of the same name, as necessary, by the suffix "II," "III," etc.)

(5) May contain binding proposals by each Sponsoring Government (as indicated in its resolution) to provide local incentives under ORS 285C.065(4) to (6) (consistent with OAR 123-065-0240) to authorized or qualified business firms locating or expanding in parts of the proposed zone exclusive to that government's political or service territory.

(6) Serves as an opportunity for a Preexisting Enterprise Zone to revise any existing policy.

(7) Is the only chance for cities or counties to establish under ORS 285C.070, whether a business operating a hotel, motel or destination resort will be eligible under ORS 285C.135(5)(c) in the newly designated enterprise zone, or whether this eligibility will be exclusive to the city or county jurisdiction of one or more Sponsoring Governments. Moreover:

(a) Any such election or restriction depends on resolution(s) (jointly) adopted by the city and county Sponsoring Government(s).

(b) A Sponsoring Government may revise an election, restriction or lack thereof, regardless of what the application said, by resolution(s) (jointly) adopted up to but not more than six months after the date of designation.

(c) For a Preexisting Enterprise Zone with an existing election under ORS 285C.070 or section 56(1), chapter 662, Oregon Laws 2003, hotel/resort eligibility will NOT automatically carry over (causing future hotel/resorts to be ineligible throughout the new zone, unless there is a positive election as described in this section).

Stat. Auth.: ORS 285A.075(5), 285A.110(1), 285C.060(1), 285C.065(3), 285C.066 & 285C.250(4)

Stats. Implemented: ORS 285C.065, 285C.070, 285C.075 & 285C.250

Hist.: EDD 4-1994, f. & cert. ef. 2-24-94; EDD 10-1995, f. & cert. ef. 12-19-95; EDD 1-1997, f. & cert. ef. 1-7-97, Renumbered from 123-065-0020; EDD 1-1999, f. & cert. ef. 1-26-99; EDD 1-2005, f. & cert. ef. 2-25-05; EDD 1-2007(Temp), f. & cert. ef. 1-8-07 thru 7-6-07; EDD 2-2007, f. 6-15-07, cert. ef. 7-1-07

123-065-1530

Required Elements of Application

An application proposing designation of an enterprise zone must contain:

(1) A form as prescribed by and available from the Department that the Applicant fills out and includes with the information described in this rule.

(2) A copy of a resolution, duly adopted not more than 90 days before submission of the application to the Department for that Round of Designation:

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(a) Consistent with OAR 123-065-1540 from each Sponsoring Government; and

(b) Of consent from any other applicable city, port or county (OAR 123-065-0010).

(3) A description of the boundary and surface area of the proposed zone (OAR 123-065-1000).

(4) Information sufficient to verify satisfaction of mandatory qualifications in OAR 123-065-1510 by including:

(a) Data for social and economic conditions (OAR 123-065-1600 to 123-065-1630), which also serve the competitive criteria in OAR 123-065-1560; and

(b) Evidence about the readiness of land for development, including but not limited to an enterprise zone map or narrative highlighting critical sites (OAR 123-065-1670).

(5) Documentation of notice and consultation with local taxing districts (OAR 123-065-1050 to 123-065-1080).

Stat. Auth.: ORS 285A.075(5), 285A.110(1), 285C.060(1), 285C.065(3), 285C.066, 285C.067(2) & 285C.250(4)

Stats. Implemented: ORS 285C.065, 285C.075, 285C.090 & 285C.250

Hist.: EDD 1-1997, f. & cert. ef. 1-7-97; EDD 1-1999, f. & cert. ef. 1-26-99; EDD 5-1999(Temp), f. & cert. ef. 8-20-99 thru 10-23-99; EDD 14-1999, f. 10-22-99, cert. ef. 10-23-99; EDD 1-2005, f. & cert. ef. 2-25-05; EDD 1-2007(Temp), f. & cert. ef. 1-8-07 thru 7-6-07; EDD 2-2007, f. 6-15-07, cert. ef. 7-1-07

123-065-1540

Local Resolutions Requesting Designation

The resolutions of Sponsoring Governments for purposes of OAR 123-065-1530(2), proposing and requesting designation of an enterprise zone, shall:

(1) State the Applicant's principal reasons for an enterprise zone, as appropriate.

(2) Acknowledge other participants in a joint application, if any.

(3) Confirm that the Applicant will give priority to the use in a designated zone of any economic development or job training funds received directly or indirectly from the federal government.

(4) Declare that the Applicant will fulfill its duties under ORS 285C.050 to 285C.250 and comply with ORS 285C.105, as described in this division of administrative rules, including but not limited to a commitment to:

(a) Appoint a local zone manager within 90 days of designation, if one is not already appointed through the application; and

(b) Fully implement within six months of designation:

(A) Any proposal in the application for local incentives under ORS 285C.065(4) to (6) (OAR 123-065-0240); and

(B) Duties of the sponsor described in OAR 123-065-0210 and 123-065-0255.

(5) Attest to actions taken for purposes of public involvement, including but not limited to the nature and outcome of the consultations under ORS 285C.067.

(6) Highlight other characteristics of the application or the proposed zone as deemed appropriate by the Sponsoring Government.

(7) Address applicable elections or restrictions for hotel/resort eligibility (see OAR 123-065-1520) or similar matters.

Stat. Auth.: ORS 285A.075(5), 285A.110(1), 285C.060(1), 285C.065(3), 285C.067(2) & 285C.250(4)

Stats. Implemented: ORS 285C.065, 285C.067, 285C.070, 285C.095, 285C.105, 285C.110

Hist.: EDD 1-1997, f. & cert. ef. 1-7-97; EDD 1-1999, f. & cert. ef. 1-26-99; EDD 5-1999(Temp), f. & cert. ef. 8-20-99 thru 10-23-99; EDD 14-1999, f. 10-22-99, cert. ef. 10-23-99; EDD 1-2005, f. & cert. ef. 2-25-05; EDD 1-2007(Temp), f. & cert. ef. 1-8-07 thru 7-6-07; EDD 2-2007, f. 6-15-07, cert. ef. 7-1-07

123-065-1553

Director's Determination

For purposes of designating enterprise zones:

(1) The Director's consideration shall include but is not limited to the staff report in OAR 123-065-1550.

(2) For a given Round of Designation:

(a) All zones available for designation under ORS 285C.250(1) to replace zones that are Terminated by Statute shall be designated if there are qualified Applicants;

(b) The Director may determine not to designate a zone available under another provision, despite qualified Applicants (beyond any minimum number of designations if so specified in the public notice); and

(c) Any zone remaining undesignated shall be available in a future Round of Designation as determined by the Director.

(3) No enterprise zone shall be designated if any such designation would cause the total number of enterprise zones in existence to exceed the maximum number as described in OAR 123-065-0059.

(4) The decision of the Director as to which qualified Applicant(s) to designate (or deny):

(a) May not be appealed; and

(b) Depends ultimately (subject to sections (1) to (4) of this rule) on the Director's determination of which Applicant/proposed enterprise zone represents the best chance to fulfill the public purposes of the **Enterprise Zone Act** if designated.

Stat. Auth.: ORS 285A.075(5), 285A.110(1), 285C.060(1), 285C.067(2), 285C.250(4)

Stats. Implemented: ORS 285C.055, 285C.060, 285C.067, 285C.075, 285C.080, 285C.250 & 285C.260

Hist.: EDD 1-2005, f. & cert. ef. 2-25-05; EDD 1-2007(Temp), f. & cert. ef. 1-8-07 thru 7-6-07; EDD 2-2007, f. 6-15-07, cert. ef. 7-1-07

123-065-1590

Competitive Criteria: Miscellaneous

The following criteria relate to how well the proposed enterprise zone will operate and achieve the economic development goals of the state as a whole. Responses may be made at the Applicant's discretion and may consolidate two or more criteria:

(1) A plan for managing the proposed zone, including but not limited to the appointment of a local enterprise zone manager or co-managers through provisions in the application or approved actions by the Sponsoring Governments.

(2) Existing or proposed arrangements for coordinating actions among the Sponsoring Governments, county assessor and other key participants in the proposed zone, including but not limited to the creation or naming of a Zone Association empowered and constituted by resolutions/agreement among the Sponsoring Governments.

(3) Evidence of broad-based public awareness or support for the proposed zone by the local community, including but not limited to:

(a) A record of formal public discussion and involvement in the decisions to make application and to define the area for the zone; and

(b) Resolutions or letters of support for the zone from local organizations, institutions or property tax districts received by the Department within 30 calendar days of the application deadline specified in OAR 123-065-1550(1).

(4) For a proposed urban enterprise zone, the absence within the metropolitan statistical area of any other urban zone that will not be Terminated by Statute before the zone is designated (maximum of 150 points).

(5) The distance between a proposed rural enterprise zone and the nearest current enterprise zone that will not be Terminated by Statute before the zone is designated (2.5 points for every mile of the shortest distance over paved roadways, up to a maximum of 250 points).

(6) Number of cities, ports or counties participating in the proposed zone (40 points for each Sponsoring Government in excess of two).

(7) The results of consultations with local taxing districts under ORS 285C.067.

Stat. Auth.: ORS 285A.075(5), 285A.110(1), 285C.060(1), 285C.065(3), 285C.067(2), 285C.250(4)

Stats. Implemented: ORS 285C.055, 285C.067, 285C.075, 285C.105 & 285C.250

Hist.: EDD 1-1997, f. & cert. ef. 1-7-97; EDD 1-1999, f. & cert. ef. 1-26-99; EDD 9-2000, f. & cert. ef. 5-2-00; EDD 1-2005, f. & cert. ef. 2-25-05; EDD 1-2007(Temp), f. & cert. ef. 1-8-07 thru 7-6-07; EDD 2-2007, f. 6-15-07, cert. ef. 7-1-07

123-065-1600

Definitions

In addition to terms defined in OAR 123-065-0000 and 123-065-1500, the following definitions apply to OAR 123-065-1600 to 123-065-1699:

(1) "Magnet Enterprise Zone" means a rural enterprise zone that has:

(a) A Sponsoring Government that is the most populous city of the county or counties in which the zone is located; and

(b) An Enterprise Zone Population equal to or greater than 25 percent of the population of the county or one of the counties in which the zone is located.

(2) "Population" as used in ORS 285C.090 means the number of inhabitants as determined by the most recently available data from the federal Bureau of Census or the Center for Population Research and Census (CPRC) at Portland State University.

(3) "Poverty level" as used in ORS 285C.090 is as defined by the U.S. Bureau of Labor Statistics of the U.S. Department of Labor.

(4) "Regional academic institution" as used in ORS 285C.090 means a nonprofit or not-for-profit center or institute that is engaged in demographic, economic, social or related studies and is associated with an accredited college or university, including but not limited to extension services offices.

(5) "Target Community" means an extensive residential area or group of such areas that:

ADMINISTRATIVE RULES

- (a) Is proximate to the proposed enterprise zone boundary;
- (b) Dominates much of the proposed zone's immediate vicinity; and
- (c) Encompasses the populace that the proposed zone is intended by the Applicant to help through employment opportunities or through relevant public or private activities that would make the Target Community economically stronger and more vital.

Stat. Auth.: ORS 285A.075(5), 285A.110(1), 285C.060(1), 285C.065(3) & 285C.250(4)
Stats. Implemented: ORS 285C.065, 285C.075, 285C.090 & 285C.250
Hist.: EDD 1-1997, f. & cert. ef. 1-7-97; EDD 1-1999, f. & cert. ef. 1-26-99; EDD 1-2005, f. & cert. ef. 2-25-05; EDD 1-2007(Temp), f. & cert. ef. 1-8-07 thru 7-6-07; EDD 2-2007, f. 6-15-07, cert. ef. 7-1-07

123-065-1620

Correlation with Proposed Zone

For purposes of OAR 123-065-1510, 123-065-1560 and 123-065-1610:

(1) The Applicant of any proposed enterprise zone that is located entirely within a metropolitan statistical area may use equivalent data for the metropolitan statistical area instead of statewide data, regardless of whether the equivalent data represents only the in-state portion of the metropolitan statistical area.

(2) Unless otherwise stipulated, economic measures and statistics for a proposed enterprise zone may rely entirely on:

(a) Zone-specific data averaged/weighted by the population of (for example) respective Census Statistical Units that approximate economic conditions within the proposed boundaries and the immediate vicinity of the zone;

(b) Citywide data averaged/weighted by city population, but only if no less than 75 percent of the inhabitants residing within the proposed boundaries of the zone also reside inside the incorporated area of the same city or cities;

(c) Countywide data, but only if the zone is a Magnet Enterprise Zone; or

(d) Metropolitan statistical area data, but only for a proposed urban zone.

(3) An Applicant proposing an enterprise zone designation may exercise the following latitude in developing zone-specific economic measures based on or derived from published income, employment, population and other data for Census Statistical Units:

(a) The Applicant may use special studies or documented analyses to estimate or infer the actual population, employment or income levels for the relevant parts of Census Statistical Units intersected by the proposed enterprise zone boundary;

(b) The Applicant may ignore the available data for Census Statistical Units intersected by the proposed enterprise zone boundary, if no more than 25 percent of the inhabitants inside the zone boundary also reside within all ignored Census Statistical Units;

(c) The Applicant must utilize the available data for Census Statistical Units intersected by the proposed enterprise zone boundary, if 75 percent or more of the inhabitants in any utilized Census Statistical Unit also reside within the zone boundary; and

(d) Notwithstanding the specific parameters of subsections (b) and (c) of this section, the Applicant for designation of a proposed urban enterprise zone may use a Target Community that the Applicant identifies and demonstrates as conforming with OAR 123-065-1600(5) to the satisfaction of the Department (not applicable to rural zones).

Stat. Auth.: ORS 285A.075(5), 285A.110(1), 285C.060(1), 285C.065(3), 285C.250(4)
Stats. Implemented: ORS 285C.065, 285C.075, 285C.090 & 285C.250
Hist.: EDD 1-1997, f. & cert. ef. 1-7-97; EDD 1-1999, f. & cert. ef. 1-26-99; EDD 1-2005, f. & cert. ef. 2-25-05; EDD 1-2007(Temp), f. & cert. ef. 1-8-07 thru 7-6-07; EDD 2-2007, f. 6-15-07, cert. ef. 7-1-07

123-065-1710

Definitions

For purposes of this division of administrative rules:

(1) As used in ORS 285C.085(4)(b), "all areas within both the federal enterprise zone and the city, county or port are included in a state enterprise zone" means that the state enterprise zone will need to encompass all of the Federal Enterprise Zone inside territory of any city, port or county that will sponsor the zone:

(a) Even if such area is also inside an overlapping city, port or county that neither sponsors nor consents to the zone, regardless of OAR 123-065-0010; but

(b) Not such area that overlaps with another existing state enterprise zone.

(2) "Federal Enterprise Zone" for purpose of ORS 285C.085 means any designation as defined under ORS 285C.050(9) by an agency of the federal government, provided that it is:

- (a) Not terminated;
- (b) Located at least partially in this state;
- (c) Delimited by formal boundaries and an established period of existence of at least five years from the time of the federal designation;
- (d) Intended at least in part to create or improve economic opportunities and development within the local community;
- (e) Provided for by federal law that includes congressionally authorized benefits for purposes of subsection (d) of this section;
- (f) Qualified based on federal guidelines, including but not limited to criteria for a level of economic hardship, generally comparable to that indicated under ORS 285C.090; and

(g) Subject to a significant degree of national selectivity and uniqueness, in relation to subsection (f) of this section, such that having more than five of any designation type awarded to this state would be highly unlikely, as an example.

(3) For purposes of its "lead agency" role for a "federal enterprise zone program" under ORS 285C.085(1), the Department may delegate responsibility to and coordinate with other state agencies in undertaking official activities for application, designation or operation of a Federal Enterprise Zone or benefits exclusive to the designation, as appropriate or required under state policies or federal guidelines.

Stat. Auth.: ORS 285A.075(5), 285A.110(1) & 285C.060(1)
Stats. Implemented: ORS 285C.050 & 285C.085
Hist.: EDD 5-1999(Temp), f. & cert. ef. 8-20-99 thru 10-23-99; EDD 14-1999, f. 10-22-99, cert. ef. 10-23-99; EDD 1-2005, f. & cert. ef. 2-25-05; EDD 1-2007(Temp), f. & cert. ef. 1-8-07 thru 7-6-07; EDD 2-2007, f. 6-15-07, cert. ef. 7-1-07

123-065-1720

Designation Based on Federal Enterprise Zone Status

For purposes of a local request for designation of an enterprise zone under ORS 285C.085(2):

(1) City, port or county governments may apply (in a manner generally consistent with the provisions of OAR 123-065-1520 to 123-065-1540) for designation of a zone corresponding to the boundary of a single Federal Enterprise Zone located in the government's territory, such that:

(a) Application may occur at any time without regard to deadlines, a Round of Designation or an application form;

(b) Besides a map and legal description of the proposed enterprise zone, the application must document the Federal Enterprise Zone's official existence, location and satisfaction of OAR 123-065-1710(2), except to the extent that the Department is already fully aware of such satisfaction;

(c) Information related to local economic hardship, land use/zoning or estimated surface area is not necessary;

(d) The governments must engage in timely communication in accordance OAR 123-065-1050 and are encouraged to pursue further consultation with local taxing districts;

(e) Any cosponsor of a zone terminated by order of the Director under ORS 285C.245(4) or (5) is not excluded from applying;

(f) Application may include a request by a city or county for hotels, motels or destination resorts to be eligible business firms in the zone under ORS 285C.070;

(g) Proposals by a cosponsor for local incentives shall not be binding; and

(h) The designation may not serve as the re-designation of a Preexisting Enterprise Zone.

(2) The designation of the zone may be made without regard to any limitation on the:

(a) Number or location of enterprise zones as authorized by state law; or

(b) Size or dimensions of an enterprise zone as described in OAR 123-065-0080 and 123-065-0090.

(3) The zone must still conform to the requirements for:

(a) Being either urban or rural as described in OAR 123-065-0100, except for a special waiver and determination, at the Director's discretion, as to the more suitable categorization; and

(b) Inclusion of all area in each cosponsor that is inside the Federal Enterprise Zone as described in OAR 123-065-1710(1).

(4) The Director's order of designation shall essentially follow OAR 123-065-1557.

(5) A cosponsor of an existing enterprise zone may not seek designation of another zone as described in this rule, whenever:

(a) The Federal Enterprise Zone overlaps with a portion of the existing enterprise zone; or

(b) The cosponsor is a city with less than 100,000 in population.

Stat. Auth.: ORS 285A.075(5), 285A.110(1) & 285C.060(1)
Stats. Implemented: ORS 285C.050, 285C.080, 285C.085 & 285C.090

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Hist.: EDD 5-1999(Temp), f. & cert. ef. 8-20-99 thru 10-23-99; EDD 14-1999, f. 10-22-99, cert. ef. 10-23-99; EDD 1-2005, f. & cert. ef. 2-25-05; EDD 1-2007(Temp), f. & cert. ef. 1-8-07 thru 7-6-07; EDD 2-2007, f. 6-15-07, cert. ef. 7-1-07

123-065-1740

Further Changes to Enterprise Zones under this Subdivision

Once an enterprise zone has been designated as described in OAR 123-065-1720 or its boundary changed as in 123-065-1730, a change in the boundary of the zone may be requested and done under ORS 285C.115, as otherwise allowed by applicable provisions, with the following clarifications:

(1) If the total area of the enterprise zone equals or exceeds 12 square miles, additional areas may be included, pursuant to OAR 123-065-1730, only if those areas are located:

(a) In parts of the Federal Enterprise Zone within a city, port or county requesting to become a cosponsor of the zone with the boundary change;

(b) In new parts of the Federal Enterprise Zone, as amended by authority of the federal government; or

(c) In another Federal Enterprise Zone that is located in a city, port or county that sponsors the zone.

(2) If the zone exceeds the maximum overall allowed distance applicable to the zone, additional areas may be included in one of the following ways:

(a) Consistent with section (1) of this rule, whenever total area of the zone will or already does equal or exceed 12 square miles;

(b) Where such areas do not increase the overall distance within the zone consistent with ORS 285C.120(1)(b) and (c); or

(c) By virtue of a waiver under ORS 285C.120(2) (see OAR 123-065-0095).

Stat. Auth.: ORS 285A.075(5), 285A.110(1) & 285C.060(1)

Stats. Implemented: ORS 285C.085 & 285C.115

Hist.: EDD 14-1999, f. 10-22-99, cert. ef. 10-23-99; EDD 1-2005, f. & cert. ef. 2-25-05; EDD 1-2007(Temp), f. & cert. ef. 1-8-07 thru 7-6-07; EDD 2-2007, f. 6-15-07, cert. ef. 7-1-07

123-065-2520

Basic Parameters

For purposes of local, additional requirements imposed by an enterprise zone sponsor:

(1) They shall apply to a qualified business firm only:

(a) With respect to operations inside (or nearby and affected by operations in) the enterprise zone; and

(b) Between the time when:

(A) The firm receives authorization (certification in the case of the long-term rural tax incentives); and

(B) The overall enterprise zone exemption period expires on June 30. For example, however, a sponsor may require through contractual agreement, as otherwise permissible by law, that if the business firm later shuts down its eligible operations in the zone, it would be obligated to pay the sponsor an amount equal to some of the tax benefit that the firm had earlier received; this amount might reasonably relate to how soon after expiration of the exemption permanent stoppage of zone operations occurred.

(2) Notwithstanding section (1) of this rule, the zone sponsor and the business firm may mutually agree, subject to possibly certain contingencies, to automatically apply current requirements or provisions of an agreement to identified future situations described in OAR 123-065-2510.

(3) They shall not require that the eligible business firm's hiring, recruitment, promotion, training, compensation or treatment of its actual or potential employees, suppliers, contractors or customers be based on:

(a) Those persons' or businesses' residency or geographic location, consistent with OP-8236, Oregon Attorney General (April 20, 1995); or

(b) Other legally impermissible criteria.

(4) The zone sponsor may offer multiple options from which the eligible business firm freely selects, so long as:

(a) Each optional requirement conforms with OAR 123-065-2500 to 123-065-2599; and

(b) The firm's selection, and thus what the firm is required to satisfy or not satisfy among the options, is specified in the agreement between the firm and the zone sponsor, in resolutions or in other applicable documentation.

(5) Failure by a qualified business firm to satisfy an additional requirement need not result in disqualification or loss of the tax benefits or the exemption on property, if as specifically allowed:

(a) The firm's continuing qualification does not depend on compliance with that requirement; or

(b) The firm may fulfill an alternative requirement to avoid disqualification. (An alternative requirement shall not preclude the firm's disquali-

fication, if the firm later fails to adequately fulfill the alternative requirement or any other requirement)

Stat. Auth.: ORS 285A.075(5), 285A.110(1) & 285C.060(1)

Stats. Implemented: ORS 285C.105, 285C.150, 285C.155, 285C.160 & 285C.403

Hist.: EDD 9-2000, f. & cert. ef. 5-2-00; EDD 1-2005, f. & cert. ef. 2-25-05; EDD 1-2007(Temp), f. & cert. ef. 1-8-07 thru 7-6-07; EDD 2-2007, f. 6-15-07, cert. ef. 7-1-07

123-065-2530

Additional to Statutory Provisions

Requirements imposed on a business firm by an enterprise zone sponsor are in addition to what is provided under applicable statutes or state laws, and shall neither alter nor undermine their effect or intent, such that:

(1) With respect to the following, as established by relevant state provisions, the requirements may in no way:

(a) Affect the basic eligibility or ineligibility of certain business activities or uses of relevant property;

(b) Modify any specified minimum level of investment by the firm; or

(c) Alter the coverage, extent, period or any other aspect of the tax benefit itself, although:

(A) Other forms of financial remuneration by the firm are possible; and

(B) The sponsor shall set the total period of tax benefit as provided by the relevant law or statute.

(2) The requirements may neither modify nor in any way effectively decrease or increase the stringency of state requirements for hiring, general employment levels or average pay/compensation associated with jobs or persons employed by the firm, and they shall not even address such issues, except for local requirements that:

(a) Govern employees not affected or covered by the relevant state requirement (for example, construction or temporary workers, or employee remuneration in a Portland-area urban zone);

(b) Set an alternative employment level under ORS 285C.155;

(c) Specify extra demands within the context of a first-source hiring agreement that the firm is otherwise required to enter into; or

(d) Obligate the firm in a reasonable manner with respect to the following: workforce development, hiring/retention from certain sources or groups, the general nature of benefits, or other employment-related matters categorically different from actual requirements under ORS 285C.050 to 285C.250 or 285C.412.

Stat. Auth.: ORS 285A.075(5), 285A.110(1) & 285C.060(1)

Stats. Implemented: ORS 285C.105, 285C.150, 285C.155, 285C.160 & 285C.403

Hist.: EDD 9-2000, f. & cert. ef. 5-2-00; EDD 1-2005, f. & cert. ef. 2-25-05; EDD 1-2007(Temp), f. & cert. ef. 1-8-07 thru 7-6-07; EDD 2-2007, f. 6-15-07, cert. ef. 7-1-07

123-065-2550

Zone Sponsor Policies & Approval of Agreements

(1) In imposing or setting additional requirements on business firms, an enterprise zone sponsor shall consider a policy-making approach to maintain consistency and rationality, especially in view of the following:

(a) Constitutional and other legal protections for business firms; and

(b) General principles of fairness and clarity regarding public purposes and intent.

(2) Such a policy may apply uniformly to the situations as described in OAR 123-065-2510, or it may pertain to only certain situations

(3) Such a policy is relevant to the sponsor's basic elections in granting or refusing special benefits or waivers, as well as the additional requirements imposed or sought when granting the benefit or waiver to a business firm.

(4) Except for conditions imposed by an urban enterprise zone under ORS 285C.150, such a policy for purposes of OAR 123-065-2500 to 123-065-2599 does not need to be prospectively adopted, nor does it need to be based on formal documentation, and it may reflect the cumulative effect of the sponsor's relevant past actions. A formal, explicit and prospective policy is preferable, however, whenever the following or comparable circumstances arise:

(a) Relevant requests by business firms are common or expected to become increasingly frequent;

(b) Sponsor's basic decision to grant or refuse a special benefit or waiver, or to impose additional requirements, is differentiated in terms of business or investment size or other factors;

(c) The requirements imposed are numerous, complicated or otherwise entail various contingencies or matters of judgment suggest the need for definite standards; or

(d) The sponsor departs from a general pattern in terms of granting a special benefit or waiver or imposing certain corresponding requirements.

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(5) In an urban enterprise zone that has adopted a policy under ORS 285C.150, any additional requirements imposed for other situations as described in OAR 123-065-2510(2) must:

(a) Formally relate to the policy and standards adopted by the zone sponsor; and

(b) Be in addition to and not replace any condition normally imposed by the sponsor.

(6) A city, port or county government that sponsors two or more enterprise zones is free to have different policies or seek different local additional requirements among those zones.

(7) In an enterprise zone sponsored by more than one city, port or county, the cosponsors must all jointly:

(a) Adopt the same policy, standards, established local conditions and so forth under equivalent authority or method for purposes of this rule and the enterprise zone; and

(b) Approve the same requisite written agreement.

(8) The sponsoring city, port or county governments of an enterprise zone may authorize the written agreement in the case of OAR 123-065-2510(1) or (2)(a) through a number of approaches, which may differ among the cosponsors, including but not limited to the following examples:

(a) Approval by an official empowered to enter into such an agreement under the laws, charters, ordinances and conventions of the cosponsor;

(b) Approval by the specific person or persons formally recognized to conclude such an agreement with the eligible business firm, pursuant to a previous understanding between the firm and the sponsor;

(c) A specific resolution that is approved by the governing body of the cosponsor and that sanctions a draft written agreement proposed by the eligible business firm;

(d) A specific resolution that is approved by the governing body of the cosponsor and that authorizes an agent to conclude such an agreement with the eligible business firm; or

(e) A standing policy adopted by the cosponsor that empowers a particular agent to negotiate such an agreement with all or some eligible business firms on behalf of the cosponsor (for example, the local zone manager).

Stat. Auth.: ORS 285A.075(5), 285A.110(1) & 285C.060(1)

Stats. Implemented: ORS 285C.105, 285C.150, 285C.155, 285C.160 & 285C.403

Hist.: EDD 9-2000, f. & cert. ef. 5-2-00; EDD 1-2005, f. & cert. ef. 2-25-05; EDD 1-2007(Temp), f. & cert. ef. 1-8-07 thru 7-6-07; EDD 2-2007, f. 6-15-07, cert. ef. 7-1-07

123-065-3000

Purpose and Scope

OAR 123-065-3000 to 123-065-3999 specify the effect of provisions under ORS 285C.400 to 285C.420 and 317.124 to 317.131. As such, these administrative rules address determinations, procedures and requirements of the "up-to" 15 years of exemption from property taxes and corporate excise tax credits on a qualifying investment inside a rural enterprise zone (including but not limited to a reservation enterprise zone under ORS 285C.300 to 285C.320) in a county experiencing particular economic hardship. These administrative rules do not control fiscal parameters of actual implementation by the county assessor or the Department of Revenue, and they do not supersede administrative rules in OAR chapter 150 for any such purpose.

Stat. Auth.: ORS 285A.075(5) & 285A.110(1)

Stats. Implemented: ORS 285C.400 - 285C.420, 317.124 - 317.131

Hist.: EDD 7-1998(Temp), f. & cert. ef. 4-30-98 thru 8-31-98; EDD 14-1998, f. 8-31-98, cert. ef. 9-1-98; EDD 15-2002(Temp), f. & cert. ef. 7-8-02 thru 1-3-03; EDD 3-2003, f. 3-20-03, cert. ef. 3-21-03; EDD 1-2005, f. & cert. ef. 2-25-05; EDD 1-2007(Temp), f. & cert. ef. 1-8-07 thru 7-6-07; EDD 2-2007, f. 6-15-07, cert. ef. 7-1-07

123-065-3030

Relationship to Rest of Division

OAR 123-065-3000 to 123-065-3999 do not affect the administrative rules elsewhere in this division that administer ORS 285C.050 to 285C.250. Unless the context or specific references demand otherwise, such other parts of this division of administrative rules likewise do not apply to OAR 123-065-3000 to 123-065-3999, aside from fundamental matters, such as the existence and attributes of an enterprise zone or the overall enterprise zone.

Stat. Auth.: ORS 285A.075(5), 285A.110(1), 285C.060(1)

Stats. Implemented: ORS 285C.400 - 285C.420 & 317.124 - 317.131

Hist.: EDD 7-1998(Temp), f. & cert. ef. 4-30-98 thru 8-31-98; EDD 14-1998, f. 8-31-98, cert. ef. 9-1-98; EDD 15-2002(Temp), f. & cert. ef. 7-8-02 thru 1-3-03; EDD 3-2003, f. 3-20-03, cert. ef. 3-21-03; EDD 1-2005, f. & cert. ef. 2-25-05; EDD 1-2007(Temp), f. & cert. ef. 1-8-07 thru 7-6-07; EDD 2-2007, f. 6-15-07, cert. ef. 7-1-07

123-065-3130

Definition of Facility

As used in ORS 285C.400 to 285C.420 and 317.124 to 317.131, "facility" or "facility site" has the meaning given in ORS 285C.400(4) and includes all of the following:

(1) A building or structure or group of two or more associated buildings and/or structures that are newly constructed beginning after the application for certification and are located at a common site or proximately adjacent sites entirely inside the boundary of a single rural enterprise zone.

(2) New additions or modifications occurring entirely after the application for certification to any previously constructed or occupied building or structure as otherwise described in section (1) of this rule.

(3) All of the real or personal property located at the site, whether or not it is inside or on a building or structure, as described in section (1) or (2) of this rule:

(a) If newly installed after the application for certification.

(b) Except for any vehicle, as well as device pulled, pushed or carried by a vehicle, that is designed to hold and transport people, goods or property on highways, waterways or railways beyond the zone boundary, including but not limited to aircraft, barges, carriages, railcars, trailers, trucks or ships.

(4) Any property leased by the business firm certified to receive the exemption under ORS 285C.409 and otherwise described in this rule, but only:

(a) For the exemption from property taxes, and not for the corporate excise or income tax credit under ORS 317.124, in which case only personal property may be leased; and

(b) If the firm is fully responsible for and pays all applicable ad valorem taxes potentially levied on such leased property through explicit provisions of the lease agreement.

(5) In first claiming the exemption under ORS 285C.409(1)(a) or (c) with the county assessor, the certified business firm may formally and irreversibly exclude all property as described and categorized in section (1), (2), (3) or (4) of this rule, as might be indicated in the agreement under ORS 285C.403(3)(c). In such a case, that entire category of property is subject henceforth to normal taxation for the entire exemption period.

Stat. Auth.: ORS 285A.075(5) & 285A.110(1)

Stats. Implemented: ORS 285C.400 - 285C.420 & 317.124 - 317.131

Hist.: EDD 7-1998(Temp), f. & cert. ef. 4-30-98 thru 8-31-98; EDD 14-1998, f. 8-31-98, cert. ef. 9-1-98; EDD 15-2002(Temp), f. & cert. ef. 7-8-02 thru 1-3-03; EDD 3-2003, f. 3-20-03, cert. ef. 3-21-03; EDD 1-2005, f. & cert. ef. 2-25-05; EDD 1-2007(Temp), f. & cert. ef. 1-8-07 thru 7-6-07; EDD 2-2007, f. 6-15-07, cert. ef. 7-1-07

123-065-3200

Determining Eligible Rural Enterprise Zones

In determining if a county conforms to the definition of ORS 285C.400(3) of a 'county with chronically low income or chronic unemployment':

(1) With the formal release, publication and availability of benchmarked annual unemployment rates for the previous year and other relevant data, the Department shall analyze these data, along with the most recently revised data available for other relevant prior years, and ascertain which counties in the state satisfy the definition.

(2) The Department shall identify any existing rural enterprise zone in those counties, preparing maps or other such information as feasible and appropriate for use by the general public and business firms, as well as respective local zone managers and county assessors.

(3) The official determination as described in this rule shall first take effect on July 1 next following formal availability of the latest relevant annual data and shall apply until and including June 30 of the next calendar year, pending:

(a) Revisions, if any, as described in OAR 123-065-3230; or

(b) The next annual determination.

(4) Conformance with the definition shall be achieved if OAR 123-065-3110(4), (5) or (6) is true.

Stat. Auth.: ORS 285A.075(5) & 285A.110(1)

Stats. Implemented: ORS 285C.400 & 285C.403

Hist.: EDD 7-1998(Temp), f. & cert. ef. 4-30-98 thru 8-31-98; EDD 14-1998, f. 8-31-98, cert. ef. 9-1-98; EDD 15-2002(Temp), f. & cert. ef. 7-8-02 thru 1-3-03; EDD 3-2003, f. 3-20-03, cert. ef. 3-21-03; EDD 1-2005, f. & cert. ef. 2-25-05; EDD 1-2007(Temp), f. & cert. ef. 1-8-07 thru 7-6-07; EDD 2-2007, f. 6-15-07, cert. ef. 7-1-07

123-065-3230

Revisions to Currently Eligible Rural Enterprise Zones

To ensure that the counties currently deemed as conforming to ORS 285C.400(3) accurately reflect the most recently revised annual data avail-

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able for the nation and county, following a determination as described in OAR 123-065-3200:

(1) During the course of the year from July 1 to June 30, the Department may obtain an officially and publicly made revision or correction to relevant annual data.

(2) The Department shall review such revised data to determine whether it would alter the status of any county.

(3) Pursuant to section (2) of this rule, if any county is to be thus removed or added to the counties currently identified by OAR 123-065-3200:

(a) The effective date of any such change shall be the first day of the second month following the month in which the revised or corrected data was formally released or published; and

(b) The Department shall notify the county assessor and local zone manager of any rural enterprise zone in such a county and revise and reissue relevant lists, maps and other materials, as appropriate.

(4) A correct, prior determination in accordance with OAR 123-065-3200 or this rule is not subject to retroactive change.

Stat. Auth.: ORS 285A.075(5) & 285A.110(1)

Stats. Implemented: ORS 285C.400 & 285C.403

Hist.: EDD 7-1998(Temp), f. & cert. ef. 4-30-98 thru 8-31-98; EDD 14-1998, f. 8-31-98, cert. ef. 9-1-98; EDD 15-2002(Temp), f. & cert. ef. 7-8-02 thru 1-3-03; EDD 3-2003, f. 3-20-03, cert. ef. 3-21-03; EDD 1-2005, f. & cert. ef. 2-25-05; EDD 1-2007(Temp), f. & cert. ef. 1-8-07 thru 7-6-07; EDD 2-2007, f. 6-15-07, cert. ef. 7-1-07

123-065-3300

Written Agreement with Zone Sponsor

For purposes of the written agreement between a business firm and the sponsor of the rural enterprise zone under ORS 285C.403(3)(c) and (d):

(1) The agreement shall consist at a minimum of the following:

(a) Acknowledgment of the planned or pending application for certification under ORS 285C.403(1) and (2);

(b) Concise description of the firm's proposed investments, facility and workforce;

(c) Specification of the obligations that the proposed investments, facility and workforce must satisfy under ORS 285C.412, which the agreement in no way supersedes;

(d) Identification of all the parties to the agreement and their representatives;

(e) Zone sponsor's explicit approval for the firm to receive the exemption under ORS 285C.409 on its qualifying facility;

(f) The sponsor's statement as to the number of consecutive tax years that will comprise the period of exemption beginning after the facility is placed in service, such that this period is only seven such years, if the agreement says nothing to the contrary about it being eight or more years (up to the maximum of 15 years); and

(g) With respect to additional conditions or requirements by the zone sponsor under ORS 285C.403(2)(e) and (3)(c):

(A) Indication that the sponsor is not imposing or requesting any such condition or requirement; or

(B) Specification of any such condition or requirement, in accordance with OAR 123-065-2500 to 123-065-2599, including, at a minimum:

(i) Methods for demonstrating satisfaction of the condition or requirement; and

(ii) Explicit consequences for failure to satisfy the condition or requirement.

(2) The agreement may be:

(a) Part of a broader accord involving parties other than the firm and the sponsor, insofar as such an accord contains and cites the elements listed in section (1) of this rule.

(b) Preauthorized, directly sanctioned by resolution or approved by other means of the zone sponsor or of each cosponsor as described in OAR 123-065-2550.

Stat. Auth.: ORS 285A.075(5) & 285A.110

Stats. Implemented: ORS 285C.403 & 285C.409

Hist.: EDD 7-1998(Temp), f. & cert. ef. 4-30-98 thru 8-31-98; EDD 14-1998, f. 8-31-98, cert. ef. 9-1-98; EDD 15-2002(Temp), f. & cert. ef. 7-8-02 thru 1-3-03; EDD 3-2003, f. 3-20-03, cert. ef. 3-21-03; EDD 1-2005, f. & cert. ef. 2-25-05; EDD 1-2007(Temp), f. & cert. ef. 1-8-07 thru 7-6-07; EDD 2-2007, f. 6-15-07, cert. ef. 7-1-07

123-065-3330

Timing of Written Agreement

For purposes of the requisite written agreement under ORS 285C.403(3)(c) and (d) between a business firm and the sponsor of a rural enterprise zone:

(1) The agreement must be concluded, signed and dated by an authorized representative or representatives of the firm and of the zone sponsor or of each cosponsor:

(a) On or after the effective date on which:

(A) The zone is designated or the facility site is amended into the zone through a change in the boundary of the zone; and

(B) The county containing the facility site is officially determined to conform with the definition of ORS 285C.400(3), pursuant to OAR 123-065-3200 or 123-065-3230; and

(b) Before the corresponding effective date on which:

(A) The zone is terminated; and

(B) The county is not subject to a positive official determination as described in paragraph (a)(B) of this section.

(2) The sponsor shall provide a copy of the concluded, signed and dated written agreement to the Department, which shall review the agreement, and if the following are accurate, the Department shall issue a letter for attachment to the written agreement confirming that:

(a) On the date of the agreement's execution, the county containing the facility site is officially determined to conform with the definition of ORS 285C.400(3), as described in OAR 123-065-3200 or 123-065-3230, and one party to the agreement is the sponsor of the rural enterprise zone; and

(b) The agreement satisfies applicable provisions of OAR 123-065-3300.

(3) Following the certification of the business firm as described in OAR 123-065-3430 or an effective date in subsection (1)(b) of this rule, the agreement may not be substantially modified, replaced, amended, supplemented or terminated, except as:

(a) Explicitly provided in the original version of the agreement; and

(b) Mutually accepted and documented by all parties to the agreement.

Stat. Auth.: ORS 285A.075(5), 285A.110(1)

Stats. Implemented: ORS 285C.403 & 285C.406

Hist.: EDD 7-1998(Temp), f. & cert. ef. 4-30-98 thru 8-31-98; EDD 14-1998, f. 8-31-98, cert. ef. 9-1-98; EDD 15-2002(Temp), f. & cert. ef. 7-8-02 thru 1-3-03; EDD 3-2003, f. 3-20-03, cert. ef. 3-21-03; EDD 1-2005, f. & cert. ef. 2-25-05; EDD 1-2007(Temp), f. & cert. ef. 1-8-07 thru 7-6-07; EDD 2-2007, f. 6-15-07, cert. ef. 7-1-07

123-065-3400

Applying for Certification

For purposes of the application for certification under ORS 285C.403(1) and (2):

(1) In order for a business firm to receive the exemption on its facility under ORS 285C.409:

(a) The firm must do the following before hiring new employees to work at the proposed facility and before commencing any physical work on the facility, such as construction, reconstruction, additions, modifications or installations of any qualifying property or improvements:

(A) Fill out the latest revision of the Department of Revenue form 150-310-073, **Certification Application: Long-Term Rural Oregon Tax Incentive**, as completely as the firm is capable of doing;

(B) Have the form signed and dated by the owner or authorized representative of the firm;

(C) Submit a signed original of the form to either the local zone manager representing the sponsor of the enterprise zone or the county assessor of the county in which the facility is located; and

(D) Submit an executed copy of the form to either the local zone manager or the county assessor, whichever one does not receive the signed original.

(b) Submission of the application form as described in subsection (a) of this section must occur, with respect to the rural enterprise zone:

(A) On or after the effective date of the zone's designation or of a change to the zone boundary adding the facility site; and

(B) Before the effective date of the zone's termination.

(2) Submission of the application form may occur before or after any relevant resolution, commitment, written agreement or effective date of official determination of rural enterprise zone eligibility in the county.

(3) Estimated numbers, anticipated dates or other expectations indicated in the application form are to be based on the best and most current information available to the business firm and shall not be construed as binding in and of themselves. The business firm shall inform the local zone manager and county assessor in writing of any significant changes to such expectations.

(4) The commitments made by the business firm (as required in the application form or otherwise during the certification process) shall be accepted at face value for purposes of certifying the firm, but such a com-

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mitment shall not relieve the firm of actually needing to meet an applicable requirement under ORS 285C.400 to 285C.420 and 307.124 to 307.131.

Stat. Auth.: ORS 285A.075(5) & 285A.110(1)

Stats. Implemented: ORS 285C.403

Hist.: EDD 7-1998(Temp), f. & cert. ef. 4-30-98 thru 8-31-98; EDD 14-1998, f. 8-31-98, cert. ef. 9-1-98; EDD 15-2002(Temp), f. & cert. ef. 7-8-02 thru 1-3-03; EDD 3-2003, f. 3-20-03, cert. ef. 3-21-03; EDD 1-2005, f. & cert. ef. 2-25-05; EDD 1-2007(Temp), f. & cert. ef. 1-8-07 thru 7-6-07; EDD 2-2007, f. 6-15-07, cert. ef. 7-1-07

123-065-3480

Subsequent Investments

For real or personal property described in OAR 123-065-3130 but newly located, completed and placed in service at the facility site on or after the January 1 "assessment date" cited in ORS 285C.409(1)(c):

(1) Any such property is subject to exemption from property taxes under ORS 285C.409 for the remainder of the 7 to 15 tax years available.

(2) Neither additional operations nor the introduction of such property at the facility shall lengthen or add to the exemption period on that or any property.

(3) A certified business firm may receive another (potentially overlapping) period of exemption affecting additional property at the same facility only if the firm, in accordance with ORS 285C.403, again:

(a) Applies for certification;

(b) Meets relevant criteria and is approved for certification;

(c) Satisfies the applicable requirements to qualify for the exemption under ORS 285C.412; and

(d) Undertakes additional operations at the facility.

(4) The firm or the applicable facility must accomplish the items in section (3) of this rule entirely independent of and in addition to the respective actions and investments pertaining to the certification or qualification for any previously granted exemption under ORS 285C.409.

(5)(a) Additional property of a business firm, certified for purposes of sections (3) and (4) of this rule, shall be subject to exemption as described in sections (1) and (2) of this rule until the earlier of:

(A) Final notice under ORS 285C.415 to the county assessor that all applicable requirements under ORS 285C.412 have been met; or

(B) The underlying/preexisting exemption expires (on June 30), and the certified business firm has not notified the assessor in writing to treat the additional property as a part of the exemption that is expiring.

(b) Upon fulfillment of either paragraph (a)(A) or (B) of this section, the additional property stays exempt until the end of its own period of exemption, but it is subject to the operation of ORS 285C.420 (disqualification for failure to meet or maintain an applicable requirement).

Stat. Auth.: ORS 285A.075(5), 285A.110(1) & 285C.060(1)

Stats. Implemented: ORS 285C.403, 285C.409 & 285C.412

Hist.: EDD 7-1998(Temp), f. & cert. ef. 4-30-98 thru 8-31-98; EDD 14-1998, f. 8-31-98, cert. ef. 9-1-98; EDD 15-2002(Temp), f. & cert. ef. 7-8-02 thru 1-3-03; EDD 3-2003, f. 3-20-03, cert. ef. 3-21-03; EDD 1-2005, f. & cert. ef. 2-25-05; EDD 1-2007(Temp), f. & cert. ef. 1-8-07 thru 7-6-07; EDD 2-2007, f. 6-15-07, cert. ef. 7-1-07

123-065-3850

Revenue Distribution to Local Zone Sponsor

(1) Consistent with OAR 123-065-2700(2)(c), the sponsor of an enterprise zone containing the facility of a corporation that claims the tax credit under ORS 317.124 might receive funds through the Department of Revenue from the Long Term Enterprise Zone Fund established under ORS 317.127.

(2) The sponsor's receipt of such funds depends on:

(a) The qualifying taxpayer's having claimed the credit;

(b) The taxpayer's making applicable tax payments; and

(c) The depositing of amounts from such payments for distribution under ORS 317.129 and 317.131.

(3) As to the amounts for distribution and the current state fiscal year:

(a) If they exceed the property taxes that relevant taxing districts would receive without the exemption on the facility under ORS 285C.409 in the corresponding property tax year, then that excess goes to the zone sponsor.

(b) If there is no relevant exemption under ORS 285C.409 in the corresponding property tax year, then the entire amount goes to the zone sponsor.

(4) For purposes of section (3) of this rule, the zone sponsor is responsible for making timely arrangements, so that:

(a) The sponsor can receive distributed funds in a way that effectively ensures the Department of Revenue of having made payment to the zone sponsor (including but not limited to a joint mechanism for all cosponsors, or through a deposit account administered by a single cosponsor on behalf of the entire zone sponsorship); and

(b) The applicable provisions of ORS Chapter 294 and other state or local laws are satisfied with regard to collecting, holding and using such funds.

Stat. Auth.: ORS 285A.075(5), 285A.110(1) & 285C.060(1)

Stats. Implemented: ORS 317.131

Hist.: EDD 3-2003, f. 3-20-03, cert. ef. 3-21-03; EDD 1-2005, f. & cert. ef. 2-25-05; EDD 1-2007(Temp), f. & cert. ef. 1-8-07 thru 7-6-07; EDD 2-2007, f. 6-15-07, cert. ef. 7-1-07

123-065-4020

Organization of Subsequent Rules and the Process for Businesses Seeking Exemption

The **Oregon Enterprise Zone Act** from ORS 285C.125 through ORS 285C.240 provides for an exemption from taxation on property that lasts at least three years, starting when a business firm and the property first qualify, and based on the following elements of OAR 123-065-4000 to 123-065-4999:

(1) The sponsor of the enterprise zone may extend the usual three-year exemption period to four or five consecutive years of tax abatement in total, subject to particular processes, requirements or local approval before authorization (OAR 123-065-4100 to 123-065-4199).

(2) The firm must be an eligible business firm engaged in eligible activities, as determined with authorization (OAR 123-065-4200 to 123-065-4299).

(3) The eligible business firm must obtain authorization (OAR 123-065-4300 to 123-065-4399) by:

(a) Submitting an application form generally prior to beginning any work on the proposed investment; and

(b) Ministerial approval of the local zone manager and the county assessor after special consultation.

(4) The business firm must satisfy certain employment and hiring requirements to initially qualify and must maintain related requirements during the exemption period to remain qualified (OAR 123-065-4400 to 123-065-4499, and see division 070 of this chapter of administrative rules).

(5) The exemption is available (OAR 123-065-4500 to 123-065-4599) only for:

(a) An authorized business firm that timely files with the county assessor to claim the exemption; and

(b) Certain kinds of property based on a number of attributes, one of the most fundamental of which is the property's newness for use and occupancy in the zone, as well as the definition of "qualified property" under ORS 285C.050(16).

(6) OAR 123-065-4600 to 123-065-4999 address other special matters.

Stat. Auth.: ORS 285A.075(5), 285A.110(1) & 285C.060(1)

Stats. Implemented: ORS 285C.050 - 285C.250 & 285C.260

Hist.: EDD 9-2000, f. & cert. ef. 5-2-00; EDD 1-2005, f. & cert. ef. 2-25-05; EDD 1-2007(Temp), f. & cert. ef. 1-8-07 thru 7-6-07; EDD 2-2007, f. 6-15-07, cert. ef. 7-1-07

123-065-4260

Local Option for Hotels, Motels and Destination Resorts

(1) For purposes of eligibility under ORS 285C.135(5)(c) for an exemption under ORS 285C.175 (but not ORS 285C.170) on qualified property owned or leased and operated by a business firm as a hotel, motel or destination resort inside an enterprise zone, the firm and the property must:

(a) Satisfy all applicable requirements; and

(b) Locate in a zone or portion of a zone where such firms are eligible under ORS 285C.070 (or section 56(1), chapter 662, Oregon Laws 2003), as described in section (2) or (3) of this rule.

(2) For subsection (1)(b) of this rule, allowable zones include at the time of the last amendment of this rule (subject to later revocation):

(a) The entire area of any one of the following 32 Enterprise Zones: Baker City/County, Bay Area, Cascade Locks/Hood River, CTUIR Tribal, Coquille Valley, Cottage Grove/Southern Lane County, Forest Grove, Fossil, Grant County, Grants Pass Area, Grande Ronde, Harney County/Burns/Hines, Harrisburg, Huntington, Jackson County, Josephine County, Klamath Falls/Klamath County, Lake County/Lakeview, Lower Columbia Maritime, Lower Umpqua, Malheur County, Molalla, Prineville/Crook County, Roberts Creek, St. Helens/Columbia City, Sherman County, South Douglas County, Sutherlin/Oakland, Sweet Home, The Dalles/Wasco County, Tillamook or Willow Creek Valley;

(b) The Dallas/Independence/Monmouth Enterprise Zone, except for any unincorporated area of Polk County outside city limits;

(c) The Jefferson County Enterprise Zone, except for areas in the incorporated territory of the City of Madras;

(d) The Lincoln County Enterprise Zone, except for areas in the incorporated territory of the cities of Depoe Bay and Lincoln City; and

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(e) The South Santiam Enterprise Zone, except for areas in the incorporated territory of the cities of Albany, Millersburg and Tangent.

(3) For subsection (1)(b) of this rule, an allowable zone includes but is not limited to a future enterprise zone that is acknowledged by Director in the order of designation as having opted to exempt such qualified property under ORS 285C.070 as described in OAR 123-065-1520(7).

Stat. Auth.: ORS 285A.075(5), 285A.110(1) & 285C.060(1)
Stats. Implemented: ORS 285C.070, 285C.135 & 285C.185
Hist.: EDD 9-2000, f. & cert. ef. 5-2-00; EDD 1-2005, f. & cert. ef. 2-25-05; EDD 1-2007(Temp), f. & cert. ef. 1-8-07 thru 7-6-07; EDD 2-2007, f. 6-15-07, cert. ef. 7-1-07

123-065-4310

Applying for Authorization

For purposes of ORS 285C.140(1):

(1) In applying for authorization with the sponsor of an enterprise zone and the county assessor, the Firm/applicant shall:

(a) Fill out the Application as completely as the Firm/applicant is capable of doing;

(b) Have the Application signed and dated by an owner, executive officer or legally authorized representative of such an owner or officer of the Firm/applicant; and

(c) Submit the Application by mail or otherwise to the local zone manager.

(2) In order for the sponsor to accept the Application from the Firm/applicant for potential approval, all of the actions described in section (1) of this rule must happen before:

(a) The Firm/applicant's hiring of any eligible employee to qualify under ORS 285C.200; and

(b) Any physical work, such as construction or reconstruction of a building or structure, construction of an addition or modifications to an existing building or structure, or installation of machinery or equipment, comprising all or part of the qualified property, for which the Firm/applicant proposes to claim the exemption under ORS 285C.175.

(3) Physical work for purposes of subsection (2)(b) of this rule includes site preparation that leads directly to construction, modification or installation of qualified property, such as fill, grading or leveling on raw land or the installation of underground utilities and utility connections, and as such the following are not included:

(a) Offsite development; or

(b) On-site preparations that are incidental or unrelated to the subsequent work on qualified property, such as prior improvements to the land, for example, in order to:

(A) Ready it for sale or for another project that did not go forward;

(B) Prevent erosion or otherwise maintain the land in good condition;

or

(C) Accommodate or comply with government regulations or public improvements for roadways, trunk lines or the like.

(4) A faxed, e-mailed or similarly furnished copy of the Application may be used in lieu of subsection (1)(c) of this rule, if the copy is:

(a) Received by the zone sponsor before the time described in section (2) of this rule;

(b) Promptly followed up by a hard-copy, signed original to the local zone manager; and

(c) Executed, or accompanied by evidence that the Firm/applicant stands behind it.

(5) Zone officials may verify conformity with this rule, as necessary, by:

(a) Final documents for transfer of ownership, sale closing or execution of a lease;

(b) Building permit or contract;

(c) Written statement/affidavit from someone other than an owner or employee of the Firm/applicant; or

(d) Similar forms of written and independently substantiated proof.

(6) The Firm/applicant shall pay an authorization filing fee, if directed to do so by the local zone manager, as described in OAR 123-065-0220.

(7) In the event that the local zone manager does not timely receive an Application as described in this rule, the manager may still accept it if the Firm/applicant produces dated evidence to the satisfaction of the zone manager and assessor that the Application was sent in a timely manner.

(8) In the event that an Application is appropriately replaced under ORS 285C.140(3) or otherwise, the original submission date of the previously completed Application may be used to satisfy sections (1) and (2) of this rule if the originally proposed investment would have served comparable business purposes.

(9) OAR 123-065-4313 lists exceptions to section (2) of this rule.

Stat. Auth.: ORS 285A.075(5), 285A.110(1), 285C.060(1) and 285C.140(1)(c) (12)(a)
Stats. Implemented: ORS 285C.140 & 285C.145

Hist.: EDD 4-1994, f. & cert. ef. 2-24-94; EDD 3-1996, f. & cert. ef. 4-2-96, Renumbered from OAR 123-065-0060; EDD 5-1997, f. 4-14-97, cert. ef. 4-15-97; EDD 5-1998, f. 3-12-98, cert. ef. 3-15-98; EDD 9-2000, f. & cert. ef. 5-2-00, Renumbered from 123-065-0710; EDD 1-2005, f. & cert. ef. 2-25-05; EDD 1-2007(Temp), f. & cert. ef. 1-8-07 thru 7-6-07; EDD 2-2007, f. 6-15-07, cert. ef. 7-1-07

123-065-4323

Pre-Approval Consultations

The preauthorization consultation under ORS 285C.140(4) is a trouble-shooting exercise to increase the certainty of a Firm/applicant's compliance with enterprise zone requirements through anticipatory issue-identification and preparations for verification:

(1) The consultation must occur after:

(a) A substantially complete Application is available for review; and

(b) Providing notice and reasonable opportunity for the county assessor's office to participate, according to local practices and understandings.

(2) The consultation may be:

(a) Conducted informally, by conference call and so forth for purposes of convenience and expediency;

(b) Handled by an assistant or designee of the local zone manager;

(c) Accomplished without actual representation by the county assessor; or

(d) Undertaken (and summarized) in the same context and more or less simultaneously with the completion and submission of the Application or subsequent processing of the Approval Form.

(3) Besides concerns about the Firm/applicant's eligibility or suitability for authorization, the consultation shall address matters affecting future qualification, including but not limited to the following:

(a) Request for extended abatement or other special cases as described in OAR 123-065-4328(2) or (3) or 123-065-4340(4) or (5), if germane;

(b) Confirmation of the computed annual average employment before the Application's submission;

(c) Level of confidence that new hiring (and compensation if applicable) will satisfy minimum requirements for employment of the firm in the zone:

(A) To initially qualify; and

(B) Throughout the exemption period;

(d) Arrangements for Firm/applicant to enter into a first-source hiring agreement under ORS 285C.215 as described in division 070 of these administrative rules;

(e) Adequacy of descriptions of proposed qualified property for purposes of OAR 123-065-4355(1) to (3);

(f) Specific, relevant restrictions for what comprises 'qualified property' that may be exempt, such as cost minima or required lease provisions; and

(g) Submissions or filings under ORS 285C.165, 285C.170, 285C.220 and 285C.225 to:

(A) Renew unused authorization after two years;

(B) Exempt qualified property assessed while in the process of construction/installation (see OAR 123-065-4800); and

(C) Claim exemption once the qualified property is placed in service.

(4) The local zone manager/designee shall also contact and consult with:

(a) Any local provider of emergency or other services, other than an agency of a sponsoring government, for which the manager reasonably expects the Firm/applicant's proposed investment in qualified property to create special needs or safety factors. (Local arrangements established per OAR 123-065-1080 with comparable purpose supersede this subsection)

(b) The Department, if any of the following (potential) problems surface:

(A) The investment in the zone could relate to the decrease and transfer of employment from another place in this state outside that zone;

(B) Firm/applicant might wish/need to delay or avoid entering into a first-source hiring agreement;

(C) Untimely designation or termination of the zone might jeopardize the exemption;

(D) Site is outside current zone boundary, whether or not a boundary change is possible or pending; or

(E) An especially unusual situation.

(5) If the Firm/applicant's proposed qualified property will be subject to central assessment as 'utility property,' the local zone manager or assessor shall contact the Department of Revenue and advise the Firm/applicant that no exemption applies while construction is underway.

Stat. Auth.: ORS 285A.075(5), 285A.110(1) & 285C.060(1)

Stats. Implemented: ORS 285C.140, 285C.150, 285C.155, 285C.160, 285C.180, 285C.185, 285C.200, 285C.210, 285C.215, 285C.220, 285C.225 & 285C.230

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Hist.: EDD 1-2005, f. & cert. ef. 2-25-05; EDD 1-2007(Temp), f. & cert. ef. 1-8-07 thru 7-6-07; EDD 2-2007, f. 6-15-07, cert. ef. 7-1-07

123-065-4328

Approval by Local Zone Manager

After the preauthorization consultation and the attachment of the written summary:

(1) The local zone manager shall approve the Application in order to authorize the Firm/applicant under ORS 285C.140(6), unless determining to deny it as described in OAR 123-065-4320(2) and (3).

(2) For any special case of eligibility, the local zone manager shall address relevant matters as described in OAR 123-065-4240 or shall attach to the Application any finding or explanation needed for OAR 123-065-4250, 123-065-4270 or 123-065-4280.

(3) If the Firm/applicant's proposed investment in qualified property will be located in an urban enterprise zone that imposes additional conditions under ORS 285C.150 in effect at the time of authorization, the local zone manager shall:

(a) Approve the Firm/applicant for authorization, only if the Firm/applicant has made acceptable commitments to satisfy such conditions; and

(b) Include a standardized attachment to the Application documenting the commitments of the Firm/applicant as described in OAR 123-065-0230.

(4) Within five business days of approval, the local zone manager shall:

(a) Fill out and sign the Approval Form except for the section pertaining to the county assessor;

(b) See that the county assessor is furnished with the Approval Form and a copy of the Application (with all current attachments);

(c) Notify the Firm/applicant of the status of the Application, as appropriate;

(d) Inform the local contact agency for the first-source hiring agreement as described in division 070 of this chapter of administrative rules; and

(e) Send a standardized advisory to all local taxing districts that levy taxes on property within the zone and to the Special Districts Association of Oregon (Attn: Government Affairs), providing a basic description of the proposed project's location, size and other relevant attributes. This advisory may also include other information such as readily available, existing data that could serve to foster better understanding about approximate economic and revenue impacts over the long term. (Local arrangements established per OAR 123-065-1080 with comparable purpose supersede this subsection).

Stat. Auth.: ORS 285A.075(5), 285A.110(1) & 285C.060(1)

Stats. Implemented: ORS 285C.135, 285C.140, 285C.150 & 285C.215

Hist.: EDD 1-2005, f. & cert. ef. 2-25-05; EDD 1-2007(Temp), f. & cert. ef. 1-8-07 thru 7-6-07; EDD 2-2007, f. 6-15-07, cert. ef. 7-1-07

123-065-4380

Selling or Leasing of Property by Authorized Firms

(1) If ownership of an authorized business firm changes hands, the relevant rights and requirements of authorization automatically transfer along with ownership of the firm, regardless of a change in the name or mailing address of the firm.

(2) Subject to amendment of the Application, an eligible business firm that purchases or leases qualified property owned or leased by an actively authorized business firm may claim the exemption under ORS 285C.220 and 285C.225.

Stat. Auth.: ORS 285A.075(5), 285A.110(1) & 285C.060(1)

Stats. Implemented: ORS 285C.140, 285C.175, 285C.220 & 285C.225

Hist.: EDD 5-1997, f. 4-14-97, cert. ef. 4-15-97; EDD 5-1998, f. 3-12-98, cert. ef. 3-15-98; EDD 9-2000, f. & cert. ef. 5-2-00, Renumbered from 123-065-0780; EDD 1-2005, f. & cert. ef. 2-25-05; EDD 1-2007(Temp), f. & cert. ef. 1-8-07 thru 7-6-07; EDD 2-2007, f. 6-15-07, cert. ef. 7-1-07

123-065-4440

Diminishing Employment outside the Zone

Under ORS 285C.200(1)(d), (4) and (5), an authorized business firm seeking an exemption in any enterprise zone may not qualify or remain qualified if the firm transferred operations into the enterprise zone in association with closures, curtailment of operations, downsizing, employment reductions, layoffs or job losses anywhere else in this state, unless:

(1) Any such originating location is 30 miles or less from the boundary of the zone, in which the business firm is seeking the exemption, and the firm meets the requirements under ORS 285C.200(5) and 285C.210(2)(c) described in OAR 123-065-4420(5) and 123-065-4430(5).

(2) The firm demonstrates, with or without the assistance of the zone sponsor, to the satisfaction of the county assessor or the Department that any closure/job losses more than 30 miles from the zone:

(a) Occurred entirely before the time of application for authorization;

(b) Occur entirely after the first assessment year of exemption on qualified property;

(c) Will not be permanent, such that the jobs are reasonably likely to be restored, and this does in fact happen on or before December 31 of the first initial year of exemption;

(d) Pertain to business operations that the firm does not control in any way through common ownership, corporate affiliation or contracts governing relevant operations or through other comparable intra/inter-firm relationships;

(e) Are completely unrelated to investments in the zone, such that the curtailed operations or jobs are not being transferred into the zone and would have occurred anyway; or

(f) Have only *de minimis* impact on the local economy, in that the job losses are less than one-tenth of 1 percent (0.1%) of the most recently available figure from this state's Employment Department for annual average covered employment of the county containing the lost employment.

Stat. Auth.: ORS 285A.075(5), 285A.110(1) & 285C.060(1)

Stats. Implemented: ORS 285C.200, 285C.210 & 285C.240

Hist.: EDD 14-1997, f. & cert. ef. 12-4-97; EDD 9-2000, f. & cert. ef. 5-2-00, Renumbered from 123-065-0840; EDD 1-2005, f. & cert. ef. 2-25-05; EDD 1-2007(Temp), f. & cert. ef. 1-8-07 thru 7-6-07; EDD 2-2007, f. 6-15-07, cert. ef. 7-1-07

123-065-4450

Local Waiver of Employment Increase inside Zone

For purposes of ORS 285C.155, 285C.200(2) and 285C.205, in which the local enterprise zone sponsor waives the required increase in the employment of the firm, in order for an eligible business firm to qualify:

(1) The requirements as described in OAR 123-065-4420(1) or 123-065-4430(1) do not apply, but those related to not decreasing employment outside the zone still do, consistent with OAR 123-065-4420(5), 123-065-4430(5) and 123-065-4440, if relevant.

(2) To use the provisions of either ORS 285C.200(2)(b)(A) or (B), each governing body of the sponsor must adopt a resolution:

(a) Before the eligible business firm is authorized;

(b) Stipulating the minimum employment level to be maintained during the exemption as described in section (4) of this rule; and

(c) Identifying any other reasonable condition that is:

(A) Jointly agreed to among the cosponsors;

(B) Implemented according to the same, commonly adopted language for standards, verification and so forth; and

(C) Subject to the applicable provisions of OAR 123-065-2500 to 123-065-2599.

(3) The resolution(s) described in section (2) of this rule shall incorporate:

(a) The minimum investment cost under ORS 285C.200(2)(b)(A) to be satisfied by qualified property that is placed in service and contained in property schedules over as many as three successive years, as otherwise allowed pursuant to the authorization or to two or more authorizations for concurrent investments at different locations inside the same zone; or

(b) For purposes of ORS 285C.200(2)(b)(B), the zone sponsor's specifications and methods for managing, measuring and enforcing the requirements under ORS 285C.205, to increase productivity by 10 percent, and to dedicate 25 percent of the property tax savings to employee training.

(4) The minimum employment as stipulated in the resolution(s):

(a) Is a single, stated number of employees;

(b) May be determined, as indicated in the resolution(s), by way of either Annual Employment or Claim Employment; and

(c) Relative to Existing Employment:

(A) May be lower for purposes of ORS 285C.200(2)(b)(A); or

(B) Shall be at least the same under ORS 285C.200(2)(b)(B).

(5) Final processing and distribution of the authorization application shall be delayed until final approval of the resolution or resolutions in section (2) of this rule, copies of which shall be included with materials distributed, as described in OAR 123-065-4340(5)(b).

(6) Prior to July 1 of the first tax year of the exemption, the sponsor may (jointly) modify its resolution in accordance with sections (2) to (4) of this rule, but only if so requested by the firm.

(7) Failure to satisfy the minimums, requirements or conditions, as described in this rule, shall result in the exemption's denial or disqualification consistent with OAR 123-065-4430(2) to (4), although the county assessor is in no way obligated to consider compliance with any requirement arising under ORS 285C.155 or 285C.205 without formal communication from the zone sponsor.

ADMINISTRATIVE RULES

Stat. Auth.: ORS 285A.075(5), 285A.110(1) & 285C.060(1)
Stats. Implemented: ORS 285C.155, 285C.200, 285C.205, 285C.230, 285C.240
Hist.: EDD 14-1997, f. & cert. ef. 12-4-97; EDD 9-2000, f. & cert. ef. 5-2-00, Renumbered from 123-065-0850; EDD 1-2005, f. & cert. ef. 2-25-05; EDD 1-2007(Temp), f. & cert. ef. 1-8-07 thru 7-6-07; EDD 2-2007, f. 6-15-07, cert. ef. 7-1-07

123-065-4470

Sale or Leasing of Exempted Property

For purposes of ORS 285C.175(2)(c):

(1) A qualified business firm as defined in ORS 285C.050(15) may sell or lease qualified property without triggering disqualification on such property under 285C.240, such that the exemption continues for the remainder of its normal period.

(2) Section (2) of this rule depends on all of the following:

(a) The qualified property continues to be located and eligibly used inside the enterprise zone.

(b) The purchaser or lessee is an eligible business firm under ORS 285C.050(6).

(c) The requirements under ORS 285C.210 as described in OAR 123-065-4430 are met, such that:

(A) The combined Annual Employment of the purchaser/lessee and the originally qualified business firm equals or exceeds what it otherwise would need to be, plus 100 percent of the annual average employment of the purchaser/lessee in the zone (as computed consistent with OAR 123-065-4410) immediately prior to the change in ownership/lease; and

(B) The combined Claim Employment sufficiently compares to previous Claim Employment, plus the total employment of the purchaser/lessee in the zone at the time of the change in ownership/lease.

(d) That the purchaser/lessee and the qualified property comply with all other applicable requirements of ORS 285C.050 to 285C.250.

Stat. Auth.: ORS 285A.075(5), 285A.110(1) & 285C.060(1)
Stats. Implemented: ORS 285C.050, 285C.175, 285C.210 & 285C.240
Hist.: EDD 14-1997, f. & cert. ef. 12-4-97; EDD 9-2000, f. & cert. ef. 5-2-00, Renumbered from 123-065-0870; EDD 1-2005, f. & cert. ef. 2-25-05; EDD 1-2007(Temp), f. & cert. ef. 1-8-07 thru 7-6-07; EDD 2-2007, f. 6-15-07, cert. ef. 7-1-07

123-065-4550

Obligations for All Leases, Lessors and Lessees

(1) Qualified property that is not owned by the authorized business firm is exempt in an enterprise zone under ORS 285C.185(3) subject to all other applicable requirements, if used, occupied or operated by the firm under a lease agreement executed no later than July 1 of the first tax year of exemption under ORS 285C.175. The term of the lease must also extend until the end of the final tax year of exemption, unless the qualified business firm will or does assume ownership of the property by such time.

(2) The owner of leased qualified property may be any person or corporation, including but not limited to a governmental body or an owner of the firm.

(3) The lease agreement must effectively operate as a net lease, inasmuch as:

(a) The firm/lessee directly pays all ad valorem taxes assessed against any property covered by the lease agreement; or

(b) The firm/lessee will compensate the owner of the property in full for such property taxes in addition to rent or other costs throughout the period of the lease.

(4) The stipulation of a net lease is irrelevant if the owner and lessee have common ownership and are subject to treatment as a single eligible business firm according to OAR 123-065-4460.

(5) The owner of any such qualified property (even machinery or equipment) must join the firm in filing the property schedule as an attachment to the exemption claim form under ORS 285C.225(4)(d) for the first exemption year, such that the owner or the owner's authorized legal agent signs one of the following:

(a) The same property schedule that has the original signature of the firm's representative; or

(b) An attachment to the schedule that provides for equivalent acknowledgment by the owner.

(6) For purposes of this rule, a lessee that sub-leases property to the firm may substitute for the "owner."

(7) The owner has the same right as the firm to timely notify the county assessor and the zone sponsor under ORS 285C.240(1) if a requirement is not met, in order to avoid penalties under ORS 285C.240(4).

(8) A copy of the lease agreement is not required with the authorization application or the exemption claim, except as described in OAR 123-065-4315, or as requested by the county assessor.

Stat. Auth.: ORS 285A.075(5), 285A.110(1) & 285C.060(1)
Stats. Implemented: ORS 285C.170, 285C.175, 285C.180 & 285C.220

Hist.: EDD 5-1998, f. 3-12-98, cert. ef. 3-15-98; EDD 9-2000, f. & cert. ef. 5-2-00, Renumbered from 123-065-0950; EDD 1-2005, f. & cert. ef. 2-25-05; EDD 1-2007(Temp), f. & cert. ef. 1-8-07 thru 7-6-07; EDD 2-2007, f. 6-15-07, cert. ef. 7-1-07

123-065-4610

Authorization

For purposes of claiming and being granted the enterprise zone exemption under ORS 285C.175:

(1) An eligible business firm is "authorized" if:

(a) Before the effective date of the zone's termination, the local zone manager receives the application for authorization; and

(b) The zone sponsor and the county assessor subsequently approve it under ORS 285C.140.

(2) Likewise, termination of the zone does not affect a previously authorized eligible business firm if its authorization is still active when the zone terminates, except as specified in this rule or OAR 123-065-4640.

(3) Following termination, for an authorized business firm described in section (1) or (2) of this rule:

(a) ORS 285C.165 (active status of authorization) is irrelevant for qualified property remaining outside of a current enterprise zone;

(b) The firm may not effectively reapply for authorization for a proposed investment under ORS 285C.245(1)(b) at the same site, unless it is also qualified in the terminated zone, and the requirements listed in OAR 123-065-4620 are met; and

(c) The authorization expires on January 1 directly after the 30th month of the zone's termination, such that the firm:

(A) No longer remains authorized under ORS 285C.245(1)(a)(B)(ii); and

(B) May receive exemption only on qualified property placed in service before that date.

(4) An authorized business firm described in section (1) of this rule may not apply for authorization at any site in the terminated zone under ORS 285C.245(1)(b), with the same exception as described in subsection (3)(b) of this rule.

(5) Consistent with OAR 123-065-4590(2)(a), an authorization automatically belongs to a newly designated zone, if:

(a) The zone encompasses the site of the authorized business firm's proposed investment; and

(b) The authorization is:

(A) Active under ORS 285C.165; and

(B) Not expired as described in subsection (3)(c) of this rule.

Stat. Auth.: ORS 285A.075(5), 285A.110(1) & 285C.060(1)
Stats. Implemented: ORS 285C.140, 285C.175 & 285C.245

Hist.: EDD 5-1997, f. 4-14-97, cert. ef. 4-15-97; EDD 5-1998, f. 3-12-98, cert. ef. 3-15-98; EDD 9-2000, f. & cert. ef. 5-2-00, Renumbered from 123-065-0790; Renumbered from 123-065-4390, EDD 1-2005, f. & cert. ef. 2-25-05; EDD 1-2007(Temp), f. & cert. ef. 1-8-07 thru 7-6-07; EDD 2-2007, f. 6-15-07, cert. ef. 7-1-07

123-065-4970

Payment of Tax Savings

For purposes of the payment by a qualified business firm described in OAR 123-065-4960(5):

(1) The firm shall pay to the sponsor of the enterprise zone an amount equal to the additional taxes due, as the county assessor computed under ORS 285C.175(7), on all of the qualified property receiving the exemption in:

(a) The year in which the failure occurred; or

(b) The fourth year of exemption, consistent with OAR 123-065-4960(5)(b).

(2) The sponsor of the enterprise zone is responsible for enabling the firm to make the payment, by doing the following in a timely manner:

(a) Issuing an invoice for such payment to the firm (as necessary);

(b) Receiving such moneys; and

(c) Issuing a receipt or equivalent evidence of the amount paid by the firm.

(3) In collecting, invoicing, holding or spending any money paid by the firm, the zone sponsor shall establish the necessary accounts, special funds, procedures or documentation in accordance with ORS chapter 294 and applicable local laws.

(4) If the county assessor does not receive proof that sufficient and timely payment has been made by the firm, the assessor shall disqualify the exemption or exemptions covered by the requirement as described in OAR 123-065-4960(1), as normally provided under ORS 285C.240.

(5) If the assessor disqualifies the firm for an overall exemption, such that the firm owes taxes on the formerly exempt property, then the assessor shall reduce the back taxes by any amount previously paid to retain the same exemption under ORS 285C.240(6), in accordance with this rule.

Stat. Auth.: ORS 285A.075(5), 285A.110(1) & 285C.060(1)

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Stats. Implemented: ORS 285C.240
Hist.: EDD 9-2000, f. & cert. ef. 5-2-00; EDD 1-2005, f. & cert. ef. 2-25-05; EDD 1-2007(Temp), f. & cert. ef. 1-8-07 thru 7-6-07; EDD 2-2007, f. 6-15-07, cert. ef. 7-1-07

Hist.: EDD 9-2000, f. & cert. ef. 5-2-00; EDD 1-2005, f. & cert. ef. 2-25-05; EDD 1-2007(Temp), f. & cert. ef. 1-8-07 thru 7-6-07; EDD 2-2007, f. 6-15-07, cert. ef. 7-1-07

123-065-4980

Distribution of Payment among Cosponsors

In the case of an enterprise zone sponsor comprising two or more city or county governments or port districts:

(1) Any cosponsor may act as the initial depository for collecting the qualified business firm's payment as described in OAR 123-065-4970 and providing the firm with the requisite proof of payment, but at least one cosponsor must do so.

(2) The cosponsors may create joint mechanisms and arrangements to receive, hold or use such payments.

(3) The cosponsors may distribute the amount of any such payment among themselves through any mutually agreed method or formula.

(4) If distribution does not happen within six months of receipt of payment, unless pending a joint effort among the cosponsors as described in OAR 123-065-4990, the government or entity holding the funds shall distribute the full amount in equal portions to each city, port or county government that sponsors the zone without assessing any administrative fee.

(5) There is no obligation to maintain or repeat for future payments any of the sponsor's elections and methods utilized in accordance with this rule for a given payment.

Stat. Auth.: ORS 285A.075(5), 285A.110(1) & 285C.060(1)

Stats. Implemented: ORS 285C.240

Hist.: EDD 9-2000, f. & cert. ef. 5-2-00; EDD 1-2005, f. & cert. ef. 2-25-05; EDD 1-2007(Temp), f. & cert. ef. 1-8-07 thru 7-6-07; EDD 2-2007, f. 6-15-07, cert. ef. 7-1-07

123-065-4990

Utilization of Payments

In accordance with ORS 285C.240(6)(b), the expenditure of moneys collected from a qualified business firm shall benefit residents of the enterprise zone and its immediate vicinity, such that:

(1) For a rural zone, the immediate vicinity will generally encompass (but is not necessarily limited to) the entire incorporated and urban growth area of any city sponsoring the zone, unless the city is relatively large, and only some parts of the zone boundary are in or near the city.

(2) Public, public/private or community-based activities, efforts or programs that acceptably serve residents of the zone and its local area include but are not limited to the following:

(a) Job training, placement, skill development, career counseling and similar programs predominately involving such residents;

(b) Better educational opportunities, facilities and so forth that serve such residents;

(c) Planning, analyses or support for infrastructure, public safety or other public/community services or facilities that have the potential to stimulate commerce and employment growth in association with the zone;

(d) Programs that assist with financing or other matters for businesses largely started by or employing such residents;

(e) Improvements to environmental conditions, recreational resources or other qualities of the community; or

(f) Reasonable contributions to the management, marketing or other needs of the enterprise zone itself.

(3) Combining these moneys with funds obtained from authorization filing fees or other resources associated with the enterprise zone or the local community is allowable.

(4) If the payment per cosponsor is less than \$1,000, the zone sponsor may:

(a) Delay spending the moneys for an indefinite period of time, pending complementary opportunities or resources; and

(b) Spend the moneys on existing programs and projects that are likely to benefit such residents, even if not exclusively.

(5) If the payment per cosponsor is between \$1,000 and \$10,000, the zone sponsor may:

(a) Postpone spending the moneys for up to two years; and

(b) Spend the moneys on existing programs and projects, but the sponsor shall make reasonable efforts to ensure that such residents in particular are beneficiaries of the additional expenditures.

(6) If the payment per cosponsor exceeds \$10,000, the zone sponsor shall see that the moneys go to ongoing programs, special projects and so forth, but only if such expenditures have a direct and particular impact on such residents.

(7) There is no obligation to maintain or repeat for future payments any of the elections and methods utilized in accordance with this rule for a given payment.

Stat. Auth.: ORS 285A.075(5), 285A.110(1) & 285C.060(1)

Stats. Implemented: ORS 285C.240

123-065-7200

Enterprise Zones and Electronic Commerce

For purposes of an enterprise zone authorized/designated for Electronic Commerce under ORS 285C.095:

(1) It may be any enterprise zone designated by the Director and defined under ORS 285C.050(8), regardless of how or when, or whether it is urban or rural, but the effective date of designation of the enterprise zone must precede or coincide with its authorization for Electronic Commerce status.

(2) If for whatever reason the underlying enterprise zone terminates, Electronic Commerce status ends too, without harm to any exemption from property taxes due to an authorized business firm consistent with ORS 285C.245(1).

(3) Electronic Commerce status applies fully to the entire area of an enterprise zone including areas added by a subsequent change to the zone's boundary.

(4) The sponsor of an enterprise zone with Electronic Commerce status may revoke that status by resolution(s), such that:

(a) The Director shall order the revocation of Electronic Commerce status in that zone, setting the effective date thereof;

(b) Any business firm eligible only on that basis shall be treated for purposes of exemptions, as if the zone had terminated on the date specified by the Director; and

(c) That enterprise zone may never again receive Electronic Commerce status.

(5) Respective to section (2) or (4) of this rule, the Department shall seek applications from zone sponsors, either subsequently, or in anticipation that an existing enterprise zone with Electronic Commerce status will terminate by operation of law. Such a preexisting (Electronic Commerce) enterprise zone needs to also reapply for Electronic Commerce in order to be re-designated as such, for which it has no special claim except as described in OAR 123-065-7300(5).

Stat. Auth.: ORS 285A.075(5), 285A.110(1) & 285C.060(1)

Stats. Implemented: ORS 285C.095

Hist.: EDD 16-2002, f. 9-12-02 cert. ef. 9-15-02; EDD 1-2005, f. & cert. ef. 2-25-05; EDD 1-2007(Temp), f. & cert. ef. 1-8-07 thru 7-6-07; EDD 2-2007, f. 6-15-07, cert. ef. 7-1-07

123-065-7300

Application and Designation

(1) An application by an enterprise zone in accordance with ORS 285C.095 must consist of at least two sets of items:

(a) Copy of a resolution newly adopted by each governing body of the zone sponsor, consistent with its charter, by-laws or ordinance, that requests designation for Electronic Commerce; and

(b) A completed form as prescribed by and available from the Department and any supporting materials.

(2) The Department shall evaluate the general merit of authorizing the applicant zone for Electronic Commerce status (through comparative evaluation of multiple applications, if necessary) based on the responses from the applicant zone sponsor respective to the following factors:

(a) Significance associated with the location and attributes of the cities, business sites and so forth that are in the current zone boundary, as well as future boundary change requests (to be considered, any such boundary change must be acknowledged in the sponsor's resolution or resolutions of application);

(b) Strategic or marketing plans, resources and readiness of the enterprise zone for local development relating to Electronic Commerce, especially as a result of major public investments;

(c) Past success in using the statutory and local incentives of the enterprise zone for inducing business development, and other comparable programs or tools;

(d) Interest and support among local businesses, community organizations and the general public for having the enterprise zone obtain Electronic Commerce status;

(e) Other local assets that support and complement Electronic Commerce activity or investments (for example, training institutions, telecommunication infrastructure, environmental initiatives);

(f) Prospective, qualifying Electronic Commerce investments that could depend on the tax incentives; or

(g) One other factor of the applicant's choosing.

(3) The Director may accept applications for or make designation of an enterprise zone for Electronic Commerce contingent on the existence of an eligible business firm that is ready to be authorized and to make a significant investment in Electronic Commerce operations in the zone,

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pursuant and according to policies or criteria prescribed by and available from the Department.

(4) In determining designation of an applicant enterprise zone for Electronic Commerce, the Director shall consider the results of analysis by staff or from external parties of factors in section (2) of this rule.

(5) The Director may set aside sections (2) to (4) of this rule in the case of a zone sponsor reapplying for an enterprise zone that will terminate by operation of law and seeking re-designation of its Electronic Commerce status, if such status is less than three years old.

(6) The Director shall make a final determination, which is not subject to appeal, about whether to order Electronic Commerce designation for an applicant zone.

(7) The Department shall promptly give written notification to any applicant zone sponsor rejected for Electronic Commerce designation.

Stat. Auth.: ORS 285A.075(5), 285A.110(1), 285C.060(1) & 285C.095(2)

Stats. Implemented: ORS 285C.095

Hist.: EDD 16-2002, f. 9-12-02 cert. ef. 9-15-02; EDD 1-2005, f. & cert. ef. 2-25-05; EDD 1-2007(Temp), f. & cert. ef. 1-8-07 thru 7-6-07; EDD 2-2007, f. 6-15-07, cert. ef. 7-1-07

123-065-7400

Enterprise Zone Designations

(1) If the Legislature allows additional Electronic Commerce designations under ORS 285C.095, the Department shall seek applications in accordance with OAR 123-065-7300 through the local zone managers of all existing enterprise zones.

(2) January 1, 2002, is the effective date of designation for the four initial Electronic Commerce enterprise zones.

(3) At the time of the last amendment of this rule (in order to establish matters for the record), the enterprise zones designated for Electronic Commerce are Cascade Locks/Hood River, Florence, Grants Pass Area, Harney County/Burns/Hines, Lincoln County, Medford Urban, Roberts Creek and Salem.

Stat. Auth.: ORS 285A.075(5), 285A.110(1), 285C.050(2), 285C.060(1) 285C.095(2)

Stats. Implemented: ORS 285C.095, 285C.135, 285C.180, 285C.185, 315.507

Hist.: EDD 16-2002, f. 9-12-02 cert. ef. 9-15-02; EDD 1-2005, f. & cert. ef. 2-25-05; EDD 1-2007(Temp), f. & cert. ef. 1-8-07 thru 7-6-07; EDD 2-2007, f. 6-15-07, cert. ef. 7-1-07

123-065-7500

Other Electronic Commerce Areas

(1) The City of North Plains in Washington County is a city designated for Electronic Commerce under ORS 285C.100, effective on March 4, 2002.

(2) All areas then or later inside the city limits or urban growth boundary of the City of North Plains are equivalent to an enterprise zone, but only for purposes of Electronic Commerce and business firms that are eligible only on that basis, under ORS 285C.050 to 285C.250 and 315.507.

(3) The city shall act as the effective zone sponsor and take responsibility for all duties of a zone sponsor as they apply to any business firm seeking to utilize areas of the city for special Electronic Commerce benefits.

Stat. Auth.: ORS 285A.075(5), 285A.110(1) & 285C.060(1)

Stats. Implemented: ORS 285B.650, 285B.675, 285B.707, 285B.713 & 315.507

Hist.: EDD 16-2002, f. 9-12-02 cert. ef. 9-15-02; EDD 1-2005, f. & cert. ef. 2-25-05; EDD 1-2007(Temp), f. & cert. ef. 1-8-07 thru 7-6-07; EDD 2-2007, f. 6-15-07, cert. ef. 7-1-07

123-065-8200

Designation of a Rural Renewable Energy Development Zone

(1) To apply for designation of an RREDZ under ORS 285C.353, the city, county or multiple counties shall furnish the Department with the following:

(a) Copy of the resolution(s) requesting designation, as duly adopted by each jurisdiction within the past 90 days;

(b) The documentation as stipulated in OAR 123-065-1050 and any further indication of consultations with local taxing districts; and

(c) A formal statement that specifies the following:

(A) The jurisdiction(s) to be so designated, and in the case of a multi-county RREDZ, the county that would act as the sponsor; and

(B) The status of any previous RREDZ designation in the jurisdiction(s), including but not limited to the unused portion of the exemption limitation under ORS 285C.353(4).

(2) Subject to the accuracy and completeness of the materials provided consistent with this rule and any other information as the Department may request, as well as adherence to applicable laws and these administrative rules:

(a) The Director shall order the designation;

(b) The Director may make the date of designation effective as early as when the Department received a complete application, if so requested by the applicant; and

(c) The Director's order shall state the exemption limitation for the RREDZ described in OAR 123-065-8300.

(3) Termination of an RREDZ may occur in accordance with ORS 285C.245(4) or (5) (with equivalent protection and allowances under ORS 285C.245(1) for any authorized or qualified business firm in the RREDZ at that time, as would apply to termination of an enterprise zone):

(a) For a multi-county RREDZ all counties must adopt a resolution seeking termination under ORS 285C.245(4), not only the sponsor.

(b) The Director shall not re-designate any RREDZ that corresponds to one so terminated.

(4) If the application is for a subsequent additional designation corresponding to an existing RREDZ, then the existing RREDZ ceases, and the new designation replaces it effective on January 1 directly following the last date on which a resolution of application was adopted, so that:

(a) Any authorized business firm in the previously existing RREDZ belongs to the newly designated RREDZ for qualification of property first placed in service as of an assessment year beginning on or after the January-1 date, on which the new RREDZ takes effect (regardless of the application of authorization's date of submission or approval); and

(b) Any unused portion of the previous RREDZ's exemption limitation under ORS 285C.353(4) ceases to exist, and only the new RREDZ's exemption limitation is available for exemptions beginning in subsequent tax years.

Stat. Auth.: ORS 285A.075(5), 285A.110(1), 285C.060(1) & 285C.370

Stats. Implemented: ORS 285C.350 - 285C.370

Hist.: EDD 1-2005, f. & cert. ef. 2-25-05; EDD 1-2007(Temp), f. & cert. ef. 1-8-07 thru 7-6-07; EDD 2-2007, f. 6-15-07, cert. ef. 7-1-07

123-065-8300

Limitation of Exempt Real Market Value

Under ORS 285C.353(4), each RREDZ designation allows for cumulative exemptions on qualified property up to but not exceeding a certain amount of value over the life of the RREDZ:

(1) Such value is the property's real market value (RMV) on the assessment date of the first year that the authorized business firm claims the exemption (see OAR 123-065-8200(4) in the case of a subsequent additional RREDZ).

(2) The sponsor shall coordinate with the county assessor to track the amount of this limitation that former/ongoing exemptions have used and the remaining, unused portion. (If the assessor later disqualifies affected property and collects the property taxes back, then the RMV of the disqualified property increases the unused portion for future use in the same RREDZ)

(3) The exemption limitation described in this rule equals the amount specified in the resolution(s) adopted by the city, county or counties in applying for the RREDZ, and any such specified amount must be:

(a) Less than or equal to the maximum under ORS 285C.353(4)(d); and

(b) In the event of a subsequent additional RREDZ, greater than the unused portion of the previous RREDZ's exemption limitation.

(4) If any such resolution fails to specify an exemption limitation for the RREDZ or two or more such resolutions comprising a joint application disagree as to the amount, then the limitation for that RREDZ defaults to the maximum allowed by law.

(5)(a) If new qualified property first subject to exemption in a single year will exhaust the exemption limitation, then the exemption or exemptions are allowed only up to the point at which the property's RMV equals the unused portion; and

(b) In the case of two or more qualified firms, the assessor shall prorate the unused portion among them commensurate with the total value of each one's property.

Stat. Auth.: ORS 285A.075(5), 285A.110(1), 285C.060(1) & 285C.370

Stats. Implemented: ORS 285C.350 - 285C.370

Hist.: EDD 1-2005, f. & cert. ef. 2-25-05; EDD 1-2007(Temp), f. & cert. ef. 1-8-07 thru 7-6-07; EDD 2-2007, f. 6-15-07, cert. ef. 7-1-07

123-065-8400

Further Distinctions from an Enterprise Zone Exemption

Other differences for an RREDZ exemption in contrast to the provisions of ORS 285C.050 to 285C.250 include (but are not necessarily limited to) the following:

(1) The application for authorization must give special attention to characterizing the proposed investment in qualified property, clarifying how it relates to renewable energy, and estimating its real market value by January 1 of the first full calendar year of operations.

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(2) To be exempt, the qualified property must essentially correspond to what is described in the application [comparable to a headquarter-type facility under ORS 285C.180(2)(g)].

(3) For purposes of a business firm's being authorized and then qualifying:

(a) An "eligible business firm" under ORS 285C.135 relates only to such operations or business activities that are engaged in renewable energy.

(b) The "employment of the firm" under ORS 285C.200 and 285C.210 relates only to employees engaged a majority of their time in eligible renewable energy operations within the RREDZ.

(4) For purposes of an additional one or two years of exemption on qualified property (following the standard three-year period) inside a county that is a contiguous part of the RREDZ, but that is not the sponsor of the RREDZ:

(a) At least 21 calendar days before execution of the requisite written agreement between the sponsor and the eligible business firm (prior to authorization), the sponsor shall give the county's governing body formal notice of the potential extension to the tax abatement period; and

(b) If on or before the date, on which the written agreement is executed, the county's governing body adopts a resolution electing not to participate, then there is no extended abatement for the proposed investment in qualified property in that county.

(5) As used in ORS 285C.350, "renewable energy" necessitates that electricity is derived to a significant degree from the combustion, harnessing or utilization of the renewable energy resource, but it may also be converted (even for the most part) into other energy forms, including but not limited to steam, heat or mechanical power.

Stat. Auth.: ORS 285A.075(5), 285A.110(1), 285C.060(1) & 285C.370

Stats. Implemented: ORS 285C.350 - 285C.370

Hist.: EDD 1-2005, f. & cert. ef. 2-25-05; EDD 1-2007(Temp), f. & cert. ef. 1-8-07 thru 7-6-07; EDD 2-2007, f. 6-15-07, cert. ef. 7-1-07

Landscape Architect Board Chapter 804

Rule Caption: This rule sets the budget for the 2007-09 Biennium at \$278,860.00.

Adm. Order No.: LAB 2-2007

Filed with Sec. of State: 5-22-2007

Certified to be Effective: 7-1-07

Notice Publication Date: 4-1-07

Rules Amended: 804-001-0002

Subject: As a semi-independent state agency, the operating budget must be adopted on a biennial basis. Following a Public Hearing on the Oregon State Landscape Architect Board's proposed budget for the 2007-09 budget period, convened Friday, May 11, 2007, the budget for the Board is now final.

Rules Coordinator: Susanna R. Knight—(503) 589-0093

804-001-0002

Biennial Budget

Pursuant to the provisions of ORS 182.462, following a public hearing held May 11, 2007, the Board adopts by reference the Oregon Landscape Architects Board 2007-09 biennial budget of \$278,860 covering the period July 1, 2007, through June 30, 2009. The Board Administrator, with the approval of the Board, will amend budgeted accounts as necessary, within the approved budget of \$278,860, for the effective operation of the Board. The Board will not exceed the approved budget amount without amending this rule, notifying all registrants, and holding a public hearing. Copies of the budget are available from the Board's office.

Stat. Auth.: ORS 671.415, 182.462 & 670.310

Stats. Implemented: ORS 671.415, See 1999 OL, Ch. 1084

Hist.: LAB 1-1997(Temp), f. & cert. ef. 9-3-97; LAB 1-1998, f. & cert. ef. 2-5-98; LAB 1-2001 (Temp), f. 12-24-01 cert. ef. 1-1-02 thru 5-1-02; Administrative correction 12-2-02; LAB 1-2005, f. & cert. ef. 2-14-05; LAB 2-2005, f. & cert. ef. 5-18-05; LAB 2-2007, f. 5-22-07, cert. ef. 7-1-07

Landscape Contractors Board Chapter 808

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

Adm. Order No.: LCB 2-2007

Filed with Sec. of State: 5-16-2007

Certified to be Effective: 5-16-07

Notice Publication Date: 3-1-07

Rules Amended: 808-001-0008

Subject: OAR 808-001-0008 — adjusts 2005-2007 biennium budget and adopts 2007-2009 biennium budget

Rules Coordinator: Kim Gladwill-Rowley—(503) 986-6570

808-001-0008

Operating Budget

Pursuant to ORS 182.462, the Board adopts the budget, for the biennium beginning July 1, 2005, and ending June 30, 2007, as approved at the Regular Board Meeting held March 17, 2006. The Board amends the biennium budget ending June 30, 2007 and adopts the budget for the biennium beginning July 1, 2007 and ending June 30, 2009 as approved at the regular Board Meeting held May 11, 2007. The Board Administrator will amend budgeted accounts as necessary, within the approved budget for the effective operation of the Board. Copies of the budget are available at the Board's office.

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

Stat. Auth.: ORS 670.310 & 671.670

Stats. Implemented: ORS 182.462

Hist.: LCB 3-2003, f. 5-27-03, cert. ef. 6-1-03; LCB 3-2005, f. & cert. ef. 6-1-05; LCB 1-2006, f. 3-27-06, cert. ef. 4-1-06; LCB 2-2007, f. & cert. ef. 5-16-07

Oregon Film and Video Office Chapter 951

Rule Caption: To clarify application process, eligibility requirements and payment of rebates.

Adm. Order No.: FVO 1-2007

Filed with Sec. of State: 6-1-2007

Certified to be Effective: 6-1-07

Notice Publication Date: 5-1-07

Rules Amended: 951-002-0005, 951-002-0010, 951-002-0020

Subject: To clarify application process, eligibility requirements and payment of rebates.

Rules Coordinator: Susan Haley—(503) 229-5832

951-002-0005

Program Application

A person proposing to produce a qualifying film or television production and wishing to receive a production spending rebate from the OPIF with respect to the production shall submit an application to the Oregon Film and Video Office for an eligibility determination. Unless otherwise permitted by the OFVO, the application must be submitted prior to the commencement of production. Incomplete applications will not be accepted.

Stat. Auth.: ORS 284.335 & 284.368

Stats. Implemented: ORS 284.367 & 284.368

Hist: FVO 4-2004, f. & cert. ef. 11-26-04; FVO 1-2007 f. & cert. ef. 6-1-07

951-002-0010

Eligibility Determination

(1) Except as set forth in sections (2) and (3), the OFVO will approve the applications for eligibility for productions that satisfy the following requirements:

(a) The production satisfies the non-monetary portions of the "qualifying film or television production" definition;

(b) Projected spending in Oregon on the production is reasonably anticipated to equal or exceed US \$1,000,000;

(c) The producer includes, with its application, a letter to the OFVO stating the producer's intent to film the production in Oregon and its willingness and ability to enter into a contract with the OFVO setting forth the terms and conditions of the rebate.

(2) The following productions are not eligible:

(a) Productions of a producer that has, or whose principals have, a verifiable history of previous production problems that create significant doubt, as determined by the OFVO, regarding the producer's ability to complete a production in Oregon successfully. The production problems may include, but are but not limited to:

(A) Unpaid financial obligations;

(B) Crew mistreatment; or

(C) Damage to locations that the producer did not repair upon completion of the production.

(b) Productions with respect to which the producer withdraws its application for eligibility determination;

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(c) Productions whose applications for eligibility are filed at times when there are not sufficient funds available in the Oregon Production Investment Fund to pay the anticipated rebates;

(d) Productions that the OFVO determines are unlikely to further the purposes of the Oregon Production Investment Fund;

(e) Productions that pay any employee less than minimum wage as set forth in (Oregon minimum wage rule).

(3) If the OFVO receives multiple relatively concurrent applications for eligibility determinations and there are not sufficient funds available in the Oregon Production Investment Fund to pay anticipated rebates with respect to all of the productions, the OFVO will determine which applications to approve and which to deny based on the following factors:

- (a) Satisfaction of requirements of section (1);
- (b) Chronological order of receipt of application;
- (c) Amount of production spending anticipated in Oregon;
- (d) Number of film workers expected to be hired;
- (e) Experience level of producer;
- (f) Reputation of the producer and its principals;
- (g) Estimated production start date;
- (h) Other benefits to Oregon, including but not limited to promotional value, long-term financial benefits, contribution to development of Oregon's crew and talent base or production industry infrastructure;

(i) Whether the production company has contributed to the Oregon Production Investment Fund;

(j) Whether the production company intends to pay prevailing industry rates and provide health, retirement and other benefits;

(k) Whether receipt of a production rebate from the OPIF is a determining factor in bringing or keeping the production in Oregon.

(4) Upon approval of an application for eligibility with respect to a production, the producer must enter into a contract with OFVO stipulating the producer's intent to film the production in Oregon and setting forth the terms and conditions of the rebate. If the producer and the OFVO have not entered into the contract within 30 days of the production's eligibility approval, the production's eligibility will be automatically revoked unless the OFVO, in its discretion, extends the deadline for contract execution.

Stat. Auth.: ORS 284.335 & 284.368
Stats. Implemented: ORS 284.367 & 284.368
Hist.: FVO 4-2004, f. & cert. ef. 11-26-04; FVO 1-2007, f. & cert. ef. 6-1-07

951-002-0020

Payment of rebates

(1) Regardless of whether the production is otherwise a qualifying film or television production or whether the OFVO determined the production eligible, rebates from the Oregon Production Investment Fund will only be paid pursuant to and upon the terms and conditions of a contract entered into between the OFVO and producer pursuant to OAR 951-002-0010(4). If no contract is entered into, no rebates will be paid. Amounts paid by the production to an individual who receives compensation in excess of \$1 million are excluded and ineligible for a rebate.

(2) In addition to any other terms and conditions that the OFVO considers necessary or desirable, contracts for Oregon Production Investment Fund rebates will usually include the following:

(a) A requirement that the producer submit to the OFVO, after completion of the production work in Oregon, financial and other records sufficient to verify that the production satisfied the minimum expenditure requirement for a rebate;

(b) Authorization for the OFVO to deduct from the rebate the costs reasonably incurred by the OFVO in verifying the production expenditures in Oregon, including but not limited to, the costs incurred by OFVO in obtaining an outside accounting review, audit, or both, of the financial and other records evidencing the expenditures. The OFVO will usually submit the expenditure documentation to an outside accounting firm for a review after the OFVO has completed its review. Based on the advice of the outside accounting firm, the OFVO may require an audit of the production's financial record;

(c) Provisions conditioning OFVO's obligation to pay the rebate on the producer's compliance with the terms of the contract and satisfactory verification of production spending in Oregon of at least US \$1 million;

(d) Provisions conditioning OFVO's obligation to pay the rebate on the production spending in Oregon after the date that OFVO approves the production's eligibility, of at least US \$1 million;

(e) Production to provide final crew and vendor lists with final accounting;

(f) Production to provide promotional materials (such as photos, trailers, electronic press kits) to OFVO. OFVO may use such materials strictly for non profit purposes such as for archival, governmental relations and

marketing purposes. OFVO shall not grant usage to any other entity and shall request additional permission prior to any use other than those listed. OFVO understands that talent contracts may prohibit use of actors' images without express permission and agrees to abide by such agreements when advised of the production company of said limitations.

Stat. Auth.: ORS 284.335 & 284.368
Stats. Implemented: ORS 284.367 & 284.368
Hist.: FVO 4-2004, f. & cert. ef. 11-26-04; FVO 1-2007, f. & cert. ef. 6-1-07

**Oregon University System,
Oregon Institute of Technology
Chapter 578**

Rule Caption: Amends Special Institution Fees and Charges.

Adm. Order No.: OIT 1-2007

Filed with Sec. of State: 6-7-2007

Certified to be Effective: 6-7-07

Notice Publication Date: 5-1-07

Rules Amended: 578-041-0030

Subject: 578-041-0030 Amends the Schedule of Special Institution Fees and Charges. Amendments allow for increases, revisions, additions or deletions of special course fees and general service fees for fiscal year 2007-08. The schedule of subject fees may be obtained from the Oregon Institute of Technology office.

Rules Coordinator: Ceilia E. Foster—(541) 885-1105

578-041-0030

Special Institution Fees and Charges

The Schedule of Special Institution Fees and Charges establishes charges for selected courses and general services for Oregon Institute of Technology for the academic year 2007-08 and are hereby adopted by reference.

Copies of this fee schedule may be obtained from the Oregon Institute of Technology Finance and Administration Office.

Stat. Auth.: ORS 351
Stats. Implemented: ORS 351.070(2)
Hist.: OIT 1-1985, f. 1-10-85, ef. 2-1-85; OIT 1-1986, f. & ef. 9-4-86; OIT 4-1991, f. & cert. ef. 7-22-91; OIT 5-1992, f. & cert. ef. 9-24-92; OIT 1-1993, f. & cert. ef. 9-24-93; OIT 1-1995, f. & cert. ef. 7-7-95; OIT 1-1996, f. & cert. ef. 9-11-96; OIT 2-1996, f. & cert. ef. 12-19-96; OIT 1-1997, f. & cert. ef. 12-31-97; OIT 2-1998, f. & cert. ef. 11-12-98; OIT 1-1999, f. & cert. ef. 8-26-99; OIT 1-2000, f. & cert. ef. 7-7-00; OIT 1-2001, f. & cert. ef. 7-19-01; OIT 1-2002, f. & cert. ef. 7-15-02; OIT 1-2003, f. & cert. ef. 6-11-03; OIT 1-2004, f. & cert. ef. 6-9-04; OIT 1-2005, f. & cert. ef. 6-10-05; OIT 1-2006, f. & cert. ef. 6-2-06; OIT 1-2007, f. & cert. ef. 6-7-07

Rule Caption: Parking Permits and Fee with text changes.

Adm. Order No.: OIT 2-2007

Filed with Sec. of State: 6-7-2007

Certified to be Effective: 6-7-07

Notice Publication Date: 5-1-07

Rules Amended: 578-072-0030

Subject: 578-072-0030 Amends the Parking Permits and Fees with text revisions. Amendments allow for increases and text revisions, for fiscal year 2007-08. The schedule of parking fees and text revisions may be obtained from the Oregon Institute of Technology, Finance and Administration office.

Rules Coordinator: Ceilia E. Foster—(541) 885-1105

578-072-0030

Parking Permit and Fees

(1) Students, faculty and staff permits (adhesive or hanging) will be issued for a fee of \$95.00 per year or \$45.00 per term. Vehicles with these permits must park in the parking areas.

(2) Bicycles must be licensed by the City of Klamath Falls. A parking permit is not required.

(3) Special permits may be issued at the Cashier's office under the following circumstances:

(a) Application for a Disabled Parking permit must be submitted to the Student Health Service. After approval by Student Health Service, a Disabled Parking permit may be purchased at the Cashier's office.

(b) Persons displaying either permanent or temporary disabled permits are authorized open parking on the campus in addition to parking in the areas designated as disabled parking.

(c) Temporary permits are issued at no charge by Campus Safety at the Information Booth on Campus Drive. Vehicles displaying temporary permits must park in the area designated by that permit. Students, faculty,

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and staff members are able to obtain up to 10 days per term of temporary parking permits. Temporary permits are official documents and may not be modified or altered in any way.

(d) Visitor permits are issued at no charge at the Information Booth on Campus Drive and must be displayed as indicated on the permit. A visitor is any person who is an OIT guest but is not officially affiliated with OIT.

(e) Special guest permits: Guest permits will be issued by Campus Safety.

(4) Service Vendor permits are issued by Facilities or Campus Safety for contractors, media personnel, and vendors performing work on campus.

(5) Up to three vehicles registered on a single hanging permit-additional charge \$10.00.

(6) Replacement Permits: A replacement permit may be purchased for a substitute vehicle when the original vehicle is sold, damaged beyond repair, or when the permit is lost or damaged. In the event a permit is stolen, a stolen permit report must be filed with Campus Safety before a replacement permit may be issued. An adhesive replacement permit may be obtained for a fee of \$5.00 upon submission to the cashier of permit number evidence from the original permit. Replacement hanging permits are available at the full price of the original hanging permit.

(7) Possession of a lost or stolen permit may be grounds for criminal charges, and/or University disciplinary action, including revocation of parking privileges.

(8) Parking permits are issued by the academic year or for a term. Refunds will be made only if a parking permit is removed from the vehicle and returned to the Cashier within ten (10) days of the purchase date. No other refunds will be given.

(9) Parking permits are considered University records, and as such, may not be falsified, misused, forged, modified or altered in any way. Vehicles bearing forged or altered permits are subject to a fine, criminal proceedings, and/or discipline by the University.

Stat. Auth.: ORS 351

Stats. Implemented:

Hist.: OIT 2, f. & ef. 9-7-76; OIT 10, f. & ef. 6-6-77; OIT 1-1978, f. & ef. 6-5-78; OIT 1-1979, f. & ef. 6-8-79; OIT 6-1980, f. & ef. 6-9-80; OIT 3-1985, f. 8-5-85, ef. 9-1-85; OIT 1-1988(Temp), f. 6-20-88, cert. ef. 7-1-88; OIT 3-1991, f. & cert. ef. 7-8-91; OIT 2-1992, f. & cert. ef. 7-21-92; OIT 1-1993, f. & cert. ef. 9-24-93; OIT 1-1994, f. & cert. ef. 8-25-94; OIT 1-1996, f. & cert. ef. 9-11-96; OIT 1-1997, f. & cert. ef. 12-31-97; OIT 2-1998, f. & cert. ef. 11-12-98; OIT 1-1999, f. & cert. ef. 8-26-99; OIT 1-2000, f. & cert. ef. 7-7-00; OIT 1-2001, f. & cert. ef. 7-19-01; OIT 1-2002, f. & cert. ef. 7-15-02; OIT 2-2005, f. & cert. ef. 6-10-05; OIT 2-2006, f. & cert. ef. 6-2-06; OIT 2-2007, f. & cert. ef. 6-7-07

Rule Caption: Vehicle Registration text changes.

Adm. Order No.: OIT 3-2007

Filed with Sec. of State: 6-7-2007

Certified to be Effective: 6-7-07

Notice Publication Date: 5-1-07

Rules Amended: 578-072-0020

Subject: 578-072-0020 Amends the Vehicle Registration text. Amendments allow for text revisions, for fiscal year 2007-08. The schedule of text revisions may be obtained from the Oregon Institute of Technology, finance and Administration office.

Rules Coordinator: Ceilia E. Foster—(541) 885-1105

578-072-0020

Vehicle Registration

(1) A vehicle is any motor conveyance requiring a state or city license to operate on public highways.

(2) After the first day of classes, vehicles must be registered when brought on the campus the first time. Permits are issued at the Cashier's Office, Snell Hall, or during fee payment at the beginning of each term.

(3) Parking permits must be permanently affixed to the rear bumper (left third) on the registered vehicle in plain view. If it is impossible to attach a permit to the bumper, it must be attached, in plain view, to the left rear portion of the vehicle or on the outside lower left portion of the rear window.

(4) Vehicles must have either a general area or Residence Hall permit. Double registration of any vehicle is not permitted.

(5) Registration may be rescinded and removal of the permit required:

(a) For failure to comply with traffic regulations or to rulings of the Traffic Commission or Traffic Appeals Board;

(b) For failure to pay fines as prescribed in OAR 578-072-0070 or as assessed by the Traffic Commission;

(c) When the permit is used on an unregistered vehicle or by an unauthorized person;

(d) When registration is found to be false or inaccurate;

(e) When enrollment is terminated;

(f) When the time specified on the permit has expired.

Stat. Auth.: ORS 351 & 352

Stats. Implemented: ORS 352.360

Hist.: OIT 2, f. & ef. 9-7-76; OIT 1-1979, f. & ef. 6-8-79; OIT 6-1991, f. & cert. ef. 7-24-91;

OIT 3-2007, f. & cert. ef. 6-7-07

Rule Caption: Parking on campus text changes.

Adm. Order No.: OIT 4-2007

Filed with Sec. of State: 6-7-2007

Certified to be Effective: 6-7-07

Notice Publication Date: 5-1-07

Rules Amended: 578-072-0050

Subject: 578-072-0050 Amends the Parking on Campus text changes. Amendments allow for text revisions, for fiscal year 2007-08. The schedule of text revisions may be obtained from the Oregon Institute of Technology, finance and Administration office.

Rules Coordinator: Ceilia E. Foster—(541) 885-1105

578-072-0050

Parking on Campus

(1) Any operator of a motor vehicle or bicycle, while parking on campus, must comply with the traffic laws and ordinances of the State of Oregon, the City of Klamath Falls, and the regulations governing motor vehicles and bicycles on campus. A "parked vehicle" refers to any vehicle which is stopped with or without a driver in attendance.

(2) Areas designated for parking are indicated on the campus traffic map.

(3) Zones designated as special service are restricted to loading/unloading and for repair services.

(4) Vehicles shall be parked on campus only in areas designated for parking. Parking of vehicles on any road, driveway, fire lane, entranceway to building, pedestrian lane, and landscaped area is prohibited. Encroachment upon adjacent spaces and parking aisles is prohibited, i.e., all vehicles must be parked between parking space markers.

(5) Parking with the front wheels adjacent to the curb (head in only) is required where angle or right-angle parking spaces are provided. Parallel parking is required where paralleled spaces are provided and is permissible in service zones for purposes of loading and unloading.

(6) When need has been established, a reserved parking space may be authorized by the Traffic Commission within a parking area; no other vehicle may be parked in this space.

(7) Bicycles must be parked in a bike rack. Parking of a bicycle in any building is prohibited.

(8) Open parking is permissible in designated faculty, staff, student, and visitor lots between 6 p.m. and 6 a.m., and on weekends and school holidays except for parking in reserved spaces, service areas, fire lanes, and limited parking zones.

(9) Repair of vehicles in any parking area or zone is prohibited.

(10) Visitors may park in any area designated for parking.

Stat. Auth.: ORS 351 & 352

Stats. Implemented: ORS 352.360

Hist.: OIT 2, f. & ef. 9-7-76; OIT 10, f. & ef. 6-6-77; OIT 1-1978, f. & ef. 6-5-78; OIT 1-1979, f. & ef. 6-8-79; OIT 6-1980, f. & ef. 6-9-80; OIT 6-1991, f. & cert. ef. 7-24-91; OIT 4-2007, f. & cert. ef. 6-7-07

Rule Caption: Authority of Campus Police Officers Text Changes.

Adm. Order No.: OIT 5-2007

Filed with Sec. of State: 6-7-2007

Certified to be Effective: 6-7-07

Notice Publication Date: 5-1-07

Rules Amended: 578-072-0091

Subject: 578-072-0091 Amends the Authority of Campus Police Officers text. Amendments allow for text revisions, for fiscal year 2007-08. The schedule of text revisions may be obtained from the Oregon Institute of Technology, finance and Administration office.

Rules Coordinator: Ceilia E. Foster—(541) 885-1105

578-072-0091

Authority of Campus Police Officers

All notices of violations of any of the regulations herein will be signed by campus safety. Enforcement of OIT Parking regulations is the responsibility of the OIT Campus Safety Department. OIT Campus Safety Officers are granted limited powers by the STATE Board of Higher Education to enforce OIT parking and traffic regulations.

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Stat. Auth.: ORS 351 & 352
Stats. Implemented: ORS 352.385
Hist.: OIT 2, f. & ef. 9-7-76; OIT 10, f. & ef. 6-6-77; OIT 6-1991, f. & cert. ef. 7-24-91; OIT 2-2002, f. & cert. ef. 10-24-02; OIT 5-2007, f. & cert. ef. 6-7-07

25-94; OIT 1-1997, f. & cert. ef. 12-31-97; OIT 2-2002, f. & cert. ef. 10-24-02; OIT 6-2007, f. & cert. ef. 6-7-07

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**Oregon University System,
Southern Oregon University
Chapter 573**

Rule Caption: To amend the fees for Penalties for Offenses.

Adm. Order No.: OIT 6-2007

Filed with Sec. of State: 6-7-2007

Certified to be Effective: 6-7-07

Notice Publication Date: 5-1-07

Rules Amended: 578-072-0070

Subject: 578-072-0070 Amends the Penalties for Offenses fees. Amendments allow for fee adjustments, for fiscal year 2007-08. The schedule of text revisions may be obtained from the Oregon Institute of Technology, finance and Administration office.

Rules Coordinator: Ceilia E. Foster—(541) 885-1105

578-072-0070

Penalties for Offenses

- (1) Vehicle not registered — \$20.
- (2) Permit not properly displayed — \$20.
- (3) Falsification of information — 30.
- (4) Parking offenses — \$20, including metered parking.
- (5) Driving a motor vehicle or bicycle in nondesignated areas — \$25, plus the cost of all repairs.
- (6) Bicycles parked in illegal areas — \$5.
- (7) Parking in designated disabled space — \$190/\$450 (by authority of ORS 811.625(5)).
- (8) Using a hanging permit in an unregistered vehicle — \$55.
- (9) Moving violations, including such offenses as reckless driving, driving while intoxicated, speeding, driving the wrong way, running stop signs, excessive noise, and other offenses not otherwise specified herein, are a violation of the State of Oregon motor vehicle laws and punishable upon conviction, in accordance with Oregon State law, or may be referred to the City of Klamath Falls for arrest and/or prosecution. Campus violators will be fined \$30. Violations referred to the City of Klamath Falls revert to city bails and fines.
- (10) Habitual offenders are fined \$55 in addition to the regular fine for the offense for which they are found guilty. Habitual offenders are individuals who have been found guilty of three or more offenses in an academic year. The \$55 fine, in addition to the offense fine is imposed for the third conviction and each conviction thereafter during an academic year.
- (11) FAILURE TO ANSWER A CITATION AS DIRECTED OR RESPOND TO A LETTER from the Traffic Appeals Board within the time specified thereon may be punishable by a fine of \$15. An additional \$15 fine is levied for failure to respond to a second letter within the time specified.
- (12) Excessive citations may result in revocation of a parking permit by the Traffic Commission. A student violator may be referred to the Vice President for Student Affairs. A faculty or staff member may be referred to the Vice President for Finance and Administration.
- (13) Payment of fines will be required prior to appeal of citation before the Traffic Appeals Board.
- (14) Any student who fails to pay the Cashier's Office for a traffic citation, after written notice, will have the fine added to their account balance, or deducted from their payroll check.
- (15) Any faculty or staff member who fails to pay the Cashier's Office for a traffic citation, after written notice, may have the fine deducted from their payroll check.
- (16) A vehicle may be towed off campus and impounded and the owner subjected to towing and storage fees in addition to penalties, under the following circumstances.

(a) Any vehicle causing imminent danger to people or college property;

(b) A vehicle having a parking permit and receiving five (5) or more citations within the school year;

(c) A vehicle not having a parking permit and receiving three (3) citations within the school year;

(d) A vehicle left parked or standing in an area not normally used for vehicular traffic including parking on sidewalks or grass;

(e) Vehicles considered abandoned for at least seven (7) days.

Stat. Auth.: ORS 351
Stats. Implemented: ORS 351.070
Hist.: OIT 2, f. & ef. 9-7-76; OIT 10, f. & ef. 6-6-77; OIT 1-1978, f. & ef. 6-5-78; OIT 3-1985, f. & ef. 8-5-85, ef. 9-1-85; OIT 6-1991, f. & cert. ef. 7-24-91; OIT 1-1994, f. & cert. ef. 8-

Rule Caption: Student Health Center.

Adm. Order No.: SOU 2-2007

Filed with Sec. of State: 6-4-2007

Certified to be Effective: 6-4-07

Notice Publication Date: 2-1-07

Rules Amended: 573-080-0005

Subject: The rule specifies the population served by application of a per term health fee. Existing rule specifies population served and health fee applied to students taking 9 or more credits. Proposed change eliminates reference to a specific number of credit hours.

Rules Coordinator: Treasa Sprague—(541) 552-6319

573-080-0005

Population Served

(1) General: The Student Health and Wellness Center (SHWC) exists primarily to provide primary medical care, limited counseling and health education services for the registered students of Southern Oregon University. Such care is available only during those hours the SHWC is open, and may be limited by clinical scope of practice and available resources. The provision of all services must be free of discrimination with regard to age, handicap, national origin, race, marital status, religion, gender or sexual orientation.

(2) Population served:

(a) Registered students who pay a health fee in advance each term at registration. The fee, which is subject to change from year to year, is adopted by the Oregon State Board of Higher Education;

(b) Provision of services to non-registered SOU students is dependent upon available resources including but not limited to staffing, space, and scheduling so as not to compromise quality and availability of service for registered students. At a minimum, full cost reimbursement for such services will be charged unless prior arrangement for compensation has been determined by the SHWC Director with a sponsoring program. A record of such services shall be maintained;

(c) Non-registered students (auditor status) are not eligible for regular services rendered by the Health Center;

(d) Any non-enrolled student who was enrolled the previous term and will be enrolled the subsequent term is eligible for services provided the health fee is paid for that term.

(3) Emergency Care: Persons in need of emergency care or first-aid, other than those eligible for regular SHWC care as outlined above, who present themselves or are brought to the SHWC or to a SHWC First Aid Station at SOU events, may receive initial medical assessment, emergent or first aid care and triage to community based resources. Such care is available only during those hours the SHWC is normally open, and when the First Aid Station is staffed. Persons receiving care may be charged for the full the cost of services and supplies.

(4) Disaster Care: In the event of a community wide disaster or mass casualty incident, the SHWC may serve as treatment and triage site for injured persons that may not have otherwise been eligible for care, and that are in need of medical care outside the normal scope of services available at the SHWC.

Stat. Auth.: ORS 351.070
Stats. Implemented: ORS 351.070, 351.590, 689.605 & OAR 580-011-0005
Hist.: SOSC 2-1978, f. & ef. 1-3-78; SOSC 7-1978, f. & ef. 8-23-78; SOSC 5-1979, f. & ef. 9-19-79; SOSC 2-1982, f. & ef. 4-15-82; SOSC 2-1983, f. & ef. 4-22-83; SOSC 1-1994, f. & cert. ef. 5-11-94; SOU 1-1998, f. & cert. ef. 4-23-98; SOU 1-2001, f. & cert. ef. 4-4-01; SOU 1-2004, f. & cert. ef. 4-5-04; SOU 2-2007, f. & cert. ef. 6-4-07

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**Oregon University System,
University of Oregon
Chapter 571**

Rule Caption: Establishes guidelines and procedures for conducting criminal records checks.

Adm. Order No.: UO 10-2007(Temp)

Filed with Sec. of State: 6-4-2007

Certified to be Effective: 6-4-07 thru 12-1-07

Notice Publication Date:

ADMINISTRATIVE RULES

Rules Adopted: 571-050-0100, 571-050-0105, 571-050-0110, 571-050-0115, 571-050-0120, 571-050-0125, 571-050-0130, 571-050-0135

Subject: Establish guidelines and procedures for the University of Oregon to use in conducting criminal record checks on an employee or volunteer who is or will be engaged in an activity that involves direct access to persons under 18 years of age or to student residence facilities because the person's duties require the person to be in the residence facility.

Rules Coordinator: Deb Eldredge—(541) 346-3082

571-050-0100

Purpose

These rules establish guidelines and procedures the University of Oregon will use in conducting a criminal records check of an employee or volunteer who is or will be engaged in an activity that involves direct access to persons under 18 years of age or to student residence facilities because the person's duties require the person to be in the residence facility. Nothing in these rules shall limit the University of Oregon from making a determination based on any other permissible factor that a person is unfit or unable to perform the responsibilities of a position or is not the person best suited for a position.

Stat. Auth.: ORS 181.534, 352.012

Stats. Implemented: ORS 181.534, 352.012

Hist.: UO 10-2007(Temp), f. & cert. ef. 6-4-07 thru 12-1-07

571-050-0105

Definitions

(1) "Conviction" or "Convicted of" means that a court of law has entered a final judgment on a verdict or a finding of guilty, a plea of guilty, or a plea of nolo contendere (no contest) against a subject individual in a criminal case, unless that judgment has been reversed or set aside by a subsequent court decision.

(2) "Criminal Offender Information" means records and related data as to physical description and vital statistics, fingerprints received and compiled by the Oregon Department of State Police Bureau of Criminal Identification or other federal or state law enforcement agency for purposes of identifying criminal offenders and alleged offenders, records of arrests and the nature and disposition of criminal charges, including conviction, pleas, sentencing, confinement, probation, parole, and release.

(3) "Criminal Records Check" means one or more of following processes used to acquire criminal offender information about a subject individual:

(a) A name-based check of criminal offender information and motor vehicle registration and driving records;

(b) A check of Oregon criminal offender information, including through fingerprint identification; or

(c) A nationwide check of federal criminal offender information, including through fingerprint identification.

(4) "Subject Individual" means an employee or volunteer who will be engaged in an activity that involves direct access to persons under 18 years of age or to student residence facilities because the person's duties require the person to be in the residence facility.

Stat. Auth.: ORS 181.534, 352.012

Stats. Implemented: ORS 181.534, 352.012

Hist.: UO 10-2007(Temp), f. & cert. ef. 6-4-07 thru 12-1-07

571-050-0110

Notice to Applicants

Application forms, position announcements, position descriptions or calls for volunteers must give an applicant for a position or volunteer opportunity notice if the position requires a fingerprint-based criminal record check. The notice must inform applicants when and under what circumstances a final decision regarding an applicant will be conditional pending receipt and review of criminal offender information.

Stat. Auth.: ORS 181.534, 352.012

Stats. Implemented: ORS 181.534, 352.012

Hist.: UO 10-2007(Temp), f. & cert. ef. 6-4-07 thru 12-1-07

571-050-0115

Confidentiality of and Access to Criminal Offender Information

Access to criminal offender information is restricted to those with a legitimate need for the information. A subject individual must be provided access to any criminal offender information received as a result of a criminal records check and, upon request, must be provided a copy.

Stat. Auth.: ORS 181.534 & 352.012

Stats. Implemented: ORS 181.534 & 352.012

Hist.: UO 10-2007(Temp), f. & cert. ef. 6-4-07 thru 12-1-07

571-050-0120

Criminal Records Check Process

(1) A subject individual, if requested, shall complete and sign a Criminal Records Request form and, if requested, a fingerprint card. The Criminal Records Request form shall require the applicant's name, Social Security Number, driver's license or other identification number, prior residency in other state, other identifying information requested or details regarding prior criminal, juvenile court or other related record within the time period, if any, required in the notice or otherwise established. A subject individual shall provide additional information if requested to allow completion of a criminal records check within the reasonable time established at the time of the request.

(2) Fingerprint cards may be requested from subject individuals under the age of 18 only upon written consent of a parent or guardian, unless the subject individual is emancipated pursuant to ORS 419B.550 et seq. If a subject individual under the age of 18 is requested to consent to a fingerprint-based criminal records check, parents, guardians and the subject individual must be informed that they are not required to consent. Notwithstanding, failure to consent may be construed as a refusal to consent under (3) of this rule.

(3) If a subject individual refuses to submit or consent to a criminal records check including fingerprint identification, the subject individual shall be considered unfit to perform the responsibilities of the position. A decision that subject individual who refuses to submit or consent to a criminal records check, including a fingerprint identification, is unfit shall be final. The subject individual shall have no rights to challenge the decision pursuant to OAR 571-050-0125.

(4) The University of Oregon may conduct a criminal records check whenever an employee or volunteer is or will be engaged in an activity that involves direct access to persons under 18 years of age or to student residence facilities because the person's duties require the person to be in the residence facility.

(5) Authority to decide what type of criminal records check will be conducted is vested in the President to be delegated at the President's discretion. The nature of the position and any relevant information about the subject individual shall be considered in the decision. However, nothing in this section shall authorize a fingerprint based criminal records check without the notification required in OAR 571-050-0110.

(6) Upon receipt of criminal offender information, the University, pursuant to OAR 580-023-0050, will determine if conviction of a crime indicated by the criminal offender information shows credible evidence the subject individual is unfit to perform the responsibilities of the position. Upon receipt of criminal offender information, a subject individual may also be determined to be unfit to perform the responsibilities of the position if the criminal offender information provides evidence the subject individual provided false information regarding a conviction.

(7) If the University determines a subject individual is unfit to perform the responsibilities of the position, the Office of Human Resources will notify the subject individual by certified mail of the University's decision. The notice must inform the subject individual of the subject individual's right to inspect the information and to the information and the decision. Challenges to the accuracy and completeness of the information provided by the Oregon Department of State Police, the Federal Bureau of Investigation and agencies reporting information to each must be made through the Oregon State Police, the Federal Bureau of Investigation or the reporting agencies reporting agency and not through the contested case process provided by the University.

Stat. Auth.: ORS 181.534, 352.012

Stats. Implemented: ORS 181.534, 352.012

Hist.: UO 10-2007(Temp), f. & cert. ef. 6-4-07 thru 12-1-07

571-050-0125

Challenge to a Fitness Determination Based on Criminal Offender Information

(1) A subject individual may challenge a decision that the subject individual is unfit to perform the responsibilities of a position based on criminal offender information received from a criminal records check by submitting a letter to the Associate Vice President for Human Resources within 14 calendar from the date the certified notification is sent to the subject individual. Any extension of the deadline to challenge a decision is within the sole discretion of the University. The University will proceed to hold a contested case hearing pursuant to the University of Oregon Administration Rules establishing contested case procedures.

Stat. Auth.: ORS 181.534, 352.012

Stats. Implemented: ORS 181.534, 352.012

Hist.: UO 10-2007(Temp), f. & cert. ef. 6-4-07 thru 12-1-07

ADMINISTRATIVE RULES

571-050-0130

Crimes Relevant to a Fitness Determination

- (1) Crimes Relevant to a Fitness Determination.
 - (a) All felonies;
 - (b) All Class A misdemeanors;
 - (c) ORS 167.315 (Animal Abuse II); 167.325 (Animal Neglect II); 418.630 (operating uncertified foster home); and 418.250(1) (relating to the supervision of child-care agencies);
 - (d) Any crime, in the State of Oregon or in any other jurisdiction, that is the substantial equivalent of any of the crimes listed in this subsection (1)(c), as determined by the Department;
 - (e) Any United States Military crime or international crime;
 - (f) Any crime of attempt, solicitation or conspiracy to commit a crime listed in this section (1) pursuant to ORS 161.405, 161.435, or 161.450;
 - (g) Any crime based on criminal liability for conduct of another pursuant to ORS 161.155, when the underlying crime is listed in this section (1);

(2) Evaluation Based on Oregon and Other Laws. An authorized designee shall evaluate a crime on the basis of Oregon laws and, if applicable, federal laws or the laws of any other jurisdiction in which a criminal records check indicates a subject individual may have committed a crime, as those laws are in effect at the time of the fitness determination.

Stat. Auth.: ORS 181.534, 352.012
Stats. Implemented: ORS 181.534, 352.012
Hist.: UO 10-2007(Temp), f. & cert. ef. 6-4-07 thru 12-1-07

571-050-0135

Fees

The University may charge a fee for acquiring criminal offender information for use in making a fitness determination. In any particular instance, the fee shall not exceed the fee(s) charged the University by the Oregon Department of State Police and the Federal Bureau of Investigation to obtain criminal offender information on the subject individual.

Stat. Auth.: ORS 181.534, 352.012
Stats. Implemented: ORS 181.534, 352.012
Hist.: UO 10-2007(Temp), f. & cert. ef. 6-4-07 thru 12-1-07

Physical Therapist Licensing Board

Chapter 848

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

Adm. Order No.: PTLB 2-2007

Filed with Sec. of State: 5-25-2007

Certified to be Effective: 6-1-07

Notice Publication Date: 4-1-07

Rules Amended: 848-005-0010

Subject: The Physical Therapist Licensing Board hereby adopts by reference the Physical Therapist Licensing Board 2007–2009 Biennium Budget of \$859,000 covering the period from July 1, 2007 through June 30, 2009. The Executive Director of the Board will amend budgeted accounts as necessary within the approved budget of \$859,000 for the effective operation of the Board. The Board will not exceed the approved 2007–2009 Biennium Budget without amending this rule, notifying holders of licenses, and holding a public hearing thereon as required by ORS Chapter 182.462(1) and (2). Copies of the budget are available from the Board's office.

Rules Coordinator: James Heider—(971) 673-0203

848-005-0010

Board Budget

The Physical Therapist Licensing Board hereby adopts by reference the Physical Therapist Licensing Board 2007–2009 Biennium Budget of \$859,000 covering the period from July 1, 2007 through June 30, 2009. The Executive Director of the Board will amend budgeted accounts as necessary within the approved budget of \$859,000 for the effective operation of the Board. The Board will not exceed the approved 2007–2009 Biennium Budget without amending this rule, notifying holders of licenses, and holding a public hearing thereon as required, by ORS Chapter 182.462(1) and (2). Copies of the budget are available from the Board's office.

Stat. Auth.: ORS 688.210
Stats. Implemented: ORS 688.160(5)(c)
Hist.: PTLB 3-1999(Temp), f. & cert. ef. 9-7-99 thru 3-1-00; PTLB 5-1999, f. 11-23-99, cert. ef. 12-1-99; PTLB 5-2001(Temp) f. & cert. ef. 6-18-01 thru 9-30-01; PTLB 6-2001, f. & cert. ef. 10-1-01; PTLB 2-2003, f. 6-30-03, cert. ef. 7-1-03; Renumbered from 848-010-0105, PTLB 2-2004, f. & cert. ef. 12-29-04; PTLB 1-2005, f. & cert. ef. 4-8-05; PTLB 2-2007, f. 5-25-07, cert. ef. 6-1-07

Secretary of State, Audits Division Chapter 162

Rule Caption: Rules update the Minimum Standards for Audits of Oregon Municipal Corporations.

Adm. Order No.: AUDIT 1-2007

Filed with Sec. of State: 6-7-2007

Certified to be Effective: 6-30-07

Notice Publication Date: 4-1-07

Rules Adopted: 162-010-0115

Rules Amended: 162-010-0000, 162-010-0010, 162-010-0020, 162-010-0030, 162-010-0050, 162-010-0140, 162-010-0150, 162-010-0170, 162-010-0190, 162-010-0230, 162-010-0240, 162-010-0260, 162-010-0280, 162-010-0295, 162-010-0330

Rules Repealed: 162-010-0180

Subject: The amendments propose the following changes:

1. Some minor edits and language clarifications for changes in statutes and profession accounting standards.

2. Amend language where necessary to include the word “biennial” when addressing budget matters.

3. OAR 162-010-0020 — Clarify auditor's responsibility for financial information presented as required supplementary information and other supplementary information.

4. OAR 162-010-0115 — Adopt to recognize professional standard on *Required Supplementary Information*.

5. OAR 162-010-0140 — Remove unnecessary verbiage for Schedule of Accountability for Independently Elected Officials.

6. OAR 162-010-0150 — Simplify Schedule of Property Tax Transactions or Acreage Assessments.

7. OAR 162-010-0180 — Delete requirement to present a Schedule of Endorsed Warrants Outstanding.

Rules Coordinator: Julie A. Sparks—(503) 986-2255

162-010-0000

Preface

(1) Pursuant to the provisions of ORS 297.465, there is presented herewith the Minimum Standards for Audits of Oregon Municipal Corporations.

(2) These Standards have been approved by the Oregon Board of Accountancy (the Board), and have been adopted by the Secretary of State as Administrative Rules under the provisions of ORS Chapter 183.

(3) All audits of municipal corporations shall be made in accordance with these Standards, and all audit reports shall be in the form prescribed herein. The Standards are effective for audits of fiscal years ending after March 31, 2007.

Stat. Auth.: ORS 297
Stats. Implemented: ORS 297.465
Hist.: DOA 3-1986, f. & ef. 5-29-86; DOA 1-1991, f. 3-8-91, cert. ef. 7-1-91; DOA 2-1995, f. 3-1-95, cert. ef. 7-1-95; AUDIT 2-2001, f. 4-26-01, cert. ef. 7-1-01; AUDIT 1-2007, f. 6-7-07, cert. ef. 6-30-07

162-010-0010

Definitions

(1) “Accountants” means and indicates all accountants whose names are included in the roster prepared and maintained by the Board, as required by ORS 297.465.

(2) “Accountant's Report”. See: “Auditor's Opinion”.

(3) “Accounting Principle”. A general law, or rule, adopted or professed as a guide to action; a settled ground or basis of conduct or practice.

(4) “Accrual basis” means the recording of the financial effects on a municipal corporation of transactions and other events and circumstances that have cash consequences for the municipal corporation in the periods in which those transactions, events and circumstances occur, rather than only in the periods in which cash is received or paid by the municipal corporation. (ORS 294.311)

(5) “Appropriation” means an authorization granted by the governing body to make expenditures and to incur obligations for specific purposes. It shall be limited to a single fiscal year or to the budget period for municipal corporations preparing biennial budgets. (ORS 294.311)

(6) “Audit”. An independent, objective examination of the accounts, financial affairs, and performance of a government municipality for the purpose of determining the results of operation for the period under review and the financial position at the end of the period. The examination includes

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an evaluation of the system of internal control, a review of the accounting records and procedures and a gathering of appropriate evidence from external sources.

(7) "Auditor's Opinion". A statement signed by an auditor in which he/she states that the financial statements have been examined in accordance with generally accepted auditing standards (with exceptions, if any) and in which he/she expresses an opinion on the financial condition and results of operations of the governmental unit.

(8) "Board" means the Oregon Board of Accountancy. (ORS 297.670)

(9) "Budget" means a plan of financial operation embodying an estimate of expenditures for a given period or purpose and the proposed means of financing the estimated expenditures. (ORS 294.311)

(10) "Cash Basis" means a basis of accounting under which transactions are recognized only in the period during which cash is received or disbursed. (ORS 294.311)

(11) "Encumbrances" means obligations in the form of purchase orders, contracts, or salary commitments which are chargeable to an appropriation and for which a part of the appropriation is reserved. Obligations cease to be encumbrances when paid or when the actual liability is set up. (ORS 294.311)

(12) "Expenditure" means if the accounts are kept on the accrual basis, the total charge incurred, whether paid or unpaid, including expense, provision for retirement of debt not reported as a liability of the fund from which retired, and capital outlay. If the accounts are kept on the cash basis, the term covers only actual disbursement, the drawing of the check or warrant for these purposes and not encumbrances.

(13) "Fiscal Year" means for municipal corporations with the power to impose ad valorem property taxes, the fiscal year commencing on July 1 and closing on June 30, and for all other municipal corporations, an accounting period of 12 months ending on the last day of any month. (ORS 294.311)

(14) Generally Accepted Auditing Standards address the conduct of the audit. They measure the quality of the performance of auditing procedures and the objectives to be obtained by the use of the procedures undertaken. There are ten general, field work and reporting standards approved and adopted by the AICPA membership and they are defined in the Statements on Auditing Standards.

(15) "Internal Control" means a process effected by an entity's governing body, management, and other personnel designed to provide reasonable assurance regarding the achievement of objectives in the following categories:

- (a) Reliability in financial reporting;
- (b) Effectiveness and efficiency of operations; and
- (c) Compliance with applicable laws and regulations.

(16) "Modified Accrual Basis" means revenues should be recognized in the accounting period in which they become available and measurable. Expenditures should be recognized in the accounting period in which the fund liability is incurred, if measurable, except for unmatured interest on long-term general long-term debt, which should be recognized when due.

(17) "Municipal Audit Law" means the provisions of ORS 297.405 to 297.555 and 297.990.

(18) "Municipal Corporation" means a county, city, district, or other municipal corporation or public corporation organized for a public purpose within the meaning of the Municipal Audit Law. (ORS 297.405)

(19) "Officers" means elected officials and the chief administrative officer if he is appointed by any or all of the elected officials.

Stat. Auth.: ORS 297

Stats. Implemented: ORS 297.465

Hist.: SD 104, f. 2-20-76, ef. 7-1-76; DOA 3-1986, f. & ef. 5-29-86, Renumbered from 165-030-0665; DOA 1-1991, f. 3-8-91, cert. ef. 7-1-91; DOA 2-1995, f. 3-1-95, cert. ef. 7-1-95; AUDIT 2-2001, f. 4-26-01, cert. ef. 7-1-01; AUDIT 1-2007, f. 6-7-07, cert. ef. 6-30-07

162-010-0020

Introduction

(1) All municipal corporations, as defined in ORS 297.405, are required to have their accounts and fiscal affairs audited annually in accordance with generally accepted auditing standards as promulgated by the American Institute of Certified Public Accountants (AICPA), unless they qualify under ORS 297.435 to be reviewed in accordance with Statements on Standards for Accounting and Review Standards (SSARS), or file financial reports in lieu of having an audit. The accounts to be audited and examined may include financial statements, or they may consist solely of books, records, and other financial data. Fiscal affairs are all activities of a municipal corporation relating to the collection, receipt, custody, handling, expenditure, or disbursement of public funds.

(2) The accountant who contracts to conduct an audit of a municipal corporation must personally conduct the audit to an extent satisfactory to

the Secretary of State, prepare an audit report and express an opinion on the accounts in accordance with these rules. The expression of opinion must be signed by the accountant. The audit report and expression of opinion are to be issued to the municipal corporation within six months after the close of the calendar or fiscal year unless an extension of time has been granted by the Secretary of State.

(3) Management (of the municipal corporation) has the responsibility for adopting sound accounting policies, for maintaining an adequate and effective system of accounts, for the safeguarding of assets, and for devising a system of internal control that will, among other things, help assure the production of proper financial statements. The transactions which should be reflected in the accounts and in the financial statements are matters within the direct knowledge and control of management. The independent auditor's knowledge of such transactions is limited to that acquired through the examination. Accordingly, the fairness of the representations made through financial statements is an implicit and integral part of management's responsibility. The independent auditor may make suggestions as to the form or content of financial statements or he/she may draft them in whole or in part, based on management's accounts and records. However, responsibility for the statements examined is confined to the expression of opinion on them. The financial statements remain the representations of management.

(4) Since the functions and forms of government, as well as the accounting, internal control, and management information systems, will vary greatly among municipal corporations, the independent auditor must be familiar with legal provisions applicable to municipal corporations and the accounting principles promulgated by GASB and other accounting principles considered to be generally acceptable for governmental organizations. The auditor shall review the information systems of accounting and internal control, develop audit programs to adequately test those systems, and form an opinion with respect to the accounts of the municipal corporation.

(5) Officials of the municipal corporation should make an accounting of all resources for which they are responsible. Preparation of the financial statements and notes thereto and the supplementary schedules considered necessary for full disclosure of financial position and results of operations as set forth in OAR 162-010-0050 through 162-010-0170 will be considered an appropriate accounting.

(6) The independent auditor is expected to determine if the accounts and records are maintained in a manner that will permit the preparation of financial statements which will fairly present the financial position and results of operations of the municipal corporation in accordance with legal provisions and in accordance with generally accepted accounting principles. The accounting principles contemplated are those contained in the pronouncements of authoritative bodies including, but not necessarily limited to, the Governmental Accounting Standards Board (GASB), the AICPA, and the Financial Accounting Standards Board (FASB). If the municipal corporation fails to prepare and present the financial statements specified in OAR 162-010-0050 through 162-010-0170, the auditor must make a reasonable attempt to draft them for the municipal corporation from the accounts and records made available for audit. If the financial statements cannot be drafted with reasonable effort, appropriate comments must be included in the audit report, together with recommendations for improvements necessary to permit their preparation in the future. Wherever there is a conflict between legal provisions and generally accepted accounting principles, legal provisions are to take precedence. The auditor shall make appropriate disclosure of such conflicts and shall be aware that a qualification of the opinion may be necessary.

(7) In addition to auditing the accounts and financial statements of a municipal corporation, the independent auditor is required to review its fiscal affairs. The review shall include, but not necessarily be limited to, determining if financial operations have been carried out in accordance with appropriate legal provisions including federal and state laws, charter provisions, court orders, ordinances, resolutions, and rules and regulations issued by other governmental agencies. It is the auditor's responsibility to disclose in the audit report material instances of noncompliance with such legal provisions.

(8) The audit report of a municipal corporation shall contain financial statements with appropriate notes, an accountant's report containing the independent auditor's expression of opinion on the financial statements, or an assertion that an opinion cannot be expressed, and the auditor's comments relating to the review of fiscal affairs and compliance with legal requirements:

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(a) The auditor shall express an "in relation to" opinion on combining and individual fund statements and schedules required by OAR 162-010-0050 through 162-010-0190.;

(b) The auditor shall also express an "in relation to" opinion on budgetary schedules presented as required supplementary information.

(c) The auditor's opinion must be prepared in accordance with the Statements on Auditing Standards issued by the AICPA.

(d) The report should include either an opinion on whether the accompanying financial information is fairly presented in all material respects in relation to the basic financial statements taken as a whole or a disclaimer of opinion, depending on whether the information has been subjected to the auditing procedures applied in the audit of the basic financial statements.

(e) The auditor's comments relating to the review of fiscal affairs, including compliance with legal requirements, shall be in accordance with the provisions of OAR 162-010-200 through 162-010-320.

(9) Audit reports are required to contain, immediately inside the front cover, the names and mailing addresses of officers of the municipal corporation and members of its governing body. In addition, audit reports of special districts, as defined by law, shall contain the name of the district's registered agent and its registered address. If a special district has not designated a registered agent or registered address, then the audit report shall so indicate.

(10) Copies of all audit reports are required to be filed with the Secretary of State. The reports are subject to review for compliance with these rules, and the Secretary of State may call for submission by the independent auditor of the work papers and audit programs covering an engagement. The work papers and audit programs must contain satisfactory written evidence of compliance with these rules.

(11) Within 30 days after delivering the audit report, as required by law, the independent auditor shall submit a summary of the revenues and expenditures of the municipal corporation for the period covered by the audit. The summary shall be made in the manner and on forms prescribed by the Secretary of State. One copy of the summary shall be delivered to the municipal corporation. A supply of the forms will be furnished to accountants upon request. Instructions are as follows:

(a) General: This summary will include the revenues and expenditures or receipts and disbursements for all funds of the municipal corporation. The revenues and expenditures or receipts and disbursements for each fund will be included in the total on the accounting basis used for the fund in the audit report;

(b) Accrual Basis Funds: In accrual funds, revenues and expenditures will not normally include receipts and repayments of short-term and inter-fund loans. If they do not, then the amounts of such loan transactions should not be included in the deductions made in arriving at Net Revenues and Net Expenditures;

(c) Utility or Other Enterprise Funds:

(A) If a utility or other enterprise fund makes payment in lieu of taxes, or pays rent, administrative, or other costs to other funds of the municipal corporation, such payments should be considered as interfund transfers;

(B) The expenditures of a utility or other enterprise fund should include, for purposes of this summary, the gross amount expended during the audit period for capital outlay, but they should not include any depreciation expense.

(d) Working Capital or Internal Service Funds: All revenues of working capital or internal service funds which are derived from other funds of the municipal corporations should be considered as receipts from interfund transfers.

(e) Revenues and expenditures of component units should not be included in the totals. Those amounts are included in separately issued component unit financial statements.

Stat. Auth.: ORS 297

Stats Implemented: ORS 297.465

Hist.: SD 104, f. 2-20-76, ef. 7-1-76; DOA 3-1986, f. & ef. 5-29-86, Renumbered from 165-030-0015; DOA 1-1991, f. 3-8-91, cert. ef. 7-1-91; DOA 2-1995, f. 3-1-95, cert. ef. 7-1-95; AUDIT 2-2001, f. 4-26-01, cert. ef. 7-1-01; AUDIT 1-2007, f. 6-7-07, cert. ef. 6-30-07

162-010-0030

General Requirements

(1) Audits are to be undertaken in accordance with a contract executed by the independent auditor and the municipal corporation. The contract shall set forth clearly the scope of work to be conducted by the auditor and must include provision for an expression of opinion on the financial statements of the municipal corporation and for a determination of compliance with finance related legal provisions. If the municipal corporation does not prepare the financial statements set forth in OAR 162-10-050 through 162-10-190, the contract must provide for the auditor to make a reasonable

attempt to draft them for and on behalf of the municipal corporation. Standard Form of Contract is as follows:

THIS CONTRACT, made this _____ day of _____, 20____, in accordance with the requirements of Oregon Revised Statutes 297.405 through 297.555 between ____ (Auditor)____, Certified Public Accountant(s) of _____, Oregon, and the ____ (Client)____, Oregon, provides as follows:

It hereby is agreed that ____ (Auditor)____ shall conduct an audit of the accounts and fiscal affairs of ____ (Client)____, Oregon, for the period beginning _____, and ending _____, (and annually thereafter) in accordance with the Minimum Standards for Audits of Municipal Corporations as prescribed by law. The audit shall be undertaken in order to express an opinion upon the financial statement of ____ (Client)____, Oregon, and to determine if the ____ (Client)____ has complied substantially with appropriate legal provisions.

____ (Auditor)____ agree(s) that the services contracted to perform under this contract shall be rendered by or under personal supervision and that the work will be faithfully performed with care and diligence.

It is understood and agreed that, should unusual conditions arise or be encountered during the course of the audit whereby the services of ____ (Auditor)____ are necessary beyond the extent of the work contemplated, written notification of such unusual conditions shall be delivered to the ____ (Client)____, Oregon, who shall instruct in writing ____ (Auditor)____ concerning such additional services, and that a signed copy of each such notification and instruction shall be delivered immediately to the Secretary of State by the party issuing the same.

The audit shall be started as soon after this contract is executed as is agreeable to the parties hereto and shall be completed and a written report thereon delivered within a reasonable time, but not later than six months, after the close of the audit period covered by this contract. Adequate copies of such report shall be delivered to the ____ (Client)____, Oregon, and its form and content shall be in accordance with and not less than that required by the Minimum Standards for Audits of Oregon Municipal Corporations.

It is understood and agreed that the ____ (Client)____, Oregon, is responsible for such financial statements as may be necessary to fully disclose and fairly present the results of operations for the period under audit and the financial condition at the end of that period. Should such financial statements not be prepared and presented within a reasonable period of time, it is understood that ____ (Auditor)____ shall draft them for ____ (Client)____, Oregon. The cost of preparing such financial statements shall be [(in addition to) (included in)] the fee for conducting the audit as set forth in Paragraph 7 below.

It is understood and agreed that either party may cancel this contract by giving notice in writing to the other party at least (ninety days) prior to July 1 of any year.

In consideration of the faithful performance of the conditions, covenants, and undertakings herein set forth the ____ (Client)____, Oregon, hereby agrees to pay ____ (Auditor)____ the sum of ____ (a reasonable fee)____ and the ____ (Client)____, Oregon, hereby affirms that proper provision for the payment of such fee has been or will be duly made and that funds for the payment thereof are or will be made legally available.

(Auditor)

by

(Client)

by

(2) Audits are to be conducted in accordance with the standards set forth in OAR 162-10-020.

(3) In performing the audits, the auditor should consider the concepts and procedures contained in OAR 162-011-0000 through 162-011-0040 and divisions 12 through 16.

(4) The scope of the audit of a municipal corporation shall include programs wholly or partially funded by other federal, state, or local governmental agencies. In determining the audit procedures to be applied to such programs, the independent auditor shall consider any specific audit procedures which may have been developed for those programs by appropriate governmental agencies. The auditor shall also determine if financial reporting requirements applicable to such programs have been complied with.

(5) If the municipal corporation requests the scope of the audit to be expanded to include a performance audit, a separate contract covering the expanded scope audit should be executed. Performance audits should be conducted in accordance with Government Auditing Standards published by the Comptroller General or the United States. These performance audit standards are listed in OAR 162-011-0030(4).

Stat. Auth.: ORS 297.465

Stats. Implemented: ORS 297.465

Hist.: SD 104, f. 2-20-76, ef. 7-1-76; DOA 3-1986, f. & ef. 5-29-86, Renumbered from 165-030-0020; DOA 1-1991, f. 3-8-91, cert. ef. 7-1-91; AUDIT 2-2001, f. 4-26-01, cert. ef. 7-1-01; AUDIT 1-2007, f. 6-7-07, cert. ef. 6-30-07

162-010-0050

Financial Statements

(1) In 1984, the Financial Accounting Foundation created the Governmental Accounting Standards Board. The GASB is recognized as the standard-setting authority of GAAP for state and local governments. As such, fair presentation of financial position and results of operations in conformity with GAAP for Oregon municipal corporations are those financial statements consistent with GASB Statements and Interpretations and the hierarchy of GAAP applicable to state and local governments established

ADMINISTRATIVE RULES

by the AICPA Statement on Auditing Standards No. 69, *The Meaning of Present Fairly in Conformity With Generally Accepted Accounting Principles in the Independent Auditor's Report*.

(2) Since the focus of accounting in a governmental unit is the individual fund, the financial statements to be presented in the municipal corporation's annual report must also include nonmajor fund combining statements.

(3) Compliance with municipal audit law includes financial statements prepared on a basis of cash receipts and disbursements.

(4) In the event information necessary to prepare the financial statements or any of them individually, is not readily available, or is not maintained by the municipal corporation, then appropriate disclosure must be made in the accountant's report.

Stat. Auth.: ORS 297

Stats Implemented: ORS 297.465

Hist.: SD 104, f. 2-20-76, ef. 7-1-76; DOA 3-1986, f. & ef. 5-29-86, Renumbered from 165-030-0100; DOA 1-1991, f. 3-8-91, cert. ef. 7-1-91; DOA 2-1995, f. 3-1-95, cert. ef. 7-1-95; AUDIT 2-2001, f. 4-26-01, cert. ef. 7-1-01; AUDIT 1-2007, f. 6-7-07, cert. ef. 6-30-07

162-010-0115

Required Supplementary Financial Information (RSI)

In addition to financial statements, the Governmental Accounting Standards Board has determined that certain statements, schedules, statistical data, or other information are necessary to supplement, although not required to be a part of, the basic financial statements. These standards do not place any additional responsibilities upon the independent auditor beyond those required by generally accepted auditing standards and OAR 162-10-0020(8)(b).

Stat. Auth.: ORS 297

Stats Implemented: ORS 297.465

Hist.: AUDIT 1-2007, f. 6-7-07, cert. ef. 6-30-07

162-010-0140

Schedule of Accountability for Independently Elected Officials

A schedule of accountability must be prepared for each independently elected official collecting or receiving money in the municipal corporation. This schedule is to present, at a minimum, beginning balances, receipts, disbursements, refunds, and turnovers to the appropriate governmental official, reconciled to cash on hand at the beginning and end of the audit period.

Stat. Auth.: ORS 297

Stats Implemented: ORS 297.465

Hist.: SD 104, f. 2-20-76, ef. 7-1-76; DOA 3-1986, f. & ef. 5-29-86, Renumbered from 165-030-0140; DOA 1-1991, f. 3-8-91, cert. ef. 7-1-91; DOA 2-1995, f. 3-1-95, cert. ef. 7-1-95; AUDIT 2-2001, f. 4-26-01, cert. ef. 7-1-01; AUDIT 1-2007, f. 6-7-07, cert. ef. 6-30-07

162-010-0150

Schedule of Property Tax Transactions or Acreage Assessments

A schedule of property tax transactions or acreage assessments must be prepared which presents the amount of uncollected and unsegregated taxes or assessments in the aggregate and for each of the five preceding tax rolls, the amounts levied or assessed for the current tax roll, collections, interest received, discounts allowed, adjustments applied, and the uncollected and unsegregated balances for each tax roll at the end of the audit period. In addition, the schedule may include such statistical information as may be desirable in order to fully and adequately disclose the property tax or acreage assessment transactions of the municipal corporation.

Stat. Auth.: ORS 297

Stats Implemented: ORS 297.465

Hist.: SD 104, f. 2-20-76, ef. 7-1-76; DOA 3-1986, f. & ef. 5-29-86, Renumbered from 165-030-0145; DOA 2-1995, f. 3-1-95, cert. ef. 7-1-95; AUDIT 2-2001, f. 4-26-01, cert. ef. 7-1-01; AUDIT 1-2007, f. 6-7-07, cert. ef. 6-30-07

162-010-0170

Schedule of Future Requirements for Retirement of Bonded or Long-Term Debt

At a minimum, this schedule is to present, by fund and by bond or other type of issue, in the aggregate and for each of the five succeeding years, and in five-year increments thereafter, the amount required for the retirement of bonded or other long-term debt, both principal and interest.

Stat. Auth.: ORS 297

Stats Implemented: ORS 297.465

Hist.: SD 104, f. 2-20-76, ef. 7-1-76; DOA 3-1986, f. & ef. 5-29-86, Renumbered from 165-030-0155; DOA 2-1995, f. 3-1-95, cert. ef. 7-1-95; AUDIT 1-2007, f. 6-7-07, cert. ef. 6-30-07

162-010-0190

Other Financial or Statistical Information

The report may include such other financial or statistical information as desired by the municipal corporation, including financial statements

relating specifically to programs funded wholly or partially by other governmental agencies.

Stat. Auth.: ORS 297

Stats Implemented: ORS 297.465

Hist.: SD 104, f. 2-20-76, ef. 7-1-76; DOA 3-1986, f. & ef. 5-29-86, Renumbered from 165-030-0195; AUDIT 1-2007, f. 6-7-07, cert. ef. 6-30-07

162-010-0230

Accounting Records and Internal Control

The condition of the accounting records and the adequacy of the internal control shall be disclosed. The size and complexity of the municipal corporation's financial activities shall be considered when making these disclosures. A summary of any recommendations made to improve or strengthen the accounting records and internal control shall be included. If recommendations have been made by management letter or in a report issued in accordance with *Government Auditing Standards*, reference to it should be made.

Stat. Auth.: ORS 297.465

Stats Implemented: ORS 297.465

Hist.: SD 104, f. 2-20-76, ef. 7-1-76; DOA 3-1986, f. & ef. 5-29-86, Renumbered from 165-030-0215; DOA 1-1991, f. 3-8-91, cert. ef. 7-1-91; AUDIT 2-2001, f. 4-26-01, cert. ef. 7-1-01; AUDIT 1-2007, f. 6-7-07, cert. ef. 6-30-07

162-010-0240

Collateral

There shall be comments regarding the municipal corporation's compliance throughout the fiscal year, with legal requirements pertaining to the amount and adequacy of collateral, private deposit insurance, or guaranty bond pledged by depositories to secure the deposit of public funds.

Stat. Auth.: ORS 297

Stats Implemented: ORS 297.465

Hist.: SD 104, f. 2-20-76, ef. 7-1-76; DOA 3-1986, f. & ef. 5-29-86, Renumbered from 165-030-0220; AUDIT 2-2001, f. 4-26-01, cert. ef. 7-1-01; AUDIT 1-2007, f. 6-7-07, cert. ef. 6-30-07

162-010-0260

Budget

Compliance with legal requirements relating to the preparation, adoption, and execution of the annual or biennial budget for the year being audited, and the preparation and adoption of the budget for the next succeeding year shall be disclosed. Also, the auditor shall disclose the financial or organizational level at which the governing body makes the annual appropriations. The minimum levels of legal appropriation are established in ORS 294.435.

Stat. Auth.: ORS 297

Stats Implemented: ORS 297.465

Hist.: SD 104, f. 2-20-76, ef. 7-1-76; DOA 3-1986, f. & ef. 5-29-86, Renumbered from 165-030-0230; DOA 2-1995, f. 3-1-95, cert. ef. 7-1-95; AUDIT 1-2007, f. 6-7-07, cert. ef. 6-30-07

162-010-0280

Programs Funded from Outside Sources

(1) Compliance with appropriate laws, rules, and regulations pertaining to programs funded wholly or partially by other governmental agencies shall be disclosed. This would include, but not necessarily be limited to, state and federal governmental agencies. Material instances of noncompliance must be sufficiently disclosed to enable the municipal corporation and the appropriate governmental agencies to initiate corrective action.

(2) If separate reports have been issued to disclose compliance with federal financial assistance programs under the Single Audit Act Amendments of 1996 (the Single Audit Act), then reference to those reports is required in this disclosure.

Stat. Auth.: ORS 297.465

Stats Implemented: ORS 297.465

Hist.: SD 104, f. 2-20-76, ef. 7-1-76; DOA 3-1986, f. & ef. 5-29-86, Renumbered from 165-030-0240; DOA 1-1991, f. 3-8-91, cert. ef. 7-1-91; AUDIT 1-2007, f. 6-7-07, cert. ef. 6-30-07

162-010-0295

Highway Funds

Compliance with legal requirements, (as contained in Article IX, section 3a of the Oregon Constitution), pertaining to the use of revenue from taxes on motor vehicle use and fuel shall be disclosed. Also, compliance with statutory requirements pertaining to the use of road funds (as contained in ORS 294, 368, and 373) shall be disclosed.

Stat. Auth.: ORS 297

Stats Implemented: ORS 297.465

Hist.: DOA 2-1995, f. 3-1-95, cert. ef. 7-1-95; AUDIT 1-2007, f. 6-7-07, cert. ef. 6-30-07

ADMINISTRATIVE RULES

162-010-0330

Extensions of Time to Deliver Audit Reports

(1) Requests for extensions of time to deliver audit reports must be submitted on forms provided by the Secretary of State. The request must contain the following information:

- (a) The name and registered or mailing address of the municipal corporation;
- (b) The name and address of the accountant or firm conducting the audit;
- (c) The accounting period under audit;
- (d) A statement setting forth the reasons for the delay in delivering the audit report;
- (e) The signed approval or disapproval of the request by the chair of the governing body, or managing or executive officer, of the municipal corporation. Reasons for disapproval must be included;
- (f) Requests applicable to school districts and community colleges must also contain the signed approval or disapproval of the local district superintendent or the superintendent's designee.

(2) Three copies of the extension request shall be submitted to the Secretary of State. After acting upon the request, one copy will be returned to the accountant and one copy will be furnished to the municipal corporation. The local district superintendent will also be furnished a copy of requests applicable to school districts and community colleges. If a request is disapproved by the Secretary of State, reasons therefore shall be given in writing to the accountant and to the municipal corporation.

Stat. Auth.: ORS 297

Stats. Implemented: ORS 297.465

Hist.: SD 115, f. & ef. 10-1-77; DOA 3-1986, f. & ef. 5-29-86; Renumbered from 165-030-0670; AUDIT 2-2001, f. 4-26-01, cert. ef. 7-1-01; AUDIT 1-2007, f. 6-7-07, cert. ef. 6-30-07

Rule Caption: Rules update the Minimum Standards for Reviews of Oregon Municipal Corporations.

Adm. Order No.: AUDIT 2-2007

Filed with Sec. of State: 6-7-2007

Certified to be Effective: 6-30-07

Notice Publication Date: 4-1-07

Rules Adopted: 162-040-0054

Rules Amended: 162-040-0000, 162-040-0005, 162-040-0010, 162-040-0015, 162-040-0020, 162-040-0055, 162-040-0060, 162-040-0065, 162-040-0070, 162-040-0075, 162-040-0085, 162-040-0090, 162-040-0095, 162-040-0110, 162-040-0115, 162-040-0120, 162-040-0125, 162-040-0130, 162-040-0135, 162-040-0140, 162-040-0146, 162-040-0148, 162-040-0155, 162-040-0160

Rules Repealed: 162-040-0025, 162-040-0030, 162-040-0035, 162-040-0040, 162-040-0045, 162-040-0080

Subject: The focus and majority of amendments are editorial in nature and are intended to update language throughout for changes promulgated by professional auditing and financial reporting standards. It proposes one rule to recognize professional auditing standard for *Required Supplementary Information* that has become prevalent in financial reporting. It removes the requirement to present a Schedule of Endorsed Warrants Outstanding. It removes references to outdated review procedures and directs the auditor to seek guidance from professional standards.

Rules Coordinator: Julie A. Sparks—(503) 986-2255

162-040-0000

Definitions

(1) "Accountant" as used in these rules means a person licensed by the Oregon Board of Accountancy to conduct municipal audits and reviews.

(2) "Analytical Procedures" are substantive tests of financial information made by a study and comparison of relationships among data.

(3) "Determine" as used in these rules means to come to a decision after making inquiries and observations and performing analytical procedures.

(4) "Review": A review of Financial Statements" is accomplished by making inquiries, observations and performing analytical procedures to provide the accountant with a reasonable basis for expressing limited assurance that there are no material modifications that should be made to the financial statements in order for them to be in conformity with generally accepted accounting principles (GAAP) or, if applicable, another comprehensive basis of accounting such as the cash basis. A review does not

include obtaining independent corroborative evidence unless specifically required by these rules.

Stat. Auth.: ORS 297.465

Stats. Implemented: ORS 297.465

Hist.: SD 6-1981, f. & ef. 9-1-81; DOA 2-1991, f. 3-8-91, cert. ef. 7-1-91, Renumbered from 165-040-0000; DOA 1-1996, f. 4-10-96, cert. ef. 6-1-96; AUDIT 2-2007, f. 6-7-07, cert. ef. 6-30-07

162-040-0005

Introduction

(1) All municipal corporations, as defined in ORS 297.405, are required to have their accounts and fiscal affairs audited annually, unless they are exempt from audit under ORS 297.435. These administrative rules apply to review reports prepared under ORS 297.435(3).

(2) The objective of a review differs significantly from the objective of an audit of financial statements in accordance with generally accepted auditing standards. The objective of an audit is to provide a reasonable basis for expressing opinions on the financial statements that collectively comprise the municipality's basic financial statements. A review does not provide a basis for the expression of such opinions because a review does not contemplate obtaining an understanding of internal control or assessing control risk; tests of accounting records and of responses to inquiries by obtaining corroborating evidential matter through inspection; observation or confirmation; and certain other procedures ordinarily performed during an audit. A review may bring to the accountant's attention significant matters affecting the financial statements, but it does not provide assurance that the accountant will become aware of all significant matters that would be disclosed in an audit.

(3) The accountant who performs a review of the financial statements of a municipal corporation must:

(a) Be licensed by the Oregon Board of Accountancy to conduct municipal audits;

(b) Personally perform the review in accordance with these rules to an extent satisfactory to the Secretary of State; and

(c) Prepare a report expressing limited assurance on the financial statements in accordance with these rules.

(4) Since the functions and forms of government, as well as the accounting, internal control, and management information systems, will vary greatly among municipal corporations; the independent accountant must be or become familiar with legal provisions applicable to a particular government. The accountant must also be familiar with the accounting principles considered to be generally acceptable for governments.

(5) Officials of the municipal corporation must account for all resources for which they are responsible. An appropriate accounting by officials of the municipal corporation will include financial statements, notes to the financial statements, and the supplementary schedules required by these rules.

(6) Based upon the review, the accountant is expected to determine if the municipal corporation's accounts and records are maintained in a manner that will permit the preparation of financial statements which fairly present its financial position and results of operations in accordance with legal provisions, and in accordance with generally accepted accounting principles or another comprehensive basis of accounting. The accounting principles contemplated are those contained in pronouncements of authoritative bodies including, but not necessarily limited to, the Financial Accounting Standards Board, the American Institute of Certified Public Accountants, and the Governmental Accounting Standards Board. If the municipal corporation fails to prepare and present the financial statements specified in these rules, the accountant must make a reasonable attempt to draft them for the municipal corporation using its accounts and records. If the financial statements cannot be drafted with reasonable effort, the accountant must include appropriate comments in the review report, together with recommendations for improvements needed to permit their preparation in the future. Whenever legal provisions conflict with generally accepted accounting principles or principles applicable to another comprehensive basis of accounting, the accountant shall disclose these conflicts and modify the review report if necessary.

(7) The accountant shall also review the municipal corporation's fiscal affairs. This review shall include determining if operations have been carried out in accordance with appropriate legal provisions including federal and state laws, charter provisions, court orders, ordinances, resolutions, and rules and regulations issued by other governmental agencies and other matters pertinent to the municipal corporation's fiscal affairs. The independent accountant must disclose in the report material instances of non-compliance with such legal provisions that come to his or her attention during the review.

ADMINISTRATIVE RULES

(8) The review report shall include financial statements with appropriate notes, an independent accountant's review report containing limited assurance on the financial statements, or an assertion that limited assurance cannot be expressed, and the independent accountant's comments relating to the review of fiscal affairs and compliance with legal requirements. The accountant's review report should state that the review was performed in accordance with Statements on Standards for Accounting and Review Services issued by the American Institute of Certified Public Accountants and include the reporting elements prescribed by those standards.

(9) The municipal corporation must file a copy of its review report with the Secretary of State. The report and supporting documentation are subject to review by the Secretary of State for compliance with these rules. The Secretary of State may require the accountant to submit documentation covering the review engagement for purposes of this requirement.

(10) The accountant shall submit a summary of the revenues and expenditures of the municipal corporation within 30 days after delivering the review report. The summary shall encompass the period covered by the review and shall be prepared in a manner and on forms prescribed by the Secretary of State. One copy of the summary shall be delivered to the municipal corporation. A supply of the forms will be furnished to the accountant upon request.

Stat. Auth.: ORS 297.465

Stats. Implemented: ORS 297.465

Hist.: SD 6-1981, f. & ef. 9-1-81; DOA 2-1991, f. 3-8-91, cert. ef. 7-1-91, Renumbered from 165-040-0005; DOA 1-1996, f. 4-10-96, cert. ef. 6-1-96; AUDIT 2-2007, f. 6-7-07, cert. ef. 6-30-07

162-040-0010

General Requirements

(1) Reviews shall be performed in accordance with a written agreement executed by the independent accountant and the municipal corporation. The agreement should clearly establish the nature of the services to be performed in making the review and shall clearly set forth the scope of work to be conducted by the accountant. The agreement must include a provision for the expression of limited assurance on the financial statements of the municipal corporation and for a determination of compliance with appropriate legal provisions. The agreement must also provide for the accountant to make a reasonable attempt to draft financial statement for the municipal corporation if the municipal corporation does not prepare them as required by these rules. An illustrative standard contract follows:

STANDARD FORM OF AGREEMENT

This contract, made this _____ day of _____, 20____, in accordance with OAR162-40-010(1) of the Minimum Standards for Reviews of Oregon Municipal Corporations between (Independent Accountant), Certified Public Accountant(s) of _____, Oregon, and the (Client), Oregon, provides as follows:

It is agreed the (Independent Accountant), shall conduct a review of the accounts, financial statements, and fiscal affairs of (Client), Oregon for the period beginning _____, and ending _____, (and annually thereafter) in accordance with the Minimum Standards for Reviews of Oregon Municipal Corporations. The review shall be undertaken in order to express limited assurance upon the basic financial statements of (Client), Oregon, and that (Client) has substantially complied with appropriate legal provisions.

A review consists principally of inquiries, observations and analytical procedures applied to financial data. It is substantially less in scope than an examination in accordance with generally accepted auditing standards, the objective of which is the expression of opinions regarding the basic financial statements. Accordingly, no such opinions will be expressed.

A review cannot be relied upon to disclose errors, irregularities, or illegal acts, including fraud or defalcations that may exist. However, will inform you of any such matters that come to our attention.

(Independent Accountant) agrees that the services required under this agreement will be performed by or under personal supervision and that the work will be faithfully performed with care and diligence.

It is understood and agreed that, should unusual conditions arise or be encountered during the course of the review whereby the services of (Independent Accountant) are necessary beyond the extent of the work contemplated, written notification of such unusual condition shall be delivered to the (Client), Oregon, who shall instruct in writing (Independent Accountant) concerning such additional services, and that a signed copy of each such notification and instruction shall be delivered immediately to the Secretary of State by the issuing party.

The review shall be started as soon after this agreement is executed as is agreeable to the parties hereto and shall be completed and a written report thereon delivered within a reasonable time, but not later than 180 days, after the close of the period covered by this agreement. Adequate copies of such report shall be delivered to the (Client), Oregon and its form and content shall be in accordance with and not less than that required by the Minimum Standards for Reviews of Oregon Municipal Corporations. It is understood and agreed that the (Client), Oregon, is responsible for such financial statements as may be necessary to fully disclose and fairly present the results of operations for the period under review and the financial condition at the end of that period. Should such financial statements not be prepared and presented within a reasonable period of time, it is understood that (Independent Accountant) shall draft them for (Client), Oregon. The cost of preparing such financial statements shall be the fee for conducting the review set forth in Paragraph 9 below. It is understood and agreed that either party may cancel this agreement by giving notice in writing to the other party at least (ninety days) prior to the end of any review period.

In consideration of the faithful performance of the conditions, covenants, and under-

takings herein set forth, the (Client), Oregon, hereby agrees to pay (Independent Accountant) the sum of _____ (a reasonable fee) and the (Client), Oregon, hereby affirms that proper provision for the payment of such fee has been or will be duly made and that funds for the payment thereof are or will be made legally available.

(Independent Accountant)

by _____

(Client)

by _____

(2) The accountant shall conduct reviews in accordance with the general standards for reviews set forth in OAR 162-040-0015.

(3) The scope of the review of a municipal corporation shall include all funds, accounts and fiscal affairs including programs wholly or partially funded by other governmental agencies. If agreements with other governmental agencies require an audit, instead of a review, the municipal corporation should give full consideration to those requirements.

(4) If prior period financial statements are presented for comparative purposes, the accountant must clearly establish the degree of responsibility, if any, the accountant is assuming for such prior period statements.

[ED. NOTE: Appendix referenced is available from the agency.]

Stat. Auth.: ORS 297.465

Stats. Implemented: ORS 297.465

Hist.: SD 6-1981, f. & ef. 9-1-81; DOA 2-1991, f. 3-8-91, cert. ef. 7-1-91, Renumbered from 165-040-0010; AUDIT 2-2007, f. 6-7-07, cert. ef. 6-30-07

162-040-0015

General Standards for Reviews

(1) A review must be performed by a person or persons having adequate technical training and proficiency as an independent accountant.

(2) In all matters relating to the engagement, an independence in mental attitude is to be maintained.

(3) Due professional care shall be exercised in the performance of the review and preparation of the report.

(4) The work is to be adequately planned and assistants, if any, are to be properly supervised.

(5) Sufficient relevant data shall be obtained through inquiry, inspection, observation and analysis to afford a reasonable basis for conclusions or recommendations in relation to a review engagement. Such data, or summaries thereof, must be contained in documentation supporting the review.

(6) The review report shall state whether the accountant is aware of any modifications necessary for the financial statements to be presented in accordance with generally accepted accounting principles or another comprehensive basis of accounting.

(7) The review report shall state whether the accountant is aware of any instances in which generally accepted accounting principles or another comprehensive basis of accounting have not been consistently observed in the current period in relation to the preceding period.

(8) Informative disclosures in the financial statements and notes to the financial statements are to be regarded as reasonably adequate unless otherwise stated in the review report.

(9) The review report shall either contain an expression of limited assurance regarding the financial statements, notes to the financial statements and supplementary schedules, or an assertion to the effect that limited assurance cannot be expressed. When overall assurance cannot be expressed, the substantive reasons should be stated. In all cases where an accountant's name is associated with financial statements, the review report should contain a clear-cut indication of the character of the accountant's review, and the degree of responsibility taken.

Stat. Auth.: ORS 297.465

Stats. Implemented: ORS 297.465

Hist.: SD 6-1981, f. & ef. 9-1-81; DOA 2-1991, f. 3-8-91, cert. ef. 7-1-91, Renumbered from 165-040-0015; DOA 1-1996, f. 4-10-96, cert. ef. 6-1-96; AUDIT 2-2007, f. 6-7-07, cert. ef. 6-30-07

162-040-0020

Financial Statements

(1) In 1984, the Financial Accounting Foundation created the Governmental Accounting Standards Board. The GASB is recognized as the standard-setting authority of GAAP for state and local governments. As such, fair presentation of financial position and results of operations in conformity with GAAP for Oregon municipal corporations are those financial statements consistent with GASB Statements and Interpretations and the hierarchy of GAAP applicable to state and local governments established by the AICPA Statement on Auditing Standards No. 69, The Meaning of Present Fairly in Conformity With Generally Accepted Accounting Principles in the Independent Auditor's Report.

(2) Since the focus of accounting in a governmental unit is the individual fund, the focus of the review must also be at the level of the individual fund. Therefore, the financial statements to be reviewed in accor-

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dance with these rules, and upon which the accountant is to express limited assurance, must include the nonmajor combining and individual fund financial statements and schedules, whether presented as RSI or OSI.

(3) Each page of the financial statements should include a reference such as "See Accountant's Review Report." In the event information necessary to prepare these basic financial statements, or any of them individually, is not readily available, or is not maintained by the municipal corporation, then appropriate disclosure must be made in the accountant's review report.

Stat. Auth.: ORS 297.465
Stats. Implemented: ORS 297.465
Hist.: SD 6-1981, f. & ef. 9-1-81; DOA 2-1991, f. 3-8-91, cert. ef. 7-1-91, Renumbered from 165-040-0020; DOA 1-1996, f. 4-10-96, cert. ef. 6-1-96; AUDIT 2-2007, f. 6-7-07, cert. ef. 6-30-07

162-040-0054

Required Supplementary Financial Information (RSI)

In addition to financial statements, the Governmental Accounting Standards Board has determined that certain statements, schedules, statistical data, or other information are necessary to supplement, although not required to be a part of, the basic financial statements.

Stat. Auth.: ORS 297.465
Stats. Implemented: ORS 297.465
Hist.: AUDIT 2-2007, f. 6-7-07, cert. ef. 6-30-07

162-040-0055

Other Supplementary Financial Information (OSI)

In addition to financial statements, notes and required supplementary information thereto, other supplementary financial information is considered necessary for full disclosure of the fiscal affairs of Oregon municipal corporations. Whenever appropriate, reports must contain the supplementary financial information set forth in OAR 165-040-0060 through 165-040-0085 or reasonable combinations thereof. In the event information necessary to prepare these schedules, or any of them individually, is not readily available or is not maintained by the municipal corporation, then appropriate disclosure must be made in the accountant's review report. If appropriate, the municipal corporation may include these schedules in the notes to the financial statements.

Stat. Auth.: ORS 297.465
Stats. Implemented: ORS 297.465
Hist.: SD 6-1981, f. & ef. 9-1-81; DOA 2-1991, f. 3-8-91, cert. ef. 7-1-91, Renumbered from 165-040-0055; DOA 1-1996, f. 4-10-96, cert. ef. 6-1-96; AUDIT 2-2007, f. 6-7-07, cert. ef. 6-30-07

162-040-0060

Schedule of Revenues, Expenditures, and Changes in Fund Balances/Retained Earnings, Budget and Actual (Each Fund)

The municipal corporation must prepare an individual schedule of revenues, expenditures/expenses, and changes in fund balances/net assets, budget and actual, for each fund for which budgets are legally required. They should be presented in a format consistent with other budgetary schedules required by GAAP. They must compare estimated with actual beginning balances, revenues or receipts, transfers in, expenditures or disbursements, transfers out and ending balances on the basis of the legally adopted budget. If the municipal corporation has made appropriations in a manner which differs materially from the presentation of estimated expenditures in the budget document, a separate schedule must be included which compares actual expenditures/expenses with the legally adopted appropriations.

Stat. Auth.: ORS 297.465
Stats. Implemented: ORS 297.465
Hist.: SD 6-1981, f. & ef. 9-1-81; DOA 2-1991, f. 3-8-91, cert. ef. 7-1-91, Renumbered from 165-040-0060; AUDIT 2-2007, f. 6-7-07, cert. ef. 6-30-07

162-040-0065

Schedule of Property Tax Transactions or Acreage Assessments

A schedule of property tax transactions or acreage assessments must be included which presents the amount of uncollected and unsegregated taxes or assessments in the aggregate and for each of the five preceding tax rolls, the amounts levied or assessed for the current tax roll, collections, interest received, discounts allowed, adjustments applied, and the uncollected and unsegregated balances at the end of the accounting period. In addition the schedule may include such statistical information as may be desirable in order to fully and adequately disclose the property tax or acreage assessment transactions of the municipal corporation.

Stat. Auth.: ORS 297.465
Stats. Implemented: ORS 297.465
Hist.: SD 6-1981, f. & ef. 9-1-81; DOA 2-1991, f. 3-8-91, cert. ef. 7-1-91, Renumbered from 165-040-0065; AUDIT 2-2007, f. 6-7-07, cert. ef. 6-30-07

162-040-0070

Schedule of Bonded or Long-Term Debt Transactions

At a minimum, OSI shall include a schedule of total outstanding matured and unmatured principal and matured interest obligations at the beginning of the period, the maturities and redemptions during the period, and the outstanding matured and unmatured principal and matured interest at the end of the period.

Stat. Auth.: ORS 297.465
Stats. Implemented: ORS 297.465
Hist.: SD 6-1981, f. & ef. 9-1-81; DOA 2-1991, f. 3-8-91, cert. ef. 7-1-91, Renumbered from 165-040-0070; DOA 1-1996, f. 4-10-96, cert. ef. 6-1-96; AUDIT 2-2007, f. 6-7-07, cert. ef. 6-30-07

162-040-0075

Schedule of Future Requirements for Retirement of Bonded or Long-Term Debt

At a minimum, OSI shall include a schedule presenting, by fund and by bond or other type of issue, in the aggregate and for each of the five succeeding years, and in five-year increments thereafter, the amount required for the retirement of bonded or other long term debt, both principal and interest.

Stat. Auth.: ORS 297.465
Stats. Implemented: ORS 297.465
Hist.: SD 6-1981, f. & ef. 9-1-81; DOA 2-1991, f. 3-8-91, cert. ef. 7-1-91, Renumbered from 165-040-0075; DOA 1-1996, f. 4-10-96, cert. ef. 6-1-96; AUDIT 2-2007, f. 6-7-07, cert. ef. 6-30-07

162-040-0085

Other Financial or Statistical Information

The report may include such other financial or statistical information as desired by the municipal corporation, including financial statements or schedules relating specifically to programs funded wholly or partially by other governmental agencies.

Stat. Auth.: ORS 297.465
Stats. Implemented: ORS 297.465
Hist.: SD 6-1981, f. & ef. 9-1-81; DOA 2-1991, f. 3-8-91, cert. ef. 7-1-91, Renumbered from 165-040-0085; AUDIT 2-2007, f. 6-7-07, cert. ef. 6-30-07

162-040-0090

Required Disclosures and Independent Auditor's Comments

Each report shall contain appropriate comments and disclosures relating to the accountant's review of fiscal affairs for compliance with legal requirements. At a minimum the accountant's comments and disclosures must include the subject set forth in OAR 162-040-0095 through 162-040-0150, if they have not been appropriately disclosed in notes to the financial statements.

Stat. Auth.: ORS 297.465
Stats. Implemented: ORS 297.465
Hist.: SD 6-1981, f. & ef. 9-1-81; DOA 2-1991, f. 3-8-91, cert. ef. 7-1-91, Renumbered from 165-040-0090; DOA 1-1996, f. 4-10-96, cert. ef. 6-1-96; AUDIT 2-2007, f. 6-7-07, cert. ef. 6-30-07

162-040-0095

Officers and Registered Agent of the Municipal Corporation

Immediately inside the front cover, the reports shall contain the names and mailing addresses of officers of the municipal corporation and members of its governing body. In addition, reports of special districts, as defined by law (ORS chapter 198), shall contain the name of the district's registered agent and its registered address. If a special district has not designated a registered agent or registered address, then the report shall so indicate.

Stat. Auth.: ORS 297.465
Stats. Implemented: ORS 297.465
Hist.: SD 6-1981, f. & ef. 9-1-81; DOA 2-1991, f. 3-8-91, cert. ef. 7-1-91, Renumbered from 165-040-0095; AUDIT 2-2007, f. 6-7-07, cert. ef. 6-30-07

162-040-0110

Accounting and Internal Control Structure

A review in accordance with these rules does not contemplate a review of internal control. However, when performing inquiries, observations, and analytical procedures, the accountant should be ever conscious of the condition of the accounting records and the adequacy of internal control. The accountant should comment on any major deficiencies noted, taking into account the size and complexity of the municipal corporation's financial activities. If recommendations have been made by management letter, reference to it should be made.

Stat. Auth.: ORS 297.465
Stats. Implemented: ORS 297.465
Hist.: SD 6-1981, f. & ef. 9-1-81; DOA 2-1991, f. 3-8-91, cert. ef. 7-1-91, Renumbered from 165-040-0110; AUDIT 2-2007, f. 6-7-07, cert. ef. 6-30-07

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162-040-0115

Collateral

The accountant shall state if he or she is aware of any failure to comply, throughout the fiscal year, with legal requirements relating to the amount and adequacy of collateral, private deposit insurance, or guaranty bond pledged by depositories to secure funds of the municipal corporation. (ORS chapter 295)

Stat. Auth.: ORS 297.465
Stats. Implemented: ORS 297.465
Hist.: SD 6-1981, f. & ef. 9-1-81; DOA 2-1991, f. 3-8-91, cert. ef. 7-1-91, Renumbered from 165-040-0115; AUDIT 2-2007, f. 6-7-07, cert. ef. 6-30-07

162-040-0120

Indebtedness

The accountant shall state if he or she is aware of any failure to comply with legal requirements relating to debt. This includes both short-term and long-term debt, limitations on the amount of debt which may be incurred, liquidation of debt within the prescribed period of time, and adherence to provisions of bond indentures or other agreements, including any restrictions pertaining to the use of moneys available to retire indebtedness.

Stat. Auth.: ORS 297.465
Stats. Implemented: ORS 297.465
Hist.: SD 6-1981, f. & ef. 9-1-81; DOA 2-1991, f. 3-8-91, cert. ef. 7-1-91, Renumbered from 165-040-0120; AUDIT 2-2007, f. 6-7-07, cert. ef. 6-30-07

162-040-0125

Budget

The accountant shall state if he or she is aware of any failure to comply with legal requirements relating to the preparation, adoption, and execution of the annual or biennial budget for the year under review, and preparation and adoption of the budget for the next succeeding year. Also, the auditor shall disclose the financial or organizational level at which the governing body makes the annual appropriations. The minimum levels of legal appropriation are established in ORS 294.435.

Stat. Auth.: ORS 297.465
Stats. Implemented: ORS 297.465
Hist.: SD 6-1981, f. & ef. 9-1-81; DOA 2-1991, f. 3-8-91, cert. ef. 7-1-91, Renumbered from 165-040-0125; DOA 1-1996, f. 4-10-96, cert. ef. 6-1-96; AUDIT 2-2007, f. 6-7-07, cert. ef. 6-30-07

162-040-0130

Insurance and Fidelity Bonds

The accountant shall state if he or she is aware of any failure to comply with legal requirements relating to insurance and fidelity bond coverage. The accountant may recommend further review of coverage by qualified individuals, if appropriate.

Stat. Auth.: ORS 297.465
Stats. Implemented: ORS 297.465
Hist.: SD 6-1981, f. & ef. 9-1-81; DOA 2-1991, f. 3-8-91, cert. ef. 7-1-91, Renumbered from 165-040-0130; AUDIT 2-2007, f. 6-7-07, cert. ef. 6-30-07

162-040-0135

Public Contracts and Purchasing

The accountant shall state if he or she is aware of any failure to comply with legal requirements relating to the policy that public agencies shall make every effort to construct public improvements at the least cost to the public agency. (ORS Chapter 279)

Stat. Auth.: ORS 297.465
Stats. Implemented: ORS 297.465
Hist.: SD 6-1981, f. & ef. 9-1-81; DOA 2-1991, f. 3-8-91, cert. ef. 7-1-91, Renumbered from 165-040-0135; DOA 1-1996, f. 4-10-96, cert. ef. 6-1-96; AUDIT 2-2007, f. 6-7-07, cert. ef. 6-30-07

162-040-0140

Programs Funded From Outside Sources

The accountant shall state if he or she is aware of any failure to comply with appropriate laws, rules and regulations pertaining to programs funded wholly or partially by other governmental agencies. This would include, but not necessarily be limited to, state and federal governmental agencies. Material instances of noncompliance should be sufficiently disclosed to enable the municipal corporation and the appropriate governmental agency to initiate corrective action.

Stat. Auth.: ORS 297.465
Stats. Implemented: ORS 297.465
Hist.: SD 6-1981, f. & ef. 9-1-81; DOA 2-1991, f. 3-8-91, cert. ef. 7-1-91, Renumbered from 165-040-0140; AUDIT 2-2007, f. 6-7-07, cert. ef. 6-30-07

162-040-0146

Highway Funds

The accountant shall state whether he or she is aware of any failure to comply with legal requirements, (as contained in Article IX, section 3a of

the Oregon Constitution), pertaining to the use of revenue from taxes on motor vehicle use and fuel or the statutory requirements pertaining to the use of road funds (as contained in ORS 294, 368, and 373).

Stat. Auth.: ORS 297.465
Stats. Implemented: ORS 297.465
Hist.: DOA 1-1996, f. 4-10-96, cert. ef. 6-1-96; AUDIT 2-2007, f. 6-7-07, cert. ef. 6-30-07

162-040-0148

Investments

The accountant shall state whether he or she is aware of any failure to comply with legal requirements (as contained in ORS Chapter 294), pertaining to the investment of public funds.

Stat. Auth.: ORS 297.465
Stats. Implemented: ORS 297.465
Hist.: DOA 2-1991, f. 3-8-91, cert. ef. 7-1-91; AUDIT 2-2007, f. 6-7-07, cert. ef. 6-30-07

162-040-0155

Suggested Review Procedures

The AICPA Statement on Standards for Accounting and Review Services provide guidance for the accountant's inquiry and analytical procedures ordinarily performed in a review engagement. Those standards include an appendix of illustrative inquiries.

Stat. Auth.: ORS 297.465
Stats. Implemented: ORS 297.465
Hist.: SD 6-1981, f. & ef. 9-1-81; DOA 2-1991, f. 3-8-91, cert. ef. 7-1-91; Renumbered from 165-040-0155; DOA 1-1996, f. 4-10-96, cert. ef. 6-1-96; AUDIT 2-2007, f. 6-7-07, cert. ef. 6-30-07

162-040-0160

Extensions of Time to Deliver Review Reports

(1) The municipal corporation must submit a request for extension of time to deliver a review report on forms provided by the Secretary of State. The request must contain the following information:

(a) The name and registered or mailing address of the municipal corporation;

(b) The name and address of the accountant or firm conducting the review;

(c) The accounting period under review;

(d) A statement setting forth the reasons for the delay in delivering the review report;

(e) The signed approval or disapproval of the request by the chair of the governing body, or managing or executive officer, of the municipal corporation. Reasons for disapproval must be included;

(2) Three copies of the extension request shall be submitted to the Secretary of State. After acting upon the request, one copy will be returned to the accountant and one copy will be furnished to the municipal corporation. If a request is disapproved, the Secretary of State shall communicate the reasons for disapproval in writing to the accountant and to the municipal corporation.

Stat. Auth.: ORS 297.465
Stats. Implemented: ORS 297.465
Hist.: DOA 2-1991, f. 3-8-91, cert. ef. 7-1-91; AUDIT 2-2007, f. 6-7-07, cert. ef. 6-30-07

Teacher Standards and Practices Commission Chapter 584

Rule Caption: Corrects inaccurate text filed in the April 23, 2007 filing.

Adm. Order No.: TSPC 4-2007

Filed with Sec. of State: 6-14-2007

Certified to be Effective: 6-14-07

Notice Publication Date: 12-1-06

Rules Amended: 584-017-0200

Subject: 584-017-0200 Verification of Program Approval — Clarifies “program completion” and exactly “when” a program is completed. Incorrect text was filing in the April 23, 2007 filing. Subsection (6) should have been removed as stated in the November 2006 meeting minutes.

Rules Coordinator: Victoria Chamberlain—(503) 378-6813

584-017-0200

Verification of Program Completion

The unit assures that candidates have completed the program successfully.

(1) The unit documents that candidates for licensure have acquired the knowledge and demonstrated the competencies required for the authorization level(s) and endorsement(s).

ADMINISTRATIVE RULES

(2) The unit documents that candidates for licensure have completed the required practica successfully.

(3) The unit attests that candidates comply with Standards for Competent and Ethical Performance of Oregon Educators in OAR 584 division 20.

(4) The unit attests that the candidates have passed the licensure tests required for the authorization levels and endorsements for which the unit is recommending.

(5) Program completion for purposes of reporting under Title II of the Higher Education Act (HEA) means the latest date at which a candidate completes all of the requirements for an Initial Teaching I License.

(a) All candidates completing an approved program must be reported to the Commission for Title II HEA reporting purposes whether the candidate applies for licensure with TSPC.

(6) Candidates for an Initial Teaching License will hold a minimum of a bachelor's degree from a regionally accredited institution or from an institution that is deemed to offer a degree comparable to a regionally accredited institution as approved by the Oregon Office of Degree Authorization, including but not limited to a foreign equivalent of such a degree.

(7) Candidates for a Continuing Teaching License will hold a master's or higher degree in arts and sciences or an advanced degree in the professions from a regionally accredited institution in the United States, or the foreign equivalent of such degree approved by the Commission.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120, 342.147 & 342.165

Hist.: TSPC 2-1998, f. 2-4-98, cert. ef. 1-15-99; TSPC 7-1999, f. & cert. ef. 10-8-99; TSPC 6-2002, f. & cert. ef. 10-23-02; TSPC 2-2007, f. & cert. ef. 4-23-07; TSPC 4-2007, f. & cert. ef. 6-14-07

OAR REVISION CUMULATIVE INDEX

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101-010-0005	6-11-07	Amend(T)	7-1-07	123-065-1620	1-8-07	Amend(T)	2-1-07
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123-065-0240	7-1-07	Amend	7-1-07	123-065-3400	1-8-07	Amend(T)	2-1-07
123-065-0310	1-8-07	Amend(T)	2-1-07	123-065-3400	7-1-07	Amend	7-1-07
123-065-0310	7-1-07	Amend	7-1-07	123-065-3480	1-8-07	Amend(T)	2-1-07
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123-065-0320	7-1-07	Amend	7-1-07	123-065-3850	1-8-07	Amend(T)	2-1-07
123-065-0330	1-8-07	Amend(T)	2-1-07	123-065-3850	7-1-07	Amend	7-1-07
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123-065-1590	1-8-07	Amend(T)	2-1-07	123-065-4550	1-8-07	Amend(T)	2-1-07
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123-065-4970	1-8-07	Amend(T)	2-1-07	125-145-0080	6-8-07	Amend(T)	7-1-07
123-065-4970	7-1-07	Amend	7-1-07	125-800-0005	12-28-06	Adopt	2-1-07
123-065-4980	1-8-07	Amend(T)	2-1-07	125-800-0010	12-28-06	Adopt	2-1-07
123-065-4980	7-1-07	Amend	7-1-07	125-800-0020	12-28-06	Adopt	2-1-07
123-065-4990	1-8-07	Amend(T)	2-1-07	137-025-0060	1-1-07	Amend	1-1-07
123-065-4990	7-1-07	Amend	7-1-07	137-025-0090	1-1-07	Amend	1-1-07
123-065-7200	1-8-07	Amend(T)	2-1-07	137-025-0150	1-1-07	Amend	1-1-07
123-065-7200	7-1-07	Amend	7-1-07	137-025-0210	1-1-07	Amend	1-1-07
123-065-7300	1-8-07	Amend(T)	2-1-07	137-025-0280	1-1-07	Amend	1-1-07
123-065-7300	7-1-07	Amend	7-1-07	137-025-0410	1-1-07	Amend	1-1-07
123-065-7400	1-8-07	Amend(T)	2-1-07	137-025-0415	1-1-07	Amend	1-1-07
123-065-7400	7-1-07	Amend	7-1-07	137-025-0480	1-1-07	Amend	1-1-07
123-065-7500	1-8-07	Amend(T)	2-1-07	137-025-0530	1-1-07	Amend	1-1-07
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123-065-8200	1-8-07	Amend(T)	2-1-07	137-055-1100	1-2-07	Amend	2-1-07
123-065-8200	7-1-07	Amend	7-1-07	137-055-1120	1-2-07	Amend	2-1-07
123-065-8300	1-8-07	Amend(T)	2-1-07	137-055-1160	1-2-07	Amend	2-1-07
123-065-8300	7-1-07	Amend	7-1-07	137-055-1320	1-2-07	Amend	2-1-07
123-065-8400	1-8-07	Amend(T)	2-1-07	137-055-4320	1-2-07	Amend	2-1-07
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123-065-1070	7-1-07	Adopt	7-1-07	137-055-6010	1-2-07	Adopt	2-1-07
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125-007-0210	12-28-06	Amend	2-1-07	137-055-6024	1-2-07	Amend	2-1-07
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125-007-0220	12-28-06	Amend	2-1-07	137-055-6120	1-2-07	Amend	2-1-07
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125-007-0230	12-28-06	Amend	2-1-07	137-079-0110	4-16-07	Adopt	5-1-07
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125-007-0250	12-28-06	Amend	2-1-07	137-079-0150	4-16-07	Adopt	5-1-07
125-007-0250(T)	12-28-06	Repeal	2-1-07	137-079-0170	4-16-07	Adopt	5-1-07
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125-007-0270(T)	12-28-06	Repeal	2-1-07	137-079-0210	4-16-07	Adopt	5-1-07
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125-007-0300(T)	12-28-06	Repeal	2-1-07	141-089-0460	3-26-07	Adopt(T)	5-1-07
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150-309.100(2)-(B)	1-1-07	Amend	2-1-07	162-010-0260	6-30-07	Amend	7-1-07
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309-012-0070	5-25-07	Amend	7-1-07	325-015-0020	1-1-07	Adopt	2-1-07
309-012-0080	5-25-07	Repeal	7-1-07	325-015-0025	1-1-07	Adopt	2-1-07
309-012-0085	5-25-07	Repeal	7-1-07	325-015-0030	1-1-07	Adopt	2-1-07
309-012-0090	5-25-07	Repeal	7-1-07	325-015-0035	1-1-07	Adopt	2-1-07
309-019-0000	5-11-07	Repeal	6-1-07	325-015-0040	1-1-07	Adopt	2-1-07
309-019-0010	5-11-07	Repeal	6-1-07	325-015-0045	1-1-07	Adopt	2-1-07
309-019-0020	5-11-07	Repeal	6-1-07	325-015-0050	1-1-07	Adopt	2-1-07
309-019-0030	5-11-07	Repeal	6-1-07	325-015-0055	1-1-07	Adopt	2-1-07
309-031-0005	5-11-07	Repeal	6-1-07	325-015-0060	1-1-07	Adopt	2-1-07
309-032-0450	4-24-07	Repeal	6-1-07	325-020-0001	3-9-07	Adopt	4-1-07
309-032-0455	4-24-07	Amend	6-1-07	325-020-0005	3-9-07	Adopt	4-1-07
309-032-0455(T)	4-24-07	Repeal	6-1-07	325-020-0010	3-9-07	Adopt	4-1-07
309-032-0460	4-24-07	Amend	6-1-07	325-020-0015	3-9-07	Adopt	4-1-07
309-032-0465	4-24-07	Amend	6-1-07	325-020-0020	3-9-07	Adopt	4-1-07
309-032-0470	4-24-07	Amend	6-1-07	325-020-0025	3-9-07	Adopt	4-1-07
309-032-0475	4-24-07	Amend	6-1-07	325-020-0030	3-9-07	Adopt	4-1-07
309-032-0475(T)	4-24-07	Repeal	6-1-07	325-020-0035	3-9-07	Adopt	4-1-07
309-032-0480	4-24-07	Amend	6-1-07	325-020-0040	3-9-07	Adopt	4-1-07
309-032-0480(T)	4-24-07	Repeal	6-1-07	325-020-0045	3-9-07	Adopt	4-1-07
309-032-0485	4-24-07	Amend	6-1-07	325-020-0050	3-9-07	Adopt	4-1-07
309-032-0490	4-24-07	Amend	6-1-07	325-020-0055	3-9-07	Adopt	4-1-07
309-032-0490(T)	4-24-07	Repeal	6-1-07	325-025-0001	5-4-07	Adopt	6-1-07
309-032-0495	4-24-07	Amend	6-1-07	325-025-0005	5-4-07	Adopt	6-1-07
309-032-0495(T)	4-24-07	Repeal	6-1-07	325-025-0010	5-4-07	Adopt	6-1-07
309-032-0500	4-24-07	Amend	6-1-07	325-025-0015	5-4-07	Adopt	6-1-07
309-032-0500(T)	4-24-07	Repeal	6-1-07	325-025-0020	5-4-07	Adopt	6-1-07
309-032-0505	4-24-07	Amend	6-1-07	325-025-0025	5-4-07	Adopt	6-1-07
309-032-0505(T)	4-24-07	Repeal	6-1-07	325-025-0030	5-4-07	Adopt	6-1-07
309-032-0510	4-24-07	Amend	6-1-07	325-025-0035	5-4-07	Adopt	6-1-07
309-032-0510(T)	4-24-07	Repeal	6-1-07	325-025-0040	5-4-07	Adopt	6-1-07
309-032-0515	4-24-07	Amend	6-1-07	325-025-0045	5-4-07	Adopt	6-1-07
309-032-0515(T)	4-24-07	Repeal	6-1-07	325-025-0050	5-4-07	Adopt	6-1-07
309-033-0435	5-25-07	Amend	7-1-07	325-025-0055	5-4-07	Adopt	6-1-07
309-033-0625	5-25-07	Adopt	7-1-07	325-025-0060	5-4-07	Adopt	6-1-07
309-035-0105	5-25-07	Amend(T)	7-1-07	330-070-0010	1-1-07	Amend	2-1-07
309-035-0260	5-25-07	Amend(T)	7-1-07	330-070-0013	1-1-07	Amend	2-1-07
309-040-0305	5-25-07	Amend(T)	7-1-07	330-070-0020	1-1-07	Amend	2-1-07
309-040-0350	5-4-07	Adopt(T)	6-1-07	330-070-0026	1-1-07	Amend	2-1-07
325-010-0000	4-10-07	Adopt	5-1-07	330-070-0045	1-1-07	Amend	2-1-07
325-010-0001	4-10-07	Amend	5-1-07	330-070-0059	1-1-07	Amend	2-1-07
325-010-0005	4-10-07	Amend	5-1-07	330-070-0060	1-1-07	Amend	2-1-07
325-010-0010	4-10-07	Amend	5-1-07	330-070-0064	1-1-07	Amend	2-1-07
325-010-0015	4-10-07	Amend	5-1-07	330-070-0070	1-1-07	Amend	2-1-07
325-010-0020	4-10-07	Amend	5-1-07	330-070-0073	1-1-07	Amend	2-1-07
325-010-0025	4-10-07	Amend	5-1-07	330-090-0110	12-1-07	Amend	1-1-07
325-010-0030	4-10-07	Amend	5-1-07	331-105-0020	12-1-06	Amend	1-1-07
325-010-0035	4-10-07	Amend	5-1-07	331-105-0030	12-1-06	Amend	1-1-07
325-010-0040	4-10-07	Amend	5-1-07	331-110-0005	12-1-06	Amend	1-1-07
325-010-0045	4-10-07	Amend	5-1-07	331-110-0010	12-1-06	Amend	1-1-07
325-010-0050	4-10-07	Amend	5-1-07	331-110-0055	12-1-06	Amend	1-1-07
325-010-0055	4-10-07	Amend	5-1-07	331-120-0000	12-1-06	Amend	1-1-07
325-010-0060	4-10-07	Amend	5-1-07	331-120-0020	12-1-06	Amend	1-1-07
325-015-0001	1-1-07	Adopt	2-1-07	331-125-0010	12-1-06	Amend	1-1-07
325-015-0005	1-1-07	Adopt	2-1-07	331-135-0000	12-1-06	Amend	1-1-07
325-015-0010	1-1-07	Adopt	2-1-07	331-505-0010	4-1-07	Amend	5-1-07

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331-555-0010	4-1-07	Amend	5-1-07	333-010-0650	4-13-07	Adopt	5-1-07
331-565-0030	4-1-07	Amend	5-1-07	333-010-0660	4-13-07	Adopt	5-1-07
331-565-0060	4-1-07	Amend	5-1-07	333-011-0200	12-1-06	Adopt	1-1-07
331-565-0085	4-1-07	Adopt	5-1-07	333-012-0270	1-16-07	Amend	3-1-07
331-575-0040	4-1-07	Amend	5-1-07	333-018-0005	1-16-07	Amend	3-1-07
331-715-0030	4-1-07	Amend	5-1-07	333-018-0018	12-18-06	Amend	1-1-07
333-001-0010	6-1-07	Repeal	7-1-07	333-018-0030	1-16-07	Amend	3-1-07
333-002-0010	11-16-06	Amend	1-1-07	333-054-0000	12-27-06	Amend	2-1-07
333-002-0035	11-16-06	Amend	1-1-07	333-054-0010	12-27-06	Amend	2-1-07
333-002-0040	11-16-06	Amend	1-1-07	333-054-0020	12-27-06	Amend	2-1-07
333-002-0050	11-16-06	Amend	1-1-07	333-054-0020(T)	12-27-06	Repeal	2-1-07
333-002-0070	11-16-06	Amend	1-1-07	333-054-0025	12-27-06	Adopt	2-1-07
333-002-0080	11-16-06	Amend	1-1-07	333-054-0030	12-27-06	Amend	2-1-07
333-002-0090	11-16-06	Amend	1-1-07	333-054-0030(T)	12-27-06	Repeal	2-1-07
333-002-0100	11-16-06	Amend	1-1-07	333-054-0040	12-27-06	Amend	2-1-07
333-002-0110	11-16-06	Amend	1-1-07	333-054-0050	12-27-06	Amend	2-1-07
333-002-0120	11-16-06	Amend	1-1-07	333-054-0060	12-27-06	Amend	2-1-07
333-002-0130	11-16-06	Amend	1-1-07	333-054-0070	12-27-06	Amend	2-1-07
333-002-0140	11-16-06	Amend	1-1-07	333-060-0020	12-13-06	Amend	1-1-07
333-002-0150	11-16-06	Amend	1-1-07	333-100-0001	3-1-07	Amend	4-1-07
333-002-0160	11-16-06	Amend	1-1-07	333-100-0005	3-1-07	Amend	4-1-07
333-002-0170	11-16-06	Amend	1-1-07	333-100-0010	3-1-07	Amend	4-1-07
333-002-0210	11-16-06	Amend	1-1-07	333-100-0015	3-1-07	Amend	4-1-07
333-002-0220	11-16-06	Amend	1-1-07	333-100-0020	3-1-07	Amend	4-1-07
333-002-0230	11-16-06	Amend	1-1-07	333-100-0025	3-1-07	Amend	4-1-07
333-004-0000	4-23-07	Amend	5-1-07	333-100-0030	3-1-07	Amend	4-1-07
333-004-0010	4-1-07	Amend(T)	4-1-07	333-100-0035	3-1-07	Amend	4-1-07
333-004-0010	4-23-07	Amend	5-1-07	333-100-0040	3-1-07	Amend	4-1-07
333-004-0010(T)	4-23-07	Repeal	5-1-07	333-100-0045	3-1-07	Amend	4-1-07
333-004-0020	4-23-07	Amend	5-1-07	333-100-0050	3-1-07	Amend	4-1-07
333-004-0030	4-23-07	Amend	5-1-07	333-100-0055	3-1-07	Amend	4-1-07
333-004-0040	4-23-07	Amend	5-1-07	333-100-0057	3-1-07	Amend	4-1-07
333-004-0050	4-23-07	Amend	5-1-07	333-100-0060	3-1-07	Amend	4-1-07
333-004-0060	4-23-07	Amend	5-1-07	333-100-0065	3-1-07	Amend	4-1-07
333-004-0070	4-23-07	Amend	5-1-07	333-100-0070	3-1-07	Amend	4-1-07
333-004-0080	4-1-07	Amend(T)	4-1-07	333-100-0080	3-1-07	Amend	4-1-07
333-004-0080	4-23-07	Amend	5-1-07	333-102-0001	3-1-07	Amend	4-1-07
333-004-0080(T)	4-23-07	Repeal	5-1-07	333-102-0005	3-1-07	Amend	4-1-07
333-004-0090	4-23-07	Amend	5-1-07	333-102-0010	3-1-07	Amend	4-1-07
333-004-0100	4-23-07	Amend	5-1-07	333-102-0015	3-1-07	Amend	4-1-07
333-004-0110	4-1-07	Amend(T)	4-1-07	333-102-0020	3-1-07	Amend	4-1-07
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333-004-0110(T)	4-23-07	Repeal	5-1-07	333-102-0030	3-1-07	Amend	4-1-07
333-004-0120	4-23-07	Amend	5-1-07	333-102-0035	3-1-07	Amend	4-1-07
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333-004-0150	4-23-07	Amend	5-1-07	333-102-0101	3-1-07	Amend	4-1-07
333-004-0160	4-23-07	Amend	5-1-07	333-102-0103	3-1-07	Amend	4-1-07
333-004-0170	4-23-07	Amend	5-1-07	333-102-0105	3-1-07	Amend	4-1-07
333-004-0180	4-23-07	Amend	5-1-07	333-102-0110	3-1-07	Amend	4-1-07
333-004-0190	4-23-07	Amend	5-1-07	333-102-0115	3-1-07	Amend	4-1-07
333-010-0600	4-13-07	Adopt	5-1-07	333-102-0120	3-1-07	Amend	4-1-07
333-010-0610	4-13-07	Adopt	5-1-07	333-102-0125	3-1-07	Amend	4-1-07
333-010-0620	4-13-07	Adopt	5-1-07	333-102-0130	3-1-07	Amend	4-1-07
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333-102-0203	3-1-07	Amend	4-1-07	333-105-0520	3-1-07	Amend	4-1-07
333-102-0235	3-1-07	Amend	4-1-07	333-105-0530	3-1-07	Amend	4-1-07
333-102-0245	3-1-07	Amend	4-1-07	333-105-0540	3-1-07	Amend	4-1-07
333-102-0247	3-1-07	Amend	4-1-07	333-105-0550	3-1-07	Amend	4-1-07
333-102-0250	3-1-07	Amend	4-1-07	333-105-0560	3-1-07	Amend	4-1-07
333-102-0255	3-1-07	Amend	4-1-07	333-105-0570	3-1-07	Amend	4-1-07
333-102-0260	3-1-07	Amend	4-1-07	333-105-0580	3-1-07	Amend	4-1-07
333-102-0265	3-1-07	Amend	4-1-07	333-105-0590	3-1-07	Amend	4-1-07
333-102-0270	3-1-07	Amend	4-1-07	333-105-0600	3-1-07	Amend	4-1-07
333-102-0275	3-1-07	Amend	4-1-07	333-105-0610	3-1-07	Amend	4-1-07
333-102-0285	3-1-07	Amend	4-1-07	333-105-0620	3-1-07	Amend	4-1-07
333-102-0290	3-1-07	Amend	4-1-07	333-105-0630	3-1-07	Amend	4-1-07
333-102-0293	3-1-07	Amend	4-1-07	333-105-0640	3-1-07	Amend	4-1-07
333-102-0297	3-1-07	Amend	4-1-07	333-105-0650	3-1-07	Amend	4-1-07
333-102-0300	3-1-07	Amend	4-1-07	333-105-0660	3-1-07	Amend	4-1-07
333-102-0305	3-1-07	Amend	4-1-07	333-105-0670	3-1-07	Amend	4-1-07
333-102-0310	3-1-07	Amend	4-1-07	333-105-0680	3-1-07	Amend	4-1-07
333-102-0315	3-1-07	Amend	4-1-07	333-105-0690	3-1-07	Amend	4-1-07
333-102-0320	3-1-07	Amend	4-1-07	333-105-0700	3-1-07	Amend	4-1-07
333-102-0325	3-1-07	Amend	4-1-07	333-105-0710	3-1-07	Amend	4-1-07
333-102-0327	3-1-07	Amend	4-1-07	333-105-0720	3-1-07	Amend	4-1-07
333-102-0330	3-1-07	Amend	4-1-07	333-105-0730	3-1-07	Amend	4-1-07
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333-102-0340	3-1-07	Amend	4-1-07	333-105-0750	3-1-07	Amend	4-1-07
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333-102-0355	3-1-07	Amend	4-1-07	333-113-0005	3-1-07	Amend	4-1-07
333-102-0360	3-1-07	Amend	4-1-07	333-113-0007	3-1-07	Amend	4-1-07
333-102-0365	3-1-07	Amend	4-1-07	333-113-0010	3-1-07	Amend	4-1-07
333-102-0900	3-1-07	Amend	4-1-07	333-113-0101	3-1-07	Amend	4-1-07
333-102-0910	3-1-07	Amend	4-1-07	333-113-0105	3-1-07	Amend	4-1-07
333-103-0001	3-1-07	Amend	4-1-07	333-113-0110	3-1-07	Amend	4-1-07
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333-103-0030	3-1-07	Amend	4-1-07	333-113-0145	3-1-07	Amend	4-1-07
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333-105-0003	3-1-07	Amend	4-1-07	333-113-0205	3-1-07	Amend	4-1-07
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333-105-0050	3-1-07	Amend	4-1-07	333-113-0301	3-1-07	Amend	4-1-07
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333-105-0420	3-1-07	Amend	4-1-07	333-113-0310	3-1-07	Amend	4-1-07
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333-105-0440	3-1-07	Amend	4-1-07	333-113-0325	3-1-07	Amend	4-1-07
333-105-0450	3-1-07	Amend	4-1-07	333-113-0335	3-1-07	Amend	4-1-07
333-105-0460	3-1-07	Amend	4-1-07	333-113-0401	3-1-07	Amend	4-1-07
333-105-0470	3-1-07	Amend	4-1-07	333-113-0403	3-1-07	Amend	4-1-07
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333-116-0027	3-1-07	Amend	4-1-07	333-116-0490	3-1-07	Amend	4-1-07
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333-116-0055	3-1-07	Amend	4-1-07	333-116-0550	3-1-07	Amend	4-1-07
333-116-0057	3-1-07	Amend	4-1-07	333-116-0560	3-1-07	Amend	4-1-07
333-116-0059	3-1-07	Amend	4-1-07	333-116-0570	3-1-07	Amend	4-1-07
333-116-0090	3-1-07	Amend	4-1-07	333-116-0573	3-1-07	Amend	4-1-07
333-116-0100	3-1-07	Amend	4-1-07	333-116-0577	3-1-07	Amend	4-1-07
333-116-0105	3-1-07	Amend	4-1-07	333-116-0580	3-1-07	Amend	4-1-07
333-116-0107	3-1-07	Amend	4-1-07	333-116-0583	3-1-07	Amend	4-1-07
333-116-0110	3-1-07	Amend	4-1-07	333-116-0585	3-1-07	Amend	4-1-07
333-116-0120	3-1-07	Amend	4-1-07	333-116-0587	3-1-07	Amend	4-1-07
333-116-0123	3-1-07	Amend	4-1-07	333-116-0590	3-1-07	Amend	4-1-07
333-116-0125	3-1-07	Amend	4-1-07	333-116-0600	3-1-07	Amend	4-1-07
333-116-0130	3-1-07	Amend	4-1-07	333-116-0605	3-1-07	Amend	4-1-07
333-116-0140	3-1-07	Amend	4-1-07	333-116-0610	3-1-07	Amend	4-1-07
333-116-0150	3-1-07	Amend	4-1-07	333-116-0620	3-1-07	Amend	4-1-07
333-116-0160	3-1-07	Amend	4-1-07	333-116-0640	3-1-07	Amend	4-1-07
333-116-0165	3-1-07	Amend	4-1-07	333-116-0650	3-1-07	Amend	4-1-07
333-116-0170	3-1-07	Amend	4-1-07	333-116-0660	3-1-07	Amend	4-1-07
333-116-0180	3-1-07	Amend	4-1-07	333-116-0670	3-1-07	Amend	4-1-07
333-116-0190	3-1-07	Amend	4-1-07	333-116-0680	3-1-07	Amend	4-1-07
333-116-0200	3-1-07	Amend	4-1-07	333-116-0683	3-1-07	Amend	4-1-07
333-116-0220	3-1-07	Amend	4-1-07	333-116-0687	3-1-07	Amend	4-1-07
333-116-0250	3-1-07	Amend	4-1-07	333-116-0690	3-1-07	Amend	4-1-07
333-116-0255	3-1-07	Amend	4-1-07	333-116-0700	3-1-07	Amend	4-1-07
333-116-0260	3-1-07	Amend	4-1-07	333-116-0710	3-1-07	Amend	4-1-07
333-116-0280	3-1-07	Amend	4-1-07	333-116-0715	3-1-07	Amend	4-1-07
333-116-0290	3-1-07	Amend	4-1-07	333-116-0720	3-1-07	Amend	4-1-07
333-116-0300	3-1-07	Amend	4-1-07	333-116-0730	3-1-07	Amend	4-1-07
333-116-0310	3-1-07	Amend	4-1-07	333-116-0740	3-1-07	Amend	4-1-07
333-116-0320	3-1-07	Amend	4-1-07	333-116-0750	3-1-07	Amend	4-1-07
333-116-0330	3-1-07	Amend	4-1-07	333-116-0760	3-1-07	Amend	4-1-07
333-116-0340	3-1-07	Amend	4-1-07	333-116-0800	3-1-07	Amend	4-1-07
333-116-0350	3-1-07	Amend	4-1-07	333-116-0810	3-1-07	Amend	4-1-07
333-116-0360	3-1-07	Amend	4-1-07	333-116-0820	3-1-07	Amend	4-1-07
333-116-0370	3-1-07	Amend	4-1-07	333-116-0830	3-1-07	Amend	4-1-07
333-116-0380	3-1-07	Amend	4-1-07	333-116-0840	3-1-07	Amend	4-1-07
333-116-0390	3-1-07	Amend	4-1-07	333-116-0850	3-1-07	Amend	4-1-07
333-116-0400	3-1-07	Amend	4-1-07	333-116-0870	3-1-07	Amend	4-1-07
333-116-0405	3-1-07	Amend	4-1-07	333-116-0880	3-1-07	Amend	4-1-07
333-116-0410	3-1-07	Amend	4-1-07	333-116-0905	3-1-07	Amend	4-1-07
333-116-0420	3-1-07	Amend	4-1-07	333-116-0910	3-1-07	Amend	4-1-07
333-116-0425	3-1-07	Amend	4-1-07	333-116-0915	3-1-07	Amend	4-1-07
333-116-0430	3-1-07	Amend	4-1-07	333-116-1000	3-1-07	Amend	4-1-07
333-116-0440	3-1-07	Amend	4-1-07	333-116-1010	3-1-07	Amend	4-1-07
333-116-0445	3-1-07	Amend	4-1-07	333-116-1015	3-1-07	Amend	4-1-07
333-116-0447	3-1-07	Amend	4-1-07	333-116-1030	3-1-07	Amend	4-1-07
333-116-0450	3-1-07	Amend	4-1-07	333-118-0010	3-1-07	Amend	4-1-07

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333-118-0030	3-1-07	Amend	4-1-07	333-120-0540	3-1-07	Amend	4-1-07
333-118-0040	3-1-07	Amend	4-1-07	333-120-0550	3-1-07	Amend	4-1-07
333-118-0050	3-1-07	Amend	4-1-07	333-120-0560	3-1-07	Amend	4-1-07
333-118-0060	3-1-07	Amend	4-1-07	333-120-0600	3-1-07	Amend	4-1-07
333-118-0070	3-1-07	Amend	4-1-07	333-120-0610	3-1-07	Amend	4-1-07
333-118-0080	3-1-07	Amend	4-1-07	333-120-0620	3-1-07	Amend	4-1-07
333-118-0090	3-1-07	Amend	4-1-07	333-120-0630	3-1-07	Amend	4-1-07
333-118-0100	3-1-07	Amend	4-1-07	333-120-0640	3-1-07	Amend	4-1-07
333-118-0110	3-1-07	Amend	4-1-07	333-120-0650	3-1-07	Amend	4-1-07
333-118-0120	3-1-07	Amend	4-1-07	333-120-0660	3-1-07	Amend	4-1-07
333-118-0130	3-1-07	Amend	4-1-07	333-120-0670	3-1-07	Amend	4-1-07
333-118-0140	3-1-07	Amend	4-1-07	333-120-0680	3-1-07	Amend	4-1-07
333-118-0150	3-1-07	Amend	4-1-07	333-120-0690	3-1-07	Amend	4-1-07
333-118-0160	3-1-07	Amend	4-1-07	333-120-0700	3-1-07	Amend	4-1-07
333-118-0170	3-1-07	Amend	4-1-07	333-120-0710	3-1-07	Amend	4-1-07
333-118-0180	3-1-07	Amend	4-1-07	333-120-0720	3-1-07	Amend	4-1-07
333-118-0190	3-1-07	Amend	4-1-07	333-120-0730	3-1-07	Amend	4-1-07
333-118-0200	3-1-07	Amend	4-1-07	333-120-0740	3-1-07	Amend	4-1-07
333-118-0800	3-1-07	Amend	4-1-07	333-250-0000	2-1-07	Amend	3-1-07
333-120-0000	3-1-07	Amend	4-1-07	333-250-0010	2-1-07	Amend	3-1-07
333-120-0010	3-1-07	Amend	4-1-07	333-250-0020	2-1-07	Amend	3-1-07
333-120-0015	3-1-07	Amend	4-1-07	333-250-0030	2-1-07	Amend	3-1-07
333-120-0017	3-1-07	Amend	4-1-07	333-250-0040	2-1-07	Amend	3-1-07
333-120-0020	3-1-07	Amend	4-1-07	333-250-0041	2-1-07	Amend	3-1-07
333-120-0100	3-1-07	Amend	4-1-07	333-250-0042	2-1-07	Amend	3-1-07
333-120-0110	3-1-07	Amend	4-1-07	333-250-0043	2-1-07	Amend	3-1-07
333-120-0120	3-1-07	Amend	4-1-07	333-250-0044	2-1-07	Amend	3-1-07
333-120-0130	3-1-07	Amend	4-1-07	333-250-0045	2-1-07	Amend	3-1-07
333-120-0150	3-1-07	Amend	4-1-07	333-250-0046	2-1-07	Amend	3-1-07
333-120-0160	3-1-07	Amend	4-1-07	333-250-0047	2-1-07	Amend	3-1-07
333-120-0170	3-1-07	Amend	4-1-07	333-250-0048	2-1-07	Amend	3-1-07
333-120-0180	3-1-07	Amend	4-1-07	333-250-0049	2-1-07	Amend	3-1-07
333-120-0190	3-1-07	Amend	4-1-07	333-250-0050	2-1-07	Amend	3-1-07
333-120-0200	3-1-07	Amend	4-1-07	333-250-0060	2-1-07	Amend	3-1-07
333-120-0210	3-1-07	Amend	4-1-07	333-250-0070	2-1-07	Amend	3-1-07
333-120-0215	3-1-07	Amend	4-1-07	333-250-0080	2-1-07	Amend	3-1-07
333-120-0220	3-1-07	Amend	4-1-07	333-250-0090	2-1-07	Repeal	3-1-07
333-120-0230	3-1-07	Amend	4-1-07	333-250-0100	2-1-07	Amend	3-1-07
333-120-0240	3-1-07	Amend	4-1-07	333-255-0000	2-1-07	Amend	3-1-07
333-120-0250	3-1-07	Amend	4-1-07	333-255-0010	2-1-07	Amend	3-1-07
333-120-0260	3-1-07	Amend	4-1-07	333-255-0020	2-1-07	Amend	3-1-07
333-120-0300	3-1-07	Amend	4-1-07	333-255-0030	2-1-07	Amend	3-1-07
333-120-0310	3-1-07	Amend	4-1-07	333-255-0040	2-1-07	Amend	3-1-07
333-120-0320	3-1-07	Amend	4-1-07	333-255-0050	2-1-07	Amend	3-1-07
333-120-0330	3-1-07	Amend	4-1-07	333-255-0060	2-1-07	Amend	3-1-07
333-120-0400	3-1-07	Amend	4-1-07	333-255-0070	2-1-07	Amend	3-1-07
333-120-0410	3-1-07	Amend	4-1-07	333-255-0071	2-1-07	Amend	3-1-07
333-120-0420	3-1-07	Amend	4-1-07	333-255-0072	2-1-07	Amend	3-1-07
333-120-0430	3-1-07	Amend	4-1-07	333-255-0073	2-1-07	Amend	3-1-07
333-120-0440	3-1-07	Amend	4-1-07	333-255-0079	2-1-07	Amend	3-1-07
333-120-0450	3-1-07	Amend	4-1-07	333-255-0080	2-1-07	Amend	3-1-07
333-120-0460	3-1-07	Amend	4-1-07	333-255-0081	2-1-07	Amend	3-1-07
333-120-0500	3-1-07	Amend	4-1-07	333-255-0082	2-1-07	Amend	3-1-07
333-120-0510	3-1-07	Amend	4-1-07	333-255-0090	2-1-07	Amend	3-1-07
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333-255-0093	2-1-07	Amend	3-1-07	340-224-0050	4-12-07	Amend	5-1-07
333-265-0130	2-1-07	Amend	3-1-07	340-224-0060	4-12-07	Amend	5-1-07
335-001-0000	2-9-07	Amend	3-1-07	340-225-0090	4-12-07	Amend	5-1-07
335-001-0005	2-9-07	Amend	3-1-07	340-228-0300	12-22-06	Amend	2-1-07
335-005-0030	2-9-07	Amend	3-1-07	340-228-0600	12-22-06	Adopt	2-1-07
335-010-0060	2-1-07	Amend	3-1-07	340-228-0602	12-22-06	Adopt	2-1-07
335-010-0070	2-1-07	Amend	3-1-07	340-228-0603	12-22-06	Adopt	2-1-07
335-060-0005	2-1-07	Amend	3-1-07	340-228-0604	12-22-06	Adopt	2-1-07
335-070-0020	2-1-07	Amend	3-1-07	340-228-0605	12-22-06	Adopt	2-1-07
335-070-0030	2-1-07	Amend	3-1-07	340-228-0606	12-22-06	Adopt	2-1-07
335-070-0040	2-1-07	Amend	3-1-07	340-228-0608	12-22-06	Adopt	2-1-07
335-070-0050	2-1-07	Amend	3-1-07	340-228-0610	12-22-06	Adopt	2-1-07
335-070-0055	2-1-07	Amend	3-1-07	340-228-0612	12-22-06	Adopt	2-1-07
335-095-0050	2-1-07	Amend	3-1-07	340-228-0614	12-22-06	Adopt	2-1-07
335-095-0060	2-1-07	Amend	3-1-07	340-228-0616	12-22-06	Adopt	2-1-07
337-010-0010	1-1-07	Amend	1-1-07	340-228-0618	12-22-06	Adopt	2-1-07
337-010-0011	1-1-07	Adopt	1-1-07	340-228-0620	12-22-06	Adopt	2-1-07
337-010-0012	1-1-07	Amend	1-1-07	340-228-0622	12-22-06	Adopt	2-1-07
337-010-0030	1-1-07	Amend	1-1-07	340-228-0624	12-22-06	Adopt	2-1-07
337-010-0031	1-1-07	Amend	1-1-07	340-228-0626	12-22-06	Adopt	2-1-07
337-010-0055	1-1-07	Amend	1-1-07	340-228-0628	12-22-06	Adopt	2-1-07
339-010-0040	12-28-06	Amend	2-1-07	340-228-0630	12-22-06	Adopt	2-1-07
339-010-0055	12-28-06	Amend	2-1-07	340-228-0632	12-22-06	Adopt	2-1-07
340-041-0002	3-15-07	Amend	4-1-07	340-228-0634	12-22-06	Adopt	2-1-07
340-041-0004	3-15-07	Amend	4-1-07	340-228-0636	12-22-06	Adopt	2-1-07
340-041-0007	3-15-07	Amend	4-1-07	340-228-0638	12-22-06	Adopt	2-1-07
340-041-0016	3-15-07	Amend	4-1-07	340-228-0640	12-22-06	Adopt	2-1-07
340-041-0021	3-15-07	Amend	4-1-07	340-228-0642	12-22-06	Adopt	2-1-07
340-041-0028	3-14-07	Amend	4-1-07	340-228-0644	12-22-06	Adopt	2-1-07
340-041-0028	3-15-07	Amend	4-1-07	340-228-0646	12-22-06	Adopt	2-1-07
340-041-0032	3-15-07	Amend	4-1-07	340-228-0648	12-22-06	Adopt	2-1-07
340-041-0046	3-15-07	Amend	4-1-07	340-228-0650	12-22-06	Adopt	2-1-07
340-041-0053	3-14-07	Amend	4-1-07	340-228-0652	12-22-06	Adopt	2-1-07
340-041-0053	3-15-07	Amend	4-1-07	340-228-0654	12-22-06	Adopt	2-1-07
340-041-0104	3-15-07	Amend	4-1-07	340-228-0656	12-22-06	Adopt	2-1-07
340-041-0121	3-15-07	Amend	4-1-07	340-228-0658	12-22-06	Adopt	2-1-07
340-041-0175	3-15-07	Amend	4-1-07	340-228-0660	12-22-06	Adopt	2-1-07
340-041-0180	3-15-07	Amend	4-1-07	340-228-0662	12-22-06	Adopt	2-1-07
340-041-0185	3-14-07	Amend	4-1-07	340-228-0664	12-22-06	Adopt	2-1-07
340-041-0195	3-14-07	Amend	4-1-07	340-228-0666	12-22-06	Adopt	2-1-07
340-041-0201	3-15-07	Amend	4-1-07	340-228-0668	12-22-06	Adopt	2-1-07
340-041-0235	3-15-07	Amend	4-1-07	340-228-0670	12-22-06	Adopt	2-1-07
340-041-0260	3-15-07	Amend	4-1-07	340-228-0671	12-22-06	Adopt	2-1-07
340-041-0271	3-15-07	Amend	4-1-07	340-228-0672	12-22-06	Adopt	2-1-07
340-041-0300	3-15-07	Amend	4-1-07	340-228-0673	12-22-06	Adopt	2-1-07
340-041-0315	3-15-07	Amend	4-1-07	340-228-0674	12-22-06	Adopt	2-1-07
340-041-0320	3-15-07	Amend	4-1-07	340-228-0676	12-22-06	Adopt	2-1-07
340-041-0340	3-15-07	Amend	4-1-07	340-228-0678	12-22-06	Adopt	2-1-07
340-041-0345	3-15-07	Amend	4-1-07	340-232-0010	4-12-07	Amend	5-1-07
340-041-0350	3-15-07	Amend	4-1-07	340-232-0020	4-12-07	Amend	5-1-07
340-200-0025	4-12-07	Amend	5-1-07	340-238-0040	12-22-06	Amend	2-1-07
340-200-0040	4-12-07	Amend	5-1-07	340-238-0060	12-22-06	Amend	2-1-07
340-202-0090	4-12-07	Amend	5-1-07	340-242-0010	4-12-07	Amend	5-1-07
340-204-0010	4-12-07	Amend	5-1-07	340-242-0020	4-12-07	Amend	5-1-07
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340-242-0070	4-12-07	Amend	5-1-07	345-015-0180	5-15-07	Amend	6-1-07
340-242-0080	4-12-07	Amend	5-1-07	345-015-0190	5-15-07	Amend	6-1-07
340-242-0090	4-12-07	Amend	5-1-07	345-015-0200	5-15-07	Amend	6-1-07
340-242-0100	4-12-07	Repeal	5-1-07	345-015-0210	5-15-07	Amend	6-1-07
340-242-0110	4-12-07	Amend	5-1-07	345-015-0220	5-15-07	Amend	6-1-07
340-242-0120	4-12-07	Amend	5-1-07	345-015-0230	5-15-07	Amend	6-1-07
340-242-0130	4-12-07	Repeal	5-1-07	345-015-0240	5-15-07	Amend	6-1-07
340-242-0160	4-12-07	Amend	5-1-07	345-015-0300	5-15-07	Amend	6-1-07
340-242-0180	4-12-07	Amend	5-1-07	345-015-0310	5-15-07	Amend	6-1-07
340-242-0190	4-12-07	Amend	5-1-07	345-015-0320	5-15-07	Amend	6-1-07
340-242-0200	4-12-07	Amend	5-1-07	345-015-0350	5-15-07	Amend	6-1-07
340-242-0210	4-12-07	Amend	5-1-07	345-015-0360	5-15-07	Amend	6-1-07
340-242-0220	4-12-07	Amend	5-1-07	345-015-0370	5-15-07	Amend	6-1-07
340-242-0240	4-12-07	Amend	5-1-07	345-015-0380	5-15-07	Amend	6-1-07
340-242-0260	4-12-07	Amend	5-1-07	345-020-0006	5-15-07	Amend	6-1-07
340-242-0270	4-12-07	Amend	5-1-07	345-020-0011	5-15-07	Amend	6-1-07
340-242-0280	4-12-07	Amend	5-1-07	345-020-0016	5-15-07	Amend	6-1-07
340-242-0290	4-12-07	Amend	5-1-07	345-020-0040	5-15-07	Amend	6-1-07
340-242-0400	4-12-07	Amend	5-1-07	345-020-0060	5-15-07	Amend	6-1-07
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345-001-0090	5-15-07	Repeal	6-1-07	345-022-0080	5-15-07	Amend	6-1-07
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409-021-0120	2-1-07	Am. & Ren.	3-1-07	410-121-0145	7-1-07	Amend	7-1-07
409-021-0130	2-1-07	Am. & Ren.	3-1-07	410-121-0149	1-1-07	Amend	1-1-07
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410-147-0460	1-1-07	Amend	1-1-07	411-050-0485	1-1-07	Amend	2-1-07
410-147-0480	1-1-07	Amend	1-1-07	411-050-0487	1-1-07	Amend	2-1-07
410-147-0500	7-1-07	Amend	7-1-07	411-050-0491	1-1-07	Adopt	2-1-07
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410-148-0020	7-1-07	Amend	7-1-07	411-066-0005	5-15-07	Amend(T)	6-1-07
410-148-0040	7-1-07	Amend	7-1-07	411-066-0010	5-15-07	Amend(T)	6-1-07
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411-020-0020	12-21-06	Amend	2-1-07	411-335-0020	1-1-07	Amend	2-1-07
411-020-0100	12-21-06	Amend	2-1-07	411-335-0030	1-1-07	Amend	2-1-07
411-020-0120	12-21-06	Amend	2-1-07	411-335-0050	1-1-07	Amend	2-1-07
411-026-0000	12-1-06	Amend	1-1-07	411-335-0060	1-1-07	Amend	2-1-07
411-026-0010	12-1-06	Amend	1-1-07	411-335-0070	1-1-07	Amend	2-1-07
411-026-0020	12-1-06	Amend	1-1-07	411-335-0080	1-1-07	Amend	2-1-07
411-026-0030	12-1-06	Amend	1-1-07	411-335-0090	1-1-07	Amend	2-1-07
411-026-0040	12-1-06	Amend	1-1-07	411-335-0100	1-1-07	Amend	2-1-07
411-026-0050	12-1-06	Amend	1-1-07	411-335-0110	1-1-07	Amend	2-1-07
411-026-0060	12-1-06	Amend	1-1-07	411-335-0120	1-1-07	Amend	2-1-07
411-026-0070	12-1-06	Amend	1-1-07	411-335-0130	1-1-07	Amend	2-1-07
411-026-0080	12-1-06	Amend	1-1-07	411-335-0140	1-1-07	Amend	2-1-07
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411-335-0170	1-1-07	Amend	2-1-07	413-015-0511	3-20-07	Repeal	5-1-07
411-335-0190	1-1-07	Amend	2-1-07	413-015-0512	3-20-07	Repeal	5-1-07
411-335-0200	1-1-07	Amend	2-1-07	413-015-0513	3-20-07	Repeal	5-1-07
411-335-0210	1-1-07	Amend	2-1-07	413-015-0514	3-20-07	Repeal	5-1-07
411-335-0220	1-1-07	Amend	2-1-07	413-015-0600	3-20-07	Repeal	5-1-07
411-335-0230	1-1-07	Amend	2-1-07	413-015-0605	3-20-07	Repeal	5-1-07
411-335-0240	1-1-07	Amend	2-1-07	413-015-0610	3-20-07	Repeal	5-1-07
411-335-0270	1-1-07	Amend	2-1-07	413-015-0615	3-20-07	Repeal	5-1-07
411-335-0300	1-1-07	Amend	2-1-07	413-015-0700	3-20-07	Repeal	5-1-07
411-335-0320	1-1-07	Amend	2-1-07	413-015-0705	3-20-07	Repeal	5-1-07
411-335-0330	1-1-07	Amend	2-1-07	413-015-0710	3-20-07	Repeal	5-1-07
411-335-0340	1-1-07	Amend	2-1-07	413-015-0715	3-20-07	Repeal	5-1-07
411-335-0350	1-1-07	Amend	2-1-07	413-015-0720	3-20-07	Repeal	5-1-07
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411-335-0380	1-1-07	Amend	2-1-07	413-015-0730	3-20-07	Repeal	5-1-07
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413-015-0125	3-20-07	Amend	5-1-07	413-015-1110	3-20-07	Amend	5-1-07
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413-015-0211	3-20-07	Amend	5-1-07	413-020-0005	3-20-07	Amend	5-1-07
413-015-0212	3-20-07	Amend	5-1-07	413-020-0010	3-20-07	Amend	5-1-07
413-015-0213	3-20-07	Amend	5-1-07	413-020-0020	3-20-07	Amend	5-1-07
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413-015-0405	3-20-07	Amend	5-1-07	413-020-0080	3-20-07	Adopt	5-1-07
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413-030-0023	3-20-07	Adopt	5-1-07	413-070-0850	3-20-07	Repeal	5-1-07
413-030-0026	3-20-07	Adopt	5-1-07	413-070-0855	3-20-07	Amend	5-1-07
413-030-0030	3-20-07	Amend	5-1-07	413-070-0860	3-20-07	Amend	5-1-07
413-040-0000	3-20-07	Amend	5-1-07	413-070-0870	3-20-07	Amend	5-1-07
413-040-0005	3-20-07	Amend	5-1-07	413-070-0880	3-20-07	Amend	5-1-07
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413-200-0376	3-20-07	Repeal	5-1-07	416-115-0220	2-13-07	Adopt	3-1-07
413-200-0377	3-20-07	Amend	5-1-07	416-115-0230	2-13-07	Adopt	3-1-07
413-200-0379	3-20-07	Am. & Ren.	5-1-07	416-115-0240	2-13-07	Adopt	3-1-07
413-200-0383	3-20-07	Adopt	5-1-07	416-115-0250	2-13-07	Adopt	3-1-07
413-200-0386	3-20-07	Adopt	5-1-07	416-115-0260	2-13-07	Adopt	3-1-07
413-200-0388	3-20-07	Adopt	5-1-07	416-115-0270	2-13-07	Adopt	3-1-07
413-200-0390	3-20-07	Amend	5-1-07	416-115-0280	2-13-07	Adopt	3-1-07
413-200-0391	3-20-07	Repeal	5-1-07	423-001-0006	5-11-07	Amend(T)	6-1-07
413-200-0392	3-20-07	Repeal	5-1-07	423-010-0023	5-11-07	Amend(T)	6-1-07
413-200-0393	3-20-07	Amend	5-1-07	423-010-0024	2-12-07	Amend	3-1-07
413-200-0394	3-20-07	Amend	5-1-07	423-045-0005	2-16-07	Amend(T)	4-1-07
413-200-0395	3-20-07	Amend	5-1-07	423-045-0010	2-16-07	Amend(T)	4-1-07
413-200-0396	3-20-07	Amend	5-1-07	423-045-0015	2-16-07	Amend(T)	4-1-07
413-200-0401	3-20-07	Repeal	5-1-07	423-045-0101	2-12-07	Adopt	3-1-07
413-210-0806	5-1-07	Amend	6-1-07	423-045-0105	2-12-07	Adopt	3-1-07
414-205-0010	3-20-07	Amend(T)	5-1-07	423-045-0110	2-12-07	Adopt	3-1-07

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423-045-0115	2-12-07	Adopt	3-1-07	441-860-0010	1-17-07	Amend	3-1-07
423-045-0120	2-12-07	Adopt	3-1-07	441-860-0020	1-17-07	Amend	3-1-07
423-045-0125	2-12-07	Adopt	3-1-07	441-860-0030	1-17-07	Amend	3-1-07
423-045-0130	2-12-07	Adopt	3-1-07	441-860-0040	1-17-07	Amend	3-1-07
423-045-0135	2-12-07	Adopt	3-1-07	441-860-0060	1-17-07	Amend	3-1-07
423-045-0140	2-12-07	Adopt	3-1-07	441-875-0020	1-17-07	Amend	3-1-07
423-045-0150	2-12-07	Adopt	3-1-07	441-880-0020	1-17-07	Amend	3-1-07
423-045-0155	2-12-07	Adopt	3-1-07	441-880-0030	1-17-07	Amend	3-1-07
423-045-0160	2-12-07	Adopt	3-1-07	442-005-0050	11-27-06	Amend(T)	1-1-07
423-045-0165	2-12-07	Adopt	3-1-07	459-005-0100	2-21-07	Amend	4-1-07
423-045-0170	2-12-07	Adopt	3-1-07	459-005-0110	2-21-07	Amend	4-1-07
423-045-0175	2-12-07	Adopt	3-1-07	459-005-0120	2-21-07	Repeal	4-1-07
423-045-0185	2-12-07	Adopt	3-1-07	459-005-0130	2-21-07	Amend	4-1-07
436-009-0004	7-1-07	Amend	7-1-07	459-005-0140	2-21-07	Amend	4-1-07
436-009-0005	7-1-07	Amend	7-1-07	459-005-0150	2-21-07	Amend	4-1-07
436-009-0008	7-1-07	Amend	7-1-07	459-005-0591	2-16-07	Amend(T)	4-1-07
436-009-0010	7-1-07	Amend	7-1-07	459-005-0595	2-16-07	Amend(T)	4-1-07
436-009-0015	7-1-07	Amend	7-1-07	459-005-0599	2-16-07	Amend(T)	4-1-07
436-009-0020	7-1-07	Amend	7-1-07	459-007-0025	1-23-07	Amend	3-1-07
436-009-0022	7-1-07	Amend	7-1-07	459-007-0300	1-23-07	Amend	3-1-07
436-009-0025	7-1-07	Amend	7-1-07	459-009-0084	11-24-06	Amend	1-1-07
436-009-0030	7-1-07	Amend	7-1-07	459-009-0085	11-24-06	Amend	1-1-07
436-009-0040	7-1-07	Amend	7-1-07	459-009-0090	11-24-06	Adopt	1-1-07
436-009-0050	7-1-07	Amend	7-1-07	459-011-0050	1-23-07	Amend	3-1-07
436-009-0070	7-1-07	Amend	7-1-07	459-011-0100	11-24-06	Amend	1-1-07
436-009-0080	7-1-07	Amend	7-1-07	459-016-0100	11-24-06	Amend	1-1-07
436-010-0265	6-7-07	Amend(T)	7-1-07	459-050-0025	1-23-07	Amend	3-1-07
436-050-0005	6-1-07	Amend(T)	7-1-07	459-050-0037	5-1-07	Adopt	3-1-07
436-050-0400	6-1-07	Amend(T)	7-1-07	459-050-0070	1-23-07	Amend	3-1-07
436-050-0420	6-1-07	Amend(T)	7-1-07	459-050-0077	5-1-07	Adopt	3-1-07
436-050-0440	6-1-07	Amend(T)	7-1-07	459-050-0090	2-16-07	Amend(T)	4-1-07
436-050-0450	6-1-07	Amend(T)	7-1-07	459-050-0150	1-23-07	Amend	3-1-07
436-050-0460	6-1-07	Amend(T)	7-1-07	459-076-0001	4-4-07	Amend	5-1-07
436-050-0480	6-1-07	Amend(T)	7-1-07	459-076-0020	4-4-07	Amend	5-1-07
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436-170-0100	2-1-07	Adopt	3-1-07	459-076-0060	4-4-07	Amend	5-1-07
436-170-0200	2-1-07	Adopt	3-1-07	459-080-0100	11-24-06	Amend	1-1-07
436-170-0300	2-1-07	Adopt	3-1-07	461-001-0000	1-1-07	Amend	2-1-07
437-002-0120	11-30-06	Amend	1-1-07	461-001-0000	4-1-07	Amend	5-1-07
437-002-0360	11-30-06	Amend	1-1-07	461-001-0015	1-1-07	Adopt	2-1-07
437-003-0001	11-30-06	Amend	1-1-07	461-001-0020	1-1-07	Adopt	2-1-07
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437-005-0001	1-16-07	Amend	2-1-07	461-105-0010	1-1-07	Amend	2-1-07
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438-022-0005	3-1-07	Amend	3-1-07	461-105-0060	4-1-07	Amend	5-1-07
441-730-0000	12-21-06	Amend	2-1-07	461-105-0130	4-1-07	Amend	5-1-07
441-730-0010	12-21-06	Amend	2-1-07	461-105-0150	4-1-07	Amend	5-1-07
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441-730-0080	12-21-06	Amend	2-1-07	461-110-0370	1-1-07	Amend	2-1-07
441-730-0120	12-21-06	Amend	2-1-07	461-110-0410	1-1-07	Amend	2-1-07
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461-110-0610	1-1-07	Repeal	2-1-07	461-140-0242	1-1-07	Amend	2-1-07
461-110-0630	1-1-07	Amend	2-1-07	461-140-0242	1-1-07	Amend	2-1-07
461-110-0630	4-1-07	Amend	5-1-07	461-140-0242	4-1-07	Amend	5-1-07
461-110-0720	1-1-07	Repeal	2-1-07	461-140-0270	1-1-07	Amend	2-1-07
461-110-0750	1-1-07	Amend	2-1-07	461-140-0296	1-1-07	Amend	2-1-07
461-115-0010	1-1-07	Amend	2-1-07	461-140-0296	4-1-07	Amend	5-1-07
461-115-0030	4-1-07	Amend	5-1-07	461-140-0300	1-1-07	Amend	2-1-07
461-115-0050	1-1-07	Amend	2-1-07	461-145-0001	1-1-07	Amend	2-1-07
461-115-0510	1-1-07	Am. & Ren.	2-1-07	461-145-0005	4-1-07	Amend	5-1-07
461-115-0530	1-1-07	Amend	2-1-07	461-145-0008	4-1-07	Amend	5-1-07
461-115-0540	1-1-07	Amend	2-1-07	461-145-0010	4-1-07	Amend	5-1-07
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461-115-0705	1-1-07	Amend	2-1-07	461-145-0020	4-1-07	Amend	5-1-07
461-120-0005	1-1-07	Repeal	2-1-07	461-145-0022	1-1-07	Amend	2-1-07
461-120-0125	1-1-07	Amend	2-1-07	461-145-0022	4-1-07	Amend	5-1-07
461-120-0210	4-1-07	Amend	5-1-07	461-145-0025	1-1-07	Amend	2-1-07
461-120-0230	4-1-07	Repeal	5-1-07	461-145-0030	4-1-07	Amend	5-1-07
461-120-0235	4-1-07	Repeal	5-1-07	461-145-0050	4-1-07	Amend	5-1-07
461-120-0610	1-1-07	Repeal	2-1-07	461-145-0055	1-1-07	Amend	2-1-07
461-125-0255	4-1-07	Amend	5-1-07	461-145-0055	4-1-07	Repeal	5-1-07
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461-125-0370	4-1-07	Amend	5-1-07	461-145-0086	4-1-07	Am. & Ren.	5-1-07
461-130-0310	1-1-07	Amend	2-1-07	461-145-0100	4-1-07	Amend	5-1-07
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461-130-0325	1-1-07	Amend	2-1-07	461-145-0120	4-1-07	Amend	5-1-07
461-130-0327	1-1-07	Amend	2-1-07	461-145-0130	1-1-07	Amend	2-1-07
461-130-0335	1-1-07	Amend	2-1-07	461-145-0130	4-1-07	Amend	5-1-07
461-135-0010	1-1-07	Amend	2-1-07	461-145-0140	1-1-07	Amend	2-1-07
461-135-0070	1-1-07	Amend	2-1-07	461-145-0140	4-1-07	Amend	5-1-07
461-135-0070	4-1-07	Amend	5-1-07	461-145-0175	1-1-07	Amend	2-1-07
461-135-0075	1-1-07	Amend	2-1-07	461-145-0185	1-1-07	Adopt	2-1-07
461-135-0210	1-1-07	Amend	2-1-07	461-145-0220	1-1-07	Amend	2-1-07
461-135-0400	1-1-07	Amend	2-1-07	461-145-0250	1-1-07	Amend	2-1-07
461-135-0475	1-1-07	Amend	2-1-07	461-145-0250	4-1-07	Amend	5-1-07
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461-135-0494	4-1-07	Adopt	5-1-07	461-145-0340	1-1-07	Amend	2-1-07
461-135-0495	4-1-07	Adopt	5-1-07	461-145-0343	1-1-07	Adopt	2-1-07
461-135-0496	4-1-07	Adopt	5-1-07	461-145-0380	4-1-07	Amend	5-1-07
461-135-0497	4-1-07	Adopt	5-1-07	461-145-0420	4-1-07	Amend	5-1-07
461-135-0506	1-1-07	Amend	2-1-07	461-145-0433	4-1-07	Amend	5-1-07
461-135-0510	1-1-07	Amend	2-1-07	461-145-0440	1-1-07	Amend	2-1-07
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461-135-0730	4-1-07	Amend	5-1-07	461-145-0505	1-1-07	Amend	2-1-07
461-135-0750	1-1-07	Amend	2-1-07	461-145-0510	4-1-07	Amend	5-1-07
461-135-0750	4-1-07	Amend	5-1-07	461-145-0540	1-1-07	Amend	2-1-07
461-135-0780	1-1-07	Amend	2-1-07	461-145-0540	1-1-07	Amend	2-1-07
461-135-0950	1-1-07	Amend	2-1-07	461-145-0540	4-1-07	Amend	5-1-07
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461-150-0055	1-1-07	Amend	2-1-07	461-175-0270	4-1-07	Amend	5-1-07
461-150-0070	1-1-07	Amend	2-1-07	461-180-0010	4-1-07	Amend	5-1-07
461-150-0080	1-1-07	Amend	2-1-07	461-180-0020	4-1-07	Amend	5-1-07
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461-155-0225	1-1-07	Amend	2-1-07	461-180-0044	4-1-07	Amend	5-1-07
461-155-0225	4-1-07	Amend	5-1-07	461-180-0085	1-1-07	Amend	2-1-07
461-155-0235	1-24-07	Amend	3-1-07	461-180-0090	1-1-07	Amend	2-1-07
461-155-0250	1-1-07	Amend	2-1-07	461-185-0050	1-1-07	Amend	2-1-07
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461-155-0250	4-1-07	Amend	5-1-07	461-190-0195	4-1-07	Amend	5-1-07
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461-155-0290	3-1-07	Amend(T)	4-1-07	461-195-0310	1-1-07	Amend	2-1-07
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461-155-0291	3-1-07	Amend(T)	4-1-07	461-195-0511	1-1-07	Amend	2-1-07
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461-160-0055	1-1-07	Amend	2-1-07	462-160-0120	3-7-07	Adopt	4-1-07
461-160-0090	1-1-07	Amend	2-1-07	462-160-0120(T)	3-7-07	Repeal	4-1-07
461-160-0400	1-1-07	Amend	2-1-07	462-160-0130	3-7-07	Adopt	4-1-07
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461-160-0610	4-1-07	Amend	5-1-07	462-220-0090	7-1-07	Adopt	5-1-07
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461-170-0035	4-1-07	Amend	5-1-07	471-040-0041	12-3-06	Adopt	1-1-07
461-170-0101	1-1-07	Amend	2-1-07	571-004-0016	2-14-07	Amend(T)	3-1-07
461-170-0102	1-1-07	Amend	2-1-07	571-011-0015	3-1-07	Amend	4-1-07
461-170-0103	1-1-07	Amend	2-1-07	571-021-0005	2-14-07	Suspend	3-1-07
461-170-0130	1-1-07	Amend	2-1-07	571-021-0009	2-14-07	Suspend	3-1-07
461-175-0010	1-1-07	Amend	2-1-07	571-021-0015	2-14-07	Suspend	3-1-07
461-175-0030	1-1-07	Repeal	2-1-07	571-021-0019	2-14-07	Suspend	3-1-07
461-175-0050	4-1-07	Amend	5-1-07	571-021-0024	2-14-07	Suspend	3-1-07

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571-021-0030	2-14-07	Suspend	3-1-07	571-040-0080	2-14-07	Am. & Ren.(T)	3-1-07
571-021-0035	2-14-07	Suspend	3-1-07	571-040-0100	2-14-07	Adopt(T)	3-1-07
571-021-0038	2-14-07	Suspend	3-1-07	571-040-0201	2-14-07	Am. & Ren.(T)	3-1-07
571-021-0040	2-14-07	Suspend	3-1-07	571-040-0220	2-14-07	Suspend	3-1-07
571-021-0045	2-14-07	Suspend	3-1-07	571-040-0240	2-14-07	Suspend	3-1-07
571-021-0050	2-14-07	Suspend	3-1-07	571-040-0251	2-14-07	Am. & Ren.(T)	3-1-07
571-021-0055	2-14-07	Suspend	3-1-07	571-040-0253	2-14-07	Suspend	3-1-07
571-021-0056	2-14-07	Suspend	3-1-07	571-040-0261	2-14-07	Am. & Ren.(T)	3-1-07
571-021-0057	2-14-07	Suspend	3-1-07	571-040-0280	2-14-07	Suspend	3-1-07
571-021-0060	2-14-07	Suspend	3-1-07	571-040-0380	2-14-07	Amend(T)	3-1-07
571-021-0064	2-14-07	Suspend	3-1-07	571-040-0382	2-14-07	Amend(T)	3-1-07
571-021-0068	2-14-07	Suspend	3-1-07	571-040-0390	2-14-07	Amend(T)	3-1-07
571-021-0070	2-14-07	Suspend	3-1-07	571-040-0400	2-14-07	Adopt(T)	3-1-07
571-021-0072	2-14-07	Suspend	3-1-07	571-040-0410	2-14-07	Am. & Ren.(T)	3-1-07
571-021-0073	2-14-07	Suspend	3-1-07	571-040-0420	2-14-07	Am. & Ren.(T)	3-1-07
571-021-0100	2-14-07	Adopt(T)	3-1-07	571-040-0430	2-14-07	Am. & Ren.(T)	3-1-07
571-021-0105	2-14-07	Adopt(T)	3-1-07	571-040-0440	2-14-07	Am. & Ren.(T)	3-1-07
571-021-0110	2-14-07	Adopt(T)	3-1-07	571-040-0450	2-14-07	Am. & Ren.(T)	3-1-07
571-021-0115	2-14-07	Adopt(T)	3-1-07	571-040-0450	2-14-07	Am. & Ren.(T)	3-1-07
571-021-0120	2-14-07	Adopt(T)	3-1-07	571-040-0450	2-14-07	Am. & Ren.(T)	3-1-07
571-021-0125	2-14-07	Adopt(T)	3-1-07	571-040-0460	2-14-07	Am. & Ren.(T)	3-1-07
571-021-0130	2-14-07	Adopt(T)	3-1-07	571-050-0100	6-4-07	Adopt(T)	7-1-07
571-021-0140	2-14-07	Adopt(T)	3-1-07	571-050-0105	6-4-07	Adopt(T)	7-1-07
571-021-0150	2-14-07	Adopt(T)	3-1-07	571-050-0110	6-4-07	Adopt(T)	7-1-07
571-021-0160	2-14-07	Adopt(T)	3-1-07	571-050-0115	6-4-07	Adopt(T)	7-1-07
571-021-0165	2-14-07	Adopt(T)	3-1-07	571-050-0120	6-4-07	Adopt(T)	7-1-07
571-021-0200	2-14-07	Adopt(T)	3-1-07	571-050-0125	6-4-07	Adopt(T)	7-1-07
571-021-0205	2-14-07	Adopt(T)	3-1-07	571-050-0130	6-4-07	Adopt(T)	7-1-07
571-021-0210	2-14-07	Adopt(T)	3-1-07	571-050-0135	6-4-07	Adopt(T)	7-1-07
571-021-0215	2-14-07	Adopt(T)	3-1-07	571-060-0005	2-22-07	Amend	4-1-07
571-021-0220	2-14-07	Adopt(T)	3-1-07	571-060-0005	3-12-07	Amend	4-1-07
571-021-0230	2-14-07	Adopt(T)	3-1-07	571-060-0005	6-29-07	Amend	6-1-07
571-021-0240	2-14-07	Adopt(T)	3-1-07	571-100-0000	2-20-07	Adopt(T)	4-1-07
571-021-0250	2-14-07	Adopt(T)	3-1-07	571-100-0010	2-20-07	Adopt(T)	4-1-07
571-023-0000	2-14-07	Adopt(T)	3-1-07	571-100-0020	2-20-07	Adopt(T)	4-1-07
571-023-0005	2-14-07	Amend(T)	3-1-07	571-100-0030	2-20-07	Adopt(T)	4-1-07
571-023-0010	2-14-07	Suspend	3-1-07	571-100-0040	2-20-07	Adopt(T)	4-1-07
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571-023-0030	2-14-07	Suspend	3-1-07	571-100-0080	2-20-07	Adopt(T)	4-1-07
571-023-0035	2-14-07	Suspend	3-1-07	571-100-0090	2-20-07	Adopt(T)	4-1-07
571-023-0040	2-14-07	Suspend	3-1-07	571-100-0100	2-20-07	Adopt(T)	4-1-07
571-023-0100	2-14-07	Adopt(T)	3-1-07	571-100-0110	2-20-07	Adopt(T)	4-1-07
571-023-0105	2-14-07	Adopt(T)	3-1-07	571-100-0120	2-20-07	Adopt(T)	4-1-07
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571-023-0120	2-14-07	Adopt(T)	3-1-07	571-100-0150	2-20-07	Adopt(T)	4-1-07
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571-040-0030	2-14-07	Am. & Ren.(T)	3-1-07	574-050-0005	3-5-07	Amend	4-1-07
571-040-0040	2-14-07	Am. & Ren.(T)	3-1-07	577-031-0140	1-5-07	Amend	2-1-07
571-040-0050	2-14-07	Am. & Ren.(T)	3-1-07	577-070-0005	1-5-07	Amend	2-1-07
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577-070-0025	1-5-07	Amend	2-1-07	581-015-2030	4-25-07	Am. & Ren.	6-1-07
577-070-0030	1-5-07	Amend	2-1-07	581-015-2040	4-25-07	Am. & Ren.	6-1-07
577-070-0035	1-5-07	Amend	2-1-07	581-015-2045	4-25-07	Am. & Ren.	6-1-07
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578-041-0030	6-7-07	Amend	7-1-07	581-015-2060	4-25-07	Adopt	6-1-07
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578-072-0050	6-7-07	Amend	7-1-07	581-015-2075	4-25-07	Adopt	6-1-07
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578-072-0091	6-7-07	Amend	7-1-07	581-015-2085	4-25-07	Adopt	6-1-07
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580-023-0020	11-29-06	Adopt	1-1-07	581-015-2115	4-25-07	Am. & Ren.	6-1-07
580-023-0025	11-29-06	Adopt	1-1-07	581-015-2120	4-25-07	Am. & Ren.	6-1-07
580-023-0030	11-29-06	Adopt	1-1-07	581-015-2125	4-25-07	Am. & Ren.	6-1-07
580-023-0035	11-29-06	Adopt	1-1-07	581-015-2130	4-25-07	Am. & Ren.	6-1-07
580-023-0040	11-29-06	Adopt	1-1-07	581-015-2135	4-25-07	Am. & Ren.	6-1-07
580-023-0045	11-29-06	Adopt	1-1-07	581-015-2140	4-25-07	Am. & Ren.	6-1-07
580-023-0050	11-29-06	Adopt	1-1-07	581-015-2145	4-25-07	Am. & Ren.	6-1-07
580-023-0055	11-29-06	Adopt	1-1-07	581-015-2150	4-25-07	Am. & Ren.	6-1-07
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580-023-0065	11-29-06	Adopt	1-1-07	581-015-2160	4-25-07	Am. & Ren.	6-1-07
580-040-0035	1-11-07	Amend	2-1-07	581-015-2165	4-25-07	Am. & Ren.	6-1-07
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581-011-0050	4-27-07	Amend	6-1-07	581-015-2175	4-25-07	Am. & Ren.	6-1-07
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581-015-0704	4-25-07	Repeal	6-1-07	581-015-2250	4-25-07	Am. & Ren.	6-1-07
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581-021-0260	3-1-07	Amend	4-1-07	584-038-0295	11-22-06	Amend	1-1-07
581-021-0265	3-1-07	Adopt	4-1-07	584-038-0310	11-22-06	Amend	1-1-07
581-021-0270	3-1-07	Amend	4-1-07	584-038-0320	11-22-06	Amend	1-1-07
581-021-0330	3-1-07	Amend	4-1-07	584-038-0330	11-22-06	Amend	1-1-07
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581-021-0360	3-1-07	Amend	4-1-07	584-040-0260	11-22-06	Amend	1-1-07
581-021-0371	3-1-07	Adopt	4-1-07	584-040-0265	11-22-06	Amend	1-1-07
581-021-0372	3-1-07	Adopt	4-1-07	584-040-0280	11-22-06	Amend	1-1-07
581-021-0380	3-1-07	Amend	4-1-07	584-040-0290	11-22-06	Amend	1-1-07
581-021-0391	3-1-07	Adopt	4-1-07	584-040-0310	11-22-06	Amend	1-1-07
581-021-0400	3-1-07	Amend	4-1-07	584-040-0315	11-22-06	Amend	1-1-07
581-021-0410	3-1-07	Amend	4-1-07	584-042-0006	4-23-07	Amend	6-1-07
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581-022-1065	2-21-07	Adopt	4-1-07	584-048-0015	11-22-06	Amend	1-1-07
581-022-1109	3-22-07	Adopt(T)	5-1-07	584-048-0015	4-23-07	Amend	6-1-07
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584-060-0051	11-22-06	Amend	1-1-07	603-052-0450	1-30-07	Amend	3-1-07
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635-042-0130	3-6-07	Amend(T)	4-1-07	635-071-0010	6-14-07	Amend	7-1-07
635-042-0133	1-1-07	Amend(T)	2-1-07	635-072-0000	1-1-07	Amend	1-1-07
635-042-0133	2-14-07	Amend	3-1-07	635-073-0000	2-1-07	Amend	1-1-07
635-042-0135	1-1-07	Amend(T)	2-1-07	635-073-0000	6-14-07	Amend	7-1-07
635-042-0135	2-13-07	Amend(T)	3-1-07	635-073-0050	6-14-07	Amend	7-1-07
635-042-0135	2-14-07	Amend	3-1-07	635-073-0065	6-14-07	Amend	7-1-07
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635-080-0052	11-17-06	Amend(T)	1-1-07	731-001-0210	3-26-07	Repeal	5-1-07
635-090-0140	12-15-06	Amend(T)	1-1-07	731-001-0220	3-26-07	Repeal	5-1-07
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635-100-0125	4-19-07	Amend	6-1-07	731-001-0240	3-26-07	Repeal	5-1-07
635-500-0200	4-5-07	Amend	5-1-07	731-001-0250	3-26-07	Repeal	5-1-07
635-500-0410	4-5-07	Amend	5-1-07	731-001-0260	3-26-07	Repeal	5-1-07
635-500-0510	4-5-07	Amend	5-1-07	731-001-0270	3-26-07	Repeal	5-1-07
635-500-0615	4-5-07	Amend	5-1-07	731-001-0280	3-26-07	Repeal	5-1-07
635-500-4050	4-5-07	Amend	5-1-07	731-001-0290	3-26-07	Repeal	5-1-07
635-500-4360	4-5-07	Amend	5-1-07	731-001-0300	3-26-07	Repeal	5-1-07
635-500-4570	4-5-07	Amend	5-1-07	731-001-0310	3-26-07	Repeal	5-1-07
635-500-4870	4-5-07	Amend	5-1-07	731-001-0320	3-26-07	Repeal	5-1-07
635-500-5060	4-5-07	Amend	5-1-07	731-001-0330	3-26-07	Repeal	5-1-07
635-500-5260	4-5-07	Amend	5-1-07	731-001-0340	3-26-07	Repeal	5-1-07
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660-041-0020	2-9-07	Adopt	3-1-07	731-001-0440	3-26-07	Repeal	5-1-07
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731-005-0530	5-23-07	Amend	7-1-07	735-062-0080(T)	12-13-06	Repeal	1-1-07
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736-146-0030	2-7-07	Adopt	3-1-07	736-201-0180	7-1-07	Adopt	6-1-07
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736-201-0155	7-1-07	Adopt	6-1-07	801-001-0035	1-1-07	Amend	2-1-07
736-201-0160	7-1-07	Adopt	6-1-07	801-005-0010	1-1-07	Amend	2-1-07
736-201-0165	7-1-07	Adopt	6-1-07	801-010-0010	1-1-07	Amend	2-1-07

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801-010-0065	1-1-07	Amend	2-1-07	812-004-0001	1-1-07	Amend	1-1-07
801-010-0080	1-1-07	Amend	2-1-07	812-004-0110	1-1-07	Amend	1-1-07
801-010-0100	1-1-07	Amend	2-1-07	812-004-0120	1-1-07	Amend	1-1-07
801-010-0110	1-1-07	Amend	2-1-07	812-004-0140	1-1-07	Amend	1-1-07
801-010-0345	1-1-07	Amend	2-1-07	812-004-0160	1-1-07	Amend	1-1-07
801-020-0620	1-1-07	Amend	2-1-07	812-004-0180	1-1-07	Amend	1-1-07
801-020-0690	1-1-07	Amend	2-1-07	812-004-0195	1-1-07	Amend	1-1-07
801-030-0005	1-1-07	Amend	2-1-07	812-004-0210	1-1-07	Amend	1-1-07
801-030-0010	1-1-07	Amend	2-1-07	812-004-0240	1-1-07	Amend	1-1-07
801-030-0015	1-1-07	Amend	2-1-07	812-004-0250	1-1-07	Amend	1-1-07
801-030-0020	1-1-07	Amend	2-1-07	812-004-0260	1-1-07	Amend	1-1-07
801-040-0010	1-1-07	Amend	2-1-07	812-004-0300	1-1-07	Amend	1-1-07
804-001-0002	7-1-07	Amend	7-1-07	812-004-0320	1-1-07	Amend	1-1-07
804-010-0000	4-27-07	Amend	6-1-07	812-004-0340	1-1-07	Amend	1-1-07
804-010-0010	4-27-07	Amend	6-1-07	812-004-0350	1-1-07	Amend	1-1-07
804-010-0020	4-27-07	Am. & Ren.	6-1-07	812-004-0360	1-1-07	Amend	1-1-07
804-020-0001	4-27-07	Am. & Ren.	6-1-07	812-004-0400	1-1-07	Amend	1-1-07
804-020-0003	4-27-07	Am. & Ren.	6-1-07	812-004-0420	1-1-07	Amend	1-1-07
804-020-0005	4-27-07	Amend	6-1-07	812-004-0440	1-1-07	Amend	1-1-07
804-020-0030	4-27-07	Amend	6-1-07	812-004-0450	1-1-07	Amend	1-1-07
804-020-0045	4-27-07	Amend	6-1-07	812-004-0460	1-1-07	Amend	1-1-07
804-022-0000	4-27-07	Am. & Ren.	6-1-07	812-004-0470	1-1-07	Amend	1-1-07
804-022-0005	4-27-07	Adopt	6-1-07	812-004-0480	1-1-07	Amend	1-1-07
804-022-0010	4-27-07	Am. & Ren.	6-1-07	812-004-0500	1-1-07	Amend	1-1-07
806-001-0003	7-1-07	Amend	6-1-07	812-004-0510	1-1-07	Amend	1-1-07
806-010-0060	12-13-06	Amend	1-1-07	812-004-0520	1-1-07	Amend	1-1-07
806-010-0145	12-13-06	Amend	1-1-07	812-004-0530	1-1-07	Amend	1-1-07
808-001-0008	5-16-07	Amend	7-1-07	812-004-0535	1-1-07	Amend	1-1-07
808-003-0260	2-1-07	Amend	3-1-07	812-004-0540	1-1-07	Amend	1-1-07
809-015-0010	3-14-07	Amend	4-1-07	812-004-0550	1-1-07	Amend	1-1-07
809-020-0025	3-14-07	Amend	4-1-07	812-004-0560	1-1-07	Amend	1-1-07
811-010-0085	11-24-06	Amend	1-1-07	812-004-0590	1-1-07	Amend	1-1-07
812-001-0130	1-1-07	Amend	1-1-07	812-004-0600	1-1-07	Amend	1-1-07
812-001-0135	1-1-07	Adopt	1-1-07	812-005-0200	1-1-07	Amend	1-1-07
812-001-0500	1-1-07	Amend	1-1-07	812-005-0210	1-1-07	Amend	1-1-07
812-002-0130	1-1-07	Repeal	1-1-07	812-005-0800	1-1-07	Amend	1-1-07
812-002-0140	1-1-07	Amend	1-1-07	812-006-0300	3-1-07	Amend	4-1-07
812-002-0143	1-1-07	Adopt	1-1-07	812-006-0400	3-1-07	Amend	4-1-07
812-002-0250	1-1-07	Amend	1-1-07	812-006-0400(T)	3-1-07	Repeal	4-1-07
812-002-0440	1-1-07	Amend	1-1-07	812-007-0000	1-1-07	Amend	1-1-07
812-002-0460	1-1-07	Amend	1-1-07	812-007-0010	1-1-07	Amend	1-1-07
812-002-0480	1-1-07	Amend	1-1-07	812-007-0020	1-1-07	Amend	1-1-07
812-002-0537	1-1-07	Amend	1-1-07	812-007-0030	1-1-07	Amend	1-1-07
812-002-0540	1-1-07	Amend	1-1-07	812-007-0040	1-1-07	Amend	1-1-07
812-002-0670	1-1-07	Amend	1-1-07	812-007-0050	1-1-07	Amend	1-1-07
812-003-0140	1-1-07	Amend	1-1-07	812-007-0060	1-1-07	Amend	1-1-07
812-003-0150	1-1-07	Amend	1-1-07	812-007-0070	1-1-07	Amend	1-1-07
812-003-0160	1-1-07	Amend	1-1-07	812-007-0080	1-1-07	Amend	1-1-07
812-003-0175	1-1-07	Amend	1-1-07	812-007-0090	1-1-07	Amend	1-1-07
812-003-0240	2-1-07	Amend	3-1-07	812-008-0040	1-1-06	Amend	1-1-07
812-003-0260	1-1-07	Amend	1-1-07	812-008-0072	1-1-06	Amend	1-1-07
812-003-0280	1-1-07	Amend	1-1-07	812-008-0074	1-1-06	Amend	1-1-07
812-003-0300	1-1-07	Amend	1-1-07	812-009-0010	1-1-07	Amend	1-1-07
812-003-0400	1-1-07	Amend	1-1-07	812-009-0020	1-1-07	Amend	1-1-07
812-003-0430	1-1-07	Amend	1-1-07	812-009-0050	1-1-07	Amend	1-1-07

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812-009-0090	1-1-07	Amend	1-1-07	813-012-0060	1-11-07	Amend	2-1-07
812-009-0100	1-1-07	Amend	1-1-07	813-012-0070	1-11-07	Amend	2-1-07
812-009-0120	1-1-07	Amend	1-1-07	813-012-0080	1-11-07	Amend	2-1-07
812-009-0140	1-1-07	Amend	1-1-07	813-012-0090	1-11-07	Amend	2-1-07
812-009-0160	1-1-07	Amend	1-1-07	813-012-0100	1-11-07	Amend	2-1-07
812-009-0200	1-1-07	Amend	1-1-07	813-012-0110	1-11-07	Amend	2-1-07
812-009-0220	1-1-07	Amend	1-1-07	813-012-0120	1-11-07	Amend	2-1-07
812-009-0400	1-1-07	Amend	1-1-07	813-012-0130	1-11-07	Amend	2-1-07
812-009-0430	1-1-07	Amend	1-1-07	813-012-0140	1-11-07	Amend	2-1-07
812-010-0020	1-1-07	Amend	1-1-07	813-012-0150	1-11-07	Amend	2-1-07
812-010-0040	1-1-07	Amend	1-1-07	813-012-0160	1-11-07	Amend	2-1-07
812-010-0085	1-1-07	Amend	1-1-07	813-012-0170	1-11-07	Amend	2-1-07
812-010-0090	1-1-07	Amend	1-1-07	813-012-0180	1-11-07	Adopt	2-1-07
812-010-0100	1-1-07	Amend	1-1-07	813-030-0005	1-11-07	Amend	2-1-07
812-010-0110	1-1-07	Amend	1-1-07	813-030-0010	1-11-07	Amend	2-1-07
812-010-0120	1-1-07	Amend	1-1-07	813-030-0020	1-11-07	Amend	2-1-07
812-010-0140	1-1-07	Amend	1-1-07	813-030-0025	1-11-07	Amend	2-1-07
812-010-0200	1-1-07	Amend	1-1-07	813-030-0030	1-11-07	Amend	2-1-07
812-010-0220	1-1-07	Amend	1-1-07	813-030-0031	1-11-07	Amend	2-1-07
812-010-0260	1-1-07	Amend	1-1-07	813-030-0032	1-11-07	Amend	2-1-07
812-010-0290	1-1-07	Amend	1-1-07	813-030-0034	1-11-07	Amend	2-1-07
812-010-0300	1-1-07	Amend	1-1-07	813-030-0035	1-11-07	Amend	2-1-07
812-010-0320	1-1-07	Amend	1-1-07	813-030-0040	1-11-07	Amend	2-1-07
812-010-0340	1-1-07	Amend	1-1-07	813-030-0044	1-11-07	Amend	2-1-07
812-010-0360	1-1-07	Amend	1-1-07	813-030-0046	1-11-07	Amend	2-1-07
812-010-0380	1-1-07	Amend	1-1-07	813-030-0047	1-11-07	Amend	2-1-07
812-010-0420	1-1-07	Amend	1-1-07	813-030-0060	1-11-07	Amend	2-1-07
812-010-0425	1-1-07	Amend	1-1-07	813-030-0062	1-11-07	Amend	2-1-07
812-010-0430	1-1-07	Amend	1-1-07	813-030-0066	1-11-07	Amend	2-1-07
812-010-0460	1-1-07	Amend	1-1-07	813-030-0067	1-11-07	Amend	2-1-07
812-010-0470	1-1-07	Amend	1-1-07	813-030-0068	1-11-07	Amend	2-1-07
812-010-0480	1-1-07	Amend	1-1-07	813-030-0070	1-11-07	Adopt	2-1-07
813-010-0006	1-11-07	Amend	2-1-07	813-035-0005	1-11-07	Amend	2-1-07
813-010-0011	1-11-07	Amend	2-1-07	813-035-0011	1-11-07	Amend	2-1-07
813-010-0016	1-11-07	Amend	2-1-07	813-035-0016	1-11-07	Amend	2-1-07
813-010-0021	1-11-07	Amend	2-1-07	813-035-0018	1-11-07	Amend	2-1-07
813-010-0023	1-11-07	Repeal	2-1-07	813-035-0021	1-11-07	Amend	2-1-07
813-010-0024	1-11-07	Repeal	2-1-07	813-035-0029	1-11-07	Amend	2-1-07
813-010-0028	1-11-07	Repeal	2-1-07	813-035-0033	1-11-07	Amend	2-1-07
813-010-0029	1-11-07	Amend	2-1-07	813-035-0036	1-11-07	Amend	2-1-07
813-010-0032	1-11-07	Amend	2-1-07	813-035-0040	1-11-07	Amend	2-1-07
813-010-0033	1-11-07	Amend	2-1-07	813-035-0045	1-11-07	Amend	2-1-07
813-010-0036	1-11-07	Amend	2-1-07	813-035-0051	1-11-07	Amend	2-1-07
813-010-0042	1-11-07	Amend	2-1-07	813-035-0070	1-11-07	Adopt	2-1-07
813-010-0051	1-11-07	Amend	2-1-07	813-035-0700	1-11-07	Repeal	2-1-07
813-010-0700	1-11-07	Amend	2-1-07	813-035-0705	1-11-07	Repeal	2-1-07
813-010-0705	1-11-07	Amend	2-1-07	813-035-0710	1-11-07	Repeal	2-1-07
813-010-0710	1-11-07	Amend	2-1-07	813-035-0715	1-11-07	Repeal	2-1-07
813-010-0715	1-11-07	Amend	2-1-07	813-035-0720	1-11-07	Repeal	2-1-07
813-010-0720	1-11-07	Amend	2-1-07	813-038-0005	5-10-07	Adopt	6-1-07
813-010-0740	1-11-07	Adopt	2-1-07	813-038-0010	5-10-07	Adopt	6-1-07
813-012-0010	1-11-07	Amend	2-1-07	813-038-0015	5-10-07	Adopt	6-1-07
813-012-0020	1-11-07	Amend	2-1-07	813-038-0020	5-10-07	Adopt	6-1-07
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813-042-0000	1-11-07	Adopt	2-1-07	813-110-0030(T)	1-11-07	Repeal	2-1-07
813-042-0000(T)	1-11-07	Repeal	2-1-07	813-110-0033	1-11-07	Amend	2-1-07
813-042-0010	1-11-07	Adopt	2-1-07	813-110-0033(T)	1-11-07	Repeal	2-1-07
813-042-0010(T)	1-11-07	Repeal	2-1-07	813-110-0035	1-11-07	Amend	2-1-07
813-042-0020	1-11-07	Adopt	2-1-07	813-110-0035(T)	1-11-07	Repeal	2-1-07
813-042-0020(T)	1-11-07	Repeal	2-1-07	813-120-0080	1-11-07	Amend	2-1-07
813-042-0030	1-11-07	Adopt	2-1-07	813-120-0080(T)	1-11-07	Repeal	2-1-07
813-042-0030(T)	1-11-07	Repeal	2-1-07	813-120-0100	1-11-07	Amend	2-1-07
813-042-0040	1-11-07	Adopt	2-1-07	813-120-0100(T)	1-11-07	Repeal	2-1-07
813-042-0040(T)	1-11-07	Repeal	2-1-07	813-130-0000	1-11-07	Amend	2-1-07
813-042-0050	1-11-07	Adopt	2-1-07	813-130-0000(T)	1-11-07	Repeal	2-1-07
813-042-0050(T)	1-11-07	Repeal	2-1-07	813-130-0010	1-11-07	Amend	2-1-07
813-042-0060	1-11-07	Adopt	2-1-07	813-130-0010(T)	1-11-07	Repeal	2-1-07
813-042-0060(T)	1-11-07	Repeal	2-1-07	813-130-0020	1-11-07	Amend	2-1-07
813-042-0070	1-11-07	Adopt	2-1-07	813-130-0020(T)	1-11-07	Repeal	2-1-07
813-042-0070(T)	1-11-07	Repeal	2-1-07	813-130-0030	1-11-07	Amend	2-1-07
813-042-0080	1-11-07	Adopt	2-1-07	813-130-0030(T)	1-11-07	Repeal	2-1-07
813-042-0080(T)	1-11-07	Repeal	2-1-07	813-130-0040	1-11-07	Amend	2-1-07
813-042-0090	1-11-07	Adopt	2-1-07	813-130-0040(T)	1-11-07	Repeal	2-1-07
813-042-0090(T)	1-11-07	Repeal	2-1-07	813-130-0050	1-11-07	Amend	2-1-07
813-042-0100	1-11-07	Adopt	2-1-07	813-130-0050(T)	1-11-07	Repeal	2-1-07
813-042-0100(T)	1-11-07	Repeal	2-1-07	813-130-0060	1-11-07	Amend	2-1-07
813-042-0110	1-11-07	Adopt	2-1-07	813-130-0060(T)	1-11-07	Repeal	2-1-07
813-042-0110(T)	1-11-07	Repeal	2-1-07	813-130-0070	1-11-07	Amend	2-1-07
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813-060-0020	1-11-07	Amend	2-1-07	813-130-0080(T)	1-11-07	Repeal	2-1-07
813-060-0025	1-11-07	Amend	2-1-07	813-130-0090	1-11-07	Amend	2-1-07
813-060-0030	1-11-07	Amend	2-1-07	813-130-0090(T)	1-11-07	Repeal	2-1-07
813-060-0031	1-11-07	Amend	2-1-07	813-130-0100	1-11-07	Amend	2-1-07
813-060-0032	1-11-07	Amend	2-1-07	813-130-0100(T)	1-11-07	Repeal	2-1-07
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813-060-0044	1-11-07	Amend	2-1-07	813-130-0120(T)	1-11-07	Repeal	2-1-07
813-060-0045	1-11-07	Amend	2-1-07	813-130-0130	1-11-07	Amend	2-1-07
813-060-0047	1-11-07	Amend	2-1-07	813-130-0130(T)	1-11-07	Repeal	2-1-07
813-060-0055	1-11-07	Amend	2-1-07	813-130-0140	1-11-07	Adopt	2-1-07
813-060-0056	1-11-07	Amend	2-1-07	813-130-0140(T)	1-11-07	Repeal	2-1-07
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813-060-0062	1-11-07	Amend	2-1-07	813-205-0000(T)	1-11-07	Repeal	2-1-07
813-060-0065	1-11-07	Amend	2-1-07	813-205-0010	1-11-07	Amend	2-1-07
813-060-0070	1-11-07	Adopt	2-1-07	813-205-0010(T)	1-11-07	Repeal	2-1-07
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813-090-0031(T)	1-11-07	Repeal	2-1-07	813-205-0020(T)	1-11-07	Repeal	2-1-07
813-090-0035	1-11-07	Amend	2-1-07	813-205-0030	1-11-07	Amend	2-1-07
813-090-0035(T)	1-11-07	Repeal	2-1-07	813-205-0030(T)	1-11-07	Repeal	2-1-07
813-090-0036	1-11-07	Amend	2-1-07	813-205-0040	1-11-07	Amend	2-1-07
813-090-0036(T)	1-11-07	Repeal	2-1-07	813-205-0040(T)	1-11-07	Repeal	2-1-07
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813-090-0070(T)	1-11-07	Repeal	2-1-07	813-205-0050(T)	1-11-07	Repeal	2-1-07
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813-205-0080	1-11-07	Amend	2-1-07	820-020-0005	11-21-06	Amend	1-1-07
813-205-0080(T)	1-11-07	Repeal	2-1-07	820-020-0010	11-21-06	Repeal	1-1-07
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813-205-0110(T)	1-11-07	Repeal	2-1-07	820-040-0040	11-21-06	Amend	1-1-07
813-205-0120	1-11-07	Adopt	2-1-07	836-020-0770	2-12-07	Amend	3-1-07
813-205-0120(T)	1-11-07	Repeal	2-1-07	836-031-0800	2-12-07	Adopt	3-1-07
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813-205-0130(T)	1-11-07	Repeal	2-1-07	836-031-0810	2-12-07	Adopt	3-1-07
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818-035-0025	5-1-07	Amend	6-1-07	836-071-0215	1-1-08	Amend	4-1-07
818-035-0040	5-1-07	Amend	6-1-07	836-071-0220	1-1-08	Amend	4-1-07
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820-010-0207	11-21-06	Amend	1-1-07	837-012-0350	1-1-07	Amend	2-1-07
820-010-0208	11-21-06	Adopt	1-1-07	837-012-0360	1-1-07	Amend	2-1-07
820-010-0210	4-5-07	Amend	5-1-07	837-012-0370	1-1-07	Amend	2-1-07
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918-098-1450	1-1-07	Amend	2-1-07	918-690-0400	12-29-06	Repeal	2-1-07
918-098-1620	1-1-07	Amend	2-1-07	951-002-0005	6-1-07	Amend	7-1-07
918-098-1630	1-1-07	Amend	2-1-07	951-002-0010	6-1-07	Amend	7-1-07
918-225-0230	12-29-06	Repeal	2-1-07	951-002-0020	6-1-07	Amend	7-1-07
918-225-0430	1-1-07	Amend	2-1-07	951-003-0005	11-17-06	Amend	1-1-07
918-225-0435	1-1-07	Adopt	2-1-07	951-004-0000	11-17-06	Adopt	1-1-07
918-225-0435	6-15-07	Amend	7-1-07	951-004-0001	11-17-06	Adopt	1-1-07
918-225-0570	1-1-07	Amend	2-1-07	951-004-0002	11-17-06	Adopt	1-1-07
918-225-0700	4-1-07	Amend	5-1-07	951-004-0003	11-17-06	Adopt	1-1-07
918-251-0070	12-29-06	Repeal	2-1-07	951-004-0004	11-17-06	Adopt	1-1-07
918-251-0090	4-1-07	Amend	5-1-07	951-005-0000	11-16-06	Adopt	1-1-07
918-261-0034	1-1-07	Adopt	2-1-07	951-005-0001	11-16-06	Adopt	1-1-07
918-261-0040	4-1-07	Amend	5-1-07	951-005-0002	11-16-06	Adopt	1-1-07