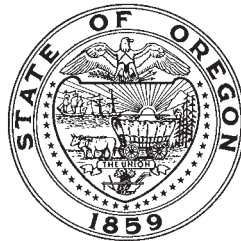


OREGON BULLETIN

Supplements the 2016 *Oregon Administrative Rules Compilation*

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Secretary of State
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INFORMATION ABOUT ADMINISTRATIVE RULES

General Information

The Administrative Rules Unit, Archives Division, Secretary of State publishes the Oregon *Administrative Rules Compilation* and the online *Oregon Bulletin*. The *Oregon Administrative Rules Compilation* is an annual print publication containing complete text of Oregon Administrative Rules (OARs) filed through November 15 of the previous year. The *Oregon Bulletin* is a monthly online supplement that contains rule text adopted or amended after publication of the print Compilation, as well as Notices of Proposed Rulemaking and Rulemaking Hearing. The Bulletin also includes certain non-OAR items when they are submitted, such as Executive Orders of the Governor, Opinions of the Attorney General and Department of Environmental Quality cleanup notices.

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 assists agencies with the notification, filing and publication requirements of the administrative rulemaking process.

OAR Citations

Every Administrative Rule uses the same numbering sequence of a three-digit chapter number followed by a three-digit division number and a four-digit rule number (000-000-0000). For example, Oregon Administrative Rules, chapter 166, division 500, rule 0020 is cited as OAR 166-500-0020.

Understanding an Administrative Rule’s “History”

State agencies operate in an environment of ever-changing laws, public concerns and legislative mandates which necessitate ongoing rulemaking. To track changes to individual rules and organize the original rule documents for permanent retention, the Administrative Rules Unit maintains history lines for each rule, located at the end of the rule text. OAR histories contain the rule’s statutory authority, statutes implemented and dates of each authorized modification to the rule text. Changes are listed chronologically in abbreviated form, with the most recent change listed last. In the history line “OSA 4-1993, f. & cert. ef. 11-10-93,” for example, “OSA” is short for Oregon State Archives; “4-1993” indicates this was 4th administrative rule filing by the Archives in 1993; “f. & cert. ef. 11-10-93” means the rule was filed and certified effective on November 10, 1993.

Locating Current Versions of Administrative Rules

The online version of the OAR Compilation is updated on the first of each month to include all rule actions filed with the Administrative Rules Unit by the 15th of the previous month. The annual printed OAR Compilation volumes contain text for all rules filed through

November 15 of the previous year. Administrative Rules created or changed after publication in the print Compilation will appear in a subsequent edition of the online Bulletin. These are listed by rule number in the Bulletin’s OAR Revision Cumulative Index, which is updated monthly. The listings specify each rule’s effective date, rule-making action, and the issue of the Bulletin that contains the full text of the adopted or amended rule.

Locating Administrative Rule Publications

Printed volumes of the Compilation are deposited in Oregon’s Public Documents Depository Libraries listed in OAR 543-070-0000. Complete sets and individual volumes of the printed OAR Compilation may be ordered from the Administrative Rules Unit, Archives Division, 800 Summer Street NE, Salem, Oregon 97301, (503) 373-0701.

Filing Administrative Rules and Notices

All hearing and rulemaking notices, and permanent and temporary rules, are filed through the Administrative Rules Unit’s online filing system. To expedite the rulemaking process, agencies are encouraged to file a Notice of Proposed Rulemaking Hearing specifying hearing date, time and location, and to submit their filings early in the submission period. All notices and rules must be filed by the 15th of the month to be included in the next month’s Bulletin and OAR Compilation postings. Filings must contain the date stamp from the deadline day or earlier to be published the following month.

Administrative Rules Coordinators and Delegation of Signing Authority

Each agency that engages in rulemaking must appoint a rules coordinator and file an Appointment of Agency Rules Coordinator form with the Administrative Rules Unit. Agencies that delegate rule-making authority to an officer or employee within the agency must also file a Delegation of Rulemaking Authority form. It is the agency’s responsibility to monitor the rulemaking authority of selected employees and keep the forms updated. The Administrative Rules Unit does not verify agency signatures as part of the rulemaking process.

Publication Authority

The Oregon Bulletin is published pursuant to ORS 183.360(3). Copies of the original Administrative Orders may be obtained from the Archives Division, 800 Summer Street, Salem, Oregon, 97310; (503) 373-0701. The Archives Division charges for such copies.

The official copy of an Oregon Administrative Rule is contained in the Administrative Order filed at the Archives Division. Any discrepancies with the published version are satisfied in favor of the Administrative Order.

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EXECUTIVE ORDERS

EXECUTIVE ORDER 16 - 09

RELATING TO AFFIRMATIVE ACTION AND DIVERSITY AND INCLUSION

On January 26, 2005, former Governor Kulongoski issued Executive Order 05-01, relating to affirmative action. That Executive Order directed Agency Directors and Administrators to review and discuss their affirmative action plans, to initiate training on affirmative action issues, to include affirmative action responsibilities in key job descriptions, and to conduct Cultural Competency Assessment and Training.

Since the issuance of Executive Order 05-01 and Amendment 08-18, many state agencies have met with the Governor's Affirmative Action Office (GAAO) to review and discuss their affirmative action plans. The Department of Administrative Services (DAS) has concluded an audit of position descriptions for the inclusion of affirmative action duties and DAS has shared audit results with GAAO. In addition, a number of state agencies have completed Cultural Competency Assessment and Training.

Despite these gains, much more can be accomplished. The State of Oregon remains committed to the right of all persons to work and advance on the basis of merit, ability, and potential. In order to continue implementation of the goals and policies set forth in Executive Orders 05-01 and 08-18, I extend these orders as follows:

NOW THEREFORE, IT IS HEREBY DIRECTED AND ORDERED:

1. The GAAO and each Agency Director and Administrator shall review and discuss each agency's affirmative action plan and affirmative action goals to identify resources for improving the hiring and developmental opportunities of underrepresented persons.

2. To continue the State of Oregon's progress in promotion of diversity in the workplace, as well as the elimination of the effects of past and present discrimination, intended or unintended, Agency Directors and Administrators shall:

- a. Provide ongoing leadership in implementing each agency's affirmative action plan;
- b. Ensure incorporation of affirmative action, diversity, and inclusion responsibilities in executive and/or management job descriptions, as appropriate;
- c. Ensure that Affirmative Action Representatives attend GAAO's informational trainings to assist Representatives in fulfilling their affirmative action responsibilities;
- d. Post each agency's affirmative action policy statement in a visible area. The policy statement shall include contact information for the agency's Affirmative Action Representative;

e. Communicate to all employees about the Affirmative Action resources available within each agency and the important role of Affirmative Action Representatives in responding to employees' concerns of discrimination in the areas of hiring, retention, promotion, and career development;

f. Evaluate and assess any trends showing an increase or decrease in discrimination and/or harassment claims; and

g. Work to improve implementation of the agency's affirmative action plan through the use of performance assessments and/or performance evaluations.

3. Under ORS 659A.012, state agencies are "required to include in the evaluation of all management personnel the manager's or supervisor's effectiveness in achieving affirmative action objectives as a key consideration of the manager's or supervisor's performance." Periodically, DAS shall conduct audits of agencies to determine whether management personnel are being evaluated based on effectiveness in achieving affirmative action objectives. Results of this audit shall be provided to GAAO.

4. GAAO will continue to coordinate with DAS in the development and presentation of training designed to improve employees' skills and competency in managing affirmative action and diversity issues.

5. GAAO will continue to monitor agencies' implementation of Cultural Competency Assessment and Implementation Services. Agency Directors and Administrators are strongly encouraged to utilize Cultural Competency Assessment and Implementation Services within their agencies if, in the opinion of GAAO and the Agency Director or Administrator, it is beneficial and appropriate for the agencies to do so.

6. DAS, in conjunction with GAAO and the Oregon Department of Justice, has developed a confidential web-based exit interview survey tool. Agency Directors and Administrators shall allow employees to utilize state equipment to access the Exit Interview survey and shall encourage all employees to complete the survey prior to their transfer or departure.

7. This Executive Order will expire on December 31, 2020.

Done at Salem, Oregon, this 3rd day of May, 2016.

/s/ Kate Brown
Kate Brown
GOVERNOR

ATTEST

/s/ Jeanne P. Atkins
Jeanne P. Atkins
SECRETARY OF STATE

OTHER NOTICES

REQUEST FOR COMMENTS PROPOSED PROSPECTIVE PURCHASER AGREEMENT CERTIFICATION OF COMPLETION FOR PECO IN PORTLAND

COMMENTS DUE: 5 p.m., June 30, 2016

PROJECT LOCATION: 4707 SE 17th Street, Portland

PROPOSAL: As required under Section 4(c) of the 2012 Consent Judgment between DEQ and TriMet, DEQ request comments on the determination that environmental actions required of the agency in acquiring a portion of the PECO site have been met.

HIGHLIGHTS: The PECO facility is located at 4707 SE 17th Ave. in Portland. PECO formerly manufactured specialty items for the aerospace industry at this location. Since February 2002, numerous phases of site investigation have been performed to characterize the nature and extent of solvent releases to soil and groundwater, and PCB releases to soil. Investigation and cleanup have been completed at the East Plant portion of the site, and a No Further Action decision issued by DEQ. Cleanup work on the remaining West Plant site is near complete. In 2012, TriMet entered into a prospective purchaser agreement (PPA) with DEQ in purchasing a small portion of the West Plant property for light rail construction. Work required under the PPA has been completed, including issuance of a closure report for DEQ approval. DEQ is prepared to close out the PPA following required public notice and comment.

HOW TO COMMENT: Send comments to DEQ Project Manager Daniel Hafley at 700 NE Multnomah, Suite 600, Portland, OR 97232-4100 or hafley.dan@deq.state.or.us.

For more information contact the project manager at 503-229-5417.

Find information about requesting a review of DEQ project files at: <http://www.deq.state.or.us/records/recordsRequestFAQ.htm>

Find the File Review Application form at: <http://www.deq.state.or.us/records/RecordsRequestForm.pdf>

To access site summary information and other documents in the DEQ Environmental Cleanup Site Information database, go to <http://www.deq.state.or.us/lq/ECSI/ecsi.htm>, select "Search complete ECSI database", then enter ECSI# 1973 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled ECSI # 1973 in the Site ID/Info column. Alternatively, you may go directly to the database website for this page at <http://www.deq.state.or.us/lq/ecsi/ecsidetail.asp?seqnbr=1973>

Find information about requesting a review of DEQ project files.

Find the file review application form:

If you do not have web access and want to review the project file contact the DEQ project manager.

THE NEXT STEP: After DEQ has reviewed all submitted comments, a final decision will be made regarding proceeding with issuance of a certification of completion.

ACCESSIBILITY INFORMATION: DEQ is committed to accommodating people with disabilities. If you need information in another format, please contact DEQ toll free in Oregon at 800-452-4011, email at deqinfo@deq.state.or.us, or 711 for people with hearing impairments.

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 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. Oral comments may be submitted at the appropriate time during a rulemaking hearing as outlined in OAR 137-001-0030.

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

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

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

.....
Board of Accountancy
Chapter 801

Rule Caption: Amend to update the effective date of professional standards adopted by the Board.
Stat. Auth.: ORS 673.410, 673.170, 673.015, 673.445
Stats. Implemented: ORS 673.410, 673.170, 673.015, 673.445
Proposed Amendments: 801-001-0035
Last Date for Comment: 6-22-16, 5 p.m.
Summary: The professional standards as used throughout OAR Chapter 801 are those that are in effect as of January 1, 2016.
Rules Coordinator: Kimberly Fast
Address: Board of Accountancy, 3218 Pringle Rd. SE, Suite 110, Salem, OR 97302
Telephone: (503) 378-2268

.....
Board of Medical Imaging
Chapter 337

Rule Caption: Add \$4 workforce data survey surcharge on renewals and add two new license specialty credentials
Stat. Auth.: ORS 688.555(1)
Stats. Implemented: ORS 688.425 & 676.410(7)
Proposed Adoptions: 337-021-0073
Proposed Amendments: 337-010-0007
Last Date for Comment: 7-8-16, 4:30 p.m.
Summary: This rulemaking adds two imaging specialty areas that were recently created by recognized national imaging registries. They include the registered musculoskeletal sonographer (RMSKS-MSKS) specialty credential, by the American Registry of Diagnostic Medical Sonographers, and the Advanced Cardiac Sonographer (ACS) specialty credential by Cardiac Credentialing International (CCI). Adding these two new specialties to the rules of the Oregon Board of Medical Imaging (OBMI) will give OBMI the ability to add them to the licenses of persons who earn either of these specialty credentials. Also, this new rule gives the OBMI the authority to charge renewal applicants the same fee that the Oregon Health Authority

will charge to OBMI for the OHA to receive the health workforce data questionnaire results from OBMI's renewal applicants. The OHA's health workforce data fee is currently four dollars for a two-year renewal.

Rules Coordinator: Ed Conlow
Address: Board of Medical Imaging, 800 NE Oregon St., Suite 1160A, Portland, OR 97232
Telephone: (971) 673-0216

.....
Board of Nursing
Chapter 851

Rule Caption: Add Endorsement application fee of \$9 to existing fees per SB 1585
Date: 6-16-16 **Time:** 9 a.m. **Location:** 17938 SW Upper Boones Ferry Rd. Portland, OR 97224
Hearing Officer: Bonnie Kostecky, Board President
Stat. Auth.: ORS 678.415 and 678.417
Other Auth.: SB 1585
Stats. Implemented: ORS 678.415
Proposed Amendments: 851-002-0010
Last Date for Comment: 6-16-16, 5 p.m.
Summary: SB 1585 added the \$9 surcharge to fund the Oregon Nursing Advancement Fund to now include applications for Endorsement, in addition to new and renewal applications.
Rules Coordinator: Peggy A. Lightfoot
Address: Board of Nursing, 17938 SW Upper Boones Ferry Rd., Portland, OR 97224
Telephone: (971) 673-0638

.....
Board of Optometry
Chapter 852

Rule Caption: Amends the Board's 2015-17 budget to reflect new operating costs.
Date: 7-7-16 **Time:** 9 a.m. **Location:** 1500 Liberty St. SE, Suite 210 Salem, OR
Hearing Officer: Shelley Sneed
Stat. Auth.: ORS 182 & 683
Stats. Implemented: ORS 182.462(1) & (2)
Proposed Amendments: 852-005-0005
Last Date for Comment: 7-7-16, 11 a.m.
Summary: This rule change updates the Board's biennial operating budget to reflect changes in staffing and new database costs.
Rules Coordinator: Shelley Sneed
Address: Board of Optometry, 1500 Liberty St. SE, Suite 210, Salem, OR 97302
Telephone: (503) 399-0662, ext. 3

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Department of Administrative Services,
Chief Human Resources Office
Chapter 105

Rule Caption: Amending and repealing rules to include legislative changes and statutory requirements.
Date: 6-17-16 **Time:** 9 a.m. **Location:** 155 Cottage St. NE Conference Rm. B Salem, OR 97301
Hearing Officer: Wendy Heckman
Stat. Auth.: ORS 184.340, 240.145, 240.250, 659A.052
Other Auth.: Omnibus Transportation Employee Testing Act of 1991; 49 CFR 392.4 and 392.5, 26 USC Section 414(h), EO 94-23
Stats. Implemented: ORS 238.200, 238.205, 240.135, 240.190, 240.235, 240.240, 240.245, 240.306, 240.321, 292.951, 292.956, 659A.012-659A.015, 659A.043, 659A.046, 659A.052, 813.403, 813.404
Proposed Amendments: 105-020-0001, 105-020-0015, 105-040-0001, 105-050-0003, 105-050-0004, 105-050-0025, 105-050-0030

NOTICES OF PROPOSED RULEMAKING

Proposed Repeals: 105-010-0000, 105-010-0011, 105-010-0016, 105-040-0010, 105-040-0020, 105-040-0030, 105-040-0040, 105-040-0050, 105-040-0060, 105-040-0065, 105-040-0070, 105-040-0080, 105-050-0006

Last Date for Comment: 6-17-16, 5 p.m.

Summary: The rule changes are based on a number of factors including legislative changes as well as statutory requirements, as cited below.

Division 10 — Definitions are being repealed and moved to CHRO policy, while the other rules in this division are being repealed due to statutory changes.

Division 20 — Changes to this chapter include revisions to compensation language due to statutory updates and repealing the rule related to contributions to retirement, as the language is obsolete.

Division 40 — The majority of this chapter is being repealed and moved to policy, as there are no statutory requirements to develop, implement or maintain rules in this area. The remaining rules are being amended to reflect statutory changes and updated references.

Division 50 — This chapter is being amended to reflect statutory changes and federal requirements for these subjects. Rules repealed in this section are due to authority changes in responsibility residing with specific agencies.

Rules Coordinator: Janet Chambers

Address: Department of Administrative Services, Chief Human Resources Office, 155 Cottage St. NE, Salem, OR 97301

Telephone: (503) 378-5522

.....

Department of Agriculture Chapter 603

Rule Caption: Update Oregon's motor fuel quality standards and fuel dispenser labeling requirements.

Date:	Time:	Location:
6-17-16	10 a.m.	Oregon Dept. of Agriculture Hearing Rm./Basement 635 Capitol St. NE Salem, OR 97301

Hearing Officer: Staff

Stat. Auth.: ORS 646.925, 646.957

Stats. Implemented: ORS 646.910–646.923 & 646.947–646.963

Proposed Amendments: 603-027-0410, 603-027-0420, 603-027-0430, 603-027-0450, 603-027-0470, 603-027-0490

Last Date for Comment: 6-30-16, 5 p.m.

Summary: Oregon Department of Agriculture is pursuing a revision of its motor fuel quality regulations to bring it up to date with recent changes in the gasoline quality standard adopted by ASTM and the current sulfur labeling requirements mandated by federal EPA to align its rules with national standards.

ASTM revised the national gasoline specifications in 2015 that will enhance the availability of gasoline in eastern Oregon by aligning the gasoline volatility requirements between both eastern Oregon and eastern Washington in the months of November and December. This will make it possible to move gasoline between these two regions in the future which is expected to enhance the availability of the fuel in both regions and eliminate the need for specialty blends for each region to satisfy two different standards.

In September of 2014 Federal EPA relaxed its sulfur labeling standard for diesel fuel dispensers that were in effect to help protect the new diesel emission control systems on diesel powered vehicles model 2006 and newer. This essentially marks the end of the rollout of Ultra Low Sulfur Diesel fuel nationwide, which began in 2006, with the exception of marine ECA fuels that are specific to ocean going freighters. ODA currently requires all diesel fuel dispensers to display an additional sulfur label on the dispenser positioned to be visible from the drivers seat of a passenger vehicle consistent with the State's mini serve law. Since the EPA standard has been relaxed ODA is proposing to relax the State's diesel dispenser labeling standard as well. ODA will remove the sulfur-labeling requirement for dispensers from OAR 603-027.

ODA will update references in 603-027 made to Public Law Chapter 310, 1997 to the 2015 edition of ORS 646. Chapter 310, 1997 was the original implementation of Oregon's motor fuel quality laws.

Rules Coordinator: Sue Gooch

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

Telephone: (503) 986-4583

.....

Department of Agriculture, Oregon Ryegrass Growers Seed Commission Chapter 657

Rule Caption: Increases the assessment rate.

Date:	Time:	Location:
6-15-16	8 a.m.	Elmer's Restaurant 2802 Santiam Hwy. SE Albany, OR

Hearing Officer: Charley Wolff

Stat. Auth.: ORS 576.304, 576.325–576.365

Other Auth.: Motion made by Commission at April 27, 2016 Commission meeting.

Stats. Implemented: ORS 576.325–576.365

Proposed Amendments: 657-010-0015

Last Date for Comment: 6-14-16, 5 p.m.

Summary: Increases the assessment for all ryegrass seed grown in Oregon from 12 cents per cwt to 15 cents per cwt, clean seed basis.

657-010-0015(1) Any first purchaser shall deduct and withhold an assessment of [12 cents (\$.12)] 15 cents (\$.15) per cwt, clean seed basis from the price paid to the producer thereof, for ryegrass seed grown in Oregon.

Rules Coordinator: Lisa Ostlund

Address: Department of Agriculture, Oregon Ryegrass Growers Seed Commission, P.O. Box 3366, Salem, OR 97302

Telephone: (503) 364-2944

.....

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

Rule Caption: Amending certification requirements for building officials, inspectors and plans examiners.

Date:	Time:	Location:
6-21-16	9:30 a.m.	1535 Edgewater St. NW Salem, OR 97304

Hearing Officer: Staff

Stat. Auth.: ORS 455.030, 455.055, 455.110, 455.622, 455.720, 455.730, 455.735, 455.740

Stats. Implemented: ORS 455.030, 455.055, 455.110, 455.622, 455.720, 455.730, 455.735, 455.740

Proposed Adoptions: Rules in 918-098

Proposed Amendments: Rules in 918-098

Proposed Repeals: Rules in 918-098

Proposed Renumberings: Rules in 918-098

Proposed Ren. & Amends: Rules in 918-098

Last Date for Comment: 6-24-16, 5 p.m.

Summary: The proposed rules amend the division's certification requirements and obligations for building officials, inspectors and plans examiners. The proposed rules contain a variety of changes, including, but not limited to: clarifying experience requirements for Oregon Inspector Certification (OIC) applicants, creating a transition from International Code Council or other nationally recognized certifications to equivalent Oregon certifications, expanding the scope of work for residential structural inspectors to include mechanical work, clarifying the renewal process for OIC holders, removing the 5-year OIC reinstatement window for OIC holders, clarifying continuing education requirements for certification holders, and clarifying conflict of interest requirements for certification holders.

Rules Coordinator: Holly A. Tucker

NOTICES OF PROPOSED RULEMAKING

Address: Department of Consumer and Business Services, Building Codes Division, PO Box 14470, Salem, OR 97309-0404
Telephone: (503) 378-5331

.....
**Department of Consumer and Business Services,
Insurance Regulation
Chapter 836**

Rule Caption: Establishing standards for the adequacy of an insurer's network of health care providers.

Date:	Time:	Location:
6-28-16	9 a.m.	Labor & Industries Bldg. 350 Winter St. NE, Basement Conference Rm. F Salem, OR

Hearing Officer: Gayle Woods

Stat. Auth.: ORS 731.244, 743B.505

Other Auth.: 2015 OR Laws Ch 59, § 12 (Enrolled House Bill 2468)

Stats. Implemented: ORS 743B.505

Proposed Adoptions: 836-053-0300, 836-053-0310, 836-053-0320, 836-053-0330, 836-053-0340, 836-053-0350

Last Date for Comment: 7-7-16, 5 p.m.

Summary: In 2015, the Oregon Legislature enacted House Bill 2468. The bill instructs the Director of the Department of Consumer and Business Services to adopt rules pertaining to an insurer's network of health care providers. In promulgating rules, the director must prescribe annual network reporting requirements, define nationally-recognized standards to be used in demonstrating networks are adequate, and establish factors to be used when insurers demonstrate compliance with network adequacy requirements via the factor-based approach. The director must also adopt rules establishing provider directory requirements. HB 2468 applies to health benefit plans in effect on or after January 1, 2017.

Rules Coordinator: Karen Winkel

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

Telephone: (503) 947-7694

.....
**Department of Human Services,
Child Welfare Programs
Chapter 413**

Rule Caption: Amending rules about adoption search and registry

Date:	Time:	Location:
6-14-16	1 p.m.	500 Summer St. NE, Rm. 254 Salem, OR 97301

Hearing Officer: Kris Skaro

Stat. Auth.: ORS 109.506 & 418.005

Stats. Implemented: ORS 109.425–109.507 & 418.005

Proposed Adoptions: 413-130-0365

Proposed Amendments: Rules in 413-130

Proposed Repeals: 413-130-0000(T), 413-130-0300(T), 413-130-0310(T), 413-130-0320(T), 413-130-0330(T), 413-130-0340(T), 413-130-0350(T), 413-130-0355(T), 413-130-0360(T), 413-130-0365(T), 413-130-0400, 413-130-0420, 413-130-0430, 413-130-0440, 413-130-0450, 413-130-0455, 413-130-0460, 413-130-0480, 413-130-0490, 413-130-0500, 413-130-0510, 413-130-0520

Last Date for Comment: 6-17-16, 5 p.m.

Summary: The Department of Human Services, Office of Child Welfare Programs, is adopting temporary changes to its rules governing adoption search and registry rules to implement HB 2414 (Oregon Laws 2015, chapter 200). The bill allows the Department to add genetic siblings of adoptees to the voluntary adoption search registry and provide information regarding finalization of an adoption.

Additionally, these rules are being consolidated. Currently, the voluntary adoption registry and the assisted search program are covered in separate subdivisions. To improve organization and clarity, the rules governing the assisted search program in OAR 413-130-0400

to 413-130-0500 are being consolidated into OAR 413-130-0300 to 413-0360.

This makes permanent temporary rules adopted on January 1, 2016.

In addition, non-substantive edits may be made to these rules to: ensure consistent terminology throughout child welfare program rules and policies; make general updates consistent with current Department practices; update statutory and rule references; correct formatting and punctuation; improve ease of reading; and clarify Department rules and processes.

Rules Coordinator: Kris Skaro

Address: Department of Human Services, Child Welfare Programs, 500 Summer St. NE, E-48, Salem, OR 97301

Telephone: (503) 945-6067

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**Department of Human Services,
Self-Sufficiency Programs
Chapter 461**

Rule Caption: Amending rules relating to public assistance programs

Date:	Time:	Location:
6-20-16	10 a.m.	500 Summer St. NE, room 255 Salem, OR 97301

Hearing Officer: Kris Skaro

Stat. Auth.: ORS 409.050, 411.060, 411.816, 412.009, 412.049

Other Auth.: Food and Nutrition Act of 2008; 7 USC 2015(d) and (o); 7 CFR 273.7, 273.11, and 273.24; 45 CFR 400.82

Stats. Implemented: ORS 409.010, 409.050, 409.610, 411.060, 411.070, 411.121, 411.816, 411.837, 412.009, 412.049

Proposed Adoptions: 461-180-0135

Proposed Amendments: 461-130-0327, 461-130-0330, 461-130-0335, 461-135-0089, 461-135-0521, 461-145-0360, 461-155-0150, 461-160-0410, 461-165-0010, 461-165-0180, 461-175-0200, 461-175-0220, 461-175-0340, 461-190-0211, 461-190-0231, 461-193-0320, 461-195-0501

Proposed Repeals: 461-135-0521(T), 461-160-0410(T), 461-165-0180(T), 461-180-0135(T), 461-193-0010, 461-193-0890, 461-193-0940, 461-193-0960, 461-193-1230

Last Date for Comment: 6-24-16, 5 p.m.

Summary: OAR 461-130-0327 about good cause criteria for failure to comply with a program requirement is being amended to state that in the REF program, a client may have good cause for quitting a job if the client has to travel an "unreasonable distance" or if the hours or nature of the job interferes with a client's religious observances, convictions, or beliefs. This criteria was previously addressed in OAR 461-193-0890 which stated the good cause criteria for New Arrival Employment Services (NAES) and Refugee Case Services Project (RCSP). That rule is being repealed.

OAR 461-130-0330 about disqualifications is being amended to change the reduction schedule for TANF clients being sanctioned for non-cooperation in the Job Opportunity and Basic Skills program. The new reduction schedule will be four levels (instead of two) of progressive percentage reduction in the family's TANF grant: 25 percent for the first level, 50 for the second, 75 for the third, and 100 for the fourth. Clients may prevent the 100 percent reduction by contacting the Department to re-engage on or before the end of the fourth level. This rule is also amended to separate the re-engagement and progressive disqualification levels for the REF program and align them with 45 CFR 400.82. This was previously addressed in OAR 461-193-0940 about disqualifications for NAES and RCSP. That rule is being repealed.

OAR 461-130-0335 about removing disqualifications and the effect on benefits is being amended to align the requirements for disqualified TANF clients with changes being made to OAR 461-130-0330 described above. This rule is also amended to separate the REF requirements for ending a disqualification and align them with federal requirements. Specifically, a disqualification ends in the REF program when the Department determines the individual is exempt

NOTICES OF PROPOSED RULEMAKING

or REF program benefits close for a reason other than because of a disqualification. Ending REF disqualifications was previously addressed in OAR 461-193-1230 about removing disqualifications for NAES and RCSP. That rule is being repealed.

OAR 461-135-0089 about demonstrating compliance with substance abuse and mental health requirements and restoring benefits is being amended to align the requirements for disqualified TANF clients with changes to the progressive disqualification benefit reduction schedule in OAR 461-130-0330 described above. This rule is also amended to remove reference to the REF program; these provisions are not applicable to that program because they do not comply with the federal disqualification requirements in 45 CFR 400.82.

OAR 461-135-0521 about job quit for SNAP applicants is being amended to include ABAWD (able-bodied adults without dependents) as clients subject to the rule which states that applicants are not eligible for SNAP benefits if they quit a job or reduced work hours in the 30 days prior to applying for SNAP or at any time while receiving SNAP. This makes permanent a temporary rule adopted on April 1, 2016.

OAR 461-145-0360 about motor vehicles is being amended to clarify how to determine the fair market value of an automobile, truck, or van. Specifically, Kelley Blue Book and similar publications are added as authorities that may be used to determine the "average trade-in value". Previously the rule required eligibility staff to use the NADA (National Automobile Dealers Association) Used Car Guide first and then if the vehicle was not listed, the Kelley Blue Book would be used, followed by a "similar publication".

OAR 461-155-0150 about child care eligibility standards, payments rates, and copays is being amended to state that families who use a child care provider with a Quality Rating and Improvement System (QRIS) star rating of 3, 4, or 5 are eligible for a reduced copay.

OAR 461-160-0410 about treatment of income when there are ineligible or disqualified group members in the SNAP program is being amended to state that if a member in a group is ineligible because of the ABAWD time limits, the income of the ineligible individual is prorated as described in the rule. This makes permanent a temporary rule adopted on April 1, 2016.

OAR 461-165-0010 and 461-195-0501 are being amended to prohibit the use of EBT (Electronic Benefit Transfer) cards at marijuana dispensaries and OAR 461-195-0901 is amended to state that benefits accessed at a marijuana dispensary is an overpayment.

OAR 461-165-0180 about child care provider eligibility requirements is being amended to clarify that providers are placed in failed status for failure to meet eligibility requirements in the rule that are not covered under the new suspended status and that while in failed status, the Department does not pay providers for child care at the site of a previously failed provider or at another site if a previously failed provider is involved in the child care operation, unless the Department determines that the reasons for the provider's failed status are not relevant to the new site. This makes permanent a temporary rule adopted on January 20, 2016. The rule is also amended to create a finding of suspended for child care providers who have failed to meet certain eligibility requirements that cannot be immediately remedied. Providers in suspended status are ineligible for payment for six months but may reapply after six months by submitting information to the Department for review. This makes permanent a temporary rule adopted on March 14, 2016. Lastly, unnecessary references to the Child Care Billing and Attendance Tracking (CCBAT) system are being removed.

OAR 461-175-0200 about general notice requirements, OAR 461-175-0220 about notice requirements for disqualifications, and OAR 461-175-0340 about notice requirements involving voluntary client actions are being amended to state that in the SNAP program, the Department sends a notice of termination when an individual signs an IPV (intentional program violation) waiver of hearing rights.

OAR 461-180-0135 about restoring benefits for ABAWD clients is being adopted to allow the Department to restore benefits to

ABAWD clients in the month after they reach the time limit without reapplying in certain circumstances. This makes permanent a temporary rule adopted on April 1, 2016.

OAR 461-190-0211 about support services is being amended to make minor language clarifications about when the Department pays for fuel costs for a privately-owned vehicle.

OAR 461-190-0231 about re-engagement is being amended to add that re-engagement includes an opportunity to follow-up on screenings for physical or mental health needs, substance abuse, domestic violence, or learning needs and that in the JOBS program, re-engagement includes an attempted home visit. This rule is also amended to include the REF re-engagement requirements which were previously addressed in OAR 461-193-0960 about re-engagement for NAES and RCSP. That rule is being repealed.

OAR 461-193-0010 about client responsibilities for NAES and RCSP is being repealed. This information is addressed in the general client responsibilities rule, OAR 461-105-0020.

OAR 461-193-0320 about the effective date for cash assistance in the Refugee Case Service Project (RCSP) is being amended to state that unless specified otherwise in the rule, the effective date is as provided for REF and TANF clients in OAR 461-180-0070.

In addition, non-substantive edits may be made to these rules to: ensure consistent terminology throughout self-sufficiency program rules and policies; make general updates consistent with current Department practices; update statutory and rule references; correct formatting and punctuation; improve ease of reading; and clarify Department rules and processes.

Rule text showing edits for the rules described above is available at http://www.dhs.state.or.us/policy/selfsufficiency/ar_proposed.htm.

Rules Coordinator: Kris Skaro

Address: Department of Human Services, Self-Sufficiency Programs, 500 Summer St. NE, E-48, Salem, OR 97301

Telephone: (503) 945-6067

Rule Caption: Amending rule relating to the resource limit in the ERDC program

Date:	Time:	Location:
6-20-16	10:00 a.m.	500 Summer St. NE, Rm. 255 Salem, OR 97301

Hearing Officer: Kris Skaro

Stat. Auth.: ORS 409.050, 411.060, 411.070

Other Auth.: Child Care and Development Block Grant (CCDBG) Act of 2014

Stats. Implemented: ORS 409.050, 409.610, 411.060, 411.070

Proposed Amendments: 461-135-0400, Rules in 461-045, 461-155-0150, 461-160-0010, 461-160-0015

Last Date for Comment: 6-24-16, 5 p.m.

Summary: OAR 461-135-0400 about specific requirements for the ERDC program; OAR 461-155-0150 about the child care eligibility standard, payments rates, and copayments; OAR 461-160-0010 about the use of resources in determining eligibility; and OAR 461-160-0015 about resource limits are being amended to implement a resource limit of \$1,000,000 for the ERDC program consistent with federal regulations.

Additional rules in OAR chapter 461, division 045 may be amended to conform how different types of resources are counted.

In addition, non-substantive edits may be made to these rules to: ensure consistent terminology throughout self-sufficiency program rules and policies; make general updates consistent with current Department practices; update statutory and rule references; correct formatting and punctuation; improve ease of reading; and clarify Department rules and processes.

Rule text showing edits for the rules described above is available at http://www.dhs.state.or.us/policy/selfsufficiency/ar_proposed.htm.

Rules Coordinator: Kris Skaro

Address: Department of Human Services, Self-Sufficiency Programs, 500 Summer St. NE, E-48, Salem, OR 97301

Telephone: (503) 945-6067

NOTICES OF PROPOSED RULEMAKING

Rule Caption: Expanding pilot project to provide assistance with Social Security disability benefits to eligible clients

Stat. Auth.: ORS 409.050, 410.070, 411.060, 411.070, 411.121, 411.404, 411.706, 411.816, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 410.010, 410.020, 410.050, 410.090, 411.060, 411.070, 411.121, 411.404, 411.704, 411.706, 411.816, 413.085, 414.685

Proposed Amendments: 461-125-0370

Proposed Repeals: 461-125-0370(T)

Last Date for Comment: 6-24-16, 5 p.m.

Summary: OAR 461-125-0370 about disability as the basis of need is being amended to change the eligibility criteria for a pilot project that allows clients to receive free assistance from the Department with Social Security disability applications and appeals. Under the previous rule, to qualify, clients must be receiving SNAP benefits. The rule is being amended to eliminate that requirement. To receive free assistance through the pilot project under the amended rule, an individual must:

- Have a disability under OAR 461-125-0370(1)(c);
- Receive benefits from one of the OCCS Medical Programs

(defined in OAR 461-001-0000); and

- Be served by an AAA or APD office in the cities of Albany, Baker City, Bend, Brookings, Burns, Canby, Coos Bay, Corvallis, Cottage Grove, Enterprise, Estacada, Eugene, Florence, Gold Beach, Hermiston, John Day, La Grande, La Pine, Madras, Milwaukie, North Bend, Ontario, Oregon City, Pendleton, Prineville, Redmond, Reedsport, Roseburg, The Dalles, or Toledo or Washington County.

This makes permanent a temporary rule adopted on May 13, 2016.

In addition, additional locations participating in the pilot may be added when the permanent rule is adopted and other non-substantive edits may be made to this rule to: ensure consistent terminology throughout self-sufficiency program rules and policies; make general updates consistent with current Department practices; update statutory and rule references; correct formatting and punctuation; improve ease of reading; and clarify Department rules and processes.

Rule text showing edits for the rules described above is available at http://www.dhs.state.or.us/policy/selfsufficiency/ar_proposed.htm.

Rules Coordinator: Kris Skaro

Address: Department of Human Services, Self-Sufficiency Programs, 500 Summer St. NE, E-48, Salem, OR 97301

Telephone: (503) 945-6067

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Department of Justice

Chapter 137

Rule Caption: Implementing 2016 SB 1532 to incorporate changes to minimum wage.

Stat. Auth.: ORS 25.270 to 25.290, 25.323 & 180.345

Stats. Implemented: ORS 25.270 to 25.290, 25.321-25.343

Proposed Amendments: 137-050-0715, 137-050-0750

Last Date for Comment: 6-24-16, 5 p.m.

Summary: OAR 137-050-0715 and 137-050-0750 are being amended to address the changes in minimum wage from 2016 SB 1532.

Please submit written comments to Lori Woltring, Policy Analyst, Division of Child Support, 1162 Court St NE Salem, Oregon 97301. Questions may be directed to that address or you may call 503.947.4367

Rules Coordinator: Carol Riches

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

Telephone: (503) 378-5987

Department of Public Safety Standards and Training Chapter 259

Rule Caption: Amends rule regarding private security executive/supervisory manager licensure/responsibilities to reflect current basic training requirements.

Stat. Auth.: ORS 181A.870

Stats. Implemented: ORS 181A.870

Proposed Amendments: 259-060-0130

Last Date for Comment: 6-21-16, Close of Business

Summary: On March 24, 2015, DPSST filed a permanent rule change that updated the minimum number of hours required for the basic training course for initial certification as an unarmed private security professional from 12 hours (eight hours of classroom and four hours of assessments) to 14 hours total.

Language in OAR 259-060-0130 (Private Security Executive and Supervisory Manager Licensure and Responsibilities) was not updated during the 2015 basic training rule filing. The current text refers to eight hours of basic classroom instruction and an exam as a prerequisite to obtaining a manager's license. This proposed rule change amends the language to address this issue.

Rules Coordinator: Jennifer Howald

Address: Department of Public Safety Standards and Training, 4190 Aumsville Hwy SE, Salem, OR 97317

Telephone: (503) 378-2432

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Rule Caption: Private security provider responsibilities for temporary work permits and application for certification/licensure regarding copies/electronic submission.

Stat. Auth.: ORS 181A.870

Stats. Implemented: ORS 181A.870

Proposed Amendments: 259-060-0015, 259-060-0025, 259-060-0030

Last Date for Comment: 6-21-16, Close of Business

Summary: Oregon Revised Statute (ORS) 181A.995(1)(b) (formerly ORS 181.991) states, "A person commits a Class A violation if the person provides private security services as a private security professional without being certified to do so under ORS 181A.870 and having in the person's possession the certificate issued under ORS 181A.870."

OAR 259-060-0030 requires that employees with temporary work permits present a copy of their permit (Form PS-20) to any DPSST staff member, law enforcement officer or Oregon Liquor Control Commission agent upon demand, or any other person, upon reasonable request. However, there is currently no requirement in OAR 259-060-0015 that private security providers present their certification or licensure upon request. This proposed rule change corrects this issue.

Additionally, OAR 259-060-0030 requires an original signature on all three pages of the Form PS-20 (Private Security Services Provider Temporary Work Permit), as well as the Form PS-9 (Private Security Waiver for Reciprocity). This requirement is causing an abundance of incomplete or invalid forms being submitted to the Department. To eliminate this issue, this proposed rule would allow the Department to accept copies, faxes, or emailed PDF's of the Form PS-20 and the Form PS-9. Language has also been added to address replacing a temporary work permit, as well as housekeeping for consistency throughout the rule set.

With the intention of the proposed rule language to allow for electronic submission of the Form PS-20 (Temporary Work Permit) and the Form PS-9 (Private Security Waiver for Reciprocity) by fax or by email, the proposed rule language that referenced the requirement to mail the form to DPSST has been amended throughout to state "...must be submitted electronically or mailed and postmarked to the Department...".

Rules Coordinator: Jennifer Howald

NOTICES OF PROPOSED RULEMAKING

Address: Department of Public Safety Standards and Training, 4190 Aumsville Hwy SE, Salem, OR 97317
Telephone: (503) 378-2432

Rule Caption: Amends rule language revising the definition of "Organized Event" and adding the definition of "Premises".

Stat. Auth.: ORS 181A.840 & 181A.870

Stats. Implemented: ORS 181A.840 & 181A.870

Proposed Amendments: 259-060-0010

Last Date for Comment: 6-21-16, Close of Business

Summary: After approval by the Private Security and Investigator Policy Committee (PSIPC), DPSST filed a temporary rule on May 19, 2015, to help alleviate confusion regarding the crowd management exemption during the 2015 summer event season. While the temporary rule was in place, DPSST proceeded with the proposed and permanent rule filing process and the new rule language was filed permanently on December 22, 2015.

Following the temporary rule and the permanent rule filing, it became apparent that additional clarification was needed for the definition of "Organized Event." The current definition states, "Organized Event" means a scheduled, noteworthy occurrence coordinated by a formal or official organization." Constituents have submitted questions regarding the terms "noteworthy" and "formal", as well as other concerns.

Further, during the 2012 legislative session, Senate Bill 1524 passed, which updated the definition of "private security services" in ORS 181A.840(8)(d) to include the language "...with respect to a licensee of the Oregon Liquor Control Commission, controlling access to premises at an entry to the premises or any portion of the premises where minors are prohibited." The term "Premises" was not defined in statute. Since this legislative change, constituents have expressed concern regarding what the term premises includes in respect to event boundaries.

On January 13, 2016, the Event Security/Hospitality Subcommittee met and discussed the crowd management exemption and issues that DPSST and constituents have encountered regarding the definition of "Organized Event" after the temporary rule and the permanent rule change filed December 22, 2015. The subcommittee also discussed the problems regarding the lack of definition for premises. After much review, the subcommittee agreed to recommend revising the definition of "Organized Event" and to add the definition of "Premises" to OAR 259-060-0010.

Rules Coordinator: Jennifer Howald

Address: Department of Public Safety Standards and Training, 4190 Aumsville Hwy SE, Salem, OR 97317

Telephone: (503) 378-2432

Department of Revenue Chapter 150

Rule Caption: Property Tax: Property Valuation, Rezoned Property, Central Assessment, Ballot Measures, Exemptions, Deferral

Date:	Time:	Location:
6-23-16	10 a.m.	Revenue Bldg., Fishbowl Conference Rm. 955 Center St. NE Salem, OR 97301

Hearing Officer: Marcus Cridge

Stat. Auth.: ORS 305.100, 308.156, 308.205

Stats. Implemented: ORS 280.075, 307.126, 307.455, 307.475, 308.156, 308.671

Proposed Amendments: 150-280.075, 150-307.455, 150-307.475

Proposed Ren. & Amends: 150-307.126 to 150-308.671, 150-308.156(5)-(B) to 150-308.156-(B)

Last Date for Comment: 6-23-16, 5 p.m.

Summary: 150-280.075 — New requirement for local ballot measures created by 2015 HB 2635.

150-307.126 amended and renumbered to 150-308.671 — To reflect changes made in 2015 by SB 611.

150-307.455 — A law change in 2015 expanded the exemption on food processing equipment to include equipment used in the processing of grains, bakery products, dairy products, and eggs.

150-307.475 — Remove reference to repealed ORS 308.428.

150-308.156(5)-(B) amended and renumbered to 150-308.156-(B) — To provide guidance as to what constitutes "rezoning and use consistent with the rezoning" when recalculating MAV.

Rules Coordinator: Lois Williams

Address: Department of Revenue, 955 Center St. NE, Salem, OR 97301

Telephone: (503) 945-8029

Department of State Police, Office of State Fire Marshal Chapter 837

Rule Caption: Adopt, by reference, the Hazardous Substance Possession Fee schedule effective July 1, 2016.

Date:	Time:	Location:
6-22-16	10 a.m.	3565 Trelstad Ave. SE Salem, OR 97317

Hearing Officer: Kristin Schafer

Stat. Auth.: ORS 453.367

Stats. Implemented: ORS 453.307–453.414

Proposed Amendments: 837-090-1030

Last Date for Comment: 6-22-16, 1 p.m.

Summary: Fee schedules are established by Office of State Fire Marshal for any person possessing a hazardous substance at a facility in this state. This rule amendment adopts, by reference, the Hazardous Substance Possession Fee schedule effective July 1, 2016.

Rules Coordinator: Valerie Abrahamson

Address: Department of State Police, Office of State Fire Marshal, 4760 Portland Rd. NE, Salem, OR 97305-1760

Telephone: (503) 934-8211

Department of Transportation, Motor Carrier Transportation Division Chapter 740

Rule Caption: Amendment of federal safety and hazardous materials transportation regulations affecting motor carriers

Stat. Auth.: ORS 184.616, 184.619, 823.011, 825.232, 825.252, 825.258

Stats. Implemented: ORS 823.061, 825.210, 825.250, 825.252, 825.258

Proposed Amendments: 740-100-0010, 740-100-0065, 740-100-0070, 740-100-0080, 740-100-0085, 740-100-0090, 740-110-0010

Last Date for Comment: 6-21-16, Close of Business

Summary: These rules contain the annual adoption of federal motor carrier safety and hazardous materials transportation regulations. In addition, these rules cover the adoption of international standards related to driver, vehicle and hazardous materials out-of-service violations. The changes are necessary to ensure Oregon's motor carrier safety; hazardous materials; and driver, vehicle and hazardous materials out-of-service requirements are current with national and international standards.

Rules Coordinator: Lauri Kunze

Address: Department of Transportation, Motor Carrier Transportation Division, 355 Capitol St. NE, MS 51, Salem, OR 97301

Telephone: (503) 986-3171

Rule Caption: Annual re-adoption of IRP, HVUT and IFTA regulations

Stat. Auth.: ORS 184.616, 184.619, 823.011, 826.003

Stats. Implemented: ORS 803.370(5), 825.490, 825.494, 825.555, 826.005, 826.007

NOTICES OF PROPOSED RULEMAKING

Proposed Amendments: 740-200-0010, 740-200-0020, 740-200-0040

Last Date for Comment: 6-21-16, Close of Business

Summary: The proposed amendment constitutes an adoption of the rules of the International Registration Plan (IRP) to the date of January 1, 2016. Title 26 Code of Federal Regulations Part 41 (HVUT) requires the State to confirm proof of payment of the tax, and require proof of payment by the State as a condition of issuing a registration for a highway motor vehicle. The amendment of OAR 740- 740-200-0020 adopts HVUT and amendments with the effective date of January 1, 2016, and ensures Oregon remains current with national commercial motor vehicle registration standards. International Fuel Tax Agreement (IFTA) and associated material are applicable to Oregon-based motor carriers who participate in IFTA as a way to report and pay fuel tax to other jurisdictions. The revision to OAR 740-200-0040 adopts the most recent version of IFTA and associated material as the procedures and guidelines for Oregon-based IFTA participants with the effective date of January 1, 2016 to ensure Oregon remains current with the international IFTA standards.

Rules Coordinator: Lauri Kunze

Address: Department of Transportation, Motor Carrier Transportation Division, 355 Capitol St. NE, MS 51, Salem, OR 97301

Telephone: (503) 986-3171

**Employment Department
Chapter 471**

Rule Caption: Definition of the Minimum Hourly Wage for the purposes of Unemployment Insurance

Date:	Time:	Location:
6-29-16	2 p.m.	Oregon Dept. of Veteran's Affairs Auditorium 700 Summer St. NE Salem, OR 97301

Hearing Officer: Staff

Stat. Auth.: ORS 657.610

Stats. Implemented: ORS 657.150

Proposed Amendments: 471-030-0017

Last Date for Comment: 6-29-16, 5 p.m.

Summary: Amending the rule for "Defining and Allocating Remuneration, Holidays, and Vacations" to include a definition of "Hourly Minimum Wage". For the purposes of ORS 657.150(6)(a), the term "minimum hourly wage" means the minimum wage rate as identified in section (2) of Senate Bill 1532 (2016):

(2) If the employer is located within the urban growth boundary of a metropolitan service district organized under ORS chapter 268, except as provided by ORS 652.020 and the rules of the commissioner issued under ORS 653.030 and 653.261, for each hour of work time that the employee is gainfully employed, no employer shall employ or agree to employ any employee at wages computed at a rate lower than:

- (a) From July 1, 2016, to June 30, 2017, \$9.75.
- (b) From July 1, 2017, to June 30, 2018, \$11.25.
- (c) From July 1, 2018, to June 30, 2019, \$12.
- (d) From July 1, 2019, to June 30, 2020, \$12.50.
- (e) From July 1, 2020, to June 30, 2021, \$13.25.
- (f) From July 1, 2021, to June 30, 2022, \$14.
- (g) From July 1, 2022, to June 30, 2023, \$14.75.
- (h) After June 30, 2023, an employer described in this subsection shall pay an employee no less than \$1.25 per hour more than the minimum wage determined under subsection (1)(j) of this section.

Written comments may be submitted via e-mail to OED_Rules@oregon.gov by 5:00 p.m., June 29, 2016. All comments received will be given equal consideration before the Department proceeds with the permanent rulemaking.

Rules Coordinator: Cristina Koreski

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

Telephone: (503) 947-1471

**Oregon Department of Aviation
Chapter 738**

Rule Caption: Rules to Establish the Aviation System Action Program (ASAP) Fund

Stat. Auth.: ORS 835.035, 835.040, 835.112, OL 2015 c.700, Sec. 7(2)

Stats. Implemented: ORS 835.015, 835.025, 836.015, 836.070, 319.020, OL 2015 c. 700, Sec. 7 & 8

Proposed Adoptions: 738-124-0010, 738-124-0015, 738-124-0020, 738-124-0025, 738-124-0030, 738-124-0035, 738-124-0040, 738-124-0045

Proposed Repeals: 738-124-0010(T), 738-124-0015(T), 738-124-0020(T), 738-124-0025(T), 738-124-0030(T), 738-124-0035(T), 738-124-0040(T), 738-124-0045(T)

Last Date for Comment: 9-30-16, Close of Business

Summary: HB 2075 (2015) mandates the Department of Aviation (ODA) to adopt rules in order to administer financial assistance programs for aviation-related purposes throughout the State of Oregon funded by the fuels tax revenue derived from the Aviation System Action Program (ASAP) Fund. ODA has temporary rules in place to guide the overall program until permanent administrative rules can be adopted. The temporary rules will be in effect from 05/11/2016 through 11/04/2016.

Rules Coordinator: Lauri Kunze

Address: Oregon Department of Aviation, 3040 25th St. SE, Salem, OR 97302-1125

Telephone: (503) 986-3171

**Oregon Department of Education
Chapter 581**

Rule Caption: School district technical assistance for facilities assessments, long-range facility plans, and seismic assessments.

Date:	Time:	Location:
6-22-16	10 a.m.	200A, 255 Capital St. NE Salem, OR

Hearing Officer: Emily Nazarov

Stat. Auth.: Sections 2 and 5, Chapter 783, Oregon Laws 2015 (Enrolled SB 447).

Stats. Implemented: Section 5, Chapter 783, Oregon Laws 2015 (Enrolled SB 447)

Proposed Adoptions: 581-027-0030, 581-027-0035, 581-027-0040, 581-027-0045, 581-027-0050

Proposed Amendments: 581-027-0005

Last Date for Comment: 6-23-16, 9 a.m.

Summary: The Department of Education is setting standards and procedures for the distribution of technical assistance grants to school districts for facilities assessments, long-range facility plans, and seismic assessments. The grants are up to \$20,000 for facilities assessments and up to \$25,000 each for long-range facility plans and seismic assessments. All districts qualify for these technical assistance grants.

The rules also establish requirements to become certified contractor for purposes of technical assistance grants.

Rules Coordinator: Cindy Hunt

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

Telephone: (503) 947-5651

Rule Caption: Post Graduate Scholar Program

Date:	Time:	Location:
6-22-16	10 a.m.	255 Capitol St. NE, 200A Salem, OR

Hearing Officer: Emily Nazarov

Stat. Auth.: Enrolled SB 1537 (2016)

Stats. Implemented: Enrolled SB 1537 (2016)

Proposed Adoptions: 581-021-0576, 581-021-0579, 581-021-0582

Last Date for Comment: 6-23-16, 9 a.m.

NOTICES OF PROPOSED RULEMAKING

Summary: SB 1537 established a new program that school districts may choose to participate in called the post graduate scholar program. The rules establish the criteria for implementing post-graduate scholar programs and eligibility of students participating in these programs. The rules also define key terms used in the program.

Rules Coordinator: Cindy Hunt

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

Telephone: (503) 947-5651

Rule Caption: Public charter schools opening school or facility within another district

Date:	Time:	Location:
6-22-16	10 a.m.	255 Capitol St. NE, 200A Salem, OR

Hearing Officer: Emily Nazarov

Stat. Auth.: ORS 326.051 & 338.025

Stats. Implemented: ORS 332.158

Proposed Adoptions: 581-026-0600

Last Date for Comment: 6-23-16, 9 a.m.

Summary: Creates procedure for a school district to file a complaint against a public charter school that has opened a school or facility within school district without providing the school district written notice prior to the first day students attend classes at the school or receive instruction at the facility.

Rules Coordinator: Cindy Hunt

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

Telephone: (503) 947-5651

Oregon Department of Education, Early Learning Division Chapter 414

Rule Caption: Rules for inspection of exempt family-home and center-based child care providers accepting federal subsidy.

Stat. Auth.: ORS 329A.505

Other Auth.: ORS 326.425

Stats. Implemented: ORS 329A.505

Proposed Adoptions: Rules in 414-175, 414-180

Last Date for Comment: 6-16-16, 5 p.m.

Summary: The Child Care Development Block Grant Act of 2014 requires the Early Learning Division to begin annual health and safety inspections of license exempt Child Care providers who accept federal subsidies. ORS 329A.505 authorizes the Office of Child Care to conduct on-site inspections when such inspections are required under federal Law and authorizes the Office of Child Care to require improvements or corrections necessary to bring provider into compliance. The rules establish conditions and standards for compliance and sets forth the Early Learning Division's Office of Child Care (OCC) procedures and requirements for the inspection of exempt child care facilities subject to and in accordance with federal and state laws governing child care providers accepting subsidies.

Rules Coordinator: Lisa Pinheiro

Address: Oregon Department of Education, Early Learning Division, 775 Summer St. NE, Suite 300, Salem, OR 97301

Telephone: (503) 910-8135

Oregon Film and Video Office Chapter 951

Rule Caption: New proposed rules for the Indigenous Oregon Production Investment Fund Film and Media Incentive Program.

Stat. Auth.: ORS 284.367 & 284.368

Stats. Implemented: ORS 284.367 & 284.368

Proposed Amendments: Rules in 951-006

Last Date for Comment: 6-20-16, 5 p.m.

Summary: Adds expense reimbursement for local filmmakers and local media production services companies to the iOPIF film and

media incentive program as authorized by ORS 284.368(3) and adds crediting provisions.

Rules Coordinator: Nathan Cherrington

Address: Oregon Film and Video Office, 123 NE 3rd Ave., Suite 210, Portland, OR 97232

Telephone: (971) 254-4020

Oregon Health Authority, Health Licensing Office Chapter 331

Rule Caption: Individuals seeking Board of Athletic Trainer renewals can attest to having current CPR certification.

Stat. Auth.: ORS 688.715

Stats. Implemented: ORS 688.715

Proposed Amendments: 331-130-0011

Last Date for Comment: 6-28-16, 12 p.m.

Summary: Individuals seeking renewal of certification from the Board of Athletic Trainers can attest to having current cardiopulmonary resuscitation certification.

Rules Coordinator: Samantha Patnode

Address: Health Licensing Office, 700 Summer St. NE, Suite 320, Salem, OR 97301-1287

Telephone: (503) 373-1917

Oregon Health Authority, Health Policy and Analytics Chapter 409

Rule Caption: Establishes rules relating to Primary Care Services Reporting by Coordinated Care Organizations.

Date:	Time:	Location:
6-16-16	10 a.m.	500 Summer St. NE, Rm. 554 Salem, OR 97301

Hearing Officer: Zarie Haverkate

Stat. Auth.: ORS 413.042; Section 1 to 4, Chapter 575, Oregon Laws 2015; and Section 7, Chapter 26, Oregon Laws 2016

Stats. Implemented: Section 1 to 4, Chapter 575, Oregon Laws 2015; and Section 7, Chapter 26, Oregon Laws 2016

Proposed Adoptions: 409-027-0005, 409-027-0015, 409-027-0025

Last Date for Comment: 6-20-16, 5 p.m.

Summary: The Oregon Health Authority needs to adopt rules to implement the requirements of House Bill 4017 (2016 legislature) which amended Chapter 575, Section 3 of 2015 Oregon Laws (SB 231) requiring non-claims based primary care expenditures and non-claims based total health care expenditures must be reported to the Oregon Health Authority by Coordinated Care Organizations. These rules define the type of providers and data to be reported to the Authority by October 1 of each year through December 31, 2018.

A copy of the proposed administrative rule is located on our rules website at: <http://www.oregon.gov/OHA/OHPR/pages/rulemaking/index.aspx>.

Rules Coordinator: Zarie Haverkate

Address: Oregon Health Authority, Health Policy and Analytics, 500 Summer St. NE, E-65, Salem, OR 97301

Telephone: (503) 931-6420

Rule Caption: Amending the All Payer All Claims data reporting program rules

Date:	Time:	Location:
6-16-16	11 a.m.	500 Summer St. NE, Rm. 554 Salem, OR

Hearing Officer: Zarie Haverkate

Stat. Auth.: ORS 442.464, 442.466 & 442.993

Stats. Implemented: ORS 442.464, 442.466 & 442.993

Proposed Amendments: 409-025-0100, 409-025-0110, 409-025-0120, 409-025-0130, 409-025-0150

Last Date for Comment: 6-20-16, 5 p.m.

NOTICES OF PROPOSED RULEMAKING

Summary: The Oregon Health Authority proposes to amend these rules in order to update language and align data collection requirements with program needs, OHA priorities, and statutory requirements. The Authority is adding two new required appendices. The Authority is adding Appendix G in order to capture every Billing Provider or Organization with a place of business in Oregon, and account for all primary care and non-primary care related dollars disbursed to each of them by the type of payment arrangements in place. The goal of Appendix H is to collect summary data pertaining to Appendix G, such as record counts, which will be used to confirm that the data file is received and loaded correctly.

A copy of the proposed rule changes, along with Appendices and Schedule A are available on the rulemaking website at: <http://www.oregon.gov/OHA/OHPR/pages/rulemaking/index.aspx>.

Rules Coordinator: Zarie Haverkate

Address: Oregon Health Authority, Health Policy and Analytics, 500 Summer St. NE, E-65, Salem, OR 97301

Telephone: (503) 931-6420

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Oregon Health Authority,

Health Systems Division: Medical Assistance Programs

Chapter 410

Rule Caption: Preferred Drug List Requirements

Date:	Time:	Location:
6-15-16	10:30 a.m.	500 Summer St. NE, Rm. 137B Salem, OR 97301

Hearing Officer: Sandy Cafourek

Stat. Auth.: ORS 413.042, 414.615, 414.625, 414.635 & 414.651

Stats. Implemented: ORS 414.610-414.685

Proposed Amendments: 410-141-3070

Last Date for Comment: 6-17-16, 5 p.m.

Summary: The Division's rule requires CCOs to demonstrate that they are able to provide coordinated care service efficiently, effectively, and economically. This rule provides CCOs with the framework for the Preferred Drug List Requirements under the Oregon Health Plan in the managed care environment.

Rules Coordinator: Sandy Cafourek

Address: Oregon Health Authority, Health Systems Division: Medical Assistance Programs, 500 Summer St. NE, Salem, OR 97301

Telephone: (503) 945-6430

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Rule Caption: Amending PDL November 19, 2015, January 28, 2016 DUR/P&T Action

Date:	Time:	Location:
6-15-16	10:30 a.m.	500 Summer St. NE, Rm. 137B Salem, OR 97301

Hearing Officer: Sandy Cafourek

Stat. Auth.: ORS 413.032, 413.042, 414.065, 414.325, 414.330-414.414, 414.312 & 414.316

Stats. Implemented: ORS 414.065; 414.325, 414.334, 414.361, 414.369, 414.371, 414.353 & 414.354

Proposed Amendments: 410-121-0030

Proposed Repeals: 410-121-0030(T)

Last Date for Comment: 6-17-16, 5 p.m.

Summary: The Pharmaceutical Services Program administrative rules (Division 121) govern Division payments for services provided to certain clients. The Division needs to amend rules as follows:

410-121-0030:

Preferred:

Budesonide

Exenatide Pen Injector

Guaifenesin (Mucinex™)

Daclatasvir Dihydrochloride

Elviteg/ Cobi/ Emtric/ Tenofo Ala (Genvoya™)

Rivaroxaban (Xarelto™)

Insulin Lispro Protamin / Lispro

Non-Preferred:

Ciclesonide Nasal Spray/ Pump
Ombita/ Paritap/ Riton/ Dasabuvir (Viekira Pak™)
Amantadine HCL
Rimantadine HCL
Bupropion HCL
Amphetamine Sulfate
Tobramycin
TOBI

Due to changes in supplemental rebate contracts, the following changes were made:

Removed Pegasys™

Added Sovaldi™

Added Evotaz™

Added Eliquis™

Added Pradaxa™

Removed AndroGel™

Added Janumet™

Removed Humalog™

Removed Humalog Mix 50/50™

Removed Humalog Mix 75/25™

Removed Humulin R™

Removed Humulin N™

Removed Humulin 70/30™

Removed Makena™

Removed Apriso™

Removed Exelon™

Removed Capaxone™

Removed Avonex™

Removed Betaseron™

Removed Stalevo™

Removed Zubsolv™

Removed Bethkis™

Added Renagel™

Rules Coordinator: Sandy Cafourek

Address: Oregon Health Authority, Health Systems Division: Medical Assistance Programs, 500 Summer St. NE, Salem, OR 97301

Telephone: (503) 945-6430

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Rule Caption: Amending Prior Authorization Approval Criteria Guide

Date:	Time:	Location:
6-15-16	10:30 a.m.	500 Summer St. NE, Rm.137B Salem, OR 97301

Hearing Officer: Sandy Cafourek

Stat. Auth.: ORS 413.032, 413.042, 414.065, 414.325, 414.330-414.414, 414.312 & 414.316

Stats. Implemented: ORS 414.065, 414.325, 414.334, 414.361, 414.369, 414.371, 414.353 & 414.354

Proposed Amendments: 410-121-0040

Proposed Repeals: 410-121-0040(T)

Last Date for Comment: 6-17-16, 5 p.m.

Summary: The Pharmaceutical Services Program administrative rules (Division 121) govern Division payments for services provided to certain clients. The Division needs to amend rules as follows: The Authority is amending this rule to update the Oregon Medicaid Fee for Service Prior Authorization Criteria Guide found at <http://www.oregon.gov/oha/healthplan/Pages/pharmacy-policy.aspx> based on the P&T (Pharmacy and Therapeutic) Committee recommendations.

Rules Coordinator: Sandy Cafourek

Address: Oregon Health Authority, Health Systems Division: Medical Assistance Programs, 500 Summer St. NE, Salem, OR 97301

Telephone: (503) 945-6430

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Rule Caption: Timeframes for Seeing, Referring or Providing Services to OHP Fee-for-Service Pregnant Clients

NOTICES OF PROPOSED RULEMAKING

Date: 6-15-16
Time: 10:30 a.m.
Location: 500 Summer St. NE, Rm. 137B
Salem, OR 97301

Hearing Officer: Sandy Cafourek
Stat. Auth.: ORS 413.042 & 414.065
Other Auth.: 2015 HB 3464
Stats. Implemented: ORS 414.065

Proposed Adoptions: 410-123-1510
Proposed Repeals: 410-123-1510(T)

Last Date for Comment: 6-17-16, 5 p.m.

Summary: The rule implements Sections 2 and 4 of House Bill 3464, which passed in 2015. It creates a standard for access to dental care for pregnant women who receive Oregon Health Plan benefits through the fee-for-service delivery system that is as good as or better than the standard for clients who receive benefits through the managed care delivery system, as measured by how long it takes for a client to receive a dental appointment.

Rules Coordinator: Sandy Cafourek
Address: Oregon Health Authority, Health Systems Division: Medical Assistance Programs, 500 Summer St. NE, Salem, OR 97301
Telephone: (503) 945-6430

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Rule Caption: Enroll and Reimburse Specialty Hospitals Classified as Long-Term Acute Care Hospitals

Date: 6-15-16
Time: 10:30 a.m.
Location: 500 Summer St. NE, Rm. 137B
Salem, OR 97301

Hearing Officer: Sandy Cafourek
Stat. Auth.: ORS 413.042 & 414.065
Stats. Implemented: ORS 414.065

Proposed Amendments: 410-120-0000, 410-125-0080, 410-125-0141, 410-125-0400

Last Date for Comment: 6-17-16, 5 p.m.

Summary: The Oregon Health Authority (Authority) is proposing to reimburse specialty hospitals classified as Long-Term Acute Care Hospitals (LTACH) that are eligible for reimbursement for services that meet the definition at 42CFR 440.10. LTACH furnish extended medical and rehabilitative care to individuals with clinically complex problems such as multiple acute or chronic conditions that need hospital-level care for relatively extended periods. To qualify as a LTACH for payment, a facility must meet Medicare's conditions of participation for acute care hospitals.

Rules Coordinator: Sandy Cafourek
Address: Oregon Health Authority, Health Systems Division: Medical Assistance Programs, 500 Summer St. NE, Salem, OR 97301
Telephone: (503) 945-6430

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Rule Caption: Defines Medicament in the Context of Dental Rules

Date: 6-15-16
Time: 10:30 a.m.
Location: 500 Summer St. NE, Rm. 137B
Salem, OR 97301

Hearing Officer: Sandy Cafourek
Stat. Auth.: ORS 414.065
Stats. Implemented: ORS 414.065
Proposed Amendments: 410-123-1060
Last Date for Comment: 6-17-16, 5 p.m.

Summary: The Authority needs to define "medicament" in program rules to clarify that the word is being used in alignment with existing industry standards.

Rules Coordinator: Sandy Cafourek
Address: Oregon Health Authority, Health Systems Division: Medical Assistance Programs, 500 Summer St. NE, Salem, OR 97301
Telephone: (503) 945-6430

Rule Caption: Update Reference to Current Covered and Non-Covered Dental Services Document, Incorporate Changes and Corrections

Date: 6-15-16
Time: 10:30 a.m.
Location: 500 Summer St. NE, Rm. 137B
Salem, OR 97301

Hearing Officer: Sandy Cafourek
Stat. Auth.: ORS 413.042 & 414.065
Stats. Implemented: ORS 414.065
Proposed Amendments: 410-123-1260
Proposed Repeals: 410-123-1260(T)

Last Date for Comment: 6-17-16, 5 p.m.

Summary: The amendment of OAR 410-123-1260 is needed to align the administrative rule to reflect recent changes to the Prioritized List of Health Services and the American Dental Association's (ADA) Code on Dental Procedures and Nomenclature (CDT Codes). Effective January 1, 2016, the Health Evidence Review Commission (HERC) added five oral health procedure codes to funded lines of the Prioritized List of Health Services. Four of these codes are either diagnostic or are payable dependent on other codes. The HERC also added a guideline to one of the codes, which this amendment reflects. In addition, the ADA deleted five CDT Codes that were on the prioritized list. Those changes are reflected in this amendment. The Authority needs to spell out in rule how the Oregon Health Plan will cover a newly opened CDT code. This will allow dentists to bill for two yearly applications of silver diamine fluoride, and the rule outlines exceptions.

Rules Coordinator: Sandy Cafourek
Address: Oregon Health Authority, Health Systems Division: Medical Assistance Programs, 500 Summer St. NE, Salem, OR 97301
Telephone: (503) 945-6430

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Rule Caption: Amend CCO Enrollment and Disenrollment Rules Aligning Current Practices and Pregnancy Enrollment Exemption Processes

Date: 6-15-16
Time: 10:30 a.m.
Location: 500 Summer St. NE, Rm. 137B
Salem, OR 97301

Hearing Officer: Sandy Cafourek
Stat. Auth.: ORS 413.032, 413.042, 414.615, 414.625, 414.635 & 414.651
Stats. Implemented: ORS 414.610-414.685
Proposed Amendments: 410-141-3060, 410-141-3080
Proposed Repeals: 410-141-3060(T), 410-141-3080(T)
Last Date for Comment: 6-17-16, 5 p.m.

Summary: The Division is amending OAR 410-141-3060 and 410-141-3080 to align these CCO rules reflecting current enrollment and disenrollment practices and to update them as they relate to the most recent pregnancy enrollment exemption protocols.

Rules Coordinator: Sandy Cafourek
Address: Oregon Health Authority, Health Systems Division: Medical Assistance Programs, 500 Summer St. NE, Salem, OR 97301
Telephone: (503) 945-6430

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Rule Caption: Definition Addition of Managed Care Entity (MCE)

Date: 6-15-16
Time: 10:30 a.m.
Location: 500 Summer St. NE, Rm. 137B
Salem, OR 97301

Hearing Officer: Sandy Cafourek
Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 414.065
Proposed Amendments: 410-141-0000
Last Date for Comment: 6-17-16, 5 p.m.

Summary: In order to find a singular term that could be used to represent all plan types in Medicaid rule language and in an effort to be compliant with the term, the Authority sought guidance from CMS with particular consideration given to the new managed care rules.

NOTICES OF PROPOSED RULEMAKING

The response received from CMS: To your question, Managed Care Entity (MCE) is a definition that can be used to encompass multiple organizations, plans, etc., (in your/Oregon's case CCO, DCO, MHO). Managed Care Entity is currently defined at 42 CFR 457.10: Managed care entity (MCE) means an entity that enters into a contract to provide services in a managed care delivery system including, but not limited to, managed care organizations, prepaid health plans, and primary care case managers. Link to 42 CFR 457.10: http://www.ecfr.gov/cgi-bin/text-idx?SID=c5cba4e2e28a4c186d3c4a075f239285&mc=true&node=se42.4.457_110&rgn=div8. It is the Authority's intent to use the term "managed care entity (MCE)" starting with OAR 410-141-0000 to house the definition referenced above. There have also been two cross references directing the reader to OAR 410-120-0000 added for the terms "client" and "member."

Rules Coordinator: Sandy Cafourek

Address: Oregon Health Authority, Health Systems Division: Medical Assistance Programs, 500 Summer St. NE, Salem, OR 97301

Telephone: (503) 945-6430

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Rule Caption: Managed Care Entity (MCE) Billing and Payment

Date:	Time:	Location:
6-15-16	10:30 a.m.	500 Summer St. NE, Rm. 137B Salem, OR 97301

Hearing Officer: Sandy Cafourek

Stat. Auth.: ORS 413.042, 414.065, 414.615, 414.625, 414.635 & 414.651

Stats. Implemented: ORS 414.065 & 414.610-414.685

Proposed Amendments: 410-141-3420

Proposed Repeals: 410-141-0420

Last Date for Comment: 6-17-16, 5 p.m.

Summary: The Division's rule requires Managed Care Entities (MCEs) to demonstrate that they are able to provide coordinated care services efficiently, effectively, and economically. This is the first OHP managed care rule to consolidate the MCE requirements for billing and payment into one administrative rule. This is also the first OHP managed care rule to utilize the term Managed Care Entities (MCE) when making collective reference to those managed care plans providing the delivery system under the Oregon Health Plan. The Division proposes "Managed care entity (MCE)" means an entity that enters into a contract to provide services in a managed care delivery system including, but not limited to, managed care organizations, prepaid health plans, and primary care case managers. Revisions to language have been made in the following areas:

- Clarifying the four-month billing requirement;
- Specifying separate plan type requirements as applicable;
- Aligning the pharmacy preauthorization timeline with 410-141-3070 Preferred Drug List Requirements;
- Updating claim submission timeframes with CFR and the 2016 contracts;
- Clarifying school-based health service considerations; and
- Updating A and B Hospital payment methodology language in order to align with current practices.

Rules Coordinator: Sandy Cafourek

Address: Oregon Health Authority, Health Systems Division: Medical Assistance Programs, 500 Summer St. NE, Salem, OR 97301

Telephone: (503) 945-6430

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Rule Caption: Update International Classification of Diseases Coding from ICD-9 to ICD-10 and Name Changes

Stat. Auth.: ORS 413.042, 414.065 & 414.707

Stats. Implemented: ORS 414.025, 414.065, 414.152, 414.707 & 688.135

Proposed Amendments: 410-120-0000

Last Date for Comment: 6-17-16, 5 p.m.

Summary: Currently ICD-9 is the International Classification of Diseases that is used by providers to input diagnosis codes on claims. Effective October 1, 2015 the coding will change to ICD-10. The

Authority needs to amend and update these rules to reflect the change to ICD-10. The transition to ICD-10 is required for everyone covered by the Health Insurance Portability Accountability Act (HIPAA). The change to ICD-10 does not affect CPT coding for outpatient procedures and physician services. Changing Division of Medical Assistance Programs to Health Systems Division.

Rules Coordinator: Sandy Cafourek

Address: Oregon Health Authority, Health Systems Division: Medical Assistance Programs, 500 Summer St. NE, Salem, OR 97301

Telephone: (503) 945-6430

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Rule Caption: Align with Department of Human Services OAR Chapter 461 Rules

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 413.042 & 414.065

Proposed Amendments: 410-120-0006

Last Date for Comment: 6-17-16, 5 p.m.

Summary: In coordination with the Department of Human Services' (Department) revision of rules established in OAR chapter 461 for all overpayment, personal injury liens, and estate administration, the Division is amending OAR 410-120-0006 to assure that the Division's rule aligns with and reflects information found in the Department's amended rules. In OAR 410-120-0006, the Division adopts and incorporates Department rules and must update OAR 410-120-0006 accordingly. The Division is amending this rule that incorporates rules established in OAR Chapter 461 for all overpayment, personal injury liens, and estate administration for Authority programs covered under OAR 410-200. References to OAR Chapter 461 in contracts of the Authority are deemed to be references to the requirements of this rule.

Rules Coordinator: Sandy Cafourek

Address: Oregon Health Authority, Health Systems Division: Medical Assistance Programs, 500 Summer St. NE, Salem, OR 97301

Telephone: (503) 945-6430

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Rule Caption: Clarify Services, Billing, Qualifications for Providing IDEA Services to Children with Disabilities in Public Schools

Stat. Auth.: ORS 413.042 & 414.065

Stats. Implemented: ORS 413.042 & 414.065

Proposed Amendments: 410-133-0000, 410-133-0040, 410-133-0060, 410-133-0080, 410-133-0100, 410-133-0120, 410-133-0140, 410-133-0200, 410-133-0300, 410-133-0320

Last Date for Comment: 6-17-16, 5 p.m.

Summary: The Division needs to amend these rules to incorporate changes to the Board of Examiners for Speech-Language Pathology and Audiology pursuant to SB287 and in compliance with 42CFR 440.110. These rules are also being amended to correct OAR references, update, correct, and add definitions to clarify services, billing, and documentation in support of School-Based Health Services for assuring compliance with rules and regulations for audit purposes.

Rules Coordinator: Sandy Cafourek

Address: Oregon Health Authority, Health Systems Division: Medical Assistance Programs, 500 Summer St. NE, Salem, OR 97301

Telephone: (503) 945-6430

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Rule Caption: EHR IP Rule Updates Following Federal Rule Update

Stat. Auth.: ORS 413.042 & 414.033

Stats. Implemented: ORS 413.042

Proposed Amendments: 410-165-0000, 410-165-0020, 410-165-0040, 410-165-0060, 410-165-0080, 410-165-0100, 410-165-0120, 410-165-0140

NOTICES OF PROPOSED RULEMAKING

Proposed Repeals: 410-165-0000(T), 410-165-0020(T), 410-165-0040(T), 410-165-0060(T), 410-165-0080(T), 410-165-0100(T), 410-165-0120(T), 410-165-0140(T)

Last Date for Comment: 6-17-16, 5 p.m.

Summary: The Division needs to amend these rules because the Centers for Medicare and Medicaid Services (CMS) released a final rule that specifies criteria that eligible professionals (EPs) and eligible hospitals must meet in order to participate in the Medicaid Electronic Health Record (EHR) Incentive Programs. Updates to the Oregon Administrative Rules align with these changes. The CMS final rule became effective on December 15, 2015, and impacts providers for program years 2015 and later. There are also minor clarifications to wording throughout the rule.

Rules Coordinator: Sandy Cafourek

Address: Oregon Health Authority, Health Systems Division: Medical Assistance Programs, 500 Summer St. NE, Salem, OR 97301

Telephone: (503) 945-6430

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**Oregon Health Authority,
Oregon Educators Benefit Board
Chapter 111**

Rule Caption: Clarifying language relating to Local Governments participating in the OEBB benefits program

Date:	Time:	Location:
6-16-16	1 p.m.	OEBB Boardroom 1225 Ferry St. SE Salem, OR 97301

Hearing Officer: OEBB Staff

Stat. Auth.: ORS 243.860–243.886

Stats. Implemented: ORS 243.864(1)(a)

Proposed Amendments: 111-020-0010

Last Date for Comment: 6-30-16, 5 p.m.

Summary: OAR 111-020-0010 is amended to clarify rule language related to Local Governments participating in the OEBB benefits program.

Rules Coordinator: April Kelly

Address: Oregon Health Authority, Oregon Educators Benefit Board, 1225 Ferry St. SE, Suite B, Salem, OR 97301

Telephone: (503) 378-6588

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Rule Caption: Amend rule language to include an opt-out surcharge

Date:	Time:	Location:
6-16-16	1 p.m.	OEBB Boardroom 1225 Ferry St. SE Salem, OR 97301

Hearing Officer: OEBB Staff

Stat. Auth.: ORS 243.860–243.886

Stats. Implemented: ORS 243.864(1)(a)

Proposed Amendments: 111-040-0050

Last Date for Comment: 6-30-16, 5 p.m.

Summary: OAR 111-040-0050 is amended to add language relating to the assessment of a monthly surcharge to Entities who provide a cash incentive to members for opting out of medical coverage. The surcharge is \$100 per month per member. The effective date for this rule amendment is October 1, 2016.

Rules Coordinator: April Kelly

Address: Oregon Health Authority, Oregon Educators Benefit Board, 1225 Ferry St. SE, Suite B, Salem, OR 97301

Telephone: (503) 378-6588

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**Oregon Health Authority,
Public Employees' Benefit Board
Chapter 101**

Rule Caption: PEBB is permanently amending rules to comply with Senate Bill 204.

Date:	Time:	Location:
7-11-16	4:30 p.m.	PEBB/OEBB Boardroom 1225 Ferry St. SE Salem OR

Hearing Officer: Cherie Taylor

Stat. Auth.: ORS 243.061–243.302, 659A.060–659A.069, 743.600–743.602 & 743.707

Stats. Implemented: ORS 243.061–243.302, 292.051 & 2007 OL Chap. 99

Proposed Amendments: 101-020-0060, 101-20-0065, 101-030-0015

Proposed Repeals: 101-030-0020

Last Date for Comment: 7-11-16, Close of Business

Summary: PEBB is permanently amending rules to comply with Senate Bill 204.

Rules Coordinator: Cherie Taylor

Address: Oregon Health Authority, Public Employees' Benefit Board, 1225 Ferry St. SE, Suite B, Salem, OR 97301

Telephone: (503) 378-6296

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**Oregon Liquor Control Commission
Chapter 845**

Rule Caption: Amends lay representation rules to include certain recreational marijuana-related contested cases.

Date:	Time:	Location:
6-21-16	10 a.m.	9079 SE McLoughlin Blvd. Portland, OR 97222

Hearing Officer: Bryant Haley

Stat. Auth.: ORS 183.341 (1) & (2), 183.452, 183.745, 471.030, 471.040(2), 471.730(5) & (6), 475B.025(2)(d), 475B.575 & 475B.645

Stats. Implemented: ORS 183.310, 183.341(1) & (2), 183.430(2), 183.435, 183.452, 183.745, 471.331(1), 471.380(2), 471.720, 475B.040, 475B.218, 475B.295, 475B.560

Proposed Amendments: 845-003-0220, 845-003-0210, 845-003-0270, 845-003-0331, 845-004-0015

Last Date for Comment: 7-5-16, 5 p.m.

Summary: ORS 183.452 allows an agency to use lay representatives during contested case hearings instead of the Department of Justice where the Attorney General has consented to the representation in a particular hearing or class of hearings. In order to use lay representatives in contested cases, an agency must adopt a rule authorizing a representative to appear on the agency's behalf in those hearings. This package amends five rules to include those classes of recreational marijuana-related hearings for which the Department of Justice has authorized the Commission to use lay representatives, as is currently done with most alcohol-related contested case hearings.

Rules Coordinator: Bryant Haley

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

Telephone: (503) 872-5136

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**Oregon Public Employees Retirement System
Chapter 459**

Rule Caption: Modify date that items sent to PERS are deemed filed and received.

Date:	Time:	Location:
6-28-16	2 p.m.	PERS Boardroom 11410 SW 68th Pkwy. Tigard, OR 97223

Hearing Officer: Daniel Rivas

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238, 238A

Proposed Amendments: 459-005-0220

Last Date for Comment: 7-6-16, 5 p.m.

Summary: Any report, document, remittance, or payment that does not display a PERS receipt stamp, or has not been recorded in PERS' daily cash receipts log or check log, shall be deemed filed and

NOTICES OF PROPOSED RULEMAKING

received on the imaged date. If the imaged date, cash receipts log date or check log date is later than the due date, the report, document, remittance, or payment shall be deemed filed and received one business day before the imaged date, cash receipts log date, or check log date.

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

Rule Caption: Updates to various PERS disability rules.

Date:	Time:	Location:
6-28-16	2 p.m.	PERS Boardroom 11410 SW 68th Pkwy. Tigard, OR 97223

Hearing Officer: Daniel Rivas
Stat. Auth.: ORS 183.310–183.550, 183.600–183.690, 238.320, 238.335, 238.650, 238A.120, 238A.450
Stats. Implemented: ORS 238.320–238.345, 238A.140, 238A.235
Proposed Adoptions: 459-076-0040
Proposed Amendments: 459-015-0001, 459-015-0005, 459-015-0010, 459-015-0020, 459-015-0025, 459-015-0040, 459-015-0050, 459-076-0001, 459-076-0010, 459-076-0020, 459-076-0025, 459-076-0050
Last Date for Comment: 7-6-16, 5 p.m.

Summary: Updates are needed to administrative rules regarding PERS disability definitions, eligibility, criteria for granting and denying disability, periodic reviews, application, independent examinations, appeals, and contested case hearings.

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

Oregon State Marine Board Chapter 250

Rule Caption: Amend Outfitter/Guide rules to modify non-resident tag program fees and adopt civil penalties.

Date:	Time:	Location:
6-30-16	7 p.m.	12700 SE 82nd Ave. Clackamas, OR
7-14-16	7 p.m.	620 Antelope Rd. White City, OR
7-28-16	7 p.m.	63095 Deschutes Market Rd. Bend, OR

Hearing Officer: Mervin Hee
Stat. Auth.: ORS 704.500 & 704.900
Stats. Implemented: ORS 704.500 & 704.900
Proposed Adoptions: 250-016-0095, 250-016-0100
Proposed Amendments: 250-016-0020, 250-016-0035, 250-016-0040
Proposed Repeals: 250-016-0030
Last Date for Comment: 7-31-16, 5:30 p.m.

Summary: Adopt civil penalty rules to comply with Oregon Revised Statutes. Amend rules to remove unauthorized exclusions. The non-resident tag program requirements will be modified and an additional hunt unit certification fee will be added.

Rules Coordinator: June LeTarte
Address: Oregon State Marine Board, P.O. Box 14145, Salem, OR 97309-5065
Telephone: (503) 378-2617

Rule Caption: Prohibition on the use of motorboats on Kinney Lake in Wallowa County.

Stat. Auth.: ORS 830.110 & 830.175
Stats. Implemented: ORS 830.175
Proposed Amendments: 250-020-0340
Last Date for Comment: 6-24-16, 5 p.m.

Summary: This rule will prohibit a person from operating a boat propelled by a motor on Kinney Lake in Wallowa County.

Rules Coordinator: June LeTarte
Address: Oregon State Marine Board, P.O. Box 14145, Salem, OR 97309-5065
Telephone: (503) 378-2617

Rule Caption: Amend and repeal titling fee rule language which is contrary to Oregon Revised Statute.

Stat. Auth.: ORS 830.110
Stats. Implemented: ORS 293.445
Proposed Amendments: 250-010-0058
Proposed Repeals: 250-010-0057
Last Date for Comment: 6-24-16, 5 p.m.

Summary: Amend and repeal titling fee rule language in Oregon Administrative Rule which is contrary to Oregon Revised Statute.

Rules Coordinator: June LeTarte
Address: Oregon State Marine Board, P.O. Box 14145, Salem, OR 97309-5065
Telephone: (503) 378-2617

Rule Caption: Amend Steering and Sailing Rules to be compliant with Federal Regulations.

Stat. Auth.: ORS 830.110 & 830.175
Stats. Implemented: ORS 830.110 & 830.175
Proposed Amendments: 250-011-0050, 250-011-0060
Last Date for Comment: 6-24-16, 5 p.m.

Summary: This rule action will amend the Steering and Sailing Rules to remove wording that is in conflict with 33 CFR 83 Subpart B. These rules require specific actions for vessels operating on specific bodies of water and do not apply to federally navigable waterways in Oregon. Removal of these provisions will ensure consistency between federally navigable waters and exclusive state waters.

Rules Coordinator: June LeTarte
Address: Oregon State Marine Board, P.O. Box 14145, Salem, OR 97309-5065
Telephone: (503) 378-2617

Oregon State Treasury Chapter 170

Rule Caption: Modifies advance and current forward refunding rule requirements and updates Municipal Advisor requirements.

Stat. Auth.: ORS 287A.365
Stats. Implemented: ORS 287A.360-287A.380
Proposed Amendments: 170-062-0000
Last Date for Comment: 6-22-16, Close of Business

Summary: This amendment (1) provides greater clarity on documents required for submission when applying for advance and current refunding approval, and (2) simplifies the municipal advisor definition.

Rules Coordinator: Dan McNally
Address: Oregon State Treasury, 350 Winter St. NE, Suite 100, Salem, OR 97301
Telephone: (503) 373-1028

Oregon Youth Authority Chapter 416

Rule Caption: Amending OYA parole and parole revocation rules to clarify processes and delete or change definitions.

Date:	Time:	Location:
6-22-16	10 a.m.	530 Center St. NE, Suite 300 Salem, OR 97301

Hearing Officer: Winifred Skinner
Stat. Auth.: ORS 420A.025, 420A.105 & 420A.120
Stats. Implemented: ORS 419C.481, 420.045, 420A.115, 420A.120, 420.902, 420.910 & 420.915

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Proposed Amendments: 416-300-0000, 416-300-0010, 416-300-0020, 416-300-0030, 416-300-0040, 416-300-0050, 416-300-0060, 416-300-0080

Last Date for Comment: 6-24-16, Close of Business

Summary: OYA is amending its youth offender parole and parole revocation rules to clarify its process and delete or change definitions. Reiterations of statute have been deleted and replaced with references, and some sections have been reorganized for improved process flow. A youth offender's alleged illegal immigration status will not be deemed by OYA to violate the youth offender's parole conditions. The preliminary parole revocation hearing officer and purpose of the preliminary hearing are clarified. The superintendent of a youth correction facility may order a formal parole revocation hearing after a youth offender has waived such hearing if the superintendent believes the formal hearing is in the best interest of the youth offender.

Rules Coordinator: Winifred Skinner

Address: Oregon Youth Authority, 530 Center St. NE, Suite 500, Salem, OR 97301

Telephone: (503) 373-7570

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**Secretary of State,
Elections Division
Chapter 165**

Rule Caption: Adopts revisions to Elections Division procedural manuals

Stat. Auth.: A. ORS 246.150, 248.008, 249.009 B. ORS 246.150, 260.046, 260.156, 260.200 C. ORS 246.150, 250.015, 250.048, 255.135 D. ORS 246.150, 251.014, 251.065, 251.075, 251.255

Stats. Implemented: A. ORS 248.008, 249.009 B. ORS 260.005, 260.007, 260.035, 260.037, 260.038, 260.039, 260.041, 260.042, 260.043, 260.044, 260.045, 260.046, 260.049, 260.054, 260.055, 260.056, 260.057, 260.076, 260.078, 260.083, 260.085, 260.102, 260.112, 260.118, 260.145, 260.232, 260.995 C. ORS 250.015, 250.045, 250.048, 250.052, 250.085, 250.105, 250.165, 250.168, 250.175, 250.185, 250.195, 250.205, 250.215, 250.265, 250.270, 250.275, 250.285, 250.296, 250.315, 250.325, 255.135, 255.140, 255.145, 255.155, 255.165, 255.175, 255.215 D. ORS 251.046, 251.049, 251.055, 251.065, 251.075, 251.085, 251.087, 251.095, 251.115, 251.255, 251.285

Proposed Amendments: 165-010-0005, 165-012-0005, 165-014-0005, 165-016-0000

Proposed Repeals: 165-014-0280

Last Date for Comment: 6-23-16, 5 p.m.

Summary: A. 165-010-0005 :

Proposed amendment adopts January 2016 revision of the:

1) State Candidate's Manual as the procedures and forms to be used by candidates filing and running for federal or state office as that term is defined in ORS 249.002(10);

2) County, City and District Candidate's Manual as the procedures and forms to be used by candidates filing and running for elected office in a county, city or district; and

3) Political Party Manual as the procedures and forms to be used to form a minor political party and nominate candidates for elective office. This manual also includes information on qualifying as a major political party and a party's obligation to file organizational documents.

B. 165-012-0005:

Proposed amendment adopts January 2016 revision of the 2016 2016 Campaign Finance Manual and associated forms as the procedures and guidelines to be used for compliance with Oregon campaign finance regulations.

C. 165-014-0005:

Proposed amendment adopts January 2016 revision of the:

1) State Initiative and Referendum Manual as the procedures and forms to be used for the state initiative and referendum process;

2) County, City and District Initiative and Referendum Manual as the procedures, except where state law permits the procedure to be

otherwise under local charter or ordinance, and forms to be used for the local initiative and referendum process;

3) Circulator Training Manual as the curriculum, procedures and forms to be used to register as required under ORS 250.048 by a person who will be paid to gather signatures on a state prospective initiative, initiative, referendum or recall petition;

4) Recall Manual as the procedures and forms to be used for the recall process; and

5) County, City and District Referral Manual as the procedures, except where state law permits the procedure to be otherwise under local charter or ordinance, and forms to be used for the local referral process.

C. 165-014-0280

Rule proposed for repeal as the Circulator Training and Registration Manual 2016 revisions are proposed for adoption under OAR 165-014-0005.

D. 165-016-0000:

Proposed amendment adopts January 2016 revision of the Voters' Pamphlet Manual and associated forms as the procedures by which statements, photos, or arguments must be filed as well as the order in which they will appear in the state voters' pamphlet, allowable formatting and provides a process for contacting statement or argument filers regarding required revisions.

Rules Coordinator: Brenda Bayes

Address: Secretary of State, Elections Division, 255 Capitol St. NE, Suite 501, Salem, OR 97310

Telephone: (503) 986-1518

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Rule Caption: Adopts revisions to specified election law reporting requirements, procedures and enforcement actions

Stat. Auth.: A. ORS 246.150, 260.345 B. ORS 246.150, 247.012, 247.208 C. ORS 246.150, 254.465, 254.470 D. ORS 246.150, 260.046 E. ORS 246.150, 260.200 F. ORS 246.150, 260.262

Other Auth.: C. Help America Vote Act P.L. 107-252

Stats. Implemented: A. ORS 260.232, 260.345, 260.995 B. ORS 247.208 C. ORS 247, 253, 254 D. ORS 260.046 E. ORS 260.200, 260.215, 260.232, 260.432, 260.995 F. ORS 260.262, 260.995

Proposed Adoptions: 165-001-0095

Proposed Amendments: 165-001-0016, 165-001-0025, 165-001-0034, 165-001-0050, 165-005-0055, 165-005-0065, 165-005-0070, 165-007-0035, 165-012-0240, 165-013-0010, 165-013-0020, 165-013-0030, 165-014-0100, 165-014-0260

Last Date for Comment: 6-23-16, 5 p.m.

Summary: A. Procedural Rules.

165-001-0016, 165-001-0025, 165-001-0034, 165-001-0050:

Proposed amendment updates references to the hearing request form number; incorporates deadlines for issuing a default final order when no hearing is requested, a hearing request is canceled or a person does not show up at the hearing; and establishes where and when written exceptions to a proposed order must be filed.

165-001-0095:

Proposed adoption of requirements for complaints filed with the State Elections Division and establishment of procedures for complaints filed with other elections filing officers.

B. NVRA Agency Registration Procedures and Reporting Requirements.

165-005-0055, 165-005-0065, 165-005-0070:

Proposed amendment appropriately identifies designated Voter Registration Agencies after organizational name change; designates CCare as a Voter Registration Agency; removes the requirement for the Secretary of State to print Voter Registration Agency reporting forms and instead allows for the Secretary to designate a print or electronic form that Voter Registration Agencies must use to report the number of registration cards submitted to county elections officials; and fixes a grammatical error.

C. Designating Ballot Request Forms.

165-007-0035:

NOTICES OF PROPOSED RULEMAKING

Proposed amendment replaces reference to “Federal Absentee Ballot Request Form” with “Federal Post Card Application”. “Federal Post Card Application” is the current name for the federal form military and overseas voters must submit to request an absentee ballot.

D. Administrative Discontinuation of a Political Committee.

165-012-0240:

Proposed amendment expands the manner in which a person may respond to a Notice of Discontinuation.

E. Election Offenses.

165-013-0010:

Proposed amendment adds an alternate transaction filer and independent expenditure filer to mitigating circumstances the Secretary may consider in reducing or waiving a penalty for Other Campaign Finance Violations.

165-013-0020:

Proposed amendment clarifies when an offense is considered to be a single or multiple violations, clarifies the minimum penalty for violations of Article IV, section 1b of the Oregon Constitution, clarifies the minimum penalty for violations of ORS 260.569 and

removes certain mitigating circumstances for violations of ORS 260.432.

165-013-0030:

Proposed amendment adopts January 2016 revisions to the Restrictions on Political Campaigning by Public Employees, ORS 260.432 Manual. The manual provides guidance on ORS 260.432 and informs the public of permissible and impermissible activities by public employees.

F. Initiative and Referendum Prohibitions and Requirements.

165-014-0100:

Proposed amendment requires chief petitioner accounts for the sponsorship phase of an initiative petition be submitted with the first accounts submittal of the primary signature gathering effort.

165-014-0260:

Proposed amendment corrects an incorrect quote of Article IV, Section 1b of the Oregon Constitution and to clarifies the minimum penalty for violations of Article IV, Section 1b of the Oregon Constitution.

Rules Coordinator: Brenda Bayes

Address: Secretary of State, Elections Division, 255 Capitol St. NE, Suite 501, Salem, OR 97310

Telephone: (503) 986-1518

Water Resources Department Chapter 690

Rule Caption: Updates to Hood Basin Program and Extension of Reservation

Date:	Time:	Location:
6-22-16	4 p.m.	Hood River Library 502 State St. Hood River, OR 97031

Hearing Officer: Bob Baumgartner

Stat. Auth.: ORS 536 & 537

Stats. Implemented: ORS 536.220, 536.300, 536.310, 537.249, 537.356, 537.358, & 538.200

Proposed Adoptions: 690-504-0005

Proposed Amendments: 690-504-0000, 690-504-0020, 690-504-0100

Last Date for Comment: 6-30-16, 5 p.m.

Summary: A reservation of water for future economic development sets aside a quantity of water for multipurpose storage to meet future needs. The rules establishing the Hood Basin reservations are set to expire on October 17, 2016, unless extended in rule by the Water Resources Commission. This revised rule would extend reservations of water for future economic development for the West Fork Hood River Subbasin, East Fork Hood River Subbasin, Neal Creek Subbasin, Mosier Creek Subbasin, Eightmile Creek Subbasin and Fifteenmile Creek Subbasin of the Hood Basin for an additional 20 years, and would change reporting requirements that apply to the Oregon Department of Agriculture and Oregon Water Resources Department. In addition, the rules include expansion of classified uses to clarify that the allowable uses include agricultural, commercial, and flow augmentation for instream use; pursuant to ORS 538.200, addition of withdrawal of rivers that form waterfalls; and to address inconsistencies in terminology.

Rules Coordinator: Diana Enright

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

Telephone: (503) 986-0874

Rule Caption: Well construction rules regarding measuring tubes, rule references, setbacks, well seals, geotechnical holes, TDS requirement.

Date:	Time:	Location:
6-24-16	3 p.m.	OWRD, North Mall Bldg. 725 Summer St. NE, Rm. 124A Salem, OR 97301

Hearing Officer: Kristopher Byrd

Stat. Auth.: ORS 183, 536, 537 & 540

Stats. Implemented: ORS 183, 536, 537 & 540

Proposed Amendments: 690-200-0005, 690-200-0028, 690-200-0048, 690-200-0050, 690-205-0210, 690-210-0030, 690-210-0140, 690-210-0150, 690-210-0155, 690-210-0280, 690-210-0320, 690-215-0055, 690-215-0060, 690-240-0005, 690-240-0010, 690-240-0024, 690-240-0035, 690-240-0043, 690-240-0395, 690-240-0440, 690-240-0510, 690-240-0525, 690-240-0540.

Proposed Repeals: 690-215-0200

Last Date for Comment: 6-29-16, 5 p.m.

Summary: The proposed rule changes include:

- Clean-up out of date, or incorrect, rule, table, or appendix numbers.
- Clarify and clean-up existing rule language so that it is more clear and easy to read.
- Adds definitions for “petroleum” and “wet soil monitoring hole”.
- Adds requirement for information on submitted well reports.
- Adds setback requirements from petroleum storage tanks.
- Clean-up and modify well construction sealing standards.
- Add requirement for dedicated measuring tubes.
- Clarify geotechnical hole requirements.
- Clarify piezometer abandonment requirements.
- Add requirements for direct push monitoring wells and piezometers.

Rules Coordinator: Diana Enright

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

Telephone: (503) 986-0874

ADMINISTRATIVE RULES

Appraiser Certification and Licensure Board Chapter 161

Rule Caption: To amend date of the current edition of the Uniform Standards of Professional Appraisal Practice

Adm. Order No.: ACLB 1-2016

Filed with Sec. of State: 5-12-2016

Certified to be Effective: 5-12-16

Notice Publication Date: 5-1-2016

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

Subject: To amend OAR 161, Division 002, Rule 0000 and OAR 161, Division 025, Rule 0060 to update the current edition of the Uniform Standards of Professional Appraisal Practice

Rules Coordinator: Gae Lynne Cooper—(503) 485-2555

161-002-0000

Definitions

As used in OAR 161-001-0005 to 161-050-0050, the following terms (whether capitalized or not) shall have the following meanings:

(1) “Accredited College or University” means a college or university that is accredited by the Commission on Colleges, or by an accrediting agency that is recognized by the U.S. Department of Education.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(17) “Federal Financial Institution Regulatory Agency” means:

(a) The Board of Governors of the Federal Reserve System;

(b) The Federal Deposit Insurance Corporation;

(c) The Office of the Comptroller of the Currency; or

(d) The National Credit Union Administration.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(35) “Subdivision” means either an act of subdividing land or an area or a tract of land subdivided to create four or more lots within a calendar year.

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

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

(38) “Transaction Value” means:

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

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

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

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

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

(39) "Uniform Standards of Professional Appraisal Practice" or "USPAP" means the standards adopted and published by the Appraisal Standards Board of the Appraisal Foundation dated April 27, 1987, as amended January 1, 2016.

(40) "Workfile" means "workfile" as defined in USPAP.

Stat. Auth.: ORS 674.305 & 674.310

Stats. Implemented: ORS 674

Hist.: ACLB 2-1991(Temp), f. & cert. ef. 7-1-91; ACLB 7-1991, f. & cert. ef. 12-23-91; ACLB 1-1993(Temp), f. & cert. ef. 3-3-93; ACLB 1-1994, f. & cert. ef. 2-1-94, Renumbered from 161-010-0000; ACLB 4-1994, f. & cert. ef. 7-27-94; ACLB 4-1994, f. & cert. ef. 7-27-94; ACLB 2-1996, f. & cert. ef. 2-13-96; ACLB 1-1997(Temp), f. 10-13-97, cert. ef. 1-1-98; ACLB 1-1998, f. 6-24-98, cert. ef. 7-1-98; ACLB 1-1999, f. 1-28-99, cert. ef. 3-31-99; ACLB 1-2000, f. & cert. ef. 2-29-00; ACLB 1-2001(Temp), f. & cert. ef. 1-26-01 thru 7-25-01; ACLB 2-2001, f. 4-11-01, cert. ef. 4-12-01; ACLB 3-2001(Temp), f. & cert. ef. 7-12-01 thru 1-8-02; ACLB 1-2002, f. & cert. ef. 2-26-02; ALCB 2-2002, f. & cert. ef. 5-30-02; ACLB 2-2003, f. & cert. ef. 1-27-03; ACLB 1-2004, f. & cert. ef. 2-3-04; ACLB 2-2004, f. 5-25-04, cert. ef. 6-1-04; ACLB 1-2005, f. & cert. ef. 1-12-04; ACLB 4-2005, f. & cert. ef. 11-2-05; ACLB 1-2006(Temp), f. 6-29-06, cert. ef. 7-1-06 thru 12-28-06; ACLB 2-2006, f. & cert. ef. 7-26-06; ACLB 5-2007(Temp), f. 11-1-07, cert. ef. 1-1-08 thru 6-27-08; ACLB 1-2008, f. & cert. ef. 5-13-08; ACLB 3-2008, f. & cert. ef. 8-13-08; ACLB 2-2009(Temp), f. 1-28-09, cert. ef. 1-30-09 thru 7-28-09; Administrative correction 8-21-09; ACLB 4-2009, f. & cert. ef. 10-27-09; ACLB 5-2009(Temp), f. 12-15-09, cert. ef. 1-1-10 thru 6-27-10; ACLB 2-2010, f. & cert. ef. 4-23-10; ACLB 3-2011, f. & cert. ef. 11-17-11; ACLB 4-2011(Temp), f. 12-22-11, cert. ef. 1-1-12 thru 6-27-12; ACLB 1-2012, f. 7-2-12, cert. ef. 7-3-12; ACLB 2-2012(Temp), f. & cert. ef. 8-3-12 thru 1-30-13; ACLB 1-2013, f. 1-30-13, cert. ef. 1-31-13; ACLB 5-2013, f. 10-29-13, cert. ef. 1-1-14; ACLB 3-2015(Temp), f. 10-27-15, cert. ef. 1-1-16 thru 6-28-16; ACLB 1-2016, f. & cert. ef. 5-12-16

161-025-0060

Appraisal Standards and USPAP

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

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

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

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

(5) All licensees must disclose in all appraisal reports whether the comparable sales analyzed in the appraisal report were or were not confirmed by a party to the transaction or an agent or representative of a party to the transaction.

(6) All licensees testifying or presenting evidence in an administrative or judicial proceeding must base their testimony or evidence only upon a written appraisal report or restricted appraisal report in compliance with USPAP, reflecting a report date that precedes the date of testimony, unless such testimony is being compelled by legal subpoena.

(7) The "Uniform Standards of Professional Appraisal Practice", 2016-2017 Edition, approved and adopted by the Appraisal Standards Board of the Appraisal Foundation, dated April 27, 1987, as amended on January 1, 2016, are incorporated into the Administrative Rules of the Appraiser Certification and Licensure Board as the standards of professional conduct which shall guide the behavior of licensed and certified appraisers in the State of Oregon. Copies of the Uniform Standards of Professional Appraisal Practice may be obtained from the Appraisal Foundation located at 1029 Vermont Avenue, N.W., Suite 900, Washington D.C. 20005-3517.

(8) All licensees must list their certificate or license number and expiration date in each appraisal report.

(9) All licensees must comply with USPAP and all other applicable administrative rules in OAR chapter 161 in all valuation activity, unless

such valuation activity qualifies as an exclusion to real estate appraisal activity under ORS 674.100(2)(h).

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

(a) Board member;

(b) Employee; or

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

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

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

Stats. Implemented: ORS 674

Hist.: ACLB 1-1992(Temp), f. & cert. ef. 1-23-92; ACLB 2-1992, f. & cert. ef. 4-30-92; ACLB 4-1993(Temp), f. & cert. ef. 6-25-93; ACLB 1-1994, f. & cert. ef. 2-1-94; ACLB 4-1994, f. & cert. ef. 7-27-1994; ACLB 2-1996, f. & cert. ef. 2-13-96; ACLB 1-1997(Temp), f. 10-13-97, cert. ef. 1-1-98; ACLB 1-1998, f. 6-24-98, cert. ef. 7-1-98; ACLB 1-1999, f. 1-28-99, cert. ef. 3-31-99; ACLB 3-1999, f. 9-23-99, cert. ef. 1-1-00; ACLB 1-2000, f. & cert. ef. 2-29-00; ACLB 3-2000(Temp), f. 11-9-00, cert. ef. 11-9-00 thru 5-8-01; ACLB 1-2001(Temp), f. & cert. ef. 1-26-01 thru 7-25-01; ACLB 2-2001, f. 4-11-01, cert. ef. 4-12-01; ACLB 3-2001(Temp), f. & cert. ef. 7-12-01 thru 1-8-02; ACLB 1-2002, f. & cert. ef. 2-26-02; ALCB 2-2002, f. & cert. ef. 5-30-02; ACLB 2-2003, f. & cert. ef. 1-27-03; ACLB 1-2004, f. & cert. ef. 2-3-04; ACLB 1-2005, f. & cert. ef. 1-12-04; ACLB 4-2005, f. & cert. ef. 11-2-05; ACLB 1-2006(Temp), f. 6-29-06, cert. ef. 7-1-06 thru 12-28-06; ACLB 2-2006, f. & cert. ef. 7-26-06; ACLB 5-2007(Temp), f. 11-1-07, cert. ef. 1-1-08 thru 6-27-08; ACLB 1-2008, f. & cert. ef. 5-13-08; ACLB 3-2008, f. & cert. ef. 8-13-08; ACLB 1-2009, f. 1-28-09, cert. ef. 1-30-09; ACLB 5-2009(Temp), f. 12-15-09, cert. ef. 1-1-10 thru 6-27-10; ACLB 2-2010, f. & cert. ef. 4-23-10; ACLB 3-2011, f. & cert. ef. 11-17-11; ACLB 4-2011(Temp), f. 12-22-11, cert. ef. 1-1-12 thru 6-27-12; ACLB 1-2012, f. 7-2-12, cert. ef. 7-3-12; ACLB 5-2013, f. 10-29-13, cert. ef. 1-1-14; ACLB 6-2013(Temp), f. 12-19-13, cert. ef. 1-1-14 thru 6-2-14; ACLB 1-2014, f. & cert. ef. 4-22-14; ACLB 2-2014, f. & cert. ef. 5-20-14; ACLB 5-2014, f. 12-19-14, cert. ef. 1-1-15; ACLB 3-2015(Temp), f. 10-27-15, cert. ef. 1-1-16 thru 6-28-16; ACLB 1-2016, f. & cert. ef. 5-12-16

Board of Examiners for Engineering and Land Surveying Chapter 820

Rule Caption: To revise rules related to examination and registration.

Adm. Order No.: BEELS 5-2016

Filed with Sec. of State: 5-12-2016

Certified to be Effective: 5-12-16

Notice Publication Date: 2-1-2016

Rules Amended: 820-010-0615, 820-010-5000, 820-025-0005, 820-025-0015

Rules Repealed: 820-010-5000(T), 820-025-0015(T)

Subject: OAR 820-010-0615 — Language amended to require posting of a renewal certificate instead of the wall certificate.

OAR 820-010-5000 — Language added to indicate the application deadline of February 1 to sit for the Certified Water Right Examiner (CWRE) examination.

OAR 820-025-0005 — Language was amended to require the name on the registrant's seal to be the same as the name on file with the Board office.

OAR 820-025-0015 — Language amended related to final documents.

Rules Coordinator: Jenn Gilbert—(503) 934-2107

820-010-0615

Posting of Certificates

Registrants doing business with the public on their own account, or as consultants, or otherwise where appropriate shall keep their renewal certificates issued by the Board posted conspicuously in their places of business, where the public can readily examine said certificates. It is the registrants' responsibility to ensure that their certificate is valid.

Stat. Auth.: ORS 670.310 & 672.225

Stats. Implemented: ORS 672.002 - 672.325

Hist.: EE 13, f. 3-29-72, ef. 4-15-72; EE 20, f. & ef. 12-15-77; EE 1-1992, f. & cert. ef. 2-3-92; BEELS 5-2016, f. & cert. ef. 5-12-16

820-010-5000

Qualification to Sit for Examination as a Water Right Examiner

In order to qualify for examination to sit for the Water Right Examiner, an applicant for certification must provide all of the following:

(1) Evidence satisfactory to the Board of active Oregon registration as a Professional Engineer, Professional Land Surveyor, or Geologist, in good standing.

(2) The Certified Water Right Examiner examination is held once a year, in April. To sit for the Certified Water Right Examiner examination, a completed Application for Certification form and required application fee must be received by the Board offices no later than February 1.

ADMINISTRATIVE RULES

(3) Examinees may request reasonable accommodations to the examination's administration.

(a) Reasonable accommodations will be provided for examinees who have a documented disability within the meaning of the Americans with Disabilities Act of 1990. Reasonable accommodations may be provided for examinees whose religious convictions prohibit them from testing on the scheduled examination dates.

(b) Requests for reasonable accommodations must be submitted on the Board approved form, and accompanied by supporting documentation, by the February 1 deadline.

(4) Review of Examinations. With respect to the certified water right examiner examination, an Applicant may submit a written request to review the Applicant's own examination results. The Board will allow an examination review where the Applicant failed the examination and the applicant achieved a score within five points of the cutoff score. With respect to such reviews.

(a) The Applicant may examine only the question, solution, and answer key for the failed problem.

(b) The Applicant may review the examination on only one occasion. The Board will prescribe a time and place for the review.

(c) All examination reviews will be conducted in the presence of a person designated by the Board.

(d) Except as allowed by the Board for persons requiring disability assistance, no person may accompany the Applicant during the examination review.

(5) Examination Subversion.

(a) Any examinee who is under investigation for examination subversion, as defined in OAR 820-005-0040 will not be considered for certification until the investigation and any ensuing disciplinary action are complete.

(b) An Applicant disciplined for examination subversion is subject to imposition of civil penalties and denial of certification. A registrant who is disciplined for examination subversion is subject to imposition of civil penalties and suspension or revocation of certification.

Stat. Auth.: ORS 537.797, 670.310 & 672.255
Stats. Implemented: ORS 672.002 - 672.325
Hist.: BEELS 5-2015(Temp), f. & cert. ef. 8-19-15 thru 2-12-16; BEELS 8-2015, f. & cert. ef. 11-13-15; BEELS 2-2016(Temp), f. & cert. ef. 1-15-16 thru 6-30-16; BEELS 5-2016, f. & cert. ef. 5-12-16

820-025-0005 Official Seal

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

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

(a) Professional engineers holding a structural engineering certificate will use the seal with the designation "Structural" above the words "Registered Professional Engineer," as shown in Exhibit 1-b. Other registered professional engineers will use the seal shown in Exhibit 1-a; [Exhibit not included. See ED. NOTE.]

(b) Registered professional traffic engineer, who may practice only traffic engineering will use the seal shown in Exhibit 1-f; [Exhibit not included. See ED. NOTE.]

(c) Registered professional land surveyors will use the seal shown in Exhibit 1-c; [Exhibit not included. See ED. NOTE.]

(d) Registered professional photogrammetrists will use the seal shown in Exhibit 1-d; [Exhibit not included. See ED. NOTE.]

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

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

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

(5) A digital signature, for final documents is acceptable as an alternative to a handwritten signature in permanent ink if the digital signature:

(a) Is unique to the registrant using it;

(b) Is independently verifiable by a Certificate Authority (3rd Party);

(c) Is under the sole control of the registrant using it;

(d) Is linked to the document in such a manner that the digital signature is invalidated if any data in the document is changed; and

(e) Bears the phrase "digital signature" in place of a handwritten signature.

(6) Only individuals registered as professional engineers, professional traffic engineers, professional land surveyors, professional photogrammetrists, or certified water rights examiners may use a seal with a shape, form or wording similar to those shown in Exhibit 1. Using such a seal without registration constitutes falsely representing that the person is authorized to practice the profession.]

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

Stat. Auth.: ORS 670.310 & 672.255

Stats. Implemented: ORS 672.002 - 672.325

Hist.: EE 13, f. 3-29-72, ef. 4-15-72; EE 16, f. 3-5-74, ef. 3-25-74; EE 20, f. & ef. 12-15-77; EE 2-1986, f. 3-26-86, ef. 3-31-86; EE 4-1987, f. & ef. 12-1-87; EE 1-1992, f. & cert. ef. 2-3-92; EE 1-1995, f. 8-15-95, cert. ef. 9-1-95; BEELS 1-1998, f. & cert. ef. 2-10-98; BEELS 1-2000, f. & cert. ef. 1-14-00; BEELS 3-2006(Temp), f. & cert. ef. 12-5-06 thru 6-3-07; Administrative Correction, 6-16-07; BEELS 4-2007, f. & cert. ef. 8-15-07; BEELS 2-2008, f. & cert. ef. 7-9-08; BEELS 2-2009, f. & cert. ef. 11-13-09; BEELS 6-2013, f. & cert. ef. 9-11-13; BEELS 7-2013(Temp), f. & cert. ef. 11-12-13 thru 5-9-14; BEELS 10-2013(Temp), f. & cert. ef. 12-5-13 thru 3-14-14; BEELS 2-2014, f. & cert. ef. 2-26-14; Renumbered from 820-010-0620 by BEELS 7-2015, f. & cert. ef. 9-16-15; BEELS 5-2016, f. & cert. ef. 5-12-16

820-025-0015

Final Documents

(1) All final documents identified in ORS 672.020(2), 672.025(2), and 672.028(2) must bear the seal and signature of the registrant under whose supervision and control they were prepared.

(2) Documents that are not final documents must be marked as "preliminary", "not for construction", "review copy", "draft copy, subject to change", or with some similar wording to indicate that the documents are not intended to represent the final work product of the registrant. Documents submitted to a client, customer, public entity, or any other person, are final documents and must bear the seal and signature of the registrant under whose supervision and control they were prepared, unless such document is clearly marked as not a final document.

Stat. Auth.: ORS 670.310, 672.020, 672.025, 672.028 & 672.255

Stats. Implemented: ORS 672.002 - 672.325

Hist.: BEELS 3-2006(Temp), f. & cert. ef. 12-5-06 thru 6-3-07; BEELS 2-2007, f. & cert. ef. 4-5-07; BEELS 2-2012, f. & cert. ef. 5-10-12; BEELS 6-2013, f. & cert. ef. 9-11-13; BEELS 7-2013(Temp), f. & cert. ef. 11-12-13 thru 5-9-14; BEELS 10-2013(Temp), f. & cert. ef. 12-5-13 thru 3-14-14; BEELS 2-2014, f. & cert. ef. 2-26-14; BEELS 2-2015, f. & cert. ef. 5-21-15; Renumbered from 820-010-0621 by BEELS 7-2015, f. & cert. ef. 9-16-15; BEELS 2-2016(Temp), f. & cert. ef. 1-15-16 thru 6-30-16; BEELS 5-2016, f. & cert. ef. 5-12-16

Board of Parole and Post-Prison Supervision Chapter 255

Rule Caption: Amend procedures and number of Board members required for Board hearings and decisions.

Adm. Order No.: PAR 2-2016(Temp)

Filed with Sec. of State: 4-26-2016

Certified to be Effective: 4-26-16 thru 10-21-16

Notice Publication Date:

Rules Amended: 255-030-0015

Subject: Amend number of Board of Parole members required to conduct a hearing and to make a final decision to conform rule with statutes now that the Board has added additional members.

Rules Coordinator: Perry Waddell—(503) 945-0946

255-030-0015

When Full Board Is Required; Procedures for Board Decision

(1) Except as otherwise provided in this rule, a panel of two voting members of the Board shall conduct all prison term hearings and shall make the final decision.

(2) A panel of at least two members of the Board, may conduct hearings in the following cases; a majority of the Board shall make the final decision:

(a) The court sentenced the inmate under ORS 161.725 and 161.735 as a dangerous offender;

(b) The Department of Corrections recommends an extension of more than two years in the prison term for misconduct;

(c) The court ordered a minimum sentence pursuant to ORS 144.110 and the minimum exceeds the matrix range and the variations permitted a panel;

ADMINISTRATIVE RULES

(d) A panel recommends a decision to set the prison term below a judicially set minimum sentence (A panel may uphold a judicial minimum);

(e) A panel recommends unsumming a unified range.

(3) A panel of at least two members of the Board may conduct hearings in the following cases, but the final decision shall be made by either three board members or, if the chairperson requires all voting members to participate, all voting members:

(a) Cases involving a prisoner sentenced to life imprisonment for murder or aggravated murder;

(b) Cases where the inmate was convicted of a crime involving the death of a victim, whether or not the prosecution directly charged the prisoner with causing the death of the victim.

(4) If a Board member is not present at a hearing, and statute or rule compels review, or the vote may affect the outcome of the hearing, the Board member may vote administratively after reviewing the Board Review Packet and the handwritten Board Action Form with attached exhibits, or may request that a hearing be rescheduled. The Board's action shall be considered final if the absent member's vote is not required for a final decision.

(5) A panel of one Board member or of one Board member and one hearings officer may conduct prison term hearings for inmates convicted of non-person-to-person crimes. In cases of a panel consisting of one Board member, another member shall vote after review of the record as provided in section 4 of this rule. A hearings officer may not participate on a panel in cases in which, pursuant to ORS 144.110, a court imposed a minimum sentence that exceeds the matrix range and variations permitted a panel.

(6)(a) If there is a division in a panel so that a decision is not unanimous, another Board member shall vote after review of the record as provided in section (4) of this rule.

(b) If the original panel was made up of one Board member, and the member voting after administrative review of the record disagrees with the decision, the chairperson shall reassign the case to a panel made up of the remaining Board members. If this second panel agrees with neither member of the original panel, the chairperson will refer the case for hearing and decision before the full Board.

(c) When a panel recommends a decision to exceed the allowable variation from the matrix permitted to the panel and a third vote, the chairperson shall reassign the case for hearing and decision before the full Board.

(d) When a panel recommends denying parole, the chairperson shall reassign the case for hearing before the full Board, and three members must affirmatively agree to deny parole, except that if the result is life imprisonment, the vote must be unanimous.

Stat. Auth.: ORS 144.035 & 144.054

Stats. Implemented: ORS 144.035, 144.054, 144.110 & 161.725 - 161.735

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 7-1985, f. & ef. 5-31-85; 2PB 2-1986(Temp), f. & ef. 11-13-86; 2PB 3-1986(Temp), f. & ef. 12-2-86; PAR 2-1988(Temp), f. & ef. 3-25-88; PAR 6-1988, f. & ef. 5-19-88; PAR 18-1988, f. & ef. 12-6-88; PAR 4-1989, f. & ef. 11-1-89; PAR 3-1991(Temp), f. & cert. ef. 5-1-91; PAR 5-1991, f. & cert. ef. 10-15-91; PAR 3-1997, f. 3-11-97, cert. ef. 3-14-97; PAR 6-2000, f. & cert. ef. 6-9-00; PAR 2-2016(Temp), f. & cert. ef. 4-26-16 thru 10-21-16

Board of Pharmacy
Chapter 855

Rule Caption: Rules to permit Oregon pharmacists prescribing of contraceptive drug therapy.

Adm. Order No.: BP 1-2016

Filed with Sec. of State: 4-28-2016

Certified to be Effective: 5-1-16

Notice Publication Date: 3-1-2016

Rules Adopted: 855-019-0400, 855-019-0405, 855-019-0410, 855-019-0415, 855-019-0420, 855-019-0425, 855-019-0430, 855-019-0435

Rules Repealed: 855-019-0400(T), 855-019-0405(T), 855-019-0410(T), 855-019-0415(T), 855-019-0420(T), 855-019-0425(T), 855-019-0430(T), 855-019-0435(T)

Subject: Prescriptive Authority rules in OAR 855-019-0400 through 855-019-0435 are permanently adopted. 2015 HB 2879 (ORS 689.683) allows Oregon pharmacists to prescribe and dispense hormonal contraceptive patches and self administered oral hormonal contraceptives under certain circumstances. Pharmacies that choose to provide this service are required to prepare policies and procedures. Pharmacists who choose to prescribe must complete an

ACPE and Board approved training program. The legislative intent is to remove barriers and provide timely access to care.

Rules Coordinator: Karen MacLean—(971) 673-0001

855-019-0400

Purpose

The purpose of rules OAR 855-019-0400 through 855-019-0435, operative January 1, 2016, is to develop standard procedures for the prescribing of hormonal contraceptive patches and oral contraceptives by an Oregon licensed pharmacist, providing timely access to care. To ensure public safety and provide a consistent level of care, a pharmacist may participate upon completion of a Board approved training program. Under the rules of this section, a qualified pharmacist may prescribe hormonal contraceptives to a patient pursuant to a self-screening risk assessment questionnaire and standard procedural algorithm.

Stat. Auth.: ORS 689.205

Stats. Implemented: ORS 689.005 & 689.683

Hist.: BP 7-2015(Temp), f. & cert. ef. 11-6-15 thru 5-3-16; BP 1-2016, f. 4-28-16, cert. ef. 5-1-16

855-019-0405

Definitions

In OAR 855-019-0400 through 855-019-0435:

(1) "Clinical visit" means a consultation with a healthcare provider, other than a pharmacist, for women's health, which should address contraception and age-appropriate screening.

(2) "Hormonal contraceptive patch" means a transdermal patch applied to the skin of a patient, by the patient or by a practitioner, that releases a drug composed of a combination of hormones that is approved by the United States Food and Drug Administration to prevent pregnancy.

(3) "Oral hormonal contraceptive" means a drug composed of a combination of hormones that is approved by the United States Food and Drug Administration to prevent pregnancy and that the patient to whom the drug is prescribed may take orally.

Stat. Auth.: ORS 689.205

Stats. Implemented: ORS 689.005 & 689.683

Hist.: BP 7-2015(Temp), f. & cert. ef. 11-6-15 thru 5-3-16; BP 1-2016, f. 4-28-16, cert. ef. 5-1-16

855-019-0410

Prescriptive Practice Consultation

In an effort to clarify, improve, and support appropriate pharmacist prescribing, the Board shall periodically review prescribing standards, practices, and scope in consultation with designated representatives from the Oregon Medical Board, Oregon State Board of Nursing, and Oregon Health Authority. The Board will seek recommendations from these representatives to be considered in conjunction with American Congress of Obstetricians and Gynecologists (ACOG) guidelines and other evidence-based standards, as it seeks to evaluate and improve prescribing practices within pharmacy. To the extent that developed standards are incorporated into practice, the forms, screening tools, or requisite training materials shall be prepared by the Board in consultation with these designated representatives.

Stat. Auth.: ORS 689.205

Stats. Implemented: ORS 689.005 & 689.683

Hist.: BP 7-2015(Temp), f. & cert. ef. 11-6-15 thru 5-3-16; BP 1-2016, f. 4-28-16, cert. ef. 5-1-16

855-019-0415

Training Program

(1) Only a pharmacist, who has completed a Board approved Accreditation Council for Pharmacy Education (ACPE) accredited educational training program related to the prescribing of contraceptives by a pharmacist, may prescribe hormonal contraceptive patches and self-administered oral hormonal contraceptives for a patient.

(2) A pharmacist must submit a copy of the certificate of completion of training to the Board within 15 days of completion.

(3) A pharmacist must maintain the certificate of completion and make available upon request.

Stat. Auth.: ORS 689.205

Stats. Implemented: ORS 689.005 & 689.683

Hist.: BP 7-2015(Temp), f. & cert. ef. 11-6-15 thru 5-3-16; BP 1-2016, f. 4-28-16, cert. ef. 5-1-16

855-019-0420

Age Requirements

A pharmacist may prescribe hormonal contraceptive patches and self-administered oral hormonal contraceptives to a person who is:

(1) At least 18 years of age; or

ADMINISTRATIVE RULES

(2) Under 18 years of age, only if the person has evidence of a previous prescription from a primary care practitioner or women's health care practitioner for a hormonal contraceptive patch or self-administered oral hormonal contraceptive.

Stat. Auth.: ORS 689.205

Stats. Implemented: ORS 689.005 & 689.683

Hist.: BP 7-2015(Temp), f. & cert. ef. 11-6-15 thru 5-3-16; BP 1-2016, f. 4-28-16, cert. ef. 5-1-16

855-019-0425

Procedural Mandates

(1) For each new patient requesting contraceptive services and, at a minimum of every twelve months for each returning patient, a participating pharmacist must:

(a) Obtain a completed Oregon Self-Screening Risk Assessment Questionnaire; and

(b) Utilize and follow the Oregon Standard Procedures Algorithm to perform the patient assessment; and

(c) Prescribe, if clinically appropriate, the hormonal contraceptive patch or self-administered oral hormonal contraceptive, or refer to a health-care practitioner; and

(d) Provide the patient with a Visit Summary; and

(e) Advise the patient to consult with a primary care practitioner or women's health care practitioner; and

(f) Document the encounter and maintain records pursuant to OAR 855-019-0435.

(2) If the hormonal contraceptive patch or self-administered oral hormonal contraceptive is dispensed, it must be done as soon as practicable after the pharmacist issues the prescription and shall include any relevant educational materials.

(3) Nothing in this rule shall prohibit the partial filling or transferring of a drug prescribed pursuant to this process, per the request of the patient.

(4) A pharmacy must:

(a) Keep records of the encounter, including but not limited to, the Oregon Self-Screening Risk Assessment Questionnaire for a minimum of five years; and

(b) Keep records of the medication dispensed for a minimum of three years; and

(c) Establish, maintain and enforce written procedures for the provision of care under this section, including, but not limited to:

(A) Providing a workflow process and physical location that maintains confidentiality and is not susceptible to distraction; and

(B) Documentation and recordkeeping.

Stat. Auth.: ORS 689.205

Stats. Implemented: ORS 689.005 & 689.683

Hist.: BP 7-2015(Temp), f. & cert. ef. 11-6-15 thru 5-3-16; BP 1-2016, f. 4-28-16, cert. ef. 5-1-16

855-019-0430

Prohibited Practices

A pharmacist must not:

(1) Require a patient to schedule an appointment with the pharmacist for the prescribing or dispensing of a hormonal contraceptive patch or self-administered oral hormonal contraceptive;

(2) Continue to prescribe and dispense a hormonal contraceptive to a patient beyond three years from the initial prescription without evidence of a clinical visit;

(3) Prescribe in instances that the Oregon Standard Procedures Algorithm requires referral to a provider; and

(4) Prescribe to self or immediate family members.

Stat. Auth.: ORS 689.205

Stats. Implemented: ORS 689.005 & 689.683

Hist.: BP 7-2015(Temp), f. & cert. ef. 11-6-15 thru 5-3-16; BP 1-2016, f. 4-28-16, cert. ef. 5-1-16

855-019-0435

Records

(1) A pharmacist must document the encounter and the prescription, and maintain records of drug dispensing.

(2) A pharmacy must maintain records of the encounter, including but not limited to, the Oregon Self-Screening Risk Assessment Questionnaire for a minimum of five years and maintain records of the medication dispensed for a minimum of three years.

(3) Prescriptions are valid for one year pursuant to OAR 855-041-1125.

Stat. Auth.: ORS 689.205

Stats. Implemented: ORS 689.005 & 689.683

Hist.: BP 7-2015(Temp), f. & cert. ef. 11-6-15 thru 5-3-16; BP 1-2016, f. 4-28-16, cert. ef. 5-1-16

Department of Agriculture Chapter 603

Rule Caption: Clarification of rules and fees regarding registration of animal remedies, veterinary biologics, and pharmaceuticals.

Adm. Order No.: DOA 9-2016

Filed with Sec. of State: 4-29-2016

Certified to be Effective: 4-29-16

Notice Publication Date: 1-1-2016

Rules Adopted: 603-012-0250

Rules Amended: 603-012-0210, 603-012-0220, 603-012-0230, 603-012-0240

Subject: In 2015, the 78th Oregon Legislative Assembly passed Senate Bill 255, which was subsequently signed by Governor Kate Brown. Senate Bill 255 raised the statutory limit of fees for the annual registration of animal remedies, veterinary biologics, and pharmaceuticals from \$75 per year to \$150 per year. ORS 596.100(1) requires that each animal remedy, veterinary biologic, and pharmaceutical be registered with the Oregon Department of Agriculture (ODA) annually, unless otherwise exempt from registration. Applications and annual registration fees are continuously appropriated to ODA for the purpose of administering and enforcing ORS chapters 596 (Disease Control) and 599 (Livestock Auction Markets; Stockyards; Auction Sales).

This rule establishes a fee of \$100 for the annual registration of each animal remedy, veterinary biologic, or pharmaceutical, and simplifies the notification process for unregistered products. It also clarifies products that are exempt from registration, such as products that are considered animal food. Additionally, the rules clarify enforcement procedures and provide guidelines regarding enforcement and civil penalties.

Rules Coordinator: Sue Gooch—(503) 986-4583

603-012-0210

Definitions

In addition to the definitions set forth in ORS 596.05, the following shall apply:

(1) "Product" means an animal remedy, pharmaceutical or veterinary biologic readily distinguishable from any other animal remedy, pharmaceutical or veterinary biologic by its content, brand name, trade name, manufacturer, use as specified in labeling, or other distinction, but not including size or quantity of packaging.

(2) "Animal remedy" means any product labeled for veterinary/animal use to prevent, inhibit or cure or enhance or protect the health or well-being of animals, but does not include food, surgical instruments or accessories.

(3) "Pharmaceutical" means drug products labeled for veterinary/animal use by the U.S. Food and Drug Administration.

(4) "Veterinary biologic" means biological products licensed for veterinary/animal use by the U.S. Department of Agriculture, Animal and Plant Health Inspection Service.

(5) "Autogenous biologic" means a product derived from a source within the individual animal(s), or its confines, upon which it is to be used.

(6) "Food" means materials that are intended to provide energy or other nutrients to an animal. A food can be converted into an animal remedy by virtue of the claims made on the labeling.

Stat. Auth.: ORS 561.190

Stats. Implemented: ORS 596.095

Hist.: AD 6-1991(Temp), f. & cert. ef. 7-19-91; AD 2-1992, f. & cert. ef. 2-11-92; DOA 9-2016, f. & cert. ef. 4-29-16

603-012-0220

Exemptions

The following are exempt from the registration required by ORS 596.100:

(1) Animal remedy products compounded by Oregon licensed veterinarians for use in the course of their practice.

(2) Animal food if registered with the Department under ORS 633.015.

(3) Dog and cat food licensed under ORS 619.031.

(4) Pesticides with an EPA number on their retail packaging.

Stat. Auth.: ORS 561.190 & 596.105

Stats. Implemented: ORS 561.190 & 596.105

ADMINISTRATIVE RULES

Hist.: AD 6-1991(Temp), f. & cert. ef. 7-19-91; AD 2-1992, f. & cert. ef. 2-11-92; AD 10-1993(Temp), f. 8-4-93, cert. ef. 8-5-93; AD 4-1994, f. & cert. ef. 3-31-94; DOA 9-2016, f. & cert. ef. 4-29-16

603-012-0230

Fees

(1) The annual registration fee for each animal remedy, pharmaceutical or veterinary biologic product is \$100.

(2) Each manufacturer of autogenous biologics shall pay a total of \$100 annually for all autogenous products formulated.

Stat. Auth.: ORS 561.190 & 596.100

Stats. Implemented: ORS 596.100

Hist.: AD 6-1991(Temp), f. & cert. ef. 7-19-91; AD 2-1992, f. & cert. ef. 2-11-92; AD 10-1993(Temp), f. 8-4-93, cert. ef. 8-5-93; AD 4-1994, f. & cert. ef. 3-31-94; DOA 9-1999, f. 5-14-99, cert. ef. 6-1-99; DOA 31-2003, f. & cert. ef. 9-12-03; DOA 9-2016, f. & cert. ef. 4-29-16

603-012-0240

Enforcement

The following procedures will be followed when enforcement action is undertaken:

(1) Manufacturers will be notified when unregistered products are identified in the marketplace, and will be given 30 days in which to register the product.

(2) If products remain unregistered after the 30 days notice, the retail seller of the product will be notified that product is unregistered and requested to return it to their supplier.

(3) The product will not be eligible to be offered for sale until it is registered.

(4) Unless the retail seller refuses to remove the unregistered product from sale, all subsequent enforcement action will be taken against the manufacturer.

Stat. Auth.: ORS 561.190, 596.020 & 596.100

Stats. Implemented: ORS 596.020 & 596.100

Hist.: AD 10-1993(Temp), f. 8-4-93, cert. ef. 8-5-93; AD 4-1994, f. & cert. ef. 3-31-94; DOA 9-2016, f. & cert. ef. 4-29-16

603-012-0250

Enforcement Guidelines

(1) The Department may use alternative enforcement actions in addition to, or instead of, assessing a civil penalty. Alternative enforcement actions may include, but are not limited to: a letter of advisement; a notice of violation; a stop sale, use or removal; and license/registration revocation, suspension or denial.

(2) In addition to any other penalty provided by law, the Director may assess civil penalties for commission of acts prohibited by ORS 596.100. Civil penalties will be assessed in accordance with the magnitude of the violation. Prohibited acts are categorized by magnitude of violation as follows:

(a) Category I (Major): In addition to taking any alternative enforcement action deemed necessary to protect the public interest, the Department will issue a civil penalty for a Category I violation. Category I violations include:

(A) Registering or attempting to register any product using fraudulent or deceptive practices in an effort to evade or attempt to evade the requirement of ORS 596.100 or rules adopted there-under;

(B) Submitting false or fraudulent applications, records, invoices or reports; and

(C) Impeding, obstructing, hindering or otherwise preventing or attempting to prevent the Department from performing its duties under ORS 596.100.

(b) Category II (Moderate): Prior to issuing a civil penalty for a Category II violation, the Department will take written alternative enforcement action and may allow a specified amount of time to take corrective action. Failure to complete the required corrective action within the specified time period will result in the immediate issuance of a civil penalty. Category II violations include: making any false or misleading representation in connection with the sale, offer for sale, or distribution of an animal remedy, veterinary biologic or pharmaceutical.

(c) Category III (Minor): Prior to issuing a civil penalty for a Category III violation, the Department will take written alternative enforcement action and will allow a specified amount of time to take corrective action. Failure to complete the corrective action within the specified time period may result in the immediate issuance of a civil penalty. Category III violations include:

(A) Selling, offering for sale, or distributing an animal remedy, veterinary biologic or pharmaceutical product that is not registered with the State Department of Agriculture under ORS 596.100; and

(B) Failing, refusing, or neglecting to pay registration fees required under ORS 596.100.

(3) Maximum civil penalties are not to exceed the following:

Category — 1st Violation — 2nd Violation — 3rd Violation.

Category I (Major) — \$500 — \$1,500 — \$2,500.

Category II (Moderate) \$250 — \$750 — \$2,500.

Category III (Minor) — \$125 — \$375 — \$2,500.

(4) A civil penalty assessed under ORS 596.995 may be remitted or reduced upon such terms and conditions as the Director of Agriculture deems proper and consistent with public health and safety.

(5) Any violation that arises from gross negligence or willful misconduct and results in substantial harm to human health or the environment may be subject to a civil penalty of not more than \$2,500 for the initial violation or any subsequent violation. In the context of the acts prohibited in this section, “refusing” constitutes willful misconduct that is subject to a civil penalty of not more than \$2,500 for the initial violation or any subsequent violation.

Stat. Auth.: ORS 561.190

Stats. Implemented: ORS 596.100 & 596.955

Hist.: DOA 9-2016, f. & cert. ef. 4-29-16

Rule Caption: Raises fees for nursery licenses to cover the program’s budget deficit and future inflation.

Adm. Order No.: DOA 10-2016

Filed with Sec. of State: 4-29-2016

Certified to be Effective: 4-29-16

Notice Publication Date: 4-1-2016

Rules Adopted: 603-054-0014

Rules Amended: 603-054-0016, 603-054-0017, 603-054-0018

Subject: Nursery license Fees were last adjusted in 2014. Collected fees no longer cover the costs of running the nursery certification program. This rule will adjust the nursery license fee upwards between 8% and 18% depending on nursery license type. For license fees for Dealers, Florists and Landscape Contractors, as well as, Greenhouse Growers of Herbaceous Plants the base rate will increase from \$129 to \$148 (15%) and the millage rates will increase by 8%. For license fees for Nursery Stock Growers and Collectors of Native Plants the base rate will increase from \$129 to \$148 (15%) and the millage rate will increase by 18%.

The following is an example of how fees increases are calculated for Nursery Stock Growers and Collectors of Native Plants:

If gross Sales are: — Current fee: — Proposed new fee formula:

a) Up to \$20,000 — \$129 — 15% x \$129 = \$148

b) \$20,001 - \$100,000 — \$129 plus .0040 over \$20,000 \$148 + [(0.04 x 1.18) x (\$100,000 - \$20,001)] = \$526

c) \$100,001 - \$200,000 — \$449 plus .0037 over \$100,000 \$526 + [(0.037 x 1.18) x (\$200,000 - \$100,001)] = \$963

The license fee increase for Nursery Stock Growers and Collectors of Native Plants is higher than the other two license types so that the department can recover all costs associated with providing services to these nurseries. License fee increases are needed to cover an existing program budget deficit and to adjust for future inflation. In addition, definitions were added to nursery license fee schedules for clarification.

Rules Coordinator: Sue Gooch — (503) 986-4583

603-054-0014

Definitions

(1) “Annual sales” means annual gross dollar volume of sales of nursery stock within Oregon for the calendar year immediately preceding the license year.

(2) “Annual purchases” means annual gross dollar volume of purchases of nursery stock within Oregon for the calendar year immediately preceding the license year.

(3) “Collectors” means collectors of wild plants grown or kept for propagation or sale.

Stat. Auth.: ORS 561 & 571

Stats. Implemented: ORS 571.057

Hist.: DOA 10-2016, f. & cert. ef. 4-29-16

ADMINISTRATIVE RULES

603-054-0016

License Fees: Growers and Collectors

(1) The license fee for nursery growers, other than greenhouse growers of herbaceous plants, and for collectors of native plants shall be as follows: If Annual Sales are — The license fee is:

- (a) Up to \$20,000 = \$148;
- (b) \$20,001-\$100,000 = \$148 plus.00472 over \$20,000;
- (c) \$100,001-\$200,000 = \$526 plus.00437 over \$100,000;
- (d) \$200,001-\$500,000 = \$963 plus.00354 over \$200,000;
- (e) \$500,001-\$2,000,000 = \$2,025 plus.00212 over \$500,000;
- (f) \$2,000,001 & above = \$5,205 plus.00061 over \$2,000,000;
- (g) Maximum Fee = \$25,000.

(2) In addition to the annual license fee above, there will be a research assessment equal to .0002 of annual sales. The minimum research assessment is \$10.

(3) In addition to the annual license fee (1) and research assessment fee (2) above, there will be an assessment for the Plant Pest and Disease Emergency Response Fund. The assessment will be adjusted annually to maintain a fund balance of \$250,000 and will be prorated among all licensees based on annual sales or purchases from the previous year.

(4) An applicant for an original license or for a renewal license, without a full calendar year of prior nursery stock sales or purchase experience upon which to base the fees, must follow the licensing process found in ORS 571.057(2).

Stat. Auth.: ORS 561 & 571
Stats. Implemented: ORS 571.057
Hist.: AD 8-1986, f. & ef. 5-22-86; AD 11-1995(Temp), f. & cert. ef. 6-14-95; AD 13-1997, f. & cert. ef. 7-31-97; Administrative correction 8-26-97; DOA 2-2003, f. & cert. ef. 1-7-03; DOA 9-2006, f. & cert. ef. 3-22-06; DOA 3-2008, f. & cert. ef. 1-7-08; DOA 13-2008, f. & cert. ef. 4-15-08; DOA 6-2014, f. & cert. ef. 5-1-14; DOA 10-2016, f. & cert. ef. 4-29-16

603-054-0017

License Fees: Greenhouse Growers of Herbaceous Plants

(1) The license fee for greenhouse growers of herbaceous plants shall be as follows: If Annual Sales are — The license fee is:

- (a) Up to \$20,000 = \$148;
- (b) \$20,001-\$100,000 = \$148 plus .00173 over \$20,000;
- (c) 100,001-\$200,000 = \$286 plus .00140 over \$100,000;
- (d) \$200,001-\$500,000 = \$426 plus .00069 over \$200,000;
- (e) \$500,001-\$2,000,000 = \$633 plus .00062 over \$500,000;
- (f) \$2,000,001 & above = \$1,563 plus.00056 over \$2,000,000;
- (g) Maximum Fee = \$25,000.

(2) In addition to the annual license fee above, there will be a research assessment equal to .0002 of annual sales. The minimum research assessment is \$10.

(3) In addition to the annual license fee (1) and research assessment fee (2) above, there will be an assessment for the Plant Pest and Disease Emergency Response Fund. The assessment will be adjusted annually to maintain a fund balance of \$250,000 and will be prorated among all licensees based on annual sales or purchases from the previous year.

(4) An applicant for an original license or for a renewal license, without a full calendar year of prior nursery stock sales or purchase experience upon which to base the fees, must follow the licensing process found in ORS 571.057(2).

Stat. Auth.: ORS 561 & 571
Stats. Implemented: ORS 571.057
Hist.: AD 8-1986, f. & ef. 5-22-86; AD 11-1995(Temp), f. & cert. ef. 6-14-95; AD 13-1997, f. & cert. ef. 7-31-97; Administrative correction 8-26-97; DOA 2-2003, f. & cert. ef. 1-7-03; DOA 9-2006, f. & cert. ef. 3-22-06; DOA 3-2008, f. & cert. ef. 1-7-08; DOA 13-2008, f. & cert. ef. 4-15-08; DOA 6-2014, f. & cert. ef. 5-1-14; DOA 10-2016, f. & cert. ef. 4-29-16

603-054-0018

License Fees: Dealers, Florist and Landscape Contractors

(1) The license fee for dealers, florist, and landscape contractors shall be as follows: If annual purchases (live plant material only, cut flowers are exempt) are The license fee is:

- (a) Up to \$20,000 = \$148;
- (b) \$20,001-\$100,000 = \$148 plus.00173 over \$20,000;
- (c) 100,001-\$200,000 = \$286 plus.00140 over \$100,000;
- (d) \$200,001-\$500,000 = \$426 plus.00069 over \$200,000;
- (e) \$500,001-\$2,000,000 = \$633 plus.00062 over \$500,000;
- (f) \$2,000,001 & above = \$1,563 plus.00056 over \$2,000,000;
- (g) Maximum Fee = \$25,000.

(2) In addition to the annual license fee above, there will be a research assessment equal to .0002 of annual sales. The minimum research assessment is \$10.

(3) In addition to the annual license fee (1) and research assessment fee (2) above, there will be an assessment for the Plant Pest and Disease

Emergency Response Fund. The assessment will be adjusted annually to maintain a fund balance of \$250,000 and will be prorated among all licensees based on annual sales or purchases from the previous year.

(4) An applicant for an original license or for a renewal license, without a full calendar year of prior nursery stock sales or purchase experience upon which to base the fees, must follow the licensing process found in ORS 571.057(2).

Stat. Auth.: ORS 561 & 571
Stats. Implemented: ORS 571.057
Hist.: AD 8-1986, f. & ef. 5-22-86; AD 11-1995(Temp), f. & cert. ef. 6-14-95; AD 13-1997, f. & cert. ef. 7-31-97; Administrative correction 8-26-97; DOA 2-2003, f. & cert. ef. 1-7-03; DOA 9-2006, f. & cert. ef. 3-22-06; DOA 3-2008, f. & cert. ef. 1-7-08; DOA 13-2008, f. & cert. ef. 4-15-08; DOA 6-2014, f. & cert. ef. 5-1-14; DOA 10-2016, f. & cert. ef. 4-29-16

Rule Caption: Temporary rule making for accommodating provisions of newly revised statute administering industrial hemp.

Adm. Order No.: DOA 11-2016(Temp)

Filed with Sec. of State: 5-3-2016

Certified to be Effective: 5-3-16 thru 10-29-16

Notice Publication Date:

Rules Adopted: 603-048-0650

Rules Amended: 603-048-0010, 603-048-0100, 603-048-0200, 603-048-0300, 603-048-0400, 603-048-0500, 603-048-0600, 603-048-0700, 603-048-0800, 603-048-0900, 603-048-1000

Rules Suspended: 603-048-0050, 603-048-0110, 603-048-0250

Subject: The 2016 legislative assembly passed HB 4060 which made substantial revisions to the industrial hemp statutes, ORS 571.300 to ORS 571.315 so as to require immediate revisions to the current rules. To summarize, these changes: Remove the minimum acreage production requirement; Allow one growing registration to authorize production in multiple, non-contiguous locations; Authorize growers to use any propagation method including planting seeds or starts, or the use of clones or cuttings; Allow sampling and testing to be performed by other than the department. Sets three separate registration activities and sets annual registration fees: Industrial Hemp Growers Registration, \$500; Industrial Hemp Handlers Registration, \$500; and Agricultural Hemp Seed Registration, \$25.

HB 4060 effects significant changes to the way that the Oregon Department of Agriculture regulates the production and processing of industrial hemp such that existing rules do not implement existing law as it has been amended and would prejudice those grower, handlers and processors seeking to cultivate and process industrial hemp during the 2016 growing season. It is therefore necessary to immediately adopt temporary rules to implement HB 4060 such that growers and handlers of industrial hemp may cultivate and process industrial hemp consistently with current law. A delay in adopting these rules would prevent growers and handlers of industrial hemp from cultivating industrial hemp consistent with Oregon law.

Rules Coordinator: Sue Gooch—(503) 986-4583

603-048-0010

Definitions

The following definitions apply to OAR 603-048-0100 through 603-048-1000 unless the context requires otherwise.

(1) "Agricultural hemp seed" means Cannabis seed:

(a) That is sold to or intended to be sold to registered growers for planting; or

(b) That remains in an unprocessed or partially processed condition that is capable of germination.

(2) "Agricultural hemp seed producer" means a person, joint venture or cooperative that grows, handles, sells, offers or holds for sale, or contracts to obtain the production of agricultural hemp seed.

(3) "Batch" means:

(a) A quantity of usable industrial hemp from a harvest lot; or

(b) A quantity of industrial hemp commodities or products from a process lot.

(4) "CBD" means cannabidiol, Chemical Abstracts Service Number 13956-29-1.

(5) "Consumption" means to ingest, inhale or topically apply to the skin or hair.

(6) "Crop" means industrial hemp grown under a single registration.

(7) "Department" means the Oregon Department of Agriculture.

ADMINISTRATIVE RULES

(8) "Grower" means a person, joint venture or cooperative that produces industrial hemp.

(9) "Handler" means a person, joint venture or cooperative that receives industrial hemp for processing into commodities, products or agricultural hemp seed.

(10) "Industrial hemp":

(a) Means all non-seed parts and varieties of the Cannabis plant, whether growing or not, that contain an average tetrahydrocannabinol concentration that does not exceed 0.3 percent on a dry weight basis.

(b) Means any Cannabis seed:

(A) That is part of a crop;

(B) That is retained by a grower for future planting;

(C) That is agricultural hemp seed;

(D) That is for processing into or for use as agricultural hemp seed; or

(E) That has been processed in a manner or to an extent that the Cannabis seed is incapable of germination.

(c) Does not mean industrial hemp commodities or products.

(11) "Industrial hemp product" means an edible, edible seed, or any other product intended for human consumption or use, including a product intended to be applied to a person's skin or hair that contains CBD or the dried leaves or flowers of industrial hemp.

(12) "Laboratory" means a laboratory that is licensed by the Oregon Liquor Control Commission under ORS 475B.560 and accredited by the Oregon Health Authority pursuant to ORS 475B.565.

Stat. Auth.: ORS 569.445, 571.300 - 571.315 & 633.511 - 633.996

Stats. Implemented: ORS 571.300 - 571.315

Hist.: DOA 3-2015, f. & cert. ef. 1-29-15; DOA 11-2016(Temp), f. & cert. ef. 5-3-16 thru 10-29-16

603-048-0050

Production and Handling of Industrial Hemp

(1) No person, joint venture or cooperative may grow, handle, possess or process industrial hemp without first obtaining an industrial hemp license from the Department. Growers and handlers of industrial hemp must comply with all terms and conditions of a license issued by the Department.

(2) No person, joint venture or cooperative may grow, handle, or possess agricultural hemp seed without first obtaining an agricultural hemp seed production permit from the Department except that a licensed grower may retain seed from each industrial hemp crop to ensure a sufficient supply of seed for that grower for the following year provided the seed retained is not sold or transferred.

(3) Agricultural hemp seed that is sold, offered or exposed for sale within this state must comply with all requirements established in ORS 633.511 to 633.750 or any rule of the Department implementing those statutes.

(4) Every licensed grower or handler of industrial hemp, or holder of an agricultural hemp seed production permit must keep records as specified in OAR 603-048-0400.

(5) A grower of industrial hemp or agricultural hemp seed may not change the location of fields or the number of acres produced, unless the Department is first notified in writing, on forms provided by the Department, including a map indicating the changes.

(6) Growers of industrial hemp or agricultural hemp seed must notify the Department a minimum of 14 days prior to the intended harvest date to allow the Department to take and test samples.

Stat. Auth.: ORS 569.445, 571.300 - 571.315 & 633.511 - 633.996

Stats. Implemented: ORS 571.300 - 571.315

Hist.: DOA 3-2015, f. & cert. ef. 1-29-15; Suspended by DOA 11-2016(Temp), f. & cert. ef. 5-3-16 thru 10-29-16

603-048-0100

Production and Handling of Industrial Hemp and Agricultural Hemp Seed

(1) Industrial hemp is an agricultural product that is subject to regulation by the Department.

(2) Only a grower or handler that is registered with the department may produce or handle industrial hemp.

(3) Registrations are personal and may not be transferred. A registrant may not sell or transfer industrial hemp or agricultural hemp seed production registrations.

(4) A registered grower may use any propagation method, including planting seeds from, or starts, or the use of clones or cuttings, to produce industrial hemp.

(5) Any person holding a valid 3-year or 1 year industrial hemp license or agricultural hemp seed permit shall be considered a registrant for the purposes of these rules, for the term remaining on the license or permit.

(6) The department shall make available to registered growers information that identifies registered agricultural hemp seed producers from whom growers may purchase agricultural hemp seed.

Stat. Auth.: ORS 569.445, 571.300 - 571.315 & 633.511 - 633.996

Stats. Implemented: ORS 571.300 - 571.315

Hist.: DOA 3-2015, f. & cert. ef. 1-29-15; DOA 11-2016(Temp), f. & cert. ef. 5-3-16 thru 10-29-16

603-048-0110

Renewal of Licenses and Permits

(1) An industrial hemp license or agricultural hemp seed production permit is valid for a three-year term unless revoked and may be renewed as provided in OAR 603-048-0110. An industrial hemp license and an agricultural hemp seed production permit is a personal privilege that is non-transferable.

(2) Licenses and permits may be renewed for additional (3) year terms in a manner consistent with these rules.

(3) An application to renew a license to grow and handle industrial hemp, or to renew a permit to grow and handle agricultural hemp seed, must be submitted in writing to the Department on forms provided by the Department and must contain the information as in OAR 603-048-0100. Required fees must accompany all applications for renewal of a license.

(4) The Department may refuse to renew a license for industrial hemp, or an agricultural hemp seed production permit, if the applicant has a record of noncompliance with ORS 571.300 to 571.315, a license or permit requirement term or condition, a Department rule relating to industrial hemp or agricultural hemp seed, or noncompliance with a final order of the Department that is specifically directed to the licensee or permittee's operations or activities.

Stat. Auth.: ORS 569.445, 571.300 - 571.315 & 633.511 - 633.996

Stats. Implemented: ORS 571.300 - 571.315

Hist.: DOA 3-2015, f. & cert. ef. 1-29-15; Suspended by DOA 11-2016(Temp), f. & cert. ef. 5-3-16 thru 10-29-16

603-048-0200

Applications to Register or Renew Registrations

Registrations are valid for a one-year term beginning on January 1 of each calendar year. To ensure the department has sufficient time to process applications for registration, or renew a registration, any person applying for registration must apply with the department no less than 30 days prior to the date of the intended activity.

(1) Applications for registration under this section must be submitted to the department on forms provided by the department, and must be accompanied by the fee as described in OAR 603-048-0700. A separate registration is required for persons seeking to grow, handle or produce agricultural hemp seed.

(2) An application to grow industrial hemp must include all of the following information:

(a) The name and address of the applicant;

(b) The name and address of the industrial hemp operation(s) of the applicant;

(c) The global positioning system (GPS) coordinates provided in decimal of degrees and taken at the approximate center of the growing field, or entrance of building;

(d) A map of the growing area showing clear boundaries of the production area; and

(e) If industrial hemp is cultivated in a field, the number of square feet or acres of each cultivated field;

(f) If industrial hemp is cultivated in a greenhouse or other building, the approximate dimension or square feet of the building.

(3) An application to handle industrial hemp must include all of the following information:

(a) The name and address of the applicant;

(b) The name and address of applicant's industrial hemp operation.

(4) In addition to the requirements in sections (1) to (3), all applicants for registration must acknowledge and agree that:

(a) Any information provided to the department may be publicly disclosed and may be provided to law enforcement agencies without notice to the applicant;

(b) The department may enter any field, facility or greenhouse used for the production or handling of industrial hemp or agricultural hemp seed and may take samples of industrial hemp or agricultural hemp seed as necessary for the administration of the department's laws.

(c) All fees lawfully due to the department will be timely paid.

(d) The information provided is true and correct and that applicant's signature is an attestation of that fact.

Stat. Auth.: ORS 569.445, 571.300 - 571.315 & 633.511 - 633.996

Stats. Implemented: ORS 571.300 - 571.315

ADMINISTRATIVE RULES

Hist.: DOA 3-2015, f. & cert. ef. 1-29-15; DOA 1-2016(Temp), f. & cert. ef. 1-29-16 thru 7-26-16; DOA 11-2016(Temp), f. & cert. ef. 5-3-16 thru 10-29-16

603-048-0250

Retaining Agricultural Hemp Seed

As provided for in ORS 571.305(6), a grower of industrial hemp or agriculture hemp seed may retain seed from each industrial hemp crop to ensure a sufficient supply of seed for that grower for the following year.

(1) A grower does not need an agricultural hemp seed production permit in order to retain seed for future planting.

(2) Agricultural hemp seed may not be retained for future planting when official test results indicate the Tetrahydrocannabinol concentration exceeds 0.3 percent on a dry weight basis, in the crop from which it was harvested.

(3) Seed retained by a grower may not be sold or transferred and does not need to meet other seed standards set by the Department.

(4) Seed retained by a grower may not be more than needed for the following year.

Stat. Auth.: ORS 569.445, 571.300 - 571.315 & 633.511 - 633.996
Stats. Implemented: ORS 571.300 - 571.315

Hist.: DOA 3-2015, f. & cert. ef. 1-29-15; Suspended by DOA 11-2016(Temp), f. & cert. ef. 5-3-16 thru 10-29-16

603-048-0300

Agricultural Hemp Seed

Registrations for growing or handling agricultural hemp seed are valid for a one-year term beginning on January 1 of each calendar year. To ensure the department has sufficient time to process applications for registration, or renew a registration, any person applying for registration must apply with the department no less than 30 days prior to the date of the intended activity.

(1) Registered growers or handlers seeking to produce agricultural hemp seed must register with the department, on forms provided by the department, as an agricultural hemp seed producer unless:

(a) A registered grower retains agricultural hemp seed for the purpose of propagating industrial hemp for their own use in future years;

(b) A registered grower or handler produces Cannabis seeds that are incapable of germination; or

(c) A registered handler processes Cannabis seeds that are incapable of germination into industrial hemp commodities or products.

(2) An application to grow or handle agricultural hemp seed must include the following information as applicable:

(a) The name and address of the applicant;

(b) The name and address of the facility used for handling agricultural hemp seed;

(c) The global positioning system (GPS) coordinates shown in decimal of degrees taken at the approximate center of the growing area;

(d) A map of the growing area showing clear boundaries of the production area; and

(e) If industrial hemp is cultivated in a field, the number of square feet or acres of the cultivated field.

(3) A registered grower may retain agricultural hemp seed for the purpose of propagating industrial hemp in future years, except that a registered grower may not:

(a) Retain seed for future planting when laboratory test results indicate the tetrahydrocannabinol concentration exceeds 0.3 percent on a dry weight basis, in the crop from which it was harvested.

(b) Sell or transfer seed for the purpose of planting without first obtaining a registration for agricultural hemp seed.

Stat. Auth.: ORS 569.445, 571.300 - 571.315 & 633.511 - 633.996
Stats. Implemented: ORS 571.300 - 571.315

Hist.: DOA 3-2015, f. & cert. ef. 1-29-15; DOA 11-2016(Temp), f. & cert. ef. 5-3-16 thru 10-29-16

603-048-0400

Reporting Requirements

Growers of industrial hemp are responsible for ensuring their crops were sampled and tested for tetrahydrocannabinol and are responsible for reporting these test results to the department in a timely manner.

(1) Growers and handlers must immediately report to the Oregon Department of Agriculture:

(a) The theft or loss of industrial hemp;

(b) All laboratory test results for tetrahydrocannabinol, for all crops.

(2) On forms provided for by department, growers and handlers must immediately report to the department:

(a) Changes to the name, address, or telephone number of the registration holder;

(b) Changes in the ownership of the land used to cultivate or handle industrial hemp or agricultural hemp seed;

(c) Changes in the ownership or structure of the entity holding an industrial hemp registration or agricultural hemp seed production registration.

Stat. Auth.: ORS 569.445, 571.300 - 571.315 & 633.511 - 633.996

Stats. Implemented: ORS 571.300 - 571.315

Hist.: DOA 3-2015, f. & cert. ef. 1-29-15; DOA 11-2016(Temp), f. & cert. ef. 5-3-16 thru 10-29-16

603-048-0500

Record Keeping Requirements

Growers and handlers of industrial hemp must maintain records of all receipts of, transfers of ownership or possession of, or other dealings of, industrial hemp for a period of no less than three (3) years after the total disposition of the crop.

(1) Growers of industrial hemp must maintain records, which include:

(a) Name and address of all registered handler(s) receiving any and all amounts of industrial hemp crop(s);

(b) Date(s) in which crop was transferred to each registered handler;

(c) Amount of crop(s), in pounds, transferred to each registered handler;

(d) All records of sampling including date, approximate number of plants sampled, total sample weight;

(e) Name of approved laboratory samples were submitted to; and

(f) All test report records for tetrahydrocannabinol for all crops, as reported by the approved laboratory.

(2) Handlers of industrial hemp must maintain records, which include:

(a) Name and address of each registered grower or handler from which industrial hemp crop was received;

(b) All test report records for tetrahydrocannabinol for all industrial hemp crops received;

(c) Date in which each crop or portion of crop was received;

(d) Amount and type of crop(s), in pounds, received;

(e) A copy of the test report records indicating percent of tetrahydrocannabinol for all industrial hemp crop received; and

(f) When a handler is selling or transferring an industrial hemp commodity or product that is intended for human consumption, test reports from an approved laboratory, for tests as required by the Oregon Health Authority under ORS 475B.555(1)(a) and (b) and (2) for testing marijuana items.

(3) Growers and handlers of agricultural hemp seed must maintain records which include:

(a) Name and address of all registered growers and handler(s) from which any and all amounts of agricultural hemp seed was transferred to;

(b) Date(s) in which agricultural hemp seed was transferred to each registered grower or handler;

(c) Amount of agricultural hemp seed, in pounds, transferred to each registered grower or handler;

(d) All records of sampling including date, approximate number of plants sampled, total sample weight;

(e) Name of approved laboratory samples were submitted to; and

(f) All test report records for tetrahydrocannabinol for all crops, as reported by the approved testing laboratory.

Stat. Auth.: ORS 569.445, 571.300 - 571.315 & 633.511 - 633.996

Stats. Implemented: ORS 571.300 - 571.315

Hist.: DOA 3-2015, f. & cert. ef. 1-29-15; DOA 11-2016(Temp), f. & cert. ef. 5-3-16 thru 10-29-16

603-048-0600

Sampling and Testing Crops for Tetrahydrocannabinol

At the discretion of the grower, different varieties grown on the same contiguous field or growing area, may be sampled and tested for tetrahydrocannabinol as separate lots.

(1) Registered industrial hemp and agricultural hemp seed growers, must sample all crops no more than two (2) weeks prior to harvest for the purpose of ensuring that the crop contains an average tetrahydrocannabinol concentration that does not exceed 0.3 percent on a dry weight basis.

(2) Crops from each noncontiguous field or growing area are considered a separate lot of industrial hemp and must be sampled and tested separately.

(3) Samples must be representative of each industrial hemp lot.

(a) Samples shall be taken one per plant, randomly chosen throughout the growing area, and if from an outdoor planting, not from the border of the field.

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(b) When flowering tops are present, samples shall be obtained from flowering tops,

(c) Samples shall be cut to a length of about 20 cm and stored in a paper bag.

(4) Testing of samples by licensed and accredited labs must be according to the United Nations Office on Drugs and Crime, Recommended Methods for the Identification and Analysis of Cannabis and Products, 2009.

(5) Test results must be reported to the department, and on forms provided by the department, and include:

- (a) Sample date;
- (b) Sample size by weight;
- (c) Test date;
- (d) Total tetrahydrocannabinol percentage;
- (e) Field/growing location information including GPS coordinates;
- (f) Registration number.

Stat. Auth.: ORS 569.445, 571.300 - 571.315 & 633.511 - 633.996

Stats. Implemented: ORS 571.300 - 571.315

Hist.: DOA 3-2015, f. & cert. ef. 1-29-15; DOA 1-2016(Temp), f. & cert. ef. 1-29-16 thru 7-26-16; DOA 11-2016(Temp), f. & cert. ef. 5-3-16 thru 10-29-16

603-048-0650

Industrial Hemp Inspection and Record Reviews

(1) The Oregon Department of Agriculture, as it deems necessary in the enforcement and carrying out its laws may, during normal business hours, inspect premises, machinery, equipment and facilities of registrants and inspect, any crop during any growth phase, and take a representative composite sample for field analysis.

(2) Upon not less than three days' notice, the department may subject the records to inspection or audit during normal business hours. The department may make an inspection or audit for the purpose of ensuring compliance with:

- (a) A provision of ORS 571.300 to 571.315;
- (b) A rule adopted under a provision or ORS 571.300 to 571.315; or
- (c) An order issued by the department pursuant to a provision of ORS 571.300 to 571.315 or rule adopted under a provision of ORS 571.300 to 571.315.

Stat. Auth.: ORS 571.300 - 571.315; 2016 HB 4060

Stats. Implemented: ORS 571.300 - 571.315; 2016 HB 4060

Hist.: DOA 11-2016(Temp), f. & cert. ef. 5-3-16 thru 10-29-16

603-048-0700

Registration Fees

The following designated annual permit fees shall be applicable to each described activity under authority of ORS 571.305:

- (1) Industrial hemp grower registration \$500.00;
- (2) Industrial hemp handler registration \$500.00; and
- (3) Agricultural hemp seed growing or handling registration \$25.00.

Stat. Auth.: ORS 569.445, 571.300 - 571.315 & 633.511 - 633.996

Stats. Implemented: ORS 571.300 - 571.315

Hist.: DOA 3-2015, f. & cert. ef. 1-29-15; DOA 11-2016(Temp), f. & cert. ef. 5-3-16 thru 10-29-16

603-048-0800

Enforcement and Civil Penalty for Industrial Hemp Law Violation

(1) In addition to any other liability or penalty provided by law, any person who violates any provision of ORS 571.300 to 571.315, a rule adopted pursuant thereto or order issued by the State Department of Agriculture under ORS 571.300 to 571.315, may be subject to a civil penalty not to exceed \$2,500 per violation.

(2) If a civil penalty is imposed, the Department shall issue a written notice to the person being assessed the penalty consistent with ORS Chapter 183. Contested cases will be conducted pursuant to ORS Chapter 183. Each violation may be considered a separate and distinct offense.

(3) Subject to the provisions of ORS Chapter 183, the department may revoke the registration of a grower, handler or agricultural hemp seed producer or may refuse to register or renew the registration if a grower, handler or agricultural hemp seed producer violates:

- (a) A provision of ORS 571.300 to 571.315;
- (b) A rule adopted under a provision of ORS 571.300 to 571.315;
- (c) An order issued by the department for violation of a provision of ORS 571.300 to 571.315 or any rule adopted thereunder;
- (d) Any statutory law or department rule related to agricultural activities other than industrial hemp operations.

Stat. Auth.: ORS 569.445

Stats. Implemented: ORS 571.300 - 571.315

Hist.: DOA 3-2015, f. & cert. ef. 1-29-15; DOA 11-2016(Temp), f. & cert. ef. 5-3-16 thru 10-29-16

603-048-0900

Embargo of Crop or Product

If a crop contains an average tetrahydrocannabinol concentration exceeding 0.3 percent on a dry weight basis, the department may detain, seize or embargo the crop as provided in ORS 561.605 to 561.620 and consistent with these rules.

(1) The department shall cause to be affixed to the crop or the products being detained, seized or embargoed a notice that the crop or products are being detained, seized or embargoed by the department and warning all persons that they may not be removed from the place at which they are being held without written permission from the department.

(2) The department shall notify in writing the owner or person in possession of the products that the products are being detained, seized or embargoed by the department.

(a) If the person in possession of the crop or products is not the owner, the department shall make a reasonable effort to notify the owner.

(b) Such notification shall state the reason for the department's action and notify the owner or person in possession of the right to be heard before the department in opposition to the action.

(c) A request for hearing on the proprietary of the detention, seizure or embargo must be filed either by the owner or person in possession with the department in writing within 10 days of receiving actual notice of the action.

(d) Any hearing shall not be held sooner than 10 days after the request for hearing has been received by the department, however if the subject matter of the department's action is perishable goods, or if, in the opinion of the department, other good and sufficient reason appears, the department may, at the request of the owner or person in possession of such goods, be held at an earlier date.

(e) Any hearing shall be conducted by an administrative law judge assigned from the Office of Administrative Hearings and shall be conducted pursuant to ORS Chapter 183.

(3) If it appears that all or part of a crop or products detained or embargoed may be reconditioned or segregated in such a way as to comply with state laws, the owner or person in possession may cause them to be reconditioned or segregated at the owner's or person's own expense after which the department may release them.

(4) A hearing is not required to be held in connection with the seizure or embargoing of illegal or suspected products or as prohibiting the release, destruction or other disposition of such crops or products by agreement between the department and the owner or person in possession of such products.

(5) No person shall remove or deface any notice placed upon a crop or such products seized or embargoed by the department, or move any such products from the place designated in the notice without written permission from the department.

Stat. Auth.: ORS 561 & 571

Stats. Implemented: ORS 571.300 - 571.315

Hist.: DOA 3-2015, f. & cert. ef. 1-29-15; DOA 11-2016(Temp), f. & cert. ef. 5-3-16 thru 10-29-16

603-048-1000

Violations and Penalties; Classification of Violations

(1) Violations are violations classified as follows:

(a) Class 1 violations are flagrant violations of:

(A) ORS 571.305(1) or OAR 603-048-0100(2);

(B) Providing false information on an application for a registration, or application to renew a registration;

(C) Falsifying, or failure to keep or provide, information and records as required by the Department;

(D) Growing or handling industrial hemp with tetrahydrocannabinol concentration that exceeds 0.3 percent on a dry weight basis;

(E) Failing to provide Department with lab test results before handling or sale that verify compliance with 0.3% THC threshold.

(F) Repeat violations of Class 2 or Class 3 violations.

(b) Class 2 violations are any violations in which the person acted in a negligent manner: Violation of any other rule, regulation or requirement as specified by OAR 603-048.

(c) Class 3 violations are negligent violations of:

(A) OAR 603-048-0100 to 603-048-0700;

(B) Providing false information on an application for a registration, or application to renew a registration;

(C) Falsifying or failure to keep or provide, information and records as required by the Department;

(D) Growing or handling of industrial hemp with tetrahydrocannabinol concentration that exceeds 0.3 percent on a dry weight basis

ADMINISTRATIVE RULES

(2) Civil Penalty amounts for each classification:
(a) Class 1 violation, \$2,500;
(b) Class 2 violation, \$1000;
(c) Class 3 violation, \$ 500.
Stat. Auth.: ORS 569.445, 571.300 - 571.315 & 633.511 - 633.996
Stats. Implemented: ORS 571.300 - 571.315
Hist.: DOA 3-2015, f. & cert. ef. 1-29-15; DOA 11-2016(Temp), f. & cert. ef. 5-3-16 thru 10-29-16

**Department of Agriculture,
Oregon Processed Vegetable Commission
Chapter 647**

Rule Caption: Amend rules related to assessment rates.
Adm. Order No.: OPVC 1-2016
Filed with Sec. of State: 5-10-2016
Certified to be Effective: 7-1-16
Notice Publication Date: 4-1-2016
Rules Amended: 647-010-0010
Subject: The proposed rule amendments set the assessment rates for the six processed vegetable crops governed by the commission.
Rules Coordinator: Misty Slagle—(503) 924-1181

**647-010-0010
Assessments**

(1) Any first purchaser shall deduct and withhold an assessment of the following amounts from each of the above named vegetable crops:
(a) Beans — \$1.038 per ton based on the net weight of the beans delivered.
(b) Sweet Corn — \$.241 per ton based on the gross weight of the sweet corn delivered.
(c) Table Beets — \$.048 per ton based on the net weight of the table beets delivered.
(d) Carrots — \$.474 per ton based on the net weight of the carrots delivered.
(e) Broccoli — \$2.411 per ton based on the net weight of the broccoli delivered.
(f) Cauliflower — \$1.419 per ton based on the net weight of the cauliflower delivered.
(2) From the price paid to the producer thereof, after July 1, 2016 for all of the above named vegetables for processing and grown in Oregon.

Stat. Auth.: ORS 576.051 - 576.595
Stats. Implemented: ORS 576.051 - 576.595
Hist.: PVC 2-1985, f. 7-17-85, ef. 7-22-85; PVC 1-1986, f. 5-30-86, ef. 6-1-86; PVC 2-1987, f. & ef. 6-16-87; PVC 1-1988, f. 4-22-88, cert. ef. 6-1-88; PVC 1-1989, f. 5-4-89, cert. ef. 6-1-89; PVC 1-1990, f. 4-24-90, cert. ef. 6-1-90; PVC 1-1991, f. 5-7-91, cert. ef. 6-1-91; PVC 1-1992, f. 4-15-92, cert. ef. 6-1-92; PVC 1-1993, f. 4-28-93, cert. ef. 6-21-93; PVC 1-1994, f. 4-22-94, cert. ef. 6-21-94; PVC 2-1995, f. 5-24-95, cert. ef. 6-1-95; PVC 1-1996, f. 5-14-96, cert. ef. 1-1-96; PVC 1-1997, f. 5-6-97, cert. ef. 6-1-97; OPVC 1-1998, f. 5-28-98, cert. ef. 6-1-98; OPVC 2-1999 f. 4-26-99, cert. ef. 6-1-99; OPVC 1-2000, f. 5-2-00, cert. ef. 6-1-00; OPVC 2-2001, f. 5-15-01, cert. ef. 6-1-01; OPVC 1-2002, f. 4-26-02, cert. ef. 6-1-02; OPVC 1-2003, f. 5-8-03, cert. ef. 6-1-03; OPVC 2-2004, f. 5-11-04, cert. ef. 6-1-04; OPVC 1-2005, f. 5-13-05, cert. ef. 6-1-05; OPVC 1-2006, f. 5-9-06, cert. ef. 6-1-06; OPVC 1-2007, f. 5-14-07, cert. ef. 6-1-07; OPVC 2-2008, f. 5-2-08, cert. ef. 6-1-08; OPVC 1-2009, f. 5-14-09, cert. ef. 7-1-09; OPVC 1-2010, f. 4-26-10, cert. ef. 7-1-10; OPVC 1-2011, f. 5-3-11, cert. ef. 7-1-11; OPVC 1-2012, f. 5-14-12, cert. ef. 7-1-12; OPVC 1-2013, f. & cert. ef. 5-10-13; OPVC 1-2014, f. & cert. ef. 5-5-14; OPVC 1-2015, f. 5-15-15, cert. ef. 7-1-15; OPVC 1-2016, f. 5-10-16, cert. ef. 7-1-16

**Department of Agriculture,
Oregon Raspberry and Blackberry Commission
Chapter 611**

Rule Caption: Eliminates term limits and clarifies that director may reappoint commissioners.
Adm. Order No.: ORBC 1-2016
Filed with Sec. of State: 5-9-2016
Certified to be Effective: 5-9-16
Notice Publication Date: 3-1-2016
Rules Amended: 611-030-0010
Subject: Amend OAR 611-030-0010 to eliminate the language that no commissioner will serve for more than two consecutive full terms of office.

Over time, the number of raspberry and blackberry growers willing to apply to be appointed to serve as commissioners has reduced in proportion to the reduction in number of acres planted. Commissioners who would like to be reappointed have not been able to qualify due to the term limits. Removing term limits will allow com-

missioners the option to apply for reappointment by the Director of the Oregon Department of Agriculture. The rule also clarifies that commissioners may be reappointed for consecutive terms.
Rules Coordinator: Connie Gutt—(541) 758-4043

**611-030-0010
Number of Commissioners and Terms**

The Oregon Raspberry and Blackberry Commission will consist of nine commissioners appointed by the Director of the Oregon Department of Agriculture for a term of three years or, if a commissioner is reappointed for a term following a prior term for that person, ending three years from the date of expiration of any prior term.

Stat. Auth.: 2003 OL Ch. 604 & ORS 576
Stats. Implemented: 2003 OL Ch. 604 & ORS 576
Hist.: ORBC 1-2004, f. & cert. ef. 1-15-04; ORBC 1-2016, f. & cert. ef. 5-9-16

**Department of Consumer and Business Services,
Insurance Regulation
Chapter 836**

Rule Caption: Adoption of 2017 base benchmark health benefit plan and essential health benefits

Adm. Order No.: ID 5-2016
Filed with Sec. of State: 4-26-2016
Certified to be Effective: 4-26-16
Notice Publication Date: 1-1-2016
Rules Adopted: 836-010-0155, 836-053-0004, 836-053-0012, 836-053-0013
Rules Amended: 836-053-0002, 836-053-0008, 836-053-0009, 836-053-1020, 836-053-1404, 836-053-1405
Rules Repealed: 836-053-0004(T), 836-053-0012(T), 836-053-0013(T)
Rules Ren. & Amend: 836-053-0010 to 836-053-0019, 836-053-1406 to 836-053-1409

Subject: These new and amended rules establish the Oregon benchmark health benefit plan and standard plans for plan years beginning on and after January 1, 2017. Because the plan selected is a 2014 plan, the plan alone does not reflect current state and federal minimum requirements. Therefore, the proposed rules also include provisions to supplement the selected plan so that the plan complies with state and federal law. The proposed rules clarify existing state and federal requirements adopted since 2014 and make conforming amendments to rules related to coverage of mental or nervous conditions.

Rules Coordinator: Karen Winkel—(503) 947-7694

**836-010-0155
Gender Specific Contract Language**

(1) As used in this rule, "provider" includes but is not limited to:
(a) A physician as defined in ORS 677.010.
(b) A physician group, independent practice association, physician-controlled organization, hospital organization or other provider organization that contracts with a provider for the purpose of facilitating the provider's participation in a provider network contract.
(c) A person licensed or certified by the laws of this state to administer medical services or mental health services in the ordinary course of business or practice of a profession. A person grandfathered under the provisions of Section 3, chapter 674, Oregon Laws 2015 (Enrolled Senate Bill 696) shall be considered licensed or certified under this section.

(2) An individual's attending provider determines whether a sex-specific recommended preventive service that is required to be covered without cost sharing under section 2713 of the Public Health Service Act and its implementing regulations is medically appropriate for a particular individual. When an attending provider determines that a recommended service is medically appropriate for an individual and the individual satisfies the criteria for the service or treatment, the insurer must provide coverage for the recommended service regardless of sex assigned at birth, gender identity, or gender of the individual otherwise recorded by the insurer.

Stat. Auth.: ORS 731.244
Stats Implemented: ORS 743A.066, 743A.080, 743A.100, 743A.104, 743A.105, 743A.108, 743A.110 and 743A.120
Hist.: ID 5-2016, f. & cert. ef. 4-26-16

ADMINISTRATIVE RULES

836-053-0002

Modification of a Health Benefit Plan Subject to Levels of Coverage Requirements

1) A modification of a health benefit plan subject to the levels of coverage defined in 42 U.S.C. 18022(d) is defined in this rule for the purposes of:

(a) ORS 743B.013, regarding small employer health benefit plans; and

(b) ORS 743B.125, regarding individual health benefit plans.

(2) At the time of coverage renewal insurers may modify the coverage for a product offered to a group or an individual.

(a) The modification must be consistent with state law and effective uniformly with that product.

(b) Modifications made uniformly and solely under applicable federal or state requirements are considered a uniform modification of coverage if:

(A) The modification is made within a reasonable time period after the imposition or modification of the federal or state requirement; and

(B) The modification is directly related to the imposition or modification of the federal or state requirement.

(c) Other types of modification made uniformly are considered a uniform modification of coverage if the coverage for the product in the individual or small group market meets all of the following criteria:

(A) The product is offered by the same health insurer;

(B) The product offered has the same product network type;

(C) The product continues to cover at least a majority of the same service area;

(D) Within the product, each plan has the same cost sharing structure as before the modification, except for any variation in cost sharing solely related to changes in cost and utilization of medical care, or to maintain the same metal tier level described in 42 U.S.C. 18022(d); and

(E) The product provides the same covered benefits, except for any changes in benefits that cumulatively impact the plan-adjusted index rate for any plan within the product within an allowable variation of the plus or minus two percentage points (not including changes required under applicable federal or state law).

(3) Insurers must:

(a) Give the individual notice of a modification to which this rule applies not later than 30 days before the date of renewal of the plan to which the modification applies.

(b) Use either the standard notice created by Centers for Medicare and Medicaid Services or the standardized notice of modification or discontinuance as set forth on website for the Department of Consumer and Business Services at www.insurance.oregon.gov.

Stat. Auth.: ORS 731.244, 743B.127 & 743B.324

Stats Implemented: ORS 743B.013, 743B.105, 743B.125

Hist.: ID 12-2013, f. 12-31-13, cert. ef. 1-1-14; ID 14-2015(Temp), f. & cert. ef. 12-17-15 thru 5-1-16; ID 5-2016, f. & cert. ef. 4-26-16

836-053-0004

Compliance with Federal and State Law

Upon contract issuance or renewal, any insurer offering a health benefit plan must update the plans of the insurer as necessary to comply with state and federal law.

Stat. Auth.: ORS 731.244

Stats Implemented: ORS 742.005

Hist.: ID 14-2015(Temp), f. & cert. ef. 12-17-15 thru 5-1-16; ID 5-2016, f. & cert. ef. 4-26-16

836-053-0008

Essential Health Benefits for Plan Years 2014, 2015 and 2016

(1) This rule applies to plan years beginning January 1, 2014 through December 31, 2016.

(2) As used in the Insurance Code for plan years beginning January 1, 2014 through December 31, 2016 only:

(a) "Base benchmark health benefit plan" means the PacificSource Health Plans Preferred CoDeduct Value 3000 35 70 small group health benefit plan, including prescription drug benefits, as set forth on the website of the Department of Consumer and Business Services at www.insurance.oregon.gov.

(b) "Essential health benefits" means the following coverage provided in compliance with 45 CFR 156:

(A) The base-benchmark health benefit plan, excluding the 24-month waiting period for transplant benefits;

(B) Pediatric dental benefits;

(C) Pediatric vision benefits; and

(D) Habilitative services.

(c) "Habilitative benefits" means the rehabilitative services provisions of the base benchmark when the services are medically necessary for the maintenance, learning or improving skills and function for daily living.

(d) "Pediatric dental benefits" means the benefits described in the children's dental provisions of the State Children's Health Insurance Plan as set forth on the website of the Department of Consumer and Business Services at www.insurance.oregon.gov. Pediatric dental benefits are payable to persons under 19 years of age.

(e) "Pediatric vision benefits" means the benefits described in the vision provisions of the Federal Employee Dental and Vision Insurance Plan Blue Vision High Option as set forth on the website of the Department of Consumer and Business Services at www.insurance.oregon.gov. Pediatric vision benefits are payable to persons under 19 years of age.

(3) An insurer that issues a health benefit plan offering essential health benefits may not include as an essential health benefit:

(a) Routine non-pediatric dental services;

(b) Routine non-pediatric eye exam services;

(c) Long-term care or custodial nursing home care benefits; or

(d) Non-medically necessary orthodontia services.

Stat. Auth.: ORS 731.097

Stats. Implemented: ORS 731.097

Hist.: ID 12-2013, f. 12-31-13, cert. ef. 1-1-14; ID 14-2015(Temp), f. & cert. ef. 12-17-15 thru 5-1-16; ID 5-2016, f. & cert. ef. 4-26-16

836-053-0009

Oregon Standard Bronze and Silver Health Benefit Plans for Plan Years 2014, 2015 and 2016

(1) This rule applies to plan years beginning January 1, 2014 through December 31, 2016.

(2) As used in this rule, "coverage" includes medically necessary benefits, services, prescription drugs and medical devices. "Coverage" does not include coinsurance, copayments, deductibles, other cost sharing, provider networks, out-of-network coverage, wigs or administrative functions related to the provision of coverage, such as eligibility and medical necessity determinations.

(3) For purposes of coverage required under this rule:

(a) "Inpatient" includes but is not limited to:

(A) Inpatient surgery;

(B) Intensive care unit, neonatal intensive care unit, maternity and skilled nursing facility services; and

(C) Mental health and substance abuse treatment.

(b) "Outpatient" includes but is not limited to services received from ambulatory surgery centers and physician and anesthesia services and benefits when applicable.

(c) "Habilitative benefits" means services and devices that help a person keep, learn, or improve skills and functioning for daily living (habilitative services). Examples include therapy for a child who is not walking or talking at the expected age. These services and devices must include physical and occupational therapy, speech-language pathology and other services and devices for people with disabilities in a variety of inpatient or outpatient settings.

(d) A reference to a specific version of a code or manual, including but not limited to references to ICD-9, CPT, Diagnostic and Statistical Manual of Mental Disorders, DSM-IV TR, Fourth Edition; place of service and diagnosis includes a reference to a code with equivalent coverage under the most recent version of the code or manual.

(4) When offering a plan required under ORS 743B.130, an issuer must use the following naming convention: "[Name of Issuer] Oregon Standard [Bronze/ Silver] Plan."

(5) Coverage required under ORS 743B.130 must be provided in accordance with the requirements of sections (6) to (11) of this rule.

(6) Coverage must be provided in a manner consistent with the requirements of:

(a) 45 CFR 156, except that actuarial substitution of coverage within an essential health benefits category is prohibited;

(b) OAR 836-053-1404 and 836-053-1405; and

(c) The federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008;

(7) Coverage must provide essential health benefits as defined in OAR 836-053-0008.

(8) Except when a specific benefit exclusion applies, or a claim fails to satisfy the issuer's definition of medical necessity or fails to meet other issuer requirements the following coverage must be provided:

(a) Ambulatory services based on the following Place of Service Codes:

(A) 11 — Office;

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Hist.: ID 12-2013, f. 12-31-13, cert. ef. 1-1-14; ID 14-2015(Temp), f. & cert. ef. 12-17-15 thru 5-1-16; ID 5-2016, f. & cert. ef. 4-26-16

- (B) 12 — Patient's home;
- (C) 20 — Urgent care facility;
- (D) 22 — Outpatient hospital;
- (E) 24 — Ambulatory surgical center;
- (F) 25 — Birthing center;
- (G) 49 — Independent clinic;
- (H) 50 — Federally qualified health center;
- (I) 71 — State or local public health clinic;
- (J) 72 — Rural health clinic;
- (b) Emergency services based on Place of Service Code 23 — Emergency;
- (c) Hospitalization services based on Place of Service Code 21 — Hospital;
- (d) Maternity and newborn services based on the following ICD-9 codes:
 - (A) V20 to V20.2;
 - (B) V22 to V39; and
 - (C) 630-677;
 - (e) Rehabilitation and habilitation services based the following ICD-9 or CPT codes:
 - (A) Physical Therapy/Professional: 97001-97002, 97010-97036, 97039, 97110, 97112, 97113-97116, 97122, 97128, 97139, 97140-97530, 97535, 97542, 97703, 97750, 97760, 97761-97762, 97799, and S9090;
 - (B) Occupational Therapy/Professional: 97003-97004 and G0129 in addition to all physical therapy codes if performed by an occupational therapist;
 - (C) Speech Therapy/Professional: 92507-92508, 92526, 92609-92610, and 97532 except ICD-9 784.49;
 - (f) Laboratory services in the CPT code range 8XXXX;
 - (g) All grade A and B United States Preventive Services Task Force preventive services, Bright Futures recommended medical screenings for children, Institute of Medicine recommended women's guidelines, and Advisory Committee on Immunization Practices recommended immunizations for children coverage must be provided without cost share; and
 - (h) Prescription drug coverage at the greater of:
 - (A) At least one drug in every United States Pharmacopeia (USP) category and class as the prescription drug coverage of the plan described in OAR 836-053-0008(1)(a); or
 - (B) The same number of prescription drugs in each category and class as the prescription drug coverage of the plan described in OAR 836-053-0008(1)(a).
 - (9) Copays and coinsurance for coverage required under ORS 743B.130 must comply with the following:
 - (a) Non-specialist copays apply to physical therapy, speech therapy, occupational therapy and vision services when these services are provided in connection with an office visit.
 - (b) Subject to the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, specialist copays apply to specialty providers including, mental health and substance abuse providers, if and when such providers act in a specialist capacity as determined under the terms of the health benefit plan.
 - (c) Coinsurance for emergency room coverage must be waived if a patient is admitted, at which time the inpatient coinsurance applies.
 - (10) Deductibles for coverage required under ORS 743B.130 must comply with the following:
 - (a) For a bronze plan, in accordance with the coinsurance, copayment and deductible amounts and coverage requirements for a bronze plan set forth in Exhibit 1 to this rule. The bronze plan deductible must be integrated applicable to prescription drugs and all services except preventive services.
 - (b) For a silver plan, in accordance with the coinsurance, copayment and deductible amounts and coverage requirements for a silver plan set forth in Exhibit 1 to this rule. The silver plan deductible applies to all services except preventive services, office visits, urgent care, and prescription drugs.
 - (c) The individual deductible applies to all enrollees, and the family deductible applies when multiple family members incur claims.
 - (11) Dollar limits for coverage required under ORS 743B.130 must comply with the following:
 - (a) Annual dollar limits must be converted to a non-dollar actuarial equivalent.
 - (b) Lifetime dollar limits must be converted to a non-dollar actuarial equivalent.

Stat. Auth.: ORS 743B.130
Stats. Implemented: ORS 743B.130

836-053-0012

Essential Health Benefits for Plan Years Beginning on and after January 1, 2017

- (1) This rule applies to plan years beginning on and after January 1, 2017.
- (2) As used in the Insurance Code and OAR chapter 836:
 - (a) "Applied behavior analysis" has that meaning given in Section 2, chapter 771, Oregon Laws 2013 as amended by Section 9, chapter 674, Oregon Laws 2015.
 - (b) "Base benchmark health benefit plan" means the PacificSource Health Plans Preferred CoDeduct Value 3000 35 70 small group health benefit plan, including prescription drug benefits, as provided in Exhibit 1 to this rule;
 - (c) "Essential health benefits" or "EHB" means the following coverage provided in compliance with 45 CFR 156:
 - (A) The base-benchmark health benefit plan with the exclusions and modifications of provisions of that plan as set forth in section (3) to (7) of this rule.
 - (B) Pediatric dental benefits;
 - (C) Pediatric vision benefits; and
 - (D) Habilitative services and devices.
 - (d) "Habilitative services and devices" means services and devices that help a person keep, learn, or improve skills and functioning for daily living (habilitative services). Examples include therapy for a child who is not walking or talking at the expected age. These services and devices must include physical and occupational therapy, speech-language pathology and other services and devices for people with disabilities in a variety of inpatient or outpatient settings.
 - (e) "Mental or nervous condition" has that meaning given in OAR 836-053-1404.
 - (f) "Pediatric dental benefits" means the benefits described in the Dental Plan of the Oregon Health Plan Children's Health Insurance Plan as provided in Exhibit 2 of this rule. Pediatric dental benefits are payable to persons under 19 years of age.
 - (g) "Pediatric vision benefits" means the benefits described in the vision provisions of the Federal Employee Dental and Vision Insurance Plan Blue Vision High Option as provided in Exhibit 3 of this rule. Pediatric vision benefits are payable to persons under 19 years of age.
 - (h) "Treatment of a mental health condition" includes medical treatments and prescription drugs used to treat a mental or nervous condition.
- (3) The following exclusions and modifications are required supplementation to the base-benchmark health benefit plan:
 - (a) The following treatment limitations and exclusions of coverage currently included in the base-benchmark health benefit plan are excluded:
 - (A) The 24-month waiting period for transplant benefits;
 - (B) Visit limits for inpatient and outpatient mental health services, including but not limited to habilitative and rehabilitative benefits;
 - (C) Age limits on treatments that would otherwise be appropriate for individuals outside of the limited age, including but not limited to hearing aids, speech, physical and occupational therapy used in the treatment of mental or nervous conditions as defined in OAR 836-053-1404;
 - (D) Exclusions for the treatment of erectile dysfunction or sexual dysfunction as defined in the "Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition" (DSM-5) or the "Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition" (DSM-IV);
 - (E) Exclusions for medically necessary surgeries and procedures related to sex transformations and gender identity disorder or gender dysphoria;
 - (F) Any blanket exclusion for a diagnosis made using the diagnostic criteria of the DSM-5 or the DSM-IV;
 - (G) Exclusions for court-order screening interviews or drug or alcohol treatment programs;
 - (H) Any limitations or waiting periods for pre-existing conditions;
 - (I) Time limits for treatment of jaw or teeth or orthognathic surgery; and
 - (b) Dollar limits for coverage of durable medical equipment must comply with the following:
 - (A) Annual dollar limits must be converted to a non-dollar actuarial equivalent.
 - (B) Lifetime dollar limits must be converted to a non-dollar actuarial equivalent.
 - (c) The following provisions of the base-benchmark plan must be modified:

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(A) Any waiting periods must be consistent with limitations imposed by state or federal law;

(B) Wigs following chemotherapy or radiation therapy must be covered up to the actuarial equivalent of \$150 per calendar year;

(C) The limitation on cosmetic or reconstructive surgery to one attempt within 18 months of injury or defect must be modified to remove these limitations in cases of medical necessity in accordance with 45 CFR 156.125(a) and to avoid discrimination based on health factors under 45 CFR 146.121;

(D) Contraceptive coverage must comply with Centers for Medicare and Medicaid Services guidance and requirements related to contraception issued jointly by the United States Departments of Labor, Health and Human Services, and Treasury on May 11, 2015;

(E) Provisions related to telemedical health services must reflect changes made to ORS 743A.058 by chapter 340, Oregon Laws 2015 (Enrolled Senate Bill 144); and

(F) Housing and travel expenses for transplant services are not considered essential health benefits;

(4) An insurer that issues a health benefit plan offering essential health benefits may not include as an essential health benefit:

- (a) Routine non-pediatric dental services;
- (b) Routine non-pediatric eye exam services;
- (c) Long-term care or custodial nursing home care benefits; or
- (d) Non-medically necessary orthodontia services.

(5) If both a state law and federal law require coverage of the same or similar service, the insurer must assure that all elements of both laws are met and provide the coverage in the manner most beneficial to the consumer.

(6) In the administration of essential health benefits and the EHB base benchmark health benefit plan, an insurer may not discriminate against a provider acting within the scope of the provider's license.

(7) In the administration of essential health benefits and the EHB base benchmark health benefit plan an insurer may not exclude services provided by a naturopathic physician if the services are otherwise covered under the plan and the naturopathic physician is acting within the scope of the provider's license.

(8) In the administration of essential health benefits and the EHB base benchmark health benefit plan an insurer may not exclude services provided by a doctor of chiropractic medicine if the services are otherwise covered under the plan and the doctor of chiropractic medicine is acting within the scope of the provider's license.

Stat. Auth.: ORS 731.097
Stats. Implemented: ORS 731.097
Hist.: ID 14-2015(Temp), f. & cert. ef. 12-17-15 thru 5-1-16; ID 5-2016, f. & cert. ef. 4-26-16

836-053-0013

Oregon Standard Bronze and Silver Health Benefit Plans for Plan Years Beginning on and after January 1, 2017

(1) This rule applies to plan years beginning on and after January 1, 2017.

(2) As used in this rule, "coverage" includes medically necessary benefits, services, prescription drugs and medical devices. "Coverage" does not include coinsurance, copayments, deductibles, other cost sharing, provider networks, out-of-network coverage, or administrative functions related to the provision of coverage, such as eligibility and medical necessity determinations.

(3) For purposes of coverage required under this rule:

(a) "Inpatient" includes but is not limited to:

(A) Inpatient surgery;

(B) Intensive care unit, neonatal intensive care unit, maternity and skilled nursing facility services; and

(C) Mental health and substance abuse treatment.

(b) "Outpatient" includes but is not limited to services received from ambulatory surgery centers and physician and anesthesia services and benefits when applicable.

(c) A reference to a specific version of a code or manual, including but not limited to references to ICD-10, CPT, Diagnostic and Statistical Manual of Mental Disorders, (DSM-5), Fifth Edition; place of service and diagnosis includes a reference to a code with equivalent coverage under the most recent version of the code or manual.

(4) When offering a plan required under ORS 743B.130, an insurer must:

(a) Use the following naming convention: "[Name of Insurer] Standard [Bronze/ Silver] Plan." The name of insurer may be shortened to

an easily identifiable acronym that is commonly used by the insurer in consumer facing publications.

(b) Include a service area or network identifier in the plan name if the plan is not offered on a statewide basis with a statewide network.

(5) Coverage required under ORS 743B.130 must be provided in accordance with the requirements of sections (6) to (11) of this rule.

(6) Coverage must be provided in a manner consistent with the requirements of:

(a) 45 CFR 156, except that actuarial substitution of coverage within an essential health benefits category is prohibited;

(b) OAR 836-053-1404, 836-053-1405, 836-053-1407 and 836-053-1408; and

(c) The federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act, 29 U.S.C. 1185a and implementing regulations at 45 CFR 146.136 and 147.160;

(7) Coverage must provide essential health benefits as defined in OAR 836-053-0012.

(8) Except when a specific benefit exclusion applies, or a claim fails to satisfy the insurer's definition of medical necessity or fails to meet other issuer requirements the following coverage must be provided:

(a) Ambulatory services;

(b) Emergency services;

(c) Hospitalization services;

(d) Maternity and newborn services;

(e) Rehabilitation and habilitation services including:

(A) Professional physical therapy services;

(B) Professional occupational therapy;

(C) Physical therapy performed by an occupational therapist; and

(D) Professional speech therapy;

(f) Laboratory services;

(g) All grade A and B United States Preventive Services Task Force preventive services, Bright Futures recommended medical screenings for children, Institute of Medicine recommended women's guidelines, and Advisory Committee on Immunization Practices recommended immunizations for children coverage must be provided without cost share; and

(h)(A) Prescription drug coverage at the greater of:

(i) At least one drug in every United States Pharmacopeia (USP) category and class as the prescription drug coverage of the plan described in OAR 836-053-0012(2); or

(ii) The same number of prescription drugs in each category and class as the prescription drug coverage of the plan described in OAR 836-053-0012(2).

(B) Insurers must submit the formulary drug list for review and approval. The formulary drug list must comply with filing requirements posted on the Department of Consumer and Business Services website.

(C) For plan years beginning on or after January 1, 2017 insurers must use a pharmacy and therapeutics committee that complies with the standards set forth in 45 CFR 156.122.

(9) Copays and coinsurance for coverage required under ORS 743B.130 must comply with the following:

(a) Non-specialist copays apply to physical therapy, speech therapy, occupational therapy and vision services when these services are provided in connection with an office visit.

(b) Subject to the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act, 29 U.S.C. 1185a, specialist copays apply to specialty providers including mental health and substance abuse providers, if and when such providers act in a specialist capacity as determined under the terms of the health benefit plan.

(c) Coinsurance for emergency room coverage must be waived if a patient is admitted, at which time the inpatient coinsurance applies.

(10) Deductibles for coverage required under ORS 743B.130 must comply with the following:

(a) For a bronze plan, in accordance with the coinsurance, copayment and deductible amounts and coverage requirements for a bronze plan set forth in the cost-sharing matrix as provided in Exhibit 1 to this rule.

(b) For a silver plan, in accordance with the coinsurance, copayment and deductible amounts and coverage requirements for a silver plan set forth in the cost-sharing matrix as provided in Exhibit 2 to this rule.

(c) The individual deductible applies to all enrollees, and the family deductible applies when multiple family members incur claims.

(11) Dollar limits for coverage required under ORS 743B.130 must comply with the following:

(a) Annual dollar limits must be converted to a non-dollar actuarial equivalent.

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(b) Lifetime dollar limits must be converted to a non-dollar actuarial equivalent.

Stat. Auth.: ORS 743B.130
Stats. Implemented: ORS 743B.130
Hist.: ID 14-2015(Temp), f. & cert. ef. 12-17-15 thru 5-1-16; ID 5-2016, f. & cert. ef. 4-26-16

836-053-0019

Purpose; Statutory Authority; Enforcement

(1) OAR 836-053-0010 to 836-053-0070 are adopted for the purpose of implementing ORS 743B.003 to 743B.013 and 743B.100, pursuant to the authority of ORS 731.244, 743B.003 to 743B.013 and 743B.100.

(2) Violation of any provision of OAR 836-053-0021 to 836-053-0065 is an unfair trade practice under ORS 746.240.

Stat. Auth.: ORS 731.244, 743B.003 & 746.240
Stats. Implemented: ORS 743B.003 to 743B.013, 743B.100
Hist.: ID 17-1992, f. 12-3-92, cert. ef. 12-7-92; ID 12-1996, f. & cert. ef. 9-23-96; ID 5-1998, f. & cert. ef. 3-9-98; ID 4-2016, f. & cert. ef. 4-8-16; Renumbered from 836-053-0010, ID 5-2016, f. & cert. ef. 4-26-16

836-053-1020

Drug Formularies

(1) For purposes of OAR 836-053-0000 to 836-053-1200:

(a) "Open formulary" means a method used by an insurer to provide prescription drug benefits in which all prescribed FDA approved prescription drug products are covered except for any drug product that is excluded by the insurer pursuant to the insurer's policy regarding medical appropriateness or by the terms of a specific health benefit plan, or except for an entire class of drug product that is excluded by the insurer.

(b) "Closed formulary" means a method used by an insurer to provide prescription drug benefits in which only specified FDA approved prescription drug products are covered, as determined by the insurer, but in which medical exceptions are allowed. Maximum benefits or coverage may be limited to formulary drugs in a health benefit plan with a closed formulary. [; and]

(c) "Mandatory closed formulary" means a method used by an insurer to provide prescription drug benefits in which only specified FDA approved prescription drug products are covered, as determined by the insurer, and in which no exceptions are allowed.

(2) An insurer that uses an open formulary must have a written procedure that includes the written criteria or explains the review process established by the insurer for determining when an item will be limited or excluded pursuant to the insurer's policy regarding medical appropriateness.

(3) An insurer that uses a closed formulary must have a written procedure stating that FDA approved prescription drug products are covered only if they are listed in the formulary. The procedure must also describe how the insurer determines the content of the closed formulary and how the insurer determines the application of a medical exception. The procedure must describe how a provider may request inclusion of a new item in the closed formulary and must ensure that the insurer will issue a timely written response to a provider making such a request.

(4) An insurer that uses a mandatory closed formulary must have a written procedure stating that FDA approved prescription drug products are covered only if they are listed in the formulary and that no exception is allowed. The procedure must describe how the insurer determines the content of the mandatory closed formulary. The procedure must also describe how a provider may request inclusion of a new item in the formulary and must ensure that the insurer will issue a timely written response to a provider making such a request.

(5) An insurer must furnish a copy of the procedures it has adopted under section (2), (3) or (4) of this rule to a provider with authority to prescribe drugs and medications, upon the request of the provider.

(6) Except as provided in section (7) of this rule, a formulary must comply with the requirements of 45 CFR 156.122 and include the greater of:

(a) At least one drug in every United States Pharmacopeia therapeutic category and class; or

(b) The same number of drugs in each United States Pharmacopeia category and class as the prescription drug benefit of the plan described in OAR 836-053-0008(1)(a).

(7) An insurer that issues a small group or individual health benefit plan formulary that does not comply with the requirements of section (6) of this rule must file with the Director of the Department of Consumer and Business Services the form entitled "Formulary-Inadequate Category/Class Count Justification" as set forth on the website of the Department of Consumer and Business Services at www.insurance.oregon.gov. The direc-

tor, in the director's discretion, may consider approval of a formulary that does not meet the requirements of section (5) of this rule if:

(a) Drugs in a category or class have been discontinued by the manufacturer;

(b) Drugs in a category or class have been deemed unsafe by the Food and Drug Administration or removed from market by the manufacturer due to safety concerns;

(c) Drugs in a category or class have a Drug Efficacy Study Implementation classification;

(d) Drugs in a category or class have become available as generics; or

(e) Drugs in a category or class are provided in a medical setting and are covered under the medical provisions of the plan.

(8) An insurer that issues a small group or individual health benefit plan formulary does not comply with the nondiscrimination requirements of OAR 836-053-0012 if most or all drugs to treat a specific condition are placed in the highest cost tier.

(9) A health benefit plan providing essential health benefits must have procedures in place that allow an enrollee to request and gain access to clinically appropriate prescription drugs not covered by the health plan.

(10) An insurer may file a Bronze or Silver standard plan that substitutes a different prescription drug benefit from the prescription drug benefit described in the benchmark plan, provided that the insurer demonstrates that its proposed benefit complies with the prescription drug formulary requirements and will have a Bronze or Silver actuarial value.

Stat. Auth.: ORS 731.244 & 731.097
Stats. Implemented: ORS 743.804, 731.097
Hist.: ID 1-1998, f. & cert. ef. 1-15-98; ID 12-2013, f. 12-31-13, cert. ef. 1-1-14; ID 14-2015(Temp), f. & cert. ef. 12-17-15 thru 5-1-16; ID 5-2016, f. & cert. ef. 4-26-16

836-053-1404

Definitions; Noncontracting Providers; Co-Morbidity Disorders

(1) As used in ORS 743A.168 and OAR Chapter 836:

(a) "Mental or nervous conditions" means any mental disorder covered by diagnostic categories listed in the "Diagnostic and Statistical Manual of Mental Disorders, DSM-IV-TR, Fourth Edition" (DSM-IV) or the "Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition" (DSM-5).

(b) "Chemical dependency" means an addictive relationship with any drug or alcohol characterized by a physical or psychological relationship, or both, that interferes on a recurring basis with an individual's social, psychological or physical adjustment to common problems.

(c) "Chemical dependency" does not mean an addiction to, or dependency on:

- (A) Tobacco;
- (B) Tobacco products; or
- (C) Foods.

(2) A non-contracting provider must cooperate with a group health insurer's requirements for review of treatment in ORS 743A.168(10) and (11) to the same extent as a contracting provider in order to be eligible for reimbursement.

(3) The exception of a disorder in the definition of "mental or nervous conditions" or "chemical dependency" in section (1) of this rule does not include or extend to a co-morbidity disorder accompanying the excepted disorder.

Stat. Auth.: ORS 731.244 & 743A.168
Stats. Implemented: ORS 743A.168
Hist.: ID 13-2006, f. 7-14-06 cert. ef. 1-1-07; ID 19-2012(Temp), f. & cert. ef. 12-20-12 thru 6-17-13; ID 3-2013, f. 6-10-13, cert. ef. 6-17-13; ID 19-2014(Temp), f. & cert. ef. 11-14-14 thru 5-12-15; ID 3-2015, f. & cert. ef. 5-12-15; ID 14-2015(Temp), f. & cert. ef. 12-17-15 thru 5-1-16; ID 5-2016, f. & cert. ef. 4-26-16

836-053-1405

General Requirements for Coverage of Mental or Nervous Conditions and Chemical Dependency

(1) A group health insurance policy issued or renewed in this state shall provide coverage or reimbursement for medically necessary treatment of mental or nervous conditions and chemical dependency, including alcoholism, at the same level as, and subject to limitations no more restrictive than those imposed on coverage or reimbursement for medically necessary treatment for other medical conditions.

(2) For the purposes of ORS 743A.168, the following standards apply in determining whether coverage for expenses arising from treatment for chemical dependency, including alcoholism, and for mental or nervous conditions is provided at the same level as, and subject to limitations no more restrictive than, those imposed on coverage or reimbursement of expenses arising from treatment for other medical conditions:

(a) The co-payment, coinsurance, reimbursement, or other cost sharing, including, but not limited to, deductibles for mental or nervous condi-

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tions and chemical dependency, including alcoholism, may be no more than the co-payment or coinsurance, or other cost sharing, including, but not limited to, deductibles for medical and surgical services otherwise provided under the health insurance policy.

(b) The co-payment, coinsurance, reimbursement, or other cost sharing, including, but not limited to, deductibles for wellness and preventive services for mental or nervous conditions and chemical dependency, including alcoholism, may be no more than the co-payment or coinsurance, or other cost sharing, including, but not limited to, deductibles for wellness and preventive services otherwise provided under the health insurance policy.

(c) If annual or lifetime limits apply for treatment of mental or nervous conditions and chemical dependency, including alcoholism the limits must comply with the “predominately equal” to and “substantially all” tests the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act, 29 U.S.C. 1185a and implementing regulations at 45 CFR 146.136 and 147.160.

(d) The co-payment, coinsurance, reimbursement, or other cost sharing, including, but not limited to, deductibles expenses for prescription drugs intended to treat mental or nervous conditions and chemical dependency, including alcoholism, may be no more than the co-payment or coinsurance, or other cost sharing expenses for prescription drugs prescribed for other medical services provided under the health insurance policy.

(e) Classification of prescription drugs into open, closed, or tiered drug benefit formularies, for drugs intended to treat mental or nervous conditions and chemical dependency, including alcoholism, must be by the same process as drug selection for formulary status applied for drugs intended to treat other medical conditions, regardless of whether such drugs are intended to treat mental or nervous conditions, chemical dependency, including alcoholism, or other medical conditions.

(3) A group health insurance policy issued or renewed in this state must contain a single definition of medical necessity that applies uniformly to all medical, mental or nervous conditions, and chemical dependency, including alcoholism.

(4) A group health insurer that issues or renews a group health insurance policy in this state shall have policies and procedures in place to ensure uniform application of the policy’s definition of medical necessity to all medical, mental or nervous conditions, and chemical dependency, including alcoholism.

(5) Coverage for expenses arising from treatment for mental or nervous conditions and chemical dependency, including alcoholism, may be managed through common methods designed to limit eligible expenses to treatment that is medically necessary only if similar limitations or requirements are imposed on coverage for expenses arising from other medical condition. Common methods include, but are not limited to, selectively contracted panels, health policy benefit differential designs, preadmission screening, prior authorization of services, case management, utilization review, or other mechanisms designed to limit eligible expenses to treatment that is medically necessary.

(6) Nothing in this rule prevents a group health insurance policy from providing coverage for conditions or disorders excepted under the definition of “mental or nervous condition” in OAR 836-053-1404.

(7) The Director shall review OAR 836-053-1404 to 836-053-1408 and any other materials every two years to determine whether the requirements set forth in the rules are uniformly applied to all medical, mental or nervous conditions, and chemical dependency, including alcoholism.

Stat. Auth.: ORS 731.244 & 743A.168

Stats. Implemented: ORS 743A.168

Hist.: ID 13-2006, f. 7-14-06 cert. ef. 1-1-07; ID 19-2012(Temp), f. & cert. ef. 12-20-12 thru 6-17-13; ID 3-2013, f. 6-10-13, cert. ef. 6-17-13; ID 14-2015(Temp), f. & cert. ef. 12-17-15 thru 5-1-16; ID 5-2016, f. & cert. ef. 4-26-16

836-053-1409

Definitions

(1) As used in ORS 743B.281 and 743B.282, “provider” means a person licensed, certified or otherwise authorized or permitted by laws of this state to administer medical or mental health services in the practice of a profession.

(2) As used in ORS 743B.282, for the purpose of an insurer’s procedure for providing an estimate of an enrollee’s costs for a covered out-of-network procedure or service:

(a) The “allowable charge” for a covered procedure or service is the estimated amount established under the insurance policy, whether expressed as an “allowable charge,” “allowable expense,” “eligible fee” or other term denoting the amount on which the benefit is calculated.

(b) The “billed charge” is the estimated amount charged by a provider for performance of a procedure or service.

Stat. Auth.: ORS 731.244 & 743B.285

Stats. Implemented: ORS 743B.281 & 743B.282

Hist.: ID 16-2008, f. & cert. ef. 9-24-08; Renumbered from 836-053-1406, ID 5-2016, f. & cert. ef. 4-26-16

Rule Caption: Two-month Extension of Transitional Plans for Small Employer Groups

Adm. Order No.: ID 6-2016(Temp)

Filed with Sec. of State: 4-28-2016

Certified to be Effective: 4-28-16 thru 9-30-16

Notice Publication Date:

Rules Amended: 836-010-0013

Subject: This temporary rule provides guidance for a two-month extension of transitional plans for small employer groups as allowed by federal guidance issued on February 29, 2016.

The rules are necessary to allow insurers who wish to extend transitional plans to file rates and forms necessary to extend the plans. It is critical to adopt these rules as soon as possible in order to comply with federally imposed timelines for filing plan documents and rates. Failure to file temporary rules that take effect immediately would result in industry and consumer harm by not allowing the extension of these plans which will facilitate a smooth transition to fully compliant small employer health benefit plans by December 1, 2017.

Rules Coordinator: Karen Winkel—(503) 947-7694

836-010-0013

Additional Filing Requirements for Transitional Health Benefit Plans

(1) Under section 5, chapter 80, Oregon Laws 2014, a transitional health benefit plan must comply with the Insurance Code as of December 31, 2013.

(2) In addition to the requirements of OAR 836-010-0000, 836-010-0011, and 836-010-0021 when submitting a filing for a rate change to a transitional health benefit plan, the insurer shall comply with the guidance for the applicable plan year as provided in Exhibits 1, 2, 3 and 4 of this rule.

(3) The additional filing requirements set forth in this section apply only to 2015, 2016 and 2017 transitional plans.

Stat. Auth.: ORS 731.244 & 743.018

Stats. Implementing: 2014 OL Ch. 80, Sec. 5 (Enrolled SB 1582)

Hist.: ID 8-2014(Temp), f. & cert. ef. 4-24-14 thru 10-20-14; ID 17-2014, f. & cert. ef. 10-6-14; ID 4-2016, f. & cert. ef. 4-8-16; ID 6-2016(Temp), f. & cert. ef. 4-28-16 thru 9-30-16

Department of Corrections

Chapter 291

Rule Caption: Marriages and Domestic Partnership Solemnizations Ceremonies for Inmates in Department of Corrections Facilities

Adm. Order No.: DOC 7-2016

Filed with Sec. of State: 4-20-2016

Certified to be Effective: 4-20-16

Notice Publication Date: 2-1-2016

Rules Amended: 291-133-0005, 291-133-0015, 291-133-0025, 291-133-0035

Subject: These revisions are necessary to update the department’s policies and procedures regarding marriages and solemnization ceremonies for inmates in department facilities. The rules recognize same-sex marriages to reflect changes in state and federal laws. The department will no longer transport inmates between facilities for the purpose of participating in a marriage or solemnization ceremony.

Rules Coordinator: Janet R. Worley—(503) 945-0933

291-133-0005

Authority, Purpose, and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 137.285, 179.040, 423.020, 423.030, and 423.075, and 2007 Or Laws, Chapter 99.

(2) Purpose: To establish Department of Corrections policies and procedures regarding inmate marriages or solemnization ceremonies for inmates that have established a domestic partnership, conducted in a Department of Corrections facility.

(3) Policy: Within the inherent limitations of resources, and the need for facility security, safety, health and good order, it is the policy of the Department of Corrections to permit an inmate to marry a person

ADMINISTRATIVE RULES

Department of Corrections facility, including another inmate, and to permit an inmate that has established a domestic partnership to participate in a solemnization ceremony in a Department of Corrections facility, provided that the marriage or domestic partnership is otherwise legal under Oregon law, and is not inconsistent with the safe, secure and orderly operation of a Department of Corrections facility, inmate rehabilitation, or other penological interest.

Stat. Auth.: ORS 137.285, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 137.285, 179.040, 423.020, 423.030, 423.075 & 2007 OL Ch. 99
Hist.: CD 31-1978, f. 10-24-78, ef. 10-25-78; CD 18-1981(Temp), f. & ef. 6-30-81; CD 50-1981, f. & ef. 10-30-81; CD 58-1985, f. & ef. 8-16-85; CD 48-1986, f. & ef. 11-20-86; CD 22-1991, f. & cert. ef. 9-20-91; CD 11-1993(Temp), f. 4-21-93, cert. ef. 4-26-93; CD 28-1993, f. 10-22-93, cert. ef. 10-23-93; DOC 5-2008(Temp), f. & cert. ef. 4-1-08 thru 9-28-08; DOC 25-2008, f. & cert. ef. 9-26-08; DOC 7-2016, f. & cert. ef. 4-20-16

291-133-0015

Marriage or Domestic Partnership Solemnization Ceremony Application, Approval, and Eligibility Requirements

(1) An inmate incarcerated in a Department of Corrections facility wishing to marry or have a domestic partnership solemnization ceremony may obtain necessary forms from designated staff.

(2) The department will not transport inmates for the purpose of participating in a marriage or domestic partnership solemnization ceremony.

(3) Marriages and domestic partnership solemnization ceremonies in a Department of Corrections facility will occur two times per year on the fourth week of April and October.

(4) A Request for Inmate Marriage or Domestic Partnership Solemnization Ceremony form (CD1396) must be submitted for approval to designated staff at least six weeks prior to the scheduled marriage or ceremony date.

(a) An inmate requesting a solemnization ceremony must also submit a certified copy of the inmate's Declaration of Domestic Partnership registered with the County Clerk's Office.

(b) Designated staff shall approve or disapprove the request within 15 working days following receipt, except that approval or disapproval may be delayed for up to 30 working days if the accuracy of the information provided on the Request for Inmate Marriage or Domestic Partnership Solemnization Ceremony form (CD1396) is in doubt.

(5) An applicant and prospective spouse, and an applicant's domestic partner, must meet the following eligibility requirements:

(a) The applicant is confined in a Department of Corrections facility at the time of the application and remains so until the marriage or domestic partnership solemnization ceremony.

(b) The applicant has no major disciplinary misconduct sanctions six weeks prior to the marriage or domestic partnership solemnization ceremony date and remains without any such sanctions until the marriage or domestic partnership solemnization ceremony.

(c) Neither the marriage applicant nor the applicant's prospective spouse is currently married, mentally incapacitated, of blood relation of first cousins or closer.

(d) Both the applicant and prospective spouse, or the applicant's domestic partner, are approved for privileged visitation under the Department of Corrections rule on Visiting (Inmate) (OAR 291-127) at the time of the application, or if not at the time of the application, at least six weeks prior to the scheduled marriage or domestic partnership solemnization ceremony date and remain so qualified until the marriage or domestic partnership solemnization ceremony date. This eligibility requirement for privileged visiting may be waived for an applicant who is assigned to administrative housing for reasons of protective custody, or for an applicant who is on death row status.

(e) The applicant, whether indigent or not, accepts responsibility for all fees incurred related to the marriage or domestic partnership solemnization ceremony process, such as the marriage license fee and ceremony expenses.

(f) The necessary procedures for the issuance of a marriage license and performance of the marriage ceremony, or for the performance of the solemnization ceremony, is not inconsistent with the safe, secure and orderly operation of the Department of Corrections facility, inmate rehabilitation, or other penological interest.

(g) Approval may be withdrawn by the functional unit manager, or by designated staff, if the applicant later becomes ineligible.

Stat. Auth.: ORS 137.285, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 137.285, 179.040, 423.020, 423.030, 423.075 & 2007 OL Ch. 99
Hist.: CD 31-1978, f. 10-24-78, ef. 10-25-78; CD 18-1981(Temp), f. & ef. 6-30-81; CD 50-1981, f. & ef. 10-30-81; CD 28-1983, f. & ef. 7-11-83; CD 58-1985, f. & ef. 8-16-85; CD 48-1986, f. & ef. 11-20-86; CD 22-1991, f. & cert. ef. 9-20-91; CD 11-1993(Temp), f. 4-21-93, cert. ef. 4-26-93; CD 28-1993, f. 10-22-93, cert. ef. 10-23-93; DOC 8-2002, f. & cert. ef. 6-12-02; DOC 5-2008(Temp), f. & cert. ef. 4-1-08 thru 9-28-08; DOC 25-2008, f. & cert. ef. 9-26-08; DOC 7-2016, f. & cert. ef. 4-20-16

291-133-0025

Marriage or Domestic Partnership Solemnization Ceremony

(1) Staff will arrange for the marriage or domestic partnership solemnization ceremony to be scheduled in the area designated after all necessary forms are processed and confirmations have been made.

(2) All guests (including participants) attending the marriage or domestic partnership solemnization ceremony must be approved for privileged visiting in accordance with the Department of Corrections rule on Visiting (Inmate) (OAR 291-127) on the day of the ceremony. In accordance with OAR 291-133-0015(5)(d), this requirement may be waived for an applicant who is assigned to administrative housing for reasons of protective custody, or for an applicant who is on death row status.

(a) All guests will be processed into the institution in accordance with procedures for regular privileged visiting.

(b) A maximum of ten guests (not including the official performing the marriage or individual conducting the domestic partnership solemnization ceremony) will be permitted to attend the ceremony with the applicants.

(3) An inmate who is an immediate family member of the bride or groom or domestic partner may attend the marriage or domestic partnership solemnization ceremony only if he/she is housed at the facility where the wedding or ceremony is being held.

(4) Designated staff will notify the inmate and appropriate staff when arrangements for the marriage or domestic partnership solemnization ceremony have been finalized.

(5) No food, cameras, flowers, or special clothing may be brought into a Department of Corrections facility for inmate marriages or domestic partnership solemnization ceremonies.

(6) Inmates will be permitted to wear a plain smooth band, which shall be recorded on the inmate's personal property list.

(7) The applicant or prospective spouse or applicant's domestic partner will have the responsibility of contacting the clergy or other licensed person to perform the marriage or solemnization ceremony.

(8) The schedule of marriages or domestic partnership solemnization ceremonies will be arranged by designated staff.

(9) The designated staff member will assure that appropriate reports are submitted.

Stat. Auth.: ORS 137.285, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 137.285, 179.040, 423.020, 423.030, 423.075 & 2007 OL Ch. 99
Hist.: CD 11-1993(Temp), f. 4-21-93, cert. ef. 4-26-93; CD 28-1993, f. 10-22-93, cert. ef. 10-23-93; DOC 8-2002, f. & cert. ef. 6-12-02; DOC 5-2008(Temp), f. & cert. ef. 4-1-08 thru 9-28-08; DOC 25-2008, f. & cert. ef. 9-26-08; DOC 7-2016, f. & cert. ef. 4-20-16

291-133-0035

Inmate-to-Inmate Marriages and Domestic Partnership Solemnization Ceremonies

(1) An applicant satisfying the eligibility requirements of OAR 291-133-0015, except subsection (5)(d), may be permitted to marry or enter a domestic partnership with another applicant provided they reside in the same facility.

(2) The department will not transport inmates for the purpose of participating in a marriage or domestic partnership solemnization ceremony.

Stat. Auth.: ORS 137.285, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 137.285, 179.040, 423.020, 423.030, 423.075 & 2007 OL Ch. 99
Hist.: CD 11-1993(Temp), f. 4-21-93, cert. ef. 4-26-93; CD 28-1993, f. 10-22-93, cert. ef. 10-23-93; DOC 8-2002, f. & cert. ef. 6-12-02; DOC 5-2008(Temp), f. & cert. ef. 4-1-08 thru 9-28-08; DOC 25-2008, f. & cert. ef. 9-26-08; DOC 7-2016, f. & cert. ef. 4-20-16

Rule Caption: Training Requirements on Arrest Procedures for Parole and Probation Officers

Adm. Order No.: DOC 8-2016

Filed with Sec. of State: 4-29-2016

Certified to be Effective: 4-29-16

Notice Publication Date: 2-1-2016

Rules Amended: 291-014-0110, 291-014-0120

Subject: Parole/Probation officers must participate in a minimum of eight hours annual training in arrest procedures. These rule amendments require the local state director to create annual training requirements that may exceed the minimum hours.

Rules Coordinator: Janet R. Worley—(503) 945-0933

291-014-0110

Definitions

(1) **Arrest:** To place an offender under actual or constructive restraint or to take an offender into custody.

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(2) Local State Director: A person within the Department of Corrections who reports to the Assistant Director of Community Corrections and has responsibility for managing a state community corrections office within a particular county.

(3) Offender: Any person under supervision who is on parole, post prison supervision, transitional leave, local control or probation status.

(4) Officer: Any state parole/probation officer certified as such by the Department of Public Safety Standards and Training.

(5) Reasonable Grounds: Exists when facts and circumstances within the officer's knowledge are sufficient to justify a belief that a violation has occurred.

(6) Warrant: A written order made on behalf of the releasing authority, or the court, which commands the officer to arrest the offender.

Stat. Auth.: ORS 137.545, 144.350, 144.360, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 137.545, 144.331, 144.334, 144.350, 144.360, 144.610, 144.613, 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 5-2006, f. & cert. ef. 7-24-06; DOC 18-2013, f. & cert. ef. 12-13-13; DOC 1-2014, f. & cert. ef. 1-14-14; DOC 8-2016, f. & cert. ef. 4-29-16

291-014-0120

Arrest

(1) A parole/probation officer is authorized to make an arrest if the officer participates in a minimum of eight hours annual training in arrest procedures, use of restraints, and defensive tactics.

(a) The local state director shall create annual training requirements, which may exceed the minimum training requirements.

(b) A parole/probation officer shall maintain certification in less than lethal force options.

(2) When a warrant has been issued for an offender by the releasing authority or the court, based on a violation of a release condition, the supervising officer shall cause the execution of any arrest warrant.

(3) In all other arrest cases, at least one of the following criteria must be met:

(a) Reasonable grounds that a violation(s) has occurred and is serious enough to warrant a recommendation of incarceration;

(b) The offender's behavior constitutes a threat or danger to the community or to himself/herself.

Stat. Auth.: ORS 137.545, 144.350, 144.360, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 137.545, 144.331, 144.334, 144.350, 144.360, 144.610, 144.613, 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 5-2006, f. & cert. ef. 7-24-06; DOC 18-2013, f. & cert. ef. 12-13-13; DOC 1-2014, f. & cert. ef. 1-14-14; DOC 8-2016, f. & cert. ef. 4-29-16

Rule Caption: Processing of Mail for Inmates in Department of Corrections Facilities

Adm. Order No.: DOC 9-2016

Filed with Sec. of State: 5-10-2016

Certified to be Effective: 5-10-16

Notice Publication Date: 2-1-2016

Rules Adopted: 291-131-0026

Rules Amended: 291-131-0005, 291-131-0010, 291-131-0015, 291-131-0020, 291-131-0021, 291-131-0025, 291-131-0030, 291-131-0035, 291-131-0037, 291-131-0050

Subject: These rule revisions are necessary to update and clarify procedures for processing incoming and outgoing mail to inmates in department facilities. Revisions include but are not limited to clarification on the use of the inmate's court name, handling of official mail, and further clarification on the material that constitutes prohibited mail. Many of the revisions are of a housekeeping nature.

Rules Coordinator: Janet R. Worley — (503) 945-0933

291-131-0005

Authority, Purpose, and Policy

(1) Authority: The authority for these rules is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 423.020, 423.030, and 423.075.

(2) Purpose: The purpose of these rules is to establish Department of Corrections policy and procedures governing the sending, receipt, and processing of inmate mail in Department of Corrections facilities.

(3) Policy: Within the inherent limitations of resources and the need for facility security, safety, health, order and discipline, and inmate rehabilitation, it is the policy of the Department of Corrections (DOC) to permit inmates to send and receive mail in the manner, and under the circumstances, set forth in these rules.

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

Hist.: CD 1-1979, f. & ef. 1-4-79; CD 11-1980(Temp), f. & ef. 4-10-80; CD 16-1980(Temp), f. & ef. 4-18-80; CD 28-1980, f. & ef. 8-22-80; CD 31-1981(Temp), f. & ef. 6-30-81; CD 43-1981, f. & ef. 10-30-81; CD 22-1983(Temp), f. & ef. 6-3-83; CD 27-1983, f. & ef. 7-11-83; CD 13-1984, f. & ef. 4-11-84; CD 57-1985, f. & ef. 8-16-85; CD 14-1988, f. & cert. ef. 10-7-88 (and corrected 10-25-88); CD 1-1992, f. & cert. ef. 1-29-92; DOC 20-1998, f. 9-22-98, cert. ef. 12-1-98; DOC 13-2002, f. 9-11-02 cert. ef. 9-20-02; DOC 9-2016, f. & cert. ef. 5-10-16

291-131-0010

Definitions

(1) Business Transaction: A transaction involving the purchase, sale, or delivery of merchandise, commodities, or services.

(2) Central Administration: The Director, Deputy Director, Assistant Directors, administrators, or other Department of Corrections officials whose offices or mail boxes are located in the central office at 2575 Center Street NE, Salem, OR 97301-4667.

(3) Confiscate: To remove the item or that portion of the item which violates these rules.

(4) Contraband: Any article or thing that an inmate is prohibited by statute, rule or order from obtaining or possessing, or which the inmate is not specifically authorized to obtain or possess, or which the inmate alters without authorization.

(5) Court Name: The inmate name as established and used by the Department of Corrections for use on the inmate's case file, identification card, medical file, etc., based on the name provided in the first judgment in the custody cycle sentencing an inmate to the Department of Corrections.

(6) Department of Corrections Facility: Any institution, facility, or staff office, including the grounds, operated by the Department of Corrections.

(7) Electronic Messages: Correspondence exchanged between inmates and subscribers through a department approved third-party electronic messaging vendor by means of computers equipped for internet access.

(8) Functional Unit: Any organizational component within the Department of Corrections responsible for the delivery of services or coordination of program operations.

(9) Functional Unit Manager: Any person within the Department of Corrections who reports to either the Director, Deputy Director, an Assistant Director, or an administrator and who has responsibility for delivery of program services or coordination of program operations.

(10) Individual Photograph: Any image or any duplication thereof. Individual photographs include any photograph scanned and printed from the Internet or other photographs where the identity of the person is unknown to the department. Any graphic image sent with or attached to an electronic message will be considered an individual photograph.

(11) Inflammatory Material: Material whose presence in the facility is deemed by the department to constitute a direct and immediate threat to the security, safety, health, good order, or discipline of the facility because it incites or advocates physical violence against others. No publication shall be considered inflammatory solely on the basis of its appeal to a particular ethnic, racial or religious audience. No material shall be considered inflammatory solely because it criticizes the operation, programs, or personnel of the Department of Corrections, the State Board of Parole and Post Prison Supervision, or any other government agency.

(12) Inmate: Any person under the supervision of the Department of Corrections who is not on parole, probation, or post prison supervision status.

(13) Inspection: To examine or view, including but not limited to reading, photocopying, scanning, and x-raying.

(14) Inter Agency Mail System: A system of delivering mail between or among certain state agencies and other units of government generally located in the greater Salem and Portland areas.

(15) Legal Mail: Incoming or outgoing mail to or from an attorney, court, or court official which is clearly worded "legal mail" on the addressee side of the envelope. The legal mail designation should be set apart from the return address and mailing address for ease of recognition.

(16) Mail: Incoming or outgoing mail, including electronic messages, authorized by these rules to be sent or received by an inmate and delivered by the United States Postal Service or any other carrier approved by the department including, but not limited to, parcel service enterprises or electronic messaging services.

(17) Money: Cash, money orders, personal checks, warrants, certified checks, and other remittances.

(18) Non Inmate Sender: The organization or person who is not residing at a Department of Corrections facility who sends mail to an inmate who is residing in a Department of Corrections facility. The non-inmate sender or recipient name must match the identity of the sender.

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(19) Official Mail: Incoming and outgoing mail addressed to Department of Corrections officials, the Governor, the Secretary of State, Oregon's state legislators, Oregon's United States Congressional delegation, tribal governments, administrators of grievance systems, foreign embassy consulate, members of the paroling authority, and sexual abuse advocacy programs that is clearly worded "official mail" on the addressee side of the envelope. The official mail designation should be set apart from the return address and mailing address for ease of recognition.

(20) Package: A completely wrapped parcel received that is more than 1/4 inch thick regardless of other dimensions, received directly from the source with authorized postage, and legal and official mail up to three inches.

(21) Photo Company: A vendor that delivers images, bound or individual, to inmates either electronically or through the mail for a fee.

(22) Portrayal: The act or process by which an idea or message is depicted or represented, usually by written words or images.

(23) Publication: A book or single issue of a magazine or newspaper, plus such other materials addressed to a specific inmate as flyers, and catalogs, received directly from the publisher.

(24) Publisher, Distributor, or Book Vender: A business, organization, or firm that issues and makes available to the public (generally for sale and wide distribution) magazines, newspapers, new and used books, and other publications.

(25) Security Threat Group (STG): Any group of two or more individuals who:

(a) Have a common name, identifying symbol, or characteristic that serves to distinguish themselves from others;

(b) Have members, affiliates, or associates who individually or collectively engage, or have engaged, in a pattern of illicit activity or acts of misconduct that violates Department of Corrections rules; or

(c) Have the potential to act in concert to present a threat, or potential threat, to staff, public, visitors, inmates, offenders or the secure and orderly operation of the institution.

(26) Security Threat Group Paraphernalia: Any material, documents, or items evidencing security threat group involvement or activities (e.g., rosters, constitutions, structures, codes, pictures, training material, clothing, communications, or other security threat group-related contraband).

(27) Sexual Abuse Advocacy Program: A community-based organization that offers advocacy, support, crisis intervention, information, and referrals to a victim of sexual abuse.

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

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

Hist.: CD 1-1979, f. & ef. 1-4-79; CD 11-1980(Temp), f. & ef. 4-10-80; CD 16-1980(Temp), f. & ef. 4-18-80; CD 28-1980, f. & ef. 8-22-80; CD 31-1981(Temp), f. & ef. 6-30-81; CD 43-1981, f. & ef. 10-30-81; CD 22-1983(Temp), f. & ef. 6-3-83; CD 27-1983, f. & ef. 7-11-83; CD 13-1984, f. & ef. 4-11-84; CD 57-1985, f. & ef. 8-16-85; CD 14-1988, f. & cert. ef. 10-7-88 (and corrected 10-25-88); CD 1-1992, f. & cert. ef. 1-29-92; CD 10-1993, f. 5-5-93, cert. ef. 7-1-93; DOC 20-1998, f. 9-22-98, cert. ef. 12-1-98; DOC 12-2001(Temp), f. & cert. ef. 6-20-01 thru 12-17-01; DOC 20-2001, f. & cert. ef. 12-17-01; DOC 4-2002(Temp), f. & cert. ef. 3-25-02 thru 9-21-02; DOC 13-2002, f. 9-11-02 cert. ef. 9-20-02; DOC 5-2007(Temp), f. & cert. ef. 8-1-07 thru 1-27-08; DOC 1-2008, f. & cert. ef. 1-25-08; DOC 9-2016, f. & cert. ef. 5-10-16

291-131-0015

General

(1) The functional unit manager or designee will ensure employees responsible for mail room operations are properly trained prior to assignment.

(2) Inmates shall not send, receive, transfer, or possess mail that violates the provisions of these rules.

(3) Inmates shall not send, receive, transfer, or possess mail to or from the victim(s) of their crime(s) of conviction (both past and present), except as authorized in writing by the functional unit manager or designee.

(4) Inmates shall not conduct business transactions by mail without the prior written consent of the functional unit manager or designee.

(5) Excluding weekends and holidays, incoming and outgoing correspondence should be processed within two days of receipt; publications and packages within four days of receipt, unless the mail is being reviewed for possible violations. There are no time frames for conducting reviews.

(6) All incoming and outgoing mail is subject to inspection or examination. Legal and official mail is subject to inspection or examination as provided in OAR 291 131 0030.

(7) Each month an inmate who in the previous month has not accumulated the cost of five postage-paid envelopes (for less than one ounce) in his/her trust account, will be issued five postage paid envelopes by the facility if he/she requests.

(8) Inmate-to-Inmate Mail Restriction:

(a) An inmate may be prohibited from corresponding with another inmate when directed by the Department of Corrections facility functional unit manager or designee, and approved by the Assistant Director of Operations/designee, based on specific circumstances or information which, in their judgment, indicates that the inmate has or may use correspondence with the other inmate in order to violate provisions of law, department administrative rules, or to otherwise engage in activity that threatens or impairs the security, good order, or discipline of the facility, inmate rehabilitation, or the health or safety of inmates, staff, or the public, or to engage in other activity that threatens or is detrimental to other legitimate penological objectives.

(b) The affected inmate will be notified of the restriction through written directive. A decision to order an inmate-to-inmate mail restriction under these rules shall be final and not subject to administrative review.

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

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

Hist.: CD 18(Temp), f. & ef. 12-18-73 thru 4-17-74; CD 22, f. 6-27-74, ef. 7-25-74; CD 1-1979, f. & ef. 1-4-79; Renumbered from 291-010-0300, CD 11-1980(Temp), f. & ef. 4-10-80; CD 16-1980(Temp), f. & ef. 4-18-80; CD 28-1980, f. & ef. 8-22-80; CD 22-1983(Temp), f. & ef. 6-3-83; CD 27-1983, f. & ef. 7-11-83; CD 57-1985, f. & ef. 8-16-85; CD 14-1988, f. & cert. ef. 10-7-88 (and corrected 10-25-88); CD 1-1992, f. & cert. ef. 1-29-92; CD 10-1993, f. 5-5-93, cert. ef. 7-1-93; DOC 20-1998, f. 9-22-98, cert. ef. 12-1-98; DOC 23-1998(Temp), f. & cert. ef. 12-23-98 thru 6-21-99; DOC 8-1999, f. 5-24-99, cert. ef. 6-1-99; DOC 20-2001, f. & cert. ef. 12-17-01; DOC 4-2002(Temp), f. & cert. ef. 3-25-02 thru 9-21-02; DOC 13-2002, f. 9-11-02 cert. ef. 9-20-02; DOC 16-2004(Temp), f. & cert. ef. 12-28-04 thru 6-26-05; DOC 7-2005, f. & cert. ef. 7-1-05; DOC 5-2007(Temp), f. & cert. ef. 8-1-07 thru 1-27-08; DOC 1-2008, f. & cert. ef. 1-25-08; DOC 9-2016, f. & cert. ef. 5-10-16

291-131-0020

Outgoing Mail

(1) Outgoing mail must be written with lead or color pencil, pen, non-toxic markers or be typewritten or photocopied.

(2) Outgoing mail shall be enclosed in an approved Department of Corrections envelope with U.S. Postage. The envelope shall contain the inmate's court name, SID number, and return address, and the recipient's name and address on the front of the envelope free from obstruction. Official or legal mail must be labeled as such in accordance with OAR 291-131-0030. If the sender cannot be identified, the mail will be destroyed.

(3) Business mail to Department of Corrections officials in Central Administration requires the inmate's court name, SID number, and return address, and the official's name and/or title and address. Business mail sent to Central Administration may be sent through the interagency mail system.

(4) Inmates shall not send any item "prohibited from receipt by mail" as described under OAR 291 131 0035, except as authorized by the functional unit manager.

(5) Inmate-to-Inmate Correspondence:

(a) Inmates are authorized to correspond with other inmates if the correspondence is otherwise in compliance with department rules.

(A) Inmates may send only the following items to another inmate:

(i) Correspondence;

(ii) One drawing per envelope; and

(iii) One photograph per envelope.

(B) Inmates shall not send newspaper or magazine clippings, photocopies, printed web pages, or any other material not listed in subsection (A) above to another inmate through the mail.

(b) All inmate-to-inmate correspondence should be routed through the U.S. Postal Service.

(c) Inmates shall not enclose correspondence other than from the inmate sender whose name and return address appears on the front of the envelope. Inmates shall not request another inmate to forward correspondence beyond the immediate addressee.

(d) Inmates shall not send a package to another inmate.

(6) Inmates shall not send correspondence or any item to themselves through the mail.

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

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

Hist.: CD 18(Temp), f. & ef. 12-18-73 thru 4-17-74; CD 22, f. 6-27-74, ef. 7-25-74; CD 1-1979, f. & ef. 1-4-79; Renumbered from 291-010-0305, CD 11-1980(Temp), f. & ef. 4-10-80; CD 16-1980(Temp), f. & ef. 4-18-80; CD 28-1980, f. & ef. 8-22-80; CD 22-1983(Temp), f. & ef. 6-3-83; CD 27-1983, f. & ef. 7-11-83; CD 57-1985, f. & ef. 8-16-85; CD 14-1988, f. & cert. ef. 10-7-88 (and corrected 10-25-88); CD 1-1992, f. & cert. ef. 1-29-92; CD 10-1993, f. 5-5-93, cert. ef. 7-1-93; DOC 20-1998, f. 9-22-98, cert. ef. 12-1-98; DOC 20-2001, f. & cert. ef. 12-17-01; DOC 13-2002, f. 9-11-02 cert. ef. 9-20-02; DOC 5-2007(Temp), f. & cert. ef. 8-1-07 thru 1-27-08; DOC 1-2008, f. & cert. ef. 1-25-08; DOC 4-2011(Temp), f. 3-4-11, cert. ef. 4-1-11 thru 9-28-11; DOC 15-2011, f. & cert. ef. 8-15-11; DOC 9-2016, f. & cert. ef. 5-10-16

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291-131-0021

Outgoing Mail Restriction

(1) The department may prohibit an inmate from sending unwanted mail to a particular person or address when requested by the person or, in the case of a minor child, by the child's parent or legal guardian.

(2) A request for outgoing mail restriction may be made by writing to the functional unit manager or designee at the Department of Corrections facility where the inmate is incarcerated. The written request should include any information that would assist the functional unit manager or designee in determining whether to order the outgoing mail restriction.

(3) The functional unit manager or designee will notify the person requesting the outgoing mail restriction of his/her decision. The decision will be final and will not be subject to administrative review. If an outgoing mail restriction is ordered, the inmate and the person requesting the outgoing mail restriction shall be provided with a copy of the Outgoing Mail Restriction Notice (CD 618d).

(4) Inmates may not request an outgoing mail restriction.

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

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

Hist.: DOC 20-2001, f. & cert. ef. 12-17-01, Renumbered from 291-131-0020(6); DOC 9-2016, f. & cert. ef. 5-10-16

291-131-0025

Incoming Mail

(1) Incoming mail shall have, on the front of the envelope free from obstruction, the sender's name and return address, and shall be addressed to the inmate using his/her court name and SID number.

(a) Inmates who legally change their name while in custody must verify the change and may seek approval to include their new name under the court name, labeled as a.k.a.

(b) If the inmate recipient cannot be positively identified, the mail will be returned to the sender. A reasonable attempt will be made to identify the inmate recipient.

(c) Mail with no return address shall be refused and returned to the U.S. Postal Service or other authorized mail service provider. No notice will be given to the inmate.

(d) The placement of the return address for international mail shall be in accordance with the sending country's postal regulations.

(2) Incoming mail must be in pen, lead or color pencil, non-toxic markers, or be typewritten or photocopied.

(3) Transfers and Work Crews:

(a) Incoming mail to inmates not residing in the receiving facility will be forwarded to the inmate if he/she resides at another Department of Corrections facility.

(b) Incoming mail for inmates temporarily transferred to another criminal justice agency will be held at the facility for seven consecutive days. If the inmate does not return to the facility within seven days, the facility will forward to the agency all accumulated and subsequent mail received at the facility. If the criminal justice agency refuses the forwarded mail, it will be held at the department facility until the inmate has been returned.

(c) Work Crews: Incoming first class mail for inmates temporarily residing at an off-site work location, such as a fire crew, should be held at the facility for no more than ten consecutive days. After ten days, the facility should arrange for first class mail delivery to the off-site work location.

(4) Mail received for an inmate who has been released, discharged, or has escaped shall be refused and returned to the U.S. Postal Service or other authorized mail service provider.

(5) New and used books, magazines, newspapers, and blank journals shall only be received directly from the publisher or distributor.

(a) Multiple copies of the same publication to an inmate shall be prohibited.

(b) Publications that have been previously rejected by the department and altered (i.e., offending pages removed) shall be prohibited.

(6) Inmates may receive catalogs, advertisements, brochures, promotional materials, pamphlets, sweepstakes, and contest materials solicited by the inmate provided the materials are properly addressed with the inmate's court name and SID number and are received directly at the correct address where the inmate is currently housed. These materials must conform to any content restrictions contained within this rule.

(7) Calendars shall only be received directly from a publisher or distributor. Calendars must:

(a) Be no longer than 12" wide and 24" long when unfolded;

(b) Meet the no freestanding nude or partially nude standards and have no security threat group imagery or graphic violent content; and

(c) Have a plastic or stapled binding. Wire bindings are prohibited.

(8) No notice or administrative review will be provided to the sender or intended inmate recipient for mail refused under subsections (5), (6), and (7) above of this rule.

(9) Packages, except books, magazines, and newspapers received directly from the publisher or distributor, require prior authorization from the functional unit manager or designee. The package authorization form must be attached to the outside of the package.

(10) Central Administration Review of Publications:

(a) Facility mailroom staff shall stamp approval of all accepted books, magazines, and other publications (except newspapers) on the front or inside front cover of the publication, together with the inmate's name and SID number. Books and magazines without the completed stamp on the front or inside front cover shall be unauthorized and considered contraband.

(b) Unauthorized attachments, enclosures, merchandise, or materials in publications may be removed and destroyed to allow the publication to be delivered to the intended inmate recipient if the publication is otherwise in compliance with these rules and doing so would not drastically alter/destroy the publication.

(c) If mailroom staff determine a publication contains material that is prohibited under these or other department administrative rules, the violation notice and prohibited material shall be reviewed by a designated Central Administration official, who will affirm, reverse, or otherwise modify the original rejection decision in writing.

(11) General correspondence is authorized up to 1/4 inch thickness. Legal and official mail received directly from the original source is authorized up to three inches thick. Legal and official mail in excess of three inches requires prior approval from the functional unit manager or designee through a package authorization form.

(12) Unauthorized Attachments and Enclosures:

(a) Only the canceled postage stamp, package authorization form, address label, and return address stamp (if used) attached to the front of an envelope or package shall be glued, taped, or otherwise affixed to an envelope or package or its contents.

(b) Only written correspondence, newspaper and magazine clippings, small pamphlets, photocopies, carbon copies, business cards, hand made drawings, printed web pages, and photographs that meet the content restrictions in these rules may be enclosed in the envelope.

(c) Unauthorized items with minimal monetary value (e.g., paper clips, rubber bands, uncanceled stamps, book marks, envelopes, blank paper, blank cards, or blank postcards, etc.) may be removed and destroyed, and the remaining mail sent to the inmate if the remaining contents are otherwise in compliance with department rules.

(d) Freestanding Nude or Partially Nude Images: Newspaper and magazine clippings, photocopies, printed web pages, drawings, photographs, and other media with nude or partially nude subjects, whether human or anime (i.e., cartoon) that depict or display male or female genitalia, pubic area, anus, or female areola may not be attached to or enclosed in correspondence to inmates.

(13) All images received from a photo company through first-class mail will be treated as individual photos, not publications. Such images are subject to the same content standards as described in the freestanding nude or partially nude images guidelines.

(14) The department is not responsible for the loss or damage of individual photographs.

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

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

Hist.: CD 18(Temp), f. & ef. 12-18-73 thru 4-17-74; CD 22, f. 6-27-74, ef. 7-25-74; CD 1-1979, f. & ef. 1-4-79; Renumbered from 291-010-0310, CD 11-1980(Temp), f. & ef. 4-10-80; CD 16-1980(Temp), f. & ef. 4-18-80; CD 28-1980, f. & ef. 8-22-80; CD 22-1983(Temp), f. & ef. 6-3-83; CD 27-1983, f. & ef. 7-11-83; CD 41-1983(Temp), f. & ef. 10-14-83; CD 13-1984, f. & ef. 4-11-84; CD 57-1985, f. & ef. 8-16-85; CD 14-1988, f. & cert. ef. 10-7-88 (and corrected 10-25-88); CD 1-1992, f. & cert. ef. 1-29-92; CD 10-1993, f. 5-5-93, cert. ef. 7-1-93; DOC 20-1998, f. 9-22-98, cert. ef. 12-1-98; DOC 12-2001(Temp) f. & cert. ef. 6-20-01 thru 12-17-01; DOC 20-2001, f. & cert. ef. 12-17-01; DOC 4-2002(Temp), f. & cert. ef. 3-25-02 thru 9-21-02; DOC 13-2002, f. 9-11-02 cert. ef. 9-20-02; DOC 5-2007(Temp), f. & cert. ef. 8-1-07 thru 1-27-08; DOC 1-2008, f. & cert. ef. 1-25-08; DOC 17-2008, f. 7-18-08, cert. ef. 7-21-08; DOC 4-2011(Temp), f. 3-4-11, cert. ef. 4-1-11 thru 9-28-11; DOC 15-2011, f. & cert. ef. 8-15-11; DOC 9-2016, f. & cert. ef. 5-10-16

291-131-0026

Electronic Messaging

(1) Availability and Inmate Access:

(a) The Department of Corrections may, in its sole discretion, authorize eligible inmates in certain Department of Corrections facilities to exchange electronic messages with friends and family as a non-monetary incentive, subject to the conditions and circumstances set forth in these rules and in the Performance Recognition and Award System (PRAS) rules (OAR 291-077).

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(b) Inmates that are eligible to access electronic messaging may do so in accordance with these rules, contingent upon the payment of a fee to the third-party vendor.

(c) Inmates shall not use the electronic messaging system to correspond with other inmates.

(2) Processing of Electronic Messages:

(a) Except as otherwise provided in these rules, electronic messages will be processed in the same manner and be subject to the same standards established in these rules for the sending, receipt, and processing of other inmate mail. Electronic messages should be processed within two days of receipt.

(b) Incoming electronic messages will be processed by an approved third-party vendor and delivered electronically to department mail rooms. Staff will review, and when necessary, print and deliver the messages to inmates. Outgoing electronic messages from inmates will be reviewed, scanned, and processed by department mail room staff and forwarded to the approved third-party vendor for review, scanning, and posting.

(c) All electronic messages will be subject to regular mail inspection and examination. No electronic message will be afforded special processing by department staff as legal mail or official mail.

Stat Auth: ORS 179.040, 423.020, 423.030, 423.075

Stat Impl: ORS 179.040, 423.020, 423.030, 423.075

Hist.: DOC 9-2016, f. & cert. ef. 5-10-16

291-131-0030

Examination/Inspection of Legal and Official Mail

(1) Legal or official mail shall be afforded special processing as provided in subsections (2) and (3) of this rule.

(a) To qualify for special processing, mail that otherwise qualifies as legal or official mail under OAR 291 131 0010 (14) or (18) must have affixed to the addressee side of the envelope or parcel the words "LEGAL MAIL" or "OFFICIAL MAIL", as appropriate. The "LEGAL MAIL" or "OFFICIAL MAIL" designation should be set apart from both the return address and the mailing address, and should be of sufficient size, to permit easy recognition by facility mailroom employees.

(b) Mail that otherwise qualifies as legal and official mail but lacks the proper designation shall be processed as ordinary mail (shall be subject to inspection; for example, opening, examination, reading or photocopying)outside the inmate's presence.

(2) Legal and official mail sent from or received in a Department of Corrections facility in sealed envelopes or parcels shall be opened and examined for contraband in the presence of the inmate, but shall not be read or photocopied, except as authorized in subsection (3) of this rule.

(3) Legal and official mail may be inspected (i.e., opened, examined, read or photocopied) outside of the inmate's presence only when directed by the Department of Corrections facility functional unit manager or designee, and approved by the Assistant Director of Operations or the Inspector General, based on specific circumstances or specific information indicating that an inmate or other person has or may be in the process of violating provisions of law, department administrative rules, or may otherwise be engaged in activity that threatens or impairs the security, good order, or discipline of the facility and officials, staff, or inmates.

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

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

Hist.: CD 18(Temp), f. & ef. 12-18-73 thru 4-17-74; CD 22, f. 6-27-74, ef. 7-25-74; CD 1-1979, f. & ef. 1-4-79; CD 11-1980(Temp), f. & ef. 4-10-80; CD 16-1980(Temp), f. & ef. 4-18-80; CD 28-1980, f. & ef. 8-22-80; CD 22-1983(Temp), f. & ef. 6-3-83; CD 27-1983, f. & ef. 7-11-83; CD 57-1985, f. & ef. 8-16-85; CD 14-1988, f. & cert. ef. 10-7-88 (and corrected 10-25-88); CD 1-1992, f. & cert. ef. 1-29-92; CD 10-1993, f. 5-5-93, cert. ef. 7-1-93; DOC 20-1998, f. 9-22-98, cert. ef. 12-1-98; DOC 20-2001, f. & cert. ef. 12-17-01; DOC 1-2008, f. & cert. ef. 1-25-08; DOC 9-2016, f. & cert. ef. 5-10-16

291-131-0035

Prohibited Mail

The following materials constitute prohibited mail that shall be confiscated or returned to the sender:

(1) Sexually Explicit Material:

(a) Sexually explicit material that by its nature or content poses a threat or is detrimental to the security, good order or discipline of the facility, inmate rehabilitation, or facilitates criminal activity including but not limited to the following:

(A) Individual photographs in which the subject is nude or exposes male or female genitalia, the pubic area, anus, or female areola.

(B) Freestanding nude or partially nude images that include clippings from newspapers and magazines, photocopies, electronic images, printed web pages, drawings, photographs, and other media. Such images, whether human or anime (cartoon), may not include nude subjects, or depict or display male or female genitalia, the pubic area, anus, or female areola.

(C) Sexual Acts or Behaviors:

(i) Portrayal of actual or simulated sexual acts or behaviors between human beings including, but not limited to, intercourse, sodomy, fellatio, cunnilingus, or masturbation.

(ii) Portrayal of actual or simulated penetration of the vagina or anus, or contact between the mouth and the breast, genitals, or anus.

(iii) Portrayal of actual or simulated stimulation of the breast, genitals, or anus.

(iv) Portrayal of actual or simulated acts or threatened acts of force or violence in a sexual context, including but not limited to forcible intercourse (rape) or acts of sadomasochism emphasizing the infliction of pain.

(v) Portrayal of actual or simulated sexual acts or behaviors in which one of the participants is a minor, or appears to be under the age of 18.

(vi) Bestiality: Portrayal of actual or simulated sexual acts or behaviors between a human being and an animal.

(D) Excretory Functions: Portrayal of actual or simulated human excretory functions including, but not limited to urination, defecation, or ejaculation.

(b) No distinction shall be made between depictions of heterosexual and homosexual activity in applying these standards.

(c) Sexually explicit material does not include material of a news or information type, for example, publications covering the activities of gay rights or gay religious groups.

(d) Literary publications shall not be excluded solely because of homosexual themes or references, except for violations of these rules.

(e) Sexually explicit material may be admitted if it has scholarly value, or general social or literary value.

(2) Material That Threatens or is Detrimental to the Security, Safety, Health, Good Order or Discipline of the Facility, Inmate Rehabilitation, or Facilitates Criminal Activity: Material that by its nature or content poses a threat or is detrimental to the security, safety, health, good order or discipline of the facility, inmate rehabilitation, or facilitates criminal activity, including but not limited to, material that meets one or more of the following criteria:

(a) It incites, advocates, aids, or abets criminal activity such as illegal drug use, or instructs in the manufacture, use, or conversion of weapons.

(b) It incites, advocates, aids, or abets escape, such as picking locks or digging tunnels.

(c) It consists of threats of physical harm to any person or threats of criminal activity.

(d) It contains or concerns sending contraband within, into, or out of the facility.

(e) It concerns plans for activities in violation of other Department of Corrections administrative directives.

(f) It contains code that directly threatens or is detrimental to the security, safety, health, good order, or discipline of the facility, inmate rehabilitation, or facilitates criminal activity.

(g) It contains information which, if communicated, would create a clear and present danger of violence and physical harm to a human being.

(h) It contains contraband material.

(i) It contains STG-related paraphernalia.

(j) It contains inflammatory material.

(k) It contains detailed maps of areas within 50 miles of correctional facilities or work stations.

(3) Credit or Deferred Billing Transactions: Mail involving credit or deferred billing (e.g., "bill me later" or "payment after delivery") transactions for the purchase of or subscription to publications (e.g., books, newspapers, magazines) or other items or merchandise is prohibited. Mail prohibited under this subsection includes:

(a) Outgoing inmate requests or purported agreements to enter into a credit or deferred billing transaction.

(b) Incoming publications or other items or merchandise, including promotional (e.g., free gift or premium) items given in exchange for purchase or subscription, received in a Department of Corrections facility that are accompanied by a billing or other statement requiring payment upon delivery or at a later date.

(4) Unauthorized Business Transactions: Mail involving a business transaction not previously approved by the functional unit manager or designee.

(5) Items Prohibited From Receipt by Mail:

(a) Any item or material that an inmate shall not possess within the Department of Corrections facility to which the inmate is assigned.

(b) Material that an inmate shall not possess within the facility or that meets one of the following criteria:

(A) Weapons or explosives;

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- (B) Narcotics or narcotics paraphernalia;
 - (C) Intoxicants or medications;
 - (D) Escape devices;
 - (E) Money, negotiable instruments, deposit and withdrawal slips, uncancelled stamps, and stamp collections;
 - (F) Any item larger than 18" x 18" except subscription newspapers;
 - (G) Any electronic items, including batteries;
 - (H) Any substance that is unauthorized, including lipstick, crayon, water colors, paint, correction fluid, wax, glitter, foam etc.; or
 - (I) Polaroid type photographs with a chemical substance on the back of the photograph.
- (6) Mail Subject to Outgoing Mail Restriction: Outgoing mail to a person or address to which the inmate has been ordered by the functional unit manager or designee not to send mail.

(7) Any other material that the department deems to pose a threat or to be detrimental to legitimate penological objectives.

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

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

Hist.: CD 18(Temp), f. & ef. 12-18-73 through 4-17-74; CD 22, f. 6-27-74, ef. 7-25-74; CD 1-1979, f. & ef. 1-4-79; Renumbered from 291-010-0315, CD 11-1980(Temp), f. & ef. 4-10-80; CD 16-1980(Temp), f. & ef. 4-18-80; CD 28-1980, f. & ef. 8-22-80; CD 22-1983(Temp), f. & ef. 6-3-83; CD 27-1983, f. & ef. 7-11-83; CD 13-1984, f. & ef. 4-11-84; CD 57-1985, f. & ef. 8-16-85; CD 14-1988, f. & cert. ef. 10-7-88 (and corrected 10-25-88); CD 1-1992, f. & cert. ef. 1-29-92; CD 10-1993, f. 5-5-93, cert. ef. 7-1-93; DOC 20-1998, f. 9-22-98, cert. ef. 12-1-98; DOC 16-2001(Temp), f. 7-9-01, cert. ef. 7-11-01 thru 1-7-02; DOC 20-2001, f. & cert. ef. 12-17-01; DOC 13-2002, f. 9-11-02 cert. ef. 9-20-02; DOC 1-2008, f. & cert. ef. 1-25-08; DOC 4-2011(Temp), f. 3-4-11, cert. ef. 4-1-11 thru 9-28-11; DOC 15-2011, f. & cert. ef. 8-15-11; DOC 9-2016, f. & cert. ef. 5-10-16

291-131-0037

Disposition of Prohibited Mail

(1) Mail, if not confiscated, will be returned to the U.S. Postal Service, or to the applicable mail service provider, for not meeting requirements provided in these rules.

(2) Contraband:

(a) Illegal contraband or evidence of a crime shall be confiscated and turned over to the Oregon State Police. No notice of confiscation shall be given.

(b) Non-Inmate Sender:

(A) Contraband (including unauthorized attachments or enclosures) that is not illegal or evidence of a crime shall be returned to the non inmate sender with the contents of the envelope or package intact, together with a Mail Violation Notice (CD 618a).

(B) Unauthorized items with minimal monetary value (e.g., paper clips, rubber bands, uncancelled stamps, book marks, envelopes, blank paper, blank cards, blank postcards, etc.) may be removed and destroyed and the remaining mail sent to the inmate if the remaining contents are otherwise in compliance with department rules. No notice shall be provided to the sender or inmate recipient for the removal and destruction of minimally valued items.

(c) Inmate Sender: Any enclosures (i.e., photographs, hand-made drawings in excess of that allowed) that are not illegal or evidence of a crime, or that are otherwise not prohibited in outgoing mail under these rules shall be returned to the inmate sender with the contents of the envelope or package intact, together with a Mail Violation Notice (CD 618a). Any item that poses a threat or is a detriment to the security, good order, or discipline of the facility, or that would encourage or instruct in criminal activity, may be confiscated and retained pending an investigation. If appropriate, the inmate may be issued a misconduct report, in accordance with the rule on Prohibited Inmate Conduct and Processing Disciplinary Actions (OAR 291-105).

(3) Money:

(a) Cash contained in mail shall be confiscated and deposited to the Inmate Welfare Fund. Notice of the confiscation shall be provided to the sender on a Mail Confiscation Notice (CD 618b). A copy of the notice shall also be provided to the intended inmate recipient.

(A) If the cash was concealed in the mail, a written entry shall be made on the Mail Confiscation Notice (CD 618b) to document the method of concealment. If, after an administrative review of the confiscation, it is determined that the sender did not conceal the cash, the money shall be returned to the sender.

(B) Correspondence received in an envelope from which cash has been confiscated shall be delivered to the intended inmate recipient if the correspondence is otherwise in compliance with department rules.

(b) Monies other than cash (e.g., money orders, warrants, personal checks, prepaid cards, and certified checks) contained in mail shall be returned to the sender with the contents of the envelope or package intact, together with a Mail Violation Notice (CD 618a). A copy of the Mail

Violation Notice shall be provided to the intended inmate recipient. The appropriate Assistant Director or Central Office Administrator may waive this requirement and provide further instructions during the annual holiday buying period.

(A) Prior to returning the mail to the sender, the offending money item shall be photocopied together with the addressee side of the envelope or package.

(B) The photocopy shall be retained by the facility according to archive standards.

(4) Mail with unauthorized or insufficient postage shall be refused and returned to the U.S. Postal Service. Notice of the reason for the mail rejection shall be provided on a form label or stamp affixed to the outside of the envelope or package.

(5) Unauthorized Attachments or Enclosures:

(a) Mail received with unauthorized attachments affixed to the outside of an envelope or package shall remain unopened, be refused, and returned to the U.S. Postal Service or applicable mail service provider. Notice of the reasons for the mail rejection shall be provided on a form label or stamp affixed to the outside of the envelope or package.

(b) Mail received with unauthorized attachments affixed to the inside of an envelope or package, or affixed to the contents of an envelope or package, or mail received with unauthorized enclosures, except for that with minimal monetary value as described in section (2)(b) above, shall be refused and returned to the sender with the contents of the envelope or package intact, together with a Mail Violation Notice.

(6) Correspondence and Publications: When, after opening, mail is rejected for violation of these or other department rules the following procedures shall be followed:

(a) Rejected Mail:

(A) Non-inmate sender: The sender and intended inmate recipient shall be notified of the rejection of mail, including the reasons, on a Mail Violation Notice (CD 618a) for correspondence, or a Publication Violation Notice for a publication. If the rejection is based upon written or pictorial content, the notice shall advise that an independent review of the rejection may be obtained by writing to the functional unit manager within 30 days of the date of the notice. Mail rejected based on written or pictorial content shall be returned intact to the sender. The rejected portion of the mail shall be photocopied and retained pending any administrative review. If no administrative review is requested, the photocopy shall be maintained according to archive standards.

(B) Inmate Sender: The inmate sender shall receive the same standards as the non-inmate sender. However, the intended recipient shall not be notified of the rejection for any mail sent by an inmate in a Department of Corrections facility and shall not be eligible for an administrative review.

(b) No administrative review shall be available if the rejection is based on the presence of an unauthorized attachment, substance, or enclosure on or with the mail, or if the rejection is based on any violation not related to the written or pictorial content.

(c) Confiscated Mail:

(A) Non-inmate Sender: If the mail is confiscated, notice shall be made to the sender and intended inmate recipient on a Mail Confiscation Notice (CD 618b), unless it includes plans for a discussion or commission of a crime or evidence of a crime. In such cases, no notice shall be given and the mail shall be turned over to the Special Investigations Unit of the department or the Oregon State Police. Confiscated mail not involving evidence of a crime shall be retained intact pending any administrative review. If no administrative review is requested, the mail shall be maintained according to archive standards.

(B) Inmate Sender: If the mail is confiscated, no notice shall be given to the sender or the intended inmate recipient. Mail that includes plans for a discussion or commission of a crime or evidence of a crime shall be turned over to the Special Investigations Unit of the department or the Oregon State Police. Confiscated mail that poses a threat or detriment to the security, good order, or discipline of the facility, or would encourage or instruct in criminal activity shall be retained intact pending an investigation. The inmate may be issued a misconduct report in accordance with the rules on Prohibited Inmate Conduct and Processing Disciplinary Actions (OAR 291-105). Otherwise, after the investigation is completed, the inmate will be notified of the confiscation. If no administrative review is requested, the mail shall be maintained according to archive standards.

(7) Packages: When a package is rejected, the following procedures shall be followed:

(a) Packages received without prior authorization of the functional unit manager or designee, or which have unauthorized attachments affixed

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to the outside of the package, shall be refused and returned to the U.S. Postal Service or to the applicable mail service provider.

(b) Prior authorized packages which after opening are found to contain contraband that is not illegal (including unauthorized attachments or enclosures) or evidence of a crime or otherwise to be in violation of these or other department rules, shall be returned to the sender with the contents of the package intact, together with a Mail Violation Notice.

(c) Intended Inmate Recipient: If a prior authorized package is returned to the sender after opening, the intended inmate recipient shall be promptly notified in writing of the rejection, along with the reason for the rejection, on a Mail Violation Notice. No administrative review shall be available to the intended inmate recipient.

(d) Sender: The sender shall be notified in writing of the rejection of any package received in a Department of Corrections facility and addressed to an inmate, along with the reason for rejection, on a form label or stamp affixed to the outside of the package if the package is refused without opening, or if the package is returned to the sender after opening, on a Mail Violation Notice inserted into the package. No administrative review shall be available to the sender.

(8) Mail from vendors that repeatedly violate mail rule standards:

(a) Mail violation for vendors will be tracked in the mailroom database.

(b) Vendors that repeatedly send prohibited content to inmates after multiple violation notices informing them of mail rule standards may be restricted.

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

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

Hist.: CD 14-1988, f. & cert. ef. 10-7-88 (and corrected 10-25-88); CD 1-1992, f. & cert. ef. 1-29-92; CD 10-1993, f. 5-5-93, cert. ef. 7-1-93; CD 25-1994, f. 12-21-94, cert. ef. 1-3-95; DOC 20-1998, f. 9-22-98, cert. ef. 12-1-98; DOC 20-2001, f. & cert. ef. 12-17-01; DOC 4-2002(Temp), f. & cert. ef. 3-25-02 thru 9-21-02; DOC 13-2002, f. 9-11-02 cert. ef. 9-20-02; DOC 1-2008, f. & cert. ef. 1-25-08; DOC 4-2011(Temp), f. 3-4-11, cert. ef. 4-1-11 thru 9-28-11; DOC 15-2011, f. & cert. ef. 8-15-11; DOC 9-2016, f. & cert. ef. 5-10-16

291-131-0050

Administrative Review

(1) Correspondence and Publications:

(a) Non-Inmate Sender:

(A) A non-inmate sender who has received a mail violation, publication violation, or confiscation notice for written or pictorial content may obtain an independent review of the rejection of mail by writing to the functional unit manager or designee and requesting an administrative review within 30 days of the date of the notice. The review request shall specify in writing the reason why the rejection should not be sustained and include the rejection notice. The rejected mail, if returned to the sender, must be submitted with the violation or confiscation notice along with the review request.

(B) An intended inmate recipient who has received a mail violation, publication violation, or confiscation notice for written or pictorial content may obtain an independent review by writing to the functional unit manager or designee and requesting an administrative review within 30 days of the date of the notice. The review request shall specify type of violation (mail, publication, or confiscation), date of violation, and name and issue date of any involved publication.

(b) Inmate Sender: An inmate sender who has received a mail violation or confiscation notice for written or pictorial content may obtain an independent review with the same provisions as a non-inmate sender. The intended recipient shall not be eligible for an administrative review.

(c) No administrative review shall be afforded if the rejection is based on the presence of an unauthorized attachment, substance, or enclosure on or with the mail, or if the rejection is based on any violation not related to the written or pictorial content.

(2) Packages: No administrative review shall be available to the sender or intended inmate recipient of a package.

(3) Administrative Review Process:

(a) The functional unit manager shall appoint an official or employee, other than the employee who originally rejected the correspondence or publication, to conduct the administrative review.

(b) The administrative review shall consist of an informal review of the original mail rejection decision and shall include a review of the mail or publication violation or confiscation notice, the request for administrative review, and where necessary, the rejected mail, article or material for compliance with department rules. No formal hearing shall be conducted.

(c) The functional unit manager or designee shall permit the intended inmate recipient an opportunity to review the rejected mail for purposes of administrative review, unless such review may provide the inmate with information of a nature which is deemed to pose a threat or detriment to the

security, good order or discipline of the facility, or to encourage or instruct in criminal activity.

(A) The intended inmate recipient shall specify in writing the reason why the rejection should not be sustained within five days after reviewing the rejected material, or within five days of receiving notice that the inmate was not allowed to review the rejected material for the reasons stated above.

(B) If the inmate refuses to review the material, the administrative review will be considered dismissed.

(d) The official or employee assigned to review the original mail rejection decision shall deliver a written recommended decision (together with a copy of the mail or publication violation or confiscation notice, the request for administrative review, and where necessary, the rejected mail, article, and material) to the functional unit manager or designee for his/her review and approval.

(e) The functional unit manager or designee shall review the recommended decision and either affirm, reverse, or otherwise modify the original mail rejection decision in writing. The administrative review shall be completed within 45 days after receipt of the request for administrative review. A copy of the functional unit manager or designee's decision shall be provided to the party who requested the administrative review.

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

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

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

Hist.: CD 10-1993, f. 5-5-93, cert. ef. 7-1-93; CD 25-1994, f. 12-21-94, cert. ef. 1-3-95; DOC 20-1998, f. 9-22-98, cert. ef. 12-1-98; DOC 23-1998, f. & cert. ef. 12-23-98 thru 6-21-99; DOC 8-1999, f. 5-24-99, cert. ef. 6-1-99; DOC 20-2001, f. & cert. ef. 12-17-01; DOC 9-2016, f. & cert. ef. 5-10-16

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Department of Environmental Quality Chapter 340

Rule Caption: Residential Demolition Asbestos Survey Requirement

Adm. Order No.: DEQ 3-2016

Filed with Sec. of State: 4-21-2016

Certified to be Effective: 4-21-16

Notice Publication Date: 1-1-2016

Rules Amended: 340-248-0250, 340-248-0270

Subject: During the 2015 Legislative Session, the Oregon Legislature enacted Senate Bill 705. The bill requires DEQ to adopt rules that prohibit demolishing a residential building without first having an accredited inspector perform an asbestos survey.

On Dec. 9, 2015, the Environmental Quality Commission adopted temporary rules implementing Senate Bill 705. The temporary rules became effective Jan. 1, 2016, and will expire on June 29, 2016. The proposed permanent rules replace these temporary rules.

The proposed rule amendments require an owner or operator to have an accredited inspector perform an asbestos survey before demolishing a residential building. In addition, the proposed rules contain exceptions to the survey requirement for residential buildings constructed after Jan. 1, 2004, and for demolitions where the owner or operator treats the entire building as friable asbestos containing material. The proposed rules also allow DEQ to consider, on a case-by-case basis, a written request for a waiver from the survey requirement. Finally, the proposed rules require the owner or operator to submit the asbestos survey report to DEQ, upon DEQ's request.

Rules Coordinator: Meyer Goldstein—(503) 229-6478

340-248-0250

Asbestos Abatement Project Exemptions

(1) Any person who conducts or provides for the conduct of an asbestos abatement project must comply with the provisions of OAR 340 division 248 except as provided in this rule.

(2) The following asbestos abatement projects are exempt from certain provisions of this Division as listed in this Section:

(a) Asbestos abatement conducted inside a single private residence is exempt from OAR 340-248-0110 through 340-248-0180, 340-248-0210 through 340-248-0240 and 340-248-0260 through 340-248-0270 if the residence is occupied by the owner and the owner occupant is performing the asbestos abatement work.

(b) Asbestos abatement conducted outside of a single private residence by the owner is exempt from the notification requirements contained

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in OAR 340-248-0260, if the residence is not a rental property, a commercial business, or intended to be demolished.

(c) Renovation activities at residential buildings with four or fewer dwelling units are exempt from the provisions of OAR 340-248-0270(1).

(d) Demolition activities at residential buildings with four or fewer dwelling units, that were constructed after January 1, 2004, are exempt from the provisions of OAR 340-248-0270(1).

(e) Demolition activities at residential buildings with four or fewer dwelling units are exempt from the provisions of OAR 340-248-0270(1) if all of the materials at the affected facility are treated, removed, handled, managed, transported and disposed of as friable asbestos-containing material.

(f) Projects involving the removal of mastics and roofing products that are fully encapsulated with a petroleum-based binder and are not hard, dry, or brittle are exempt from OAR 340-248-0110 through 340-248-0280 provided the materials are not made friable.

(g) Projects involving the removal of less than three square feet or three linear feet of asbestos-containing material are exempt from OAR 340-248-0110 through 340-248-0180 and the notification requirements in 340-248-0260 provided that the removal of asbestos is not the primary objective, is part of a needed repair operation, and the methods of removal comply with OAR 437 division 3 "Construction" Subsection Z and 29 C.F.R. § 1926.1101(g) (1998). Asbestos abatement projects may not be subdivided into smaller sized units in order to qualify for this exemption.

(h) Projects involving the removal of asbestos-containing materials that are sealed from the atmosphere by a rigid casing are exempt from OAR 340-248-0110 through 340-248-0280, provided the casing is not broken or otherwise altered such that asbestos fibers could be released during removal, handling, and transport to an authorized disposal site.

(3) Any person who removes non-friable asbestos-containing material not exempted under OAR 340-248-0250(2) must comply with the following:

(a) Submit asbestos removal notification and the appropriate fee to the Department Business Office on a Department form in accordance with OAR 340-248-0260.

(b) Remove nonfriable asbestos materials in a manner that ensures the material remains nonfriable.

(c) A nonfriable asbestos abatement project is exempt from the asbestos licensing and certification requirements under OAR 340-248-0100 through 340-248-0180. The exemption ends whenever the asbestos-containing material becomes friable.

(4) Emergency fire fighting is not subject to this division.

(5) Asbestos containing waste material that is handled and disposed of in compliance with a solid waste permit issued pursuant to ORS 459 is not subject to OAR 340-248-0205(1).

Stat. Auth.: ORS 468 & 468A

Stats. Implemented: ORS 468A.745

Hist.: DEQ 96, f. 9-2-75, ef. 9-25-75; DEQ 22-1982, f. & ef. 10-21-82; DEQ 9-1988, f. 5-19-88 (and corrected 6-3-88), ef. 6-1-88; DEQ 4-1990, f. & cert. ef. 2-7-90 (and corrected 5-21-90 & 7-8-91); DEQ 8-1990, f. 3-13-90, cert. ef. 4-23-90; DEQ 18-1991, f. & cert. ef. 10-7-91, Section (1)(a) - (d) renumbered from 340-025-0465(4)(a) - (d); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 18-1993, f. & cert. ef. 11-4-93, Renumbered from 340-025-0466; DEQ 19-1994, f. 9-6-94, cert. ef. 10-1-94; DEQ 15-1995, f. & cert. ef. 6-16-95; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-032-5620; DEQ 1-2002, f. & cert. ef. 2-4-02; DEQ 19-2002(Temp), f. & cert. ef. 12-23-02 thru 6-21-03; DEQ 9-2003, f. 5-21-03, cert. ef. 6-21-03; DEQ 11-2015(Temp), f. 12-10-15, cert. ef. 1-1-16 thru 6-28-16; DEQ 3-2016, f. & cert. ef. 4-21-16

340-248-0270

Asbestos Abatement Work Practices and Procedures

(1) Except as OAR 340-248-0250 provides, prior to performing a demolition or renovation activity on a facility or an installation, the owner or operator of a facility must have an accredited inspector thoroughly survey the affected facility, or part of the facility where the demolition or renovation operation will occur, for the presence of asbestos-containing material, including nonfriable asbestos material.

(2) The owner or operator of a facility that requires a survey under OAR 340-248-0270(1) must send a copy of the survey report to the department upon request by the department and keep a copy of the survey report onsite at the facility during any demolition or renovation activity.

(3) For demolitions of residential buildings, the department may approve, on a case-by-case basis, requests to waive the asbestos survey requirement of OAR 340-248-0270(1). The owner or operator of the residential building must submit a written request to the department, along with supporting documentation that demonstrates to the department's satisfaction that a survey is not warranted. The owner or operator of the residential building must obtain the department's written approval waiving the asbestos survey requirement prior to any demolition activity. The owner or

operator of the residential building must maintain as readily available at the demolition site a copy of the department's written approval under this rule.

(4) Except as OAR 340-248-0250 provides, any person who conducts or provides for the conduct of an asbestos abatement project must employ the following procedures:

(a) Remove all asbestos-containing materials before any activity begins that would break up, dislodge, or disturb the materials or preclude access to the materials for subsequent removal. Asbestos-containing materials need not be removed if:

(A) They are on a facility component that is encased in concrete or other similar material and are adequately wetted whenever exposed during demolition;

(B) They were not discovered before demolition and cannot be removed because of unsafe conditions as a result of the demolition.

(b) Upon discovery of asbestos-containing materials found during demolition the owner or operator performing the demolition must:

(A) Stop demolition work immediately;

(B) Notify the Department immediately of the occurrence;

(C) Keep the exposed asbestos-containing materials and any asbestos-contaminated waste material adequately wet at all times until a licensed asbestos abatement contractor begins removal activities;

(D) Have the licensed asbestos abatement contractor remove and dispose of the asbestos-containing waste material.

(c) Asbestos-containing materials must be adequately wetted when they are being removed. In renovation, maintenance, repair, and construction operations, where wetting would unavoidably damage equipment or is incompatible with specialized work practices, or presents a safety hazard, adequate wetting is not required if the owner or operator:

(A) Obtains prior written approval from the Department for dry removal of asbestos-containing material;

(B) Keeps a copy of the Department's written approval available for inspection at the work site;

(C) Adequately wraps or encloses any asbestos-containing material during handling to avoid releasing fibers;

(D) Uses a local exhaust ventilation and collection system designed and operated to capture the particulate asbestos material produced by the asbestos abatement project.

(d) When a facility component covered or coated with asbestos-containing materials is being taken out of the facility as units or in sections:

(A) Adequately wet any asbestos-containing materials exposed during cutting or disjuncting operation;

(B) Carefully lower the units or sections to ground level, not dropping them or throwing them;

(C) Asbestos-containing materials do not need to be removed from large facility components such as reactor vessels, large tanks, steam generators, but excluding beams if the following requirements are met:

(i) The component is removed, transported, stored, disposed of, or reused without disturbing or damaging the regulated asbestos-containing material; and

(ii) The component is encased in leak-tight wrapping; and

(iii) The leak-tight wrapping is labeled according to OAR 340-248-0280(2)(b) during all loading and unloading operations and during storage.

(e) For friable asbestos materials being removed or stripped:

(A) Adequately wet the materials to ensure that they remain wet until they are disposed of in accordance with OAR 340-248-0280;

(B) Carefully lower the materials to the floor, not dropping or throwing them;

(C) With prior written approval from the Department, transport the materials to the ground via dust-tight chutes or containers if they have been removed or stripped above ground level and were not removed as units or in sections.

(D) Enclose the area where friable asbestos materials are to be removed with a negative pressure enclosure prior to abatement unless written approval for an alternative is granted by the Department.

(E) A minimum of one viewing window will be installed in all enclosures, including negative pressure enclosures, in accordance with the following:

(i) Each viewing window must be a minimum of two feet by two feet and be made of a material that will allow a clear view inside the enclosure.

(ii) For large enclosures, including negative pressure enclosures, install one viewing window for every 5,000 square feet of area when spatially feasible.

(f) Any person that demolishes a facility under an order of the State of Oregon or a local governmental agency, issued because the facility is

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structurally unsound and in danger of imminent collapse must comply with the following:

(A) Obtain written approval from the Department for an ordered demolition procedure before that demolition takes place; and

(B) Send a copy of the order and an asbestos abatement project notification (as described in OAR 340-248-0260) to the Department before commencing demolition work; and

(C) Keep a copy of the order, Department's approval, and the notification form at the demolition site during all phases of demolition until final disposal of the project waste at an authorized landfill; and

(D) Keep asbestos-containing materials and asbestos contaminated debris adequately wet during demolition and comply with the disposal requirements set forth in OAR 340-248-0280 or 340-248-0290.

(g) Persons performing asbestos abatement outside full negative pressure containment must obtain written approval from the Department before using mechanical equipment to remove asbestos-containing material.

(h) Before a facility is demolished by intentional burning, all asbestos-containing material must be removed and disposed of in accordance with OAR 340-248-0010 through 340-248-0290.

(i) None of the operations in section (1) through (4) of this rule may cause any visible emissions. Any local exhaust ventilation and collection system or vacuuming equipment used during an asbestos abatement project, must be equipped with a HEPA filter or other filter of equal or greater collection efficiency.

(j) The Director may approve, on a case-by-case basis, requests to use an alternative to the requirements contained in this rule. The contractor or facility owner or operator must submit a written description of the proposed alternative and demonstrate to the Director's satisfaction that the proposed alternative provides public health protection equivalent to the protection that would be provided by the specific requirement, or that such level of protection cannot be obtained for the asbestos abatement project.

(k) Final Air Clearance Sampling Requirements apply to projects involving more than 160 square feet or 260 linear feet of asbestos-containing material. Before containment around such an area is removed, the person performing the abatement must have at least one air sample collected that documents that the air inside the containment has no more than 0.01 fibers per cubic centimeter of air. The air sample(s) collected may not exceed 0.01 fibers per cubic centimeter of air. The Department may grant a waiver to this section or exceptions to the following requirements upon receiving an advanced written request:

(A) The air clearance samples must be performed and analyzed by a party who is National Institute of Occupational Safety and Health (NIOSH) 582 certified and financially independent from the person(s) conducting the asbestos abatement project;

(B) Before final air clearance sampling is performed the following must be completed:

(i) All visible asbestos-containing material and asbestos-containing waste material must be removed according to the requirements of this section;

(ii) The air and surfaces within the containment must be sprayed with an encapsulant;

(iii) Air sampling may commence when the encapsulant has settled sufficiently so that the filter of the sample is not clogged by airborne encapsulant;

(iv) Air filtration units must remain on during the air-monitoring period.

(C) Air clearance sampling inside containment areas must be aggressive and comply with the following procedures:

(i) Immediately before starting the sampling pumps, direct exhaust from a minimum one horse power forced air blower against all walls, ceilings, floors, ledges, and other surfaces in the containment;

(ii) Then place stationary fans in locations that will not interfere with air monitoring equipment and then directed toward the ceiling. Use one fan per 10,000 cubic feet of room space;

(iii) Start sampling pumps and sample an adequate volume of air to detect concentrations of 0.01 fibers of asbestos per cubic centimeter according to NIOSH 7400 method;

(iv) When sampling is completed turn off the pump and then the fan(s);

(v) As an alternative to meeting the requirements of paragraphs (A) through (D) of this subsection, air clearance sample analysis may be performed according to Transmission Electron Microscopy Analytical Methods prescribed by 40 CFR 763, Appendix A to Subpart E (Interim Transmission Electron Microscopy Analytical Methods).

(D) The person performing asbestos abatement projects requiring air clearance sampling must submit the clearance results to the Department on a Department form. The clearance results must be received by the Department within 30 days after the completion date of the asbestos abatement project.

Stat. Auth.: ORS 468 & 468A

Stats. Implemented: ORS 468A.745

Hist.: DEQ 96, f. 9-2-75, ef. 9-25-75; DEQ 22-1982, f. & ef. 10-21-82; DEQ 9-1988, f. 5-19-88, ef. 6-1-88 (and corrected 6-3-88); DEQ 18-1991, f. & cert. ef. 10-7-91, Renumbered from 340-025-0465(6) - (12); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 18-1993, f. & cert. ef. 11-4-93, Renumbered from 340-025-0468; DEQ 15-1995, f. & cert. ef. 6-16-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-032-5640; DEQ 1-2002, f. & cert. ef. 2-4-02; DEQ 19-2002(Temp), f. & cert. ef. 12-23-02 thru 6-21-03; DEQ 9-2003, f. 5-21-03, cert. ef. 6-21-03; DEQ 11-2015(Temp), f. 12-10-15, cert. ef. 1-1-16 thru 6-28-16; DEQ 3-2016, f. & cert. ef. 4-21-16

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Rule Caption: Air Quality 2016 Temporary Rules for Colored Art Glass Manufacturing

Adm. Order No.: DEQ 4-2016(Temp)

Filed with Sec. of State: 4-21-2016

Certified to be Effective: 4-21-16 thru 10-17-16

Notice Publication Date:

Rules Adopted: 340-244-9000, 340-244-9010, 340-244-9020, 340-244-9030, 340-244-9040, 340-244-9050, 340-244-9060, 340-244-9070, 340-244-9080, 340-244-9090

Rules Amended: 340-244-0010

Subject: Studies have found elevated and possibly unsafe levels of metals in the air around two glass manufacturing facilities in Portland. In May 2015, DEQ received the initial results of a study the U.S. Forest Service conducted looking at moss samples as an indicator or screening tool for contaminants in the air. This study used a new approach with no standard operating procedures. The study's results showed that the moss samples in areas near two colored art glass manufacturers contained high levels of the heavy metals cadmium and arsenic in Southeast Portland and cadmium in North Portland.

This pilot study prompted DEQ to set up air monitoring systems near a glass company in Southeast Portland. The study collected 24-hour air samples every few days over a 30-day period in October 2015. The results of DEQ's air monitoring confirmed that the glass company was the likely source of metals air emissions. DEQ completed its quality assurance and quality control review of those samples in late January 2016. DEQ then shared its analysis of the findings with the Oregon Health Authority and the Multnomah County Health Department.

DEQ also identified a second area of concern near a glass company in North Portland. The glass companies were operating in compliance with the current law. One company was operating within its permit and the other company is not required to have a permit.

The U.S. Congress amended the Clean Air Act In 1990 to allow EPA to oversee the control of 188 hazardous air pollutants (HAPs) to protect human health. The EPA works with local and state governments to implement technologies that control the emission of these chemicals. For glass manufacturing the industry standards focus on emissions for large facilities, such as those that make beer bottles.

DEQ established air toxics benchmarks in 2006 that set guidelines for 52 pollutants. Benchmarks are Oregon's protective "clean air" goals that DEQ developed to address toxic air pollutants. There are no direct regulatory requirements associated with benchmarks. In 2005, with EPA funding, DEQ measured concentrations of air toxics, including metals, at six locations in the Portland area. DEQ found levels of many pollutants above clean air benchmarks.

DEQ's work in 2006 and since then has identified levels of some toxic air pollutants that are still above Oregon's air toxics benchmarks. This is a significant problem because toxic air pollutants are connected with serious health effects like cancer, respiratory problems and organ damage. DEQ's air toxics benchmarks are very protective air concentrations that people could breathe for a lifetime

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without increasing their cancer risk beyond a chance of one in a million.

Air toxics emissions from certain types of industrial businesses like small art glass manufacturers are not regulated under federal requirements. Based on sampling DEQ undertook last October, and in recent weeks, DEQ has concluded that uncontrolled furnaces used in such small art glass manufacturing are more likely than not to emit potentially unsafe levels of certain metals, including arsenic, cadmium, hexavalent chromium and nickel. The temporary rules that DEQ proposes for EQC adoption are intended to immediately protect the public health and the environment by ensuring the air emissions from small art glass facilities do not cause unsafe levels of metals in the air nearby.

The proposed rules would fill the regulatory gap by setting operation standards for art glass businesses that emit air toxics and potentially cause serious health effects.

The proposed rules create two tiers of colored art glass manufacturers based on production and furnace type. By prohibiting use of chromium VI, cadmium and arsenic prior to installation of emission control devices at larger colored art glass facilities, the temporary rules would immediately decrease risk from airborne metal exposure to people nearby, including children and other sensitive or vulnerable individuals. By prohibiting use of chromium III until DEQ establishes a maximum allowable usage rate, the temporary rules will ensure that facilities are not emitting potentially dangerous amounts of chromium VI.

Rules Coordinator: Meyer Goldstein—(503) 229-6478

340-244-0010

Policy and Purpose

The Environmental Quality Commission finds that certain air contaminants for which there are no ambient air quality standards may cause or contribute to an identifiable and significant increase in mortality or to an increase in serious irreversible or incapacitating reversible illness or to irreversible ecological damage, and are therefore considered to be hazardous air pollutants. It shall be the policy of the Commission that no person may cause, allow, or permit emissions into the ambient air of any hazardous substance in such quantity, concentration, or duration determined by the Commission to be injurious to public health or the environment. The purpose of this Division is to establish emissions limitations on sources of these air contaminants. In order to reduce the release of these hazardous air pollutants and protect public health and the environment, it is the intent of the Commission to adopt by rule within this Division the source category specific requirements that are promulgated by the EPA, and state standards to reduce the release of these hazardous air pollutants. Furthermore, it is hereby declared the policy of the Commission that the standards contained in this Division are considered minimum standards, and as technology advances, protection of public health and the environment warrants, more stringent standards may be adopted and applied.

Stat. Auth.: ORS 468.020 & 468A.310

Stats. Implemented: ORS 468A.025

Hist.: DEQ 13-1993, f. & cert. ef. 9-24-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-032-0100; DEQ 4-2016(Temp), f. & cert. ef. 4-21-16 thru 10-17-16

340-244-9000

Applicability

Notwithstanding OAR 340 Division 246, OAR 340-244-9000 through 9090 apply to facilities located within the Portland Air Quality Maintenance Area that:

(1)(a) Manufacture colored glass from raw materials, or a combination of raw materials and cullet, for use in art, architecture, interior design and other similar decorative applications, or

(b) Manufacture colored glass products from raw materials, or a combination of raw materials and cullet, for use by colored glass manufacturers for use in art, architecture, interior design and other similar decorative applications; and

(2) Manufacture 10 tons per year or more of colored glass using raw materials that contain any of the following metal HAPs: arsenic, cadmium, chromium, lead, manganese and nickel.

Stat. Auth.: ORS 468.020, 468A.025, & 468A.040

Stats. Implemented: ORS 468A.025, & 468A.040

Hist.: DEQ 4-2016(Temp), f. & cert. ef. 4-21-16 thru 10-17-16

340-244-9010

Definitions

The definitions in OAR 340-200-0020 and this rule apply to OAR 340-244-9000 through 9090. If the same term is defined in this rule and 340-200-0020, the definition in this rule applies to this division.

(1) "Colored Art Glass Manufacturer" or "CAGM" means a facility that meets the applicability requirements in OAR 340-244-9000 and refers to the owner or operator of such a facility when the context requires.

(2) "Chromium III" means chromium in the +3 oxidation state, also known as trivalent chromium.

(3) "Chromium VI" means chromium in the +6 oxidation state, also known as hexavalent chromium.

(4) "Chromium", without a following roman numeral, means total chromium.

(5) "Controlled" means the glass-making furnace emissions are treated by an emission control device approved by DEQ.

(6) "Cullet" means recycled glass that is mixed with raw materials and charged to a glass-making furnace to produce glass. Cullet does not include glass materials that contain metal HAPs in amounts that materially affect the color of the finished product and that are used as coloring agents; such materials are considered raw materials. Cullet is not considered to be a raw material.

(7) "Emission control device" means control device as defined in OAR 340 Division 200.

(8) "Glass-making furnace" means a refractory-lined vessel in which raw materials are charged and melted at high temperature to produce molten glass.

(9) "Metal HAP" means arsenic, cadmium, chromium, lead, manganese or nickel in any form, such as the pure metal, in compounds or mixed with other materials.

(10) "Raw material" means:

(a) Substances that are intentionally added to a glass manufacturing batch and melted in glass-making furnace to produce glass, including but not limited to:

(A) Minerals, such as silica sand, limestone, and dolomite;

(B) Inorganic chemical compounds, such as soda ash (sodium carbonate), salt cake (sodium sulfate), and potash (potassium carbonate);

(C) Metal oxides and other metal-based compounds, such as lead oxide, chromium oxide, and sodium antimonate; and

(D) Metal ores, such as chromite and pyrolusite.

(b) Metals that are naturally-occurring trace constituents or contaminants of other substances are not considered to be raw materials.

(c) Raw material includes glass materials that contain metal HAPs in amounts that materially affect the color of the finished product and that are used as coloring agents.

(d) Cullet and material that is recovered from a glass-making furnace control device for recycling into the glass formulation are not considered to be raw materials.

(11) "Tier 1 CAGM" means a CAGM that produces 10 tons per year or more of colored art glass, but not more than 100 tons per year, and produces colored art glass in glass-making furnaces that are only electrically heated.

(12) "Tier 2 CAGM" means:

(a) A CAGM that produces 10 tons per year or more of colored art glass in fuel-heated or combination fuel- and electrically-heated glass-making furnaces; or

(b) Produces 100 tons per year or more of colored art glass in any type of glass-making furnace.

(13) "Uncontrolled" means the glass-making furnace emissions are not treated by an emission control device approved by DEQ.

(14) "Week" means Sunday through Saturday.

Stat. Auth.: ORS 468.020, 468A.025, & 468A.040

Stats. Implemented: ORS 468A.025, & 468A.040

Hist.: DEQ 4-2016(Temp), f. & cert. ef. 4-21-16 thru 10-17-16

340-244-9020

Permit Required

Not later than September 1, 2016, all CAGMs not otherwise subject to a permitting requirement must apply for a permit under OAR 340-216-8010 Table 1, Part B, category #84.

Stat. Auth.: ORS 468.020, 468A.025, & 468A.040

Stats. Implemented: ORS 468A.025, & 468A.040

Hist.: DEQ 4-2016(Temp), f. & cert. ef. 4-21-16 thru 10-17-16

ADMINISTRATIVE RULES

340-244-9030

Requirements That Apply To Tier 2 CAGMs

Effective September 1, 2016, Tier 2 CAGMs may not use raw materials containing any metal HAPs except in glass-making furnaces that use an emission control device that meets the requirements of OAR 340-244-9070.

Stat. Auth.: ORS 468.020, 468A.025, & 468A.040
Stats. Implemented: ORS 468A.025, & 468A.040
Hist.: DEQ 4-2016(Temp), f. & cert. ef. 4-21-16 thru 10-17-16

340-244-9040

Operating Restrictions That Apply To Tier 2 CAGMs

(1) Tier 2 CAGMs may not use raw materials containing arsenic, cadmium or chromium VI except in glass-making furnaces that are controlled by an emission control device approved by DEQ.

(2) A Tier 2 CAGM may use raw materials containing chromium III in a glass-making furnace (controlled or uncontrolled) if DEQ has established annual and daily maximum allowable chromium III usage rates for the glass-making furnace or group of glass-making furnaces that will prevent the source impact from exceeding an annual acceptable source impact level of 0.08 nanograms per cubic meter of chromium VI and a daily acceptable source impact level of 36 nanograms per cubic meter of chromium VI.

(3) After DEQ establishes the maximum allowable chromium III usage rates for a CAGM's glass-making furnace or glass-making furnaces, the CAGM must comply with the rates DEQ establishes. For the purpose of establishing maximum allowable chromium III usage rates, the following are required:

(a) A source test must be performed as specified below:

(A) Test using DEQ-approved protocols and methods for total chromium, chromium VI, and particulate matter using DEQ Method 5 or a DEQ-approved equivalent method and submit a source test plan detailing the approach to DEQ for approval;

(B) Test for chromium, chromium VI and particulate matter at the outlet of an uncontrolled glass-making furnace; or test for chromium, chromium VI and particulate matter at the inlet of an emission control device and for particulate matter at the outlet of the emission control device;

(C) Test while making a glass that DEQ agrees is made under the most oxidizing combustion conditions and that contains a high percentage of chromium III as compared to other formulas used by the CAGM; and

(D) Keep records of the amount of chromium III used in the formulations that are produced during the source test runs, as well as other operational parameters identified in the source test plan.

(b) The Tier 2 CAGM must perform dispersion modeling, using models and protocols approved by DEQ, to determine the annual average and daily maximum ambient concentrations that result from the Tier 2 CAGM's air emissions as follows:

(A) Submit a modeling protocol for DEQ approval;

(B) Use the maximum chromium VI emission rate;

(C) Establish a maximum chromium III usage so that the source impact will not exceed either of the following:

(i) An annual acceptable source impact level for chromium VI concentration of 0.08 nanograms per cubic meter at the nearest sensitive receptor approved by DEQ. Sensitive receptors include, but are not limited to: residences, hospitals, schools, daycare facilities, elderly housing and convalescent facilities; and

(ii) A daily acceptable source impact level for chromium VI concentration of 36 nanograms per cubic meter at any off-site modeled receptor.

(c) Each Tier 2 CAGM must keep daily records of all glass formulations produced and, until such time as the Tier 2 CAGM has installed all emission control devices required under OAR 340-244-9030, provide to DEQ a weekly report of the daily amount of each metal HAP used.

(4) Tier 2 CAGMs may apply source testing protocols equivalent to those in section (3)(a) to the use of chromium VI in a glass-making furnace to establish maximum usage rates for chromium VI in controlled glass-making furnaces that will prevent the source impact from exceeding an annual acceptable source impact level of 0.08 nanograms per cubic meter and a daily acceptable source impact level of 36 nanograms per cubic meter.

(5) Tier 2 CAGMs are not restricted on the raw materials that may be used in glass-making furnaces that are controlled by an emission control device approved by DEQ, except that the use of raw materials containing chromium III and chromium VI will be subject to maximum usage rates determined by DEQ.

Stat. Auth.: ORS 468.020, 468A.025, & 468A.040
Stats. Implemented: ORS 468A.025, & 468A.040
Hist.: DEQ 4-2016(Temp), f. & cert. ef. 4-21-16 thru 10-17-16

340-244-9050

Requirements That Apply To Tier 1 CAGMs

(1) No later than October 1, 2016, each Tier 1 CAGM must comply with subsection (a), (b) or (c) for each glass-making furnace or group of glass-making furnaces:

(a) Install an emission control device to control a glass-making furnace or group of glass-making furnaces that uses raw material containing metal HAPs, and that meets the emission control device requirements in OAR 340-244-9070;

(b) Demonstrate that the glass-making furnace or group of glass-making furnaces meets the exemption in section (2); or

(c) Request a permit condition that prohibits the use of metal HAPs in the glass-making furnace or group of glass-making furnaces, and comply with that condition.

(2) A Tier 1 CAGM is exempt from the requirement to install emission controls under subsection (1)(a) on a glass-making furnace or group of glass-making furnaces if that CAGM meets the requirements of subsection (a) for each of the individual metal HAPs listed in paragraphs (a)(A) through (a)(F) below. This exemption is not allowed for a glass-making furnace or group of glass-making furnaces that use raw materials containing chromium VI.

(a) The CAGM shows through source testing and dispersion modeling if necessary, following the requirements of subsections (b) and (c), that the metal HAP concentrations modeled at the nearest sensitive receptor do not exceed the applicable concentration listed in paragraphs (A) through (F). For chromium VI resulting from the use of chromium III, the CAGM may source test for and model chromium VI, or may source test for and model total chromium in lieu of chromium VI to demonstrate that the ambient concentration is below the concentration listed in paragraph (C). If the modeled total chromium ambient concentration exceeds the concentration listed in paragraph (C), then the CAGM may conduct an additional source test to measure chromium VI and model to show that the ambient concentration of chromium VI does not exceed the concentration listed in paragraph (C).

(A) Arsenic, 0.2 nanograms per cubic meter;

(B) Cadmium, 0.6 nanograms per cubic meter;

(C) Chromium VI, 0.08 nanograms per cubic meter;

(D) Lead, 15 nanograms per cubic meter;

(E) Manganese, 90 nanograms per cubic meter;

(F) Nickel, 4 nanograms per cubic meter.

(b) Source testing for the purpose of demonstrating the exemption in this section must be performed as follows:

(A) Test using DEQ-approved protocols and methods for each metal HAP listed in paragraphs (a)(A) through (a)(F) that the Tier 1 CAGM intends to use.

(B) Test for particulate matter using DEQ Method 5 or equivalent; metals using EPA Method 29, CARB Method M-436 or an equivalent method approved by DEQ; and if the Tier 1 CAGM chooses, chromium VI using a method approved by DEQ.

(C) Submit a source test plan to DEQ for approval at least 30 days before the test date.

(D) For each metal HAP to be tested for, test while making a glass formulation that DEQ agrees has the highest potential emissions of that metal HAP. More than one source test may be required if a single glass formulation cannot meet this requirement for all metal HAPs to be tested for.

(E) Keep records of the amount of each metal HAP regulated under this rule used in the formulations that are produced during the source test runs, as well as other operational parameters identified in the source test plan.

(c) Dispersion modeling for the purpose of demonstrating the exemption in this section is not required for any HAP metal that the source testing under subsection (b) shows is not greater than the applicable concentration listed in paragraphs (a)(A) through (a)(F); otherwise, dispersion modeling must be performed as follows:

(A) Submit a modeling protocol for DEQ approval;

(B) Use the EPA-approved model AERSCREEN or other EPA-approved model;

(C) Use the maximum emission rate for each metal to be modeled as determined by the source testing required by subsection (b); and

(D) Model the ambient concentration at the nearest sensitive receptor approved by DEQ. Sensitive receptors include, but are not limited to: residences, hospitals, schools, daycare facilities, elderly housing and convalescent facilities.

Stat. Auth.: ORS 468.020, 468A.025, & 468A.040

Stats. Implemented: ORS 468A.025, & 468A.040

Hist.: DEQ 4-2016(Temp), f. & cert. ef. 4-21-16 thru 10-17-16

ADMINISTRATIVE RULES

340-244-9060

Operating Restrictions That Apply To Tier 1 CAGMs

(1) Tier 1 CAGMs may not use raw materials that contain chromium VI in any uncontrolled glass-making furnace.

(2) Tier 1 CAGMs are not restricted on the raw materials that may be used in glass-making furnaces that are controlled by an emission control device approved by DEQ.

Stat. Auth.: ORS 468.020, 468A.025, & 468A.040
Stats. Implemented: ORS 468A.025, & 468A.040
Hist.: DEQ 4-2016(Temp), f. & cert. ef. 4-21-16 thru 10-17-16

340-244-9070

Emission Control Device Requirements

(1) Each emission control device used to comply with this rule must meet 99.0 percent or more removal efficiency for particulate matter as measured by DEQ Method 5 or an equivalent method approved by DEQ.

(2) Emission control device requirements:

(a) A CAGM must obtain DEQ approval of the design of all emission control devices before installation, as provided in this rule.

(b) A CAGM must submit a Notice of Intent to Construct as required by OAR 340-210-0205 through 340-210-0250 no later than 15 days before the date installation begins. If DEQ does not deny or approve the Notice of Intent to Construct within 10 days after receiving the Notice, the Notice will be deemed to be approved.

(c) Emission control devices may control emissions from more than one glass-making furnace.

(d) Each emission control device must be equipped with the following monitoring equipment:

(A) An inlet temperature monitoring device;

(B) A differential pressure monitoring device if the emission control device is a baghouse; and

(C) Any other monitoring device or devices specified in DEQ's approval of the Notice of Intent to Construct.

(e) Each emission control device must be equipped with inlet ducting that provides the following:

(A) Sufficient cooling of exhaust gases to no more than the maximum design inlet temperature under worst-case conditions; and

(B) Provision for inlet emissions testing, including sufficient duct diameter, sample ports, undisturbed flow conditions, and access for testing.

(f) Each emission control device must be equipped with outlet ducting that provides for outlet emissions testing, including sufficient duct diameter, sample ports, undisturbed flow conditions, and access for testing.

(g) After commencing operation of any emission control device, the CAGM must monitor the emission control device as required by OAR 340-244-9080.

(h) A CAGM must perform the following source testing on at least one emission control device. Source testing done under OAR 340-244-9040(2) may be used in whole or in part to comply with this requirement.

(A) Within 60 days of commencing operation of the emission control devices, test control device inlet and outlet for particulate matter using DEQ Method 5 or equivalent method;

(B) The emission control device to be tested must be approved by DEQ;

(C) A source test plan must be submitted at least 30 days before conducting the source test; and

(D) The source test plan must be approved by DEQ before conducting the source test.

Stat. Auth.: ORS 468.020, 468A.025, & 468A.040
Stats. Implemented: ORS 468A.025, & 468A.040
Hist.: DEQ 4-2016(Temp), f. & cert. ef. 4-21-16 thru 10-17-16

340-244-9080

Emission Control Device Monitoring

(1) Each Tier 1 CAGM must perform the following monitoring on each emission control device it uses to comply with this rule:

(a) At least once each week, observe and record the inlet temperature and differential pressure (if applicable); and

(b) At least once every 12 months:

(A) Inspect the ductwork and emission control device housing for leakage;

(B) Inspect the interior of the emission control device for structural integrity and, if a fabric filter (baghouse) is used, to determine the condition of the fabric filter; and

(C) Record the date, time and results of the inspection.

(2) Each Tier 2 CAGM must perform the following monitoring on each emission control device used to comply with this rule:

(a) At least once each day, observe and record the inlet temperature and differential pressure (if applicable); and

(b) At least once every 12 months:

(A) Inspect the ductwork and emission control device housing for leakage;

(B) Inspect the interior of the emission control device for structural integrity and, if a fabric filter (baghouse) is used, to determine the condition of the fabric filter; and

(C) Record the date, time and results of the inspection.

(3) CAGMs must observe and record any parameters specified in a DEQ approval of the Notice of Intent to Construct applicable to a control device.

Stat. Auth.: ORS 468.020, 468A.025, & 468A.040
Stats. Implemented: ORS 468A.025, & 468A.040
Hist.: DEQ 4-2016(Temp), f. & cert. ef. 4-21-16 thru 10-17-16

340-244-9090

Other Metal HAPs

(1) If DEQ determines that ambient concentrations of a metal HAP in the area of a CAGM pose an unacceptable risk to human health and that emissions from an uncontrolled glass-making furnace at the CAGM are a contributing factor, then DEQ must set a limit on the CAGM's use of the metal HAP of concern in uncontrolled glass-making furnaces, by agreement or in a permit, to reduce such risk. DEQ must consult with the Oregon Health Authority when applying this rule.

(2) Exceeding the limits established under the authority of this rule is a violation of this rule.

Stat. Auth.: ORS 468.020, 468A.025, & 468A.040
Stats. Implemented: ORS 468A.025, & 468A.040
Hist.: DEQ 4-2016(Temp), f. & cert. ef. 4-21-16 thru 10-17-16

Rule Caption: Clean Fuels Program Corrections

Adm. Order No.: DEQ 5-2016(Temp)

Filed with Sec. of State: 4-22-2016

Certified to be Effective: 4-22-16 thru 9-1-16

Notice Publication Date:

Rules Amended: 340-253-8010, 340-253-8020, 340-253-8030, 340-253-8040

Subject: DEQ proposes to amend Oregon Clean Fuels Program rules under division 253 of chapter 340 of the Oregon Administrative Rules. The proposed rule changes would correct a miscalculation of how the clean fuel standards and the carbon intensity values of two fuel pathways were calculated in the rules the Environmental Quality Commission adopted on Dec. 9, 2015.

Rules Coordinator: Meyer Goldstein—(503) 229-6478

340-253-8010

Table 1 — Oregon Clean Fuel Standard for Gasoline and Gasoline Substitutes

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 468.020 & 2009 OL Ch. 754 Sec. 6 (2011 Edition)
Stats. Implemented: 2009 OL Ch. 754 Sec. 6 (2011 Edition)
Hist.: DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16; DEQ 5-2016(Temp), f. & cert. ef. 4-22-16 thru 9-1-16

340-253-8020

Table 2 — Oregon Clean Fuel Standard for Diesel Fuel and Diesel Substitutes

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 468.020, 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3
Stats. Implemented: 2009 OL Ch. 754 Sec. 6 (2011 Edition)
Hist.: DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16; DEQ 5-2016(Temp), f. & cert. ef. 4-22-16 thru 9-1-16

340-253-8030

Table 3 — Oregon Carbon Intensity Lookup Table for Gasoline and Gasoline Substitutes

NOTE: DEQ recognizes that indirect effects, including indirect land use change, are real. However the methodologies to quantify these effects are still in development. DEQ intends to monitor the science of indirect effect and will adjust carbon intensity values through future rulemaking as methodologies improve.
[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 468.020, 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3
Stats. Implemented: 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3
Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 15-2013(Temp), f. 12-20-13, cert. ef. 1-1-14 thru 6-30-14; DEQ 8-2014, f. & cert. ef. 6-26-14; Renumbered from 340-253-3010 by DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16; DEQ 5-2016(Temp), f. & cert. ef. 4-22-16 thru 9-1-16

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340-253-8040

Table 4 — Oregon Carbon Intensity Lookup Table for Diesel and Diesel Substitutes

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 468.020, 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3
Stats. Implemented: 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3
Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 15-2013(Temp), f. 12-20-13, cert. ef. 1-1-14 thru 6-30-14; DEQ 8-2014, f. & cert. ef. 6-26-14; Renumbered from 340-253-3020 by DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16; DEQ 5-2016(Temp), f. & cert. ef. 4-22-16 thru 9-1-16

Rule Caption: Correction to Colored Art Glass Manufacturers Rules

Adm. Order No.: DEQ 6-2016(Temp)

Filed with Sec. of State: 5-6-2016

Certified to be Effective: 5-6-16 thru 10-17-16

Notice Publication Date:

Rules Amended: 340-244-9070

Subject: At the Environmental Quality Commission's regular meeting on April 21, 2016, under agenda item I, EQC adopted proposed temporary rules regulating Colored Art Glass Manufacturers, as OAR 340-244-9000 through 9090.

After EQC adopted the temporary rules, DEQ found that the rules included a substantive technical error. DEQ proposes that EQC adopt a correction to the temporary rules to revise only the rule text. DEQ does not propose to alter the effective date or the expiration date of the temporary rules.

OAR 340-244-9000 through -9090 impose requirements on CAGMs. These requirements include requirements for Tier 2 CAGMs to install emission control devices, and requirements for Tier 1 CAGMs to either install emission control devices, demonstrate that the requirements for an exemption from installing emission control devices are met, or to request a permit condition prohibiting the use of certain metal hazardous air pollutants.

When emission control devices are installed, the rules also require emission testing to demonstrate that the emission control devices meet 99.0 percent removal efficiency using a specified emission test method. The error is that OAR 340-244-9070 specifies the wrong test method.

As adopted, this rule specifies using a test method referred to as DEQ Method 5 to demonstrate the removal efficiency. The rule should instead specify EPA Method 5. Both test methods are used to measure particulate matter emissions. But EPA Method 5 tests only for filterable particulate matter while DEQ Method 5 tests for both filterable and condensable particulate matter.

Rules Coordinator: Meyer Goldstein—(503) 229-6478

340-244-9070

Emission Control Device Requirements

(1) Each emission control device used to comply with this rule must meet 99.0 percent or more removal efficiency for particulate matter as measured by EPA Method 5 or an equivalent method approved by DEQ.

(2) Emission control device requirements:

(a) A CAGM must obtain DEQ approval of the design of all emission control devices before installation, as provided in this rule.

(b) A CAGM must submit a Notice of Intent to Construct as required by OAR 340-210-0205 through 340-210-0250 no later than 15 days before the date installation begins. If DEQ does not deny or approve the Notice of Intent to Construct within 10 days after receiving the Notice, the Notice will be deemed to be approved.

(c) Emission control devices may control emissions from more than one glass-making furnace.

(d) Each emission control device must be equipped with the following monitoring equipment:

(A) An inlet temperature monitoring device;

(B) A differential pressure monitoring device if the emission control device is a baghouse; and

(C) Any other monitoring device or devices specified in DEQ's approval of the Notice of Intent to Construct.

(e) Each emission control device must be equipped with inlet ducting that provides the following:

(A) Sufficient cooling of exhaust gases to no more than the maximum design inlet temperature under worst-case conditions; and

(B) Provision for inlet emissions testing, including sufficient duct diameter, sample ports, undisturbed flow conditions, and access for testing.

(f) Each emission control device must be equipped with outlet ducting that provides for outlet emissions testing, including sufficient duct diameter, sample ports, undisturbed flow conditions, and access for testing.

(g) After commencing operation of any emission control device, the CAGM must monitor the emission control device as required by OAR 340-244-9080.

(h) A CAGM must perform the following source testing on at least one emission control device. Source testing done under OAR 340-244-9040(2) may be used in whole or in part to comply with this requirement.

(A) Within 60 days of commencing operation of the emission control devices, test control device inlet and outlet for particulate matter using DEQ Method 5 or equivalent method;

(B) The emission control device to be tested must be approved by DEQ;

(C) A source test plan must be submitted at least 30 days before conducting the source test; and

(D) The source test plan must be approved by DEQ before conducting the source test.

Stat. Auth.: ORS 468.020, 468A.025, & 468A.040

Stats. Implemented: ORS 468A.025, & 468A.040

Hist.: DEQ 4-2016(Temp), f. & cert. ef. 4-21-16 thru 10-17-16; DEQ 6-2016(Temp), f. & cert. ef. 5-6-16 thru 10-17-16

Department of Fish and Wildlife Chapter 635

Rule Caption: Columbia River Commercial Spring Select Area Fisheries Modified.

Adm. Order No.: DFW 32-2016(Temp)

Filed with Sec. of State: 4-20-2016

Certified to be Effective: 4-21-16 thru 7-31-16

Notice Publication Date:

Rules Amended: 635-042-0145, 635-042-0160, 635-042-0170, 635-042-0180

Rules Suspended: 635-042-0145(T), 635-042-0160(T), 635-042-0170(T), 635-042-0180(T)

Subject: These amended rules modify the spring commercial fisheries in the Columbia River Select Areas. Several previously authorized fishing periods are being rescinded and others were shortened due to lower than expected numbers of Chinook salmon in the current run. Rule revisions are consistent with action taken April 19, 2016 by the Oregon and Washington Departments of Fish and Wildlife at a meeting of the Columbia River Compact.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-042-0145

Youngs Bay Salmon Season

(1) Salmon and shad may be taken for commercial purposes during open 2016 fishing periods in waters of Youngs Bay as described below. Retention and sale of white sturgeon is prohibited.

(a) The 2016 open fishing periods are established in three segments categorized as the winter fishery, subsection (1)(a)(A); the spring fishery, subsection (1)(a)(B); and summer fishery, subsection (1)(a)(C), as follows:

(A) Winter Season: Open Mondays, Wednesdays, and Thursdays from February 8 through March 28. Beginning March 14 through March 28 the following open periods apply:

Monday	March 14	12:00 noon - 4:00 p.m. (4 hours);
Wednesday	March 16	2:00 p.m. - 6:00 p.m. (4 hours);
Thursday	March 17	3:00 p.m. - 7:00 p.m. (4 hours);
Monday	March 21	7:00 p.m. - 11:00 p.m. (4 hours);
Wednesday	March 23	8:00 p.m. - midnight (4 hours);
Thursday	March 24	8:00 p.m. - midnight (4 hours); and
Monday	March 28	10:00 a.m. - 2:00 p.m. (4 hours).

Beginning April 6 through April 10 the following open periods apply:

Wednesday	April 6	6:30 p.m. - 10:30 p.m. (4 hours);
Sunday	April 10	9:30 a.m. - 1:30 p.m. (4 hours);

(B) Spring Season: Open during the following periods:

Thursday	April 28	11:00 a.m. - 3:00 p.m. (4 hours);
Monday	May 2	3:00 p.m. - 9:00 p.m. (6 hours);
Wednesday	May 4	9:00 a.m. - 9:00 p.m. (12 hours);
Thursday	May 5	4:00 p.m. - 10:00 a.m. Friday, May 6 (18 hours);

Monday, May 9 Noon to Noon Friday, June 10 (4 days/week, 20 days total); and

Monday	June 13	Noon to Noon Wednesday, June 15 (2 days).
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(C) Summer Season: Beginning June 16 the following open periods apply:

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Thursday	June 16	Noon to Noon Friday, June 17 (1 day);
Monday	June 20	Noon to Noon Friday, June 24 (4 days);
Monday	June 27	Noon to Noon Friday, July 1 (4 days);
Monday	July 4	Noon to Noon Thursday, July 7 (3 days);and
Tuesdays	July 12	Noon to Noon Thursdays, July 28 (2
days/week,	6 days total)	

(b) The fishing areas for the winter fisheries, 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 including the lower Walluski River upstream to the Highway 202 Bridge are open, with the exception of March 28 through April 17 when the open area boundaries are from the first powerlines downstream of the Walluski River upstream to the confluence of the Youngs and Klaskanine rivers including the lower Walluski River upstream to the Highway 202 Bridge (Walluski Area). Those waters southerly of the alternate Highway 101 Bridge (Lewis and Clark River) are closed. For the spring and summer fisheries 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 and includes the lower Walluski River upstream to Highway 202 Bridge and the lower Lewis and Clark River upstream to the overhead power lines immediately upstream of Barrett Slough.

(2) Gill nets may not exceed 1,500 feet (250 fathoms) in length and weight may not exceed two pounds per any fathom except the use of additional weights and/or anchors attached directly to the headline is allowed upstream of markers located approximately 200 yards upstream of the mouth of the Walluski River during all Youngs Bay commercial fisheries and upstream of the alternate Highway 101 Bridge in the Lewis and Clark River. 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. It is unlawful to use a gill net having a mesh size that is more than 9.75 inches during the spring and summer seasons.

(b) Nets not specifically authorized for use in these areas may be onboard a 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.

(3) Non-resident commercial fishing and boat licenses are not required for Washington fishers participating in Youngs Bay commercial fisheries. A valid fishing and boat license issued by the state of Washington is considered adequate for participation in this fishery. The open area for non-resident commercial fishers includes all areas open for commercial fishing.

Stat. Auth.: ORS 183.325, 506.109 & 506.119
Stats. Implemented: ORS 506.129 & 507.030
Hist.: FWC 32-1979, f. & ef. 8-22-79; FWC 28-1980, f. & ef. 6-23-80; FWC 42-1980(Temp), f. & ef. 8-22-80; FWC 30-1981, f. & ef. 8-14-81; FWC 42-1981(Temp), f. & ef. 11-5-81; FWC 54-1982, f. & ef. 8-17-82; FWC 37-1983, f. & ef. 8-18-83; FWC 61-1983(Temp), f. & ef. 10-19-83; FWC 42-1984, f. & ef. 8-20-84; FWC 39-1985, f. & ef. 8-15-85; FWC 37-1986, f. & ef. 8-11-86; FWC 72-1986(Temp), f. & ef. 10-31-86; FWC 64-1987, f. & ef. 8-7-87; FWC 73-1988, f. & cert. ef. 8-19-88; FWC 55-1989(Temp), f. 8-7-89, cert. ef. 8-20-89; FWC 82-1990(Temp), f. 8-14-90, cert. ef. 8-19-90; FWC 86-1991, f. 8-7-91, cert. ef. 8-18-91; FWC 123-1991(Temp), f. & cert. ef. 10-21-91; FWC 30-1992(Temp), f. & cert. ef. 4-27-92; FWC 35-1992(Temp), f. 5-22-92, cert. ef. 5-25-92; FWC 74-1992 (Temp), f. 8-10-92, cert. ef. 8-16-92; FWC 28-1993(Temp), f. & cert. ef. 4-26-93; FWC 48-1993, f. 8-6-93, cert. ef. 8-9-93; FWC 21-1994(Temp), f. 4-22-94, cert. ef. 4-25-94; FWC 51-1994, f. 8-19-94, cert. ef. 8-22-94; FWC 64-1994(Temp), f. 9-14-94, cert. ef. 9-15-94; FWC 66-1994(Temp), f. & cert. ef. 9-20-94; FWC 27-1995, f. 3-29-95, cert. ef. 4-1-95; FWC 48-1995(Temp), f. & cert. ef. 6-5-95; FWC 66-1995, f. 8-22-95, cert. ef. 8-27-95; FWC 69-1995, f. 8-25-95, cert. ef. 8-27-95; FWC 8-1995, f. 2-28-96, cert. ef. 3-1-96; FWC 37-1996(Temp), f. 8-11-96, cert. ef. 6-12-96; FWC 41-1996, f. & cert. ef. 8-12-96; FWC 45-1996(Temp), f. 8-16-96, cert. ef. 8-19-96; FWC 54-1996(Temp), f. & cert. ef. 9-23-96; FWC 4-1997, f. & cert. ef. 1-30-97; FWC 47-1997, f. & cert. ef. 8-15-97; FWC 8-1998(Temp), f. & cert. ef. 2-5-98 thru 2-28-98; FWC 14-1998, f. & cert. ef. 3-3-98; FWC 18-1998(Temp), f. 3-9-98, cert. ef. 3-11-98 thru 3-31-98; FWC 60-1998(Temp), f. & cert. ef. 8-7-98 thru 8-21-98; FWC 67-1998, f. & cert. ef. 8-24-98; FWC 10-1999, f. & cert. ef. 2-26-99; FWC 52-1999(Temp), f. & cert. ef. 8-2-99 thru 8-6-99; FWC 55-1999, f. & cert. ef. 8-12-99; FWC 9-2000, f. & cert. ef. 2-25-00; FWC 42-2000, f. & cert. ef. 8-3-00; FWC 3-2001, f. & cert. ef. 2-6-01; FWC 66-2001(Temp), f. 8-2-01, cert. ef. 8-6-01 thru 8-14-01; FWC 76-2001(Temp), f. & cert. ef. 8-20-01 thru 10-31-01; FWC 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; FWC 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; FWC 82-2002(Temp), f. 8-5-02, cert. ef. 8-7-02 thru 9-1-02; FWC 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; FWC 12-2003, f. & cert. ef. 2-14-03; FWC 17-2003(Temp), f. 2-27-03, cert. ef. 3-1-03 thru 8-1-03; FWC 32-2003(Temp), f. & cert. ef. 4-23-03 thru 8-1-03; FWC 28-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; FWC 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; FWC 37-2003(Temp), f. & cert. ef. 5-7-03 thru 10-1-03; FWC 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; FWC 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; FWC 11-2004, f. & cert. ef. 2-13-04; FWC 19-2004(Temp), f. & cert. ef. 3-12-04 thru 3-31-04; FWC 22-2004(Temp), f. & cert. ef. 3-18-04 thru 3-31-04; FWC 28-2004(Temp), f. 4-8-04, cert. ef. 4-12-04 thru 4-15-04; FWC 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; FWC 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; FWC 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; FWC 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; FWC 6-2005, f. & cert. ef. 2-14-05; FWC 15-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; FWC 18-2005(Temp),

f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; FWC 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; FWC 28-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05; FWC 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; FWC 40-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; FWC 46-2005(Temp), f. 5-17-05, cert. ef. 5-18-05 thru 10-16-05; FWC 73-2005(Temp), f. 7-8-05, cert. ef. 7-11-05 thru 7-31-05; FWC 77-2005(Temp), f. 7-14-05, cert. ef. 7-18-05 thru 7-31-05; FWC 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; FWC 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; FWC 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; FWC 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; FWC 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; FWC 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; FWC 5-2006, f. & cert. ef. 2-15-06; FWC 14-2006(Temp), f. 3-15-06, cert. ef. 3-16-06 thru 7-27-06; FWC 15-2006(Temp), f. & cert. ef. 3-23-06 thru 7-27-06; FWC 17-2006(Temp), f. 3-29-06, cert. ef. 3-30-06 thru 7-27-06; FWC 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; FWC 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; FWC 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; FWC 52-2006(Temp), f. & cert. ef. 6-28-06 thru 7-27-06; FWC 73-2006(Temp), f. 8-1-06, cert. ef. 8-2-06 thru 12-31-06; FWC 103-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; FWC 119-2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; FWC 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; FWC 9-2007, f. & cert. ef. 2-14-07; FWC 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; FWC 16-2007(Temp), f. & cert. ef. 3-14-07 thru 9-9-07; FWC 25-2007(Temp), f. 4-17-07, cert. ef. 4-18-07 thru 7-26-07; FWC 45-2007(Temp), f. 6-15-07, cert. ef. 6-25-07 thru 7-31-07; FWC 50-2007(Temp), f. 6-29-07, cert. ef. 7-4-07 thru 7-31-07; FWC 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; FWC 108-2007(Temp), f. 10-12-07, cert. ef. 10-14-07 thru 12-31-07; Administrative correction 1-24-08; FWC 6-2008(Temp), f. 1-29-08, cert. ef. 1-31-08 thru 7-28-08; FWC 16-2008(Temp), f. 2-26-08, cert. ef. 3-2-08 thru 8-28-08; FWC 30-2008(Temp), f. 3-27-08, cert. ef. 3-30-08 thru 8-28-08; FWC 48-2008(Temp), f. & cert. ef. 5-12-08 thru 8-28-08; FWC 58-2008(Temp), f. & cert. ef. 6-4-08 thru 8-31-08; FWC 85-2008(Temp), f. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; FWC 108-2008(Temp), f. 9-8-08, cert. ef. 9-9-08 thru 12-31-08; Administrative correction 1-23-09; FWC 12-2009(Temp), f. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; FWC 24-2009(Temp), f. 3-10-09, cert. ef. 3-11-09 thru 7-31-09; FWC 49-2009(Temp), f. 5-14-09, cert. ef. 5-17-09 thru 7-31-09; FWC 89-2009(Temp), f. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; FWC 107-2009(Temp), f. 9-2-09, cert. ef. 9-5-09 thru 10-31-09; Administrative correction 11-19-09; FWC 17-2010(Temp), f. & cert. ef. 2-22-10 thru 7-31-10; FWC 20-2010(Temp), f. & cert. ef. 2-26-10 thru 7-31-10; FWC 30-2010(Temp), f. 3-11-10, cert. ef. 3-14-10 thru 7-31-10; FWC 35-2010(Temp), f. 3-23-10, cert. ef. 3-24-10 thru 7-31-10; FWC 40-2010(Temp), f. & cert. ef. 4-1-10 thru 7-31-10; FWC 46-2010(Temp), f. & cert. ef. 4-21-10 thru 7-31-10; FWC 53-2010(Temp), f. & cert. ef. 5-4-10 thru 7-31-10; FWC 57-2010(Temp), f. & cert. ef. 5-11-10 thru 7-31-10; FWC 69-2010(Temp), f. & cert. ef. 5-18-10 thru 7-31-10; FWC 113-2010(Temp), f. 8-2-10, cert. ef. 8-4-10 thru 10-31-10; FWC 129-2010(Temp), f. & cert. ef. 9-10-10 thru 10-31-10; Administrative correction 11-23-10; FWC 12-2011(Temp), f. 2-10-11, cert. ef. 2-13-11 thru 7-29-11; FWC 23-2011, f. & cert. ef. 3-21-11; FWC 32-2011(Temp), f. 4-20-11, cert. ef. 4-21-11 thru 7-29-11; FWC 35-2011(Temp), f. & cert. ef. 4-28-11 thru 7-29-11; FWC 46-2011(Temp), f. & cert. ef. 5-12-11 thru 7-29-11; FWC 52-2011(Temp), f. & cert. ef. 5-18-11 thru 7-29-11; FWC 76-2011(Temp), f. 6-24-11, cert. ef. 6-27-11 thru 7-29-11; FWC 106-2011(Temp), f. 8-2-11, cert. ef. 8-3-11 thru 10-31-11; FWC 121-2011(Temp), f. 8-29-11, cert. ef. 9-5-11 thru 10-31-11; Administrative correction, 11-18-11; FWC 12-2012(Temp), f. 2-8-12, cert. ef. 2-12-12 thru 7-31-12; FWC 24-2012(Temp), f. 3-15-12, cert. ef. 3-18-12 thru 7-31-12; FWC 26-2012(Temp), f. 3-20-12, cert. ef. 3-21-12 thru 7-31-12; FWC 27-2012(Temp), f. 3-27-12, cert. ef. 3-29-12 thru 7-31-12; FWC 28-2012(Temp), f. 3-30-12, cert. ef. 4-1-12 thru 7-31-12; FWC 30-2012(Temp), f. 4-4-12, cert. ef. 4-5-12 thru 7-31-12; FWC 36-2012(Temp), f. 4-16-12, cert. ef. 4-19-12 thru 7-31-12; FWC 82-2012(Temp), f. 6-29-12, cert. ef. 7-2-12 thru 7-31-12; FWC 96-2012(Temp), f. 7-30-12, cert. ef. 8-1-12 thru 10-31-12; Administrative correction 11-23-12; FWC 11-2013(Temp), f. 2-8-13, cert. ef. 2-11-13 thru 7-31-13; FWC 22-2013(Temp), f. 3-12-13, cert. ef. 3-13-13 thru 7-31-13; FWC 34-2013(Temp), f. 5-14-13, cert. ef. 5-15-13 thru 7-31-13; FWC 36-2013(Temp), f. & cert. ef. 5-22-13 thru 7-31-13; FWC 44-2013(Temp), f. & cert. ef. 5-29-13 thru 7-31-13; FWC 82-2013(Temp), f. 7-29-13, cert. ef. 7-31-13 thru 10-31-13; FWC 87-2013(Temp), f. & cert. ef. 8-9-13 thru 10-31-13; FWC 109-2013(Temp), f. 9-27-13, cert. ef. 9-30-13 thru 10-31-13; Administrative correction, 11-22-13; FWC 8-2014(Temp), f. & cert. ef. 2-10-14 thru 7-31-14; FWC 18-2014(Temp), f. 3-7-14, cert. ef. 3-10-14 thru 7-30-14; FWC 25-2014(Temp), f. & cert. ef. 3-13-14, cert. ef. 3-17-14 thru 7-31-14; FWC 32-2014(Temp), f. 4-21-14, cert. ef. 4-22-14 thru 7-31-14; FWC 35-2014(Temp), f. & cert. ef. 4-24-14 thru 7-31-14; FWC 39-2014(Temp), f. 5-7-14, cert. ef. 5-8-14 thru 7-31-14; FWC 45-2014(Temp), f. 5-14-14, cert. ef. 5-20-14 thru 7-31-14; FWC 51-2014(Temp), f. & cert. ef. 5-28-14 thru 7-31-14; FWC 55-2014(Temp), f. 6-3-14, cert. ef. 6-4-14 thru 7-31-14; FWC 104-2014(Temp), f. 8-4-14, cert. ef. 8-5-14 thru 10-31-14; Administrative correction 11-24-14; FWC 10-2015(Temp), f. 2-3-15, cert. ef. 2-9-15 thru 7-30-15; FWC 17-2015(Temp), f. 3-5-15, cert. ef. 3-9-15 thru 7-30-15; FWC 21-2015(Temp), f. & cert. ef. 3-24-15 thru 7-30-15; FWC 29-2015(Temp), f. & cert. ef. 4-21-15 thru 7-30-15; FWC 37-2015(Temp), f. 5-1-15, cert. ef. 5-4-15 thru 7-30-15; FWC 42-2015(Temp), f. & cert. ef. 5-12-15 thru 7-31-15; FWC 50-2015(Temp), f. & cert. ef. 5-27-15 thru 7-31-15; FWC 58-2015(Temp), f. & cert. ef. 6-2-15 thru 7-31-15; FWC 63-2015(Temp), f. 6-9-15, cert. ef. 6-10-15 thru 7-31-15; FWC 98-2015(Temp), f. 7-30-15, cert. ef. 8-4-15 thru 10-31-15; FWC 110-2015(Temp), f. 8-18-15, cert. ef. 8-24-15 thru 10-31-15; FWC 117-2015(Temp), f. 8-28-15, cert. ef. 8-31-15 thru 10-31-15; Administrative correction, 11-20-15; FWC 8-2016(Temp), f. 2-1-16, cert. ef. 2-8-16 thru 7-31-16; FWC 20-2016(Temp), f. 3-25-16, cert. ef. 3-28-16 thru 7-31-16; FWC 26-2016(Temp), f. 4-5-16, cert. ef. 4-6-16 thru 7-31-16; FWC 31-2016(Temp), f. 4-11-16, cert. ef. 4-13-16 thru 7-31-16; FWC 32-2016(Temp), f. 4-20-16, cert. ef. 4-21-16 thru 7-31-16

635-042-0160

Blind Slough and Knappa Slough Select Area Salmon Season

(1) Salmon and shad may be taken for commercial purposes during open 2016 fishing periods described as the winter fishery and the spring fishery in subsections (1)(a)(A) and (1)(a)(B) respectively, of this rule in those waters of Blind Slough and Knappa Slough. Retention and sale of white sturgeon is prohibited. Retention and sales of non-adipose finclipped Chinook salmon from the Blind Slough Select area is prohibited from 12:00 noon through midnite on March 29, 2016. The following restrictions apply:

(a) The open fishing periods are established in segments categorized as the winter fishery in Blind Slough and Knappa Slough in subsection (1)(a)(A), the winter fishery in Blind Slough only in subsection (1)(a)(B), and the spring fishery in Blind Slough and Knappa Slough in subsections

ADMINISTRATIVE RULES

(1)(a)(C) and (1)(a)(D). The seasons are open nightly from 7:00 p.m. to 7:00 a.m. the following morning (12 hours), as follows:

(A) Blind Slough and Knappa Slough:

Monday, Wednesday and Thursday nights beginning Monday, February 8 through Friday, March 11 (15 nights);
Monday, March 14 (1 night); and
Thursday, March 17 (1 night).

(B) Blind Slough Only: Monday and Thursday nights beginning Monday, March 21 through Tuesday, March 29 (3 nights).

(C) Blind Slough and Knappa Slough Thursday and Monday nights beginning Thursday, April 28 through Tuesday, June 14 (14 nights).

(b) The fishing areas for the winter and spring seasons are:

(A) Blind Slough are those waters from markers at the mouth of Blind Slough upstream to markers at the mouth of Gnat Creek which is located approximately 1/2 mile upstream of the county road bridge.

(B) Knappa Slough are all waters bounded by a line from the northerly most marker at the mouth of Blind Slough westerly to a marker on Karlson Island downstream to a north-south line defined by a marker on the eastern end of Minaker Island to markers on Karlson Island and the Oregon shore.

(C) During the period from May 2 through June 14, the Knappa Slough fishing area extends downstream to the boundary lines defined by markers on the west end of Minaker Island to markers on Karlson Island and the Oregon shore.

(c) Gear restrictions are as follows:

(A) During the winter and spring fisheries, outlined above in subsections (1)(a)(A), (1)(a)(B), (1)(a)(C) and (1)(a)(D), gill nets may not exceed 100 fathoms in length with no weight limit on the lead line. The attachment of additional weight and/or anchors directly to the lead line is permitted.

(B) It is unlawful to use a gill net having a mesh size that is less than 7-inches during the winter fishery or greater than 9.75-inches during the spring fishery.

(C) Nets not specifically authorized for use in these areas may be onboard a 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.

(2) Oregon licenses are required in the open waters upstream from the railroad bridge.

Stat. Auth.: ORS 183.325, 506.109 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; DFW 15-1998, f. & cert. ef. 3-3-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 86-1998(Temp), f. & cert. ef. 10-28-98 thru 10-30-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 48-1999(Temp), f. & cert. ef. 6-24-99 thru 7-2-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 65-2000(Temp) f. 9-22-00, cert. ef. 9-25-00 thru 12-31-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 86-2001, f. & cert. ef. 9-4-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 14-2002(Temp), f. 2-13-02, cert. ef. 2-18-02 thru 8-17-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; DFW 11-2004, f. & cert. ef. 2-13-04; DFW 19-2004(Temp), f. & cert. ef. 3-12-04 thru 3-31-04; DFW 22-2004(Temp), f. & cert. ef. 3-18-04 thru 3-31-04; DFW 28-2004(Temp), f. 4-8-04 cert. ef. 4-12-04 thru 4-15-04; DFW 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 16-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 28-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05; DFW 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; DFW 40-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 14-2006(Temp), f. 3-15-06, cert. ef. 3-16-06 thru 7-27-06; DFW 16-2006(Temp), f. 3-23-06 & cert. ef. 3-26-06 thru 7-27-06; DFW 18-2006(Temp), f. 3-29-06, cert. ef. 4-2-06 thru 7-27-06; DFW 20-2006(Temp), f. 4-7-06, cert. ef. 4-9-06 thru 7-27-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; DFW 75-2006(Temp), f. 8-8-06, cert. ef. 9-5-06 thru 12-31-06; DFW 92-2006(Temp), f. 9-1-06, cert. ef. 9-5-06 thru 12-31-06; DFW 98-2006(Temp), f. & cert. ef. 9-12-06 thru 12-31-06; DFW 103-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 119-2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 25-2007(Temp), f. 4-17-07, cert. ef. 4-18-07 thru 7-26-07; DFW 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 108-2007(Temp), f. 10-12-07, cert. ef. 10-14-07 thru 12-31-07; Administrative correction 1-24-08; DFW 6-2008(Temp), f. 1-29-08, cert. ef. 1-31-08 thru 7-28-08; DFW 16-2008(Temp), f. 2-26-08, cert. ef. 3-2-08 thru 8-28-08; DFW 48-2008(Temp), f. & cert. ef. 5-12-08 thru 8-28-08; DFW 58-2008(Temp), f. & cert. ef. 6-4-08 thru 8-31-08; DFW 85-2008(Temp), f. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 103(Temp), f. 8-26-08, cert. ef. 9-2-08 thru 10-31-08; DFW 108-2008(Temp), f. 9-8-08, cert. ef. 9-9-08 thru 12-31-08;

Administrative correction 1-23-09; DFW 12-2009(Temp), f. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; DFW 49-2009(Temp), f. 5-14-09, cert. ef. 5-17-09 thru 7-31-09; DFW 89-2009(Temp), f. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; DFW 107-2009(Temp), f. 9-2-09, cert. ef. 9-5-09 thru 10-31-09; Administrative correction 11-19-09; DFW 15-2010(Temp), f. 2-19-10, cert. ef. 2-21-10 thru 6-11-10; DFW 46-2010(Temp), f. & cert. ef. 4-21-10 thru 7-31-10; DFW 53-2010(Temp), f. & cert. ef. 5-4-10 thru 7-31-10; DFW 57-2010(Temp), f. & cert. ef. 5-11-10 thru 7-31-10; DFW 69-2010(Temp), f. & cert. ef. 5-18-10 thru 7-31-10; DFW 113-2010(Temp), f. 8-2-10, cert. ef. 8-4-10 thru 10-31-10; DFW 129-2010(Temp), f. & cert. ef. 9-10-10 thru 10-31-10; Administrative correction 11-23-10; DFW 12-2011(Temp), f. 2-10-11, cert. ef. 2-13-11 thru 7-29-11; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 32-2011(Temp), f. 4-20-11, cert. ef. 4-21-11 thru 7-29-11; DFW 44-2011(Temp), f. & cert. ef. 5-11-11 thru 6-10-11; Administrative correction 6-28-11; DFW 113-2011(Temp), f. 8-10-11, cert. ef. 8-15-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 12-2012(Temp), f. 2-8-12, cert. ef. 2-12-12 thru 7-31-12; DFW 104-2012(Temp), f. 8-6-12, cert. ef. 8-13-12 thru 10-31-12; Administrative correction 11-23-12; DFW 11-2013(Temp), f. 2-8-13, cert. ef. 2-11-13 thru 7-31-13; DFW 24-2013(Temp), f. & cert. ef. 3-21-13 thru 7-31-13; Administrative correction, 8-21-13; DFW 91-2013(Temp), f. 8-22-13, cert. ef. 8-26-13 thru 10-31-13; DFW 110-2013(Temp), f. 9-27-13, cert. ef. 9-30-13 thru 10-31-13; Administrative correction, 11-22-13; DFW 8-2014(Temp), f. & cert. ef. 2-10-14 thru 7-31-14; DFW 35-2014(Temp), f. & cert. ef. 4-24-14 thru 7-31-14; DFW 39-2014(Temp), f. 5-7-14, cert. ef. 5-8-14 thru 7-31-14; DFW 115-2014(Temp), f. 8-5-14, cert. ef. 8-18-14 thru 10-31-14; DFW 135-2014(Temp), f. & cert. ef. 9-19-14 thru 10-31-14; Administrative correction 11-24-14; DFW 10-2015(Temp), f. 2-3-15, cert. ef. 2-9-15 thru 7-30-15; DFW 29-2015(Temp), f. & cert. ef. 4-21-15 thru 7-30-15; DFW 37-2015(Temp), f. 5-1-15, cert. ef. 5-4-15 thru 7-30-15; DFW 70-2015(Temp), f. 6-15-15, cert. ef. 6-16-15 thru 7-31-15; DFW 76-2015(Temp), f. 6-23-15, cert. ef. 6-25-15 thru 7-31-15; DFW 102-2015(Temp), f. 8-10-15, cert. ef. 8-17-15 thru 10-31-15; Administrative correction, 11-20-15; DFW 8-2016(Temp), f. 2-1-16, cert. ef. 2-8-16 thru 7-31-16; DFW 23-2016(Temp), f. & cert. ef. 3-28-16 thru 7-31-16; DFW 32-2016(Temp), f. 4-20-16, cert. ef. 4-21-16 thru 7-31-16

635-042-0170

Tongue Point Basin and South Channel

(1) Tongue Point includes all waters bounded by a line extended from the upstream (southern most) pier (#1) at the Tongue Point Job Corps facility through navigation marker #6 to Mott Island, a line from a marker at the southeast end of Mott Island northeasterly to a marker on the northwest tip of Lois Island, and a line from a marker on the southwest end of Lois Island westerly to a marker on the Oregon shore.

(2) South Channel area includes all waters bounded by a line from a marker on John Day Point to a marker on the southwest end of Lois Island upstream to an upper boundary line from a marker on Settler Point northwesterly to the flashing red USCG marker #10, northwesterly to a marker on the eastern tip of Burnside Island defining the upstream terminus of South Channel.

(3) Salmon and shad may be taken for commercial purposes in those waters of Tongue Point and South Channel as described in section (1) and section (2) of this rule. Retention and sale of white sturgeon is prohibited. The 2016 open fishing periods are:

(a) Winter Season: Monday and Thursday nights from 7:00 p.m. to 7:00 a.m. the following morning (12 hours) beginning Monday, February 8 through Friday, March 11 (10 nights).

(b) Spring Season: Thursday, April 28 from 11:00 a.m. to 3:00 p.m. (4 hours); and Monday, May 2 from 3:00 p.m. to 9:00 p.m. (6 hours) and Thursday and Monday nights from 7:00 p.m. to 7:00 a.m. the following morning (12 hours) beginning Thursday, May 5 through Tuesday, June 14 (13 nights).

(4) Gear restrictions are as follows:

(A) In waters described in section (1) as Tongue Point basin, gill nets may not exceed 250 fathoms in length and weight limit on the lead line is not to exceed two pounds on any one fathom. It is unlawful to use a gill net having a mesh size that is less than 7 inches during the winter season or more than 9.75-inches during the spring season.

(b) In waters described in section (2) as South Channel, nets are restricted to 250 fathoms in length with no weight restrictions on the lead line. The attachment of additional weight and/or anchors directly to the lead line is permitted. It is unlawful to use a gill net having a mesh size that is less than 7 inches during the winter season or more than 9.75 inches during the spring season.

(c) Nets not specifically authorized for use in these areas may be onboard a 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.

Stat. Auth.: ORS 183.325, 506.109 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; FWC 61-1997(Temp), f. 9-23-97, cert. ef. 9-24-97; DFW 15-1998, f. & cert. ef. 3-3-98; DFW 41-1998(Temp), f. 5-28-98, cert. ef. 5-29-98; DFW 42-1998(Temp), f. 5-29-98, cert. ef. 5-31-98 thru 6-6-98; DFW 45-1998(Temp), f. 6-5-98, cert. ef. 6-6-98 thru 6-10-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 86-1998, f. & cert. ef. 10-28-98 thru 10-30-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02

ADMINISTRATIVE RULES

thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. & cert. ef. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; Administrative correction 7-30-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 76-2006(Temp), f. 8-8-06, cert. ef. 9-5-06 thru 12-31-06; DFW 103-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 119-2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; DFW 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 108-2007(Temp), f. 10-12-07, cert. ef. 10-14-07 thru 12-31-07; Administrative Correction 1-24-08; DFW 44-2008(Temp), f. 4-25-08, cert. ef. 4-28-08 thru 10-24-08; DFW 48-2008(Temp), f. & cert. ef. 5-12-08 thru 8-28-08; DFW 58-2008(Temp), f. & cert. ef. 6-4-08 thru 8-31-08; DFW 85-2008(Temp), f. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 108-2008(Temp), f. 9-8-08, cert. ef. 9-9-08 thru 12-31-08; Administrative correction 1-23-09; DFW 12-2009(Temp), f. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; DFW 89-2009(Temp), f. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; DFW 107-2009(Temp), f. 9-2-09, cert. ef. 9-5-09 thru 10-31-09; Administrative correction 11-19-09; DFW 29-2010(Temp), f. 3-9-10, cert. ef. 4-19-10 thru 6-12-10; DFW 46-2010(Temp), f. & cert. ef. 4-21-10 thru 7-31-10; DFW 53-2010(Temp), f. & cert. ef. 5-4-10 thru 7-31-10; DFW 57-2010(Temp), f. & cert. ef. 5-11-10 thru 7-31-10; DFW 69-2010(Temp), f. & cert. ef. 5-18-10 thru 7-31-10; DFW 113-2010(Temp), f. 8-2-10, cert. ef. 8-4-10 thru 10-31-10; DFW 129-2010(Temp), f. & cert. ef. 9-10-10 thru 10-31-10; Administrative correction 11-23-10; DFW 12-2011(Temp), f. 2-10-11, cert. ef. 2-13-11 thru 7-29-11; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 32-2011(Temp), f. 4-20-11, cert. ef. 4-21-11 thru 7-29-11; DFW 44-2011(Temp), f. & cert. ef. 5-11-11 thru 6-10-11; Administrative correction 6-28-11; DFW 113-2011(Temp), f. 8-10-11, cert. ef. 8-15-11 thru 10-31-11; DFW 122-2011(Temp), f. 8-29-11, cert. ef. 9-19-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 41-2012(Temp), f. 4-24-12, cert. ef. 4-26-12 thru 6-30-12; Administrative correction, 8-1-12; DFW 104-2012(Temp), f. 8-6-12, cert. ef. 8-13-12 thru 10-31-12; Administrative correction 11-23-12; DFW 11-2013(Temp), f. 2-8-13, cert. ef. 2-11-13 thru 7-31-13; DFW 34-2013(Temp), f. 5-14-13, cert. ef. 5-15-13 thru 7-31-13; Administrative correction, 8-21-13; DFW 91-2013(Temp), f. 8-22-13, cert. ef. 8-26-13 thru 10-31-13; DFW 110-2013(Temp), f. 9-27-13, cert. ef. 9-30-13 thru 10-31-13; Administrative correction, 11-22-13; DFW 8-2014(Temp), f. & cert. ef. 2-10-14 thru 7-31-14; DFW 35-2014(Temp), f. & cert. ef. 4-24-14 thru 7-31-14; DFW 39-2014(Temp), f. 5-7-14, cert. ef. 5-8-14 thru 7-31-14; DFW 115-2014(Temp), f. 8-5-14, cert. ef. 8-18-14 thru 10-31-14; DFW 135-2014(Temp), f. & cert. ef. 9-19-14 thru 10-31-14; Administrative correction 11-24-14; DFW 10-2015(Temp), f. 2-3-15, cert. ef. 2-9-15 thru 7-30-15; DFW 29-2015(Temp), f. & cert. ef. 4-21-15 thru 7-30-15; DFW 37-2015(Temp), f. 5-1-15, cert. ef. 5-4-15 thru 7-30-15; DFW 102-2015(Temp), f. 8-10-15, cert. ef. 8-17-15 thru 10-31-15; Administrative correction, 11-20-15; DFW 8-2016(Temp), f. 2-1-16, cert. ef. 2-8-16 thru 7-31-16; DFW 32-2016(Temp), f. 4-20-16, cert. ef. 4-21-16 thru 7-31-16

635-042-0180

Deep River Select Area Salmon Season

(1) Salmon and shad may be taken for commercial purposes from the US Coast Guard navigation marker #16 southwest to a marker on the Washington shore upstream to the Highway 4 Bridge. Retention and sales of non-adipose finclipped Chinook salmon from the Blind Slough Select area is prohibited from 12:00 noon through midnite on March 29, 2016. Retention and sale of white sturgeon is prohibited.

(2) The 2016 open fishing seasons are:

(a) Winter season: Monday, Wednesday and Thursday nights from 7:00 p.m. to 7:00 a.m. the following morning (12 hours) beginning Monday, February 8 through Tuesday, March 29, 2016 (20 nights).

(b) Spring season: Thursday, April 28 from 7:00 p.m. to 7:00 a.m. the following morning (12 hours); and Monday and Thursday nights from 7:00 p.m. to 7:00 a.m. the following morning (12 hours) beginning Monday, May 2 through Tuesday, June 14, 2016 (13 nights).

(3) Gear restrictions are as follows:

(a) Gill nets may not exceed 100 fathoms in length and there is no weight restriction on the lead line. The attachment of additional weight and/or anchors directly to the lead line is permitted. Nets may not be tied off to stationary structures and may not fully cross navigation channel.

(b) It is unlawful to operate in any river, stream or channel any gill net longer than three-fourths the width of the stream. It is unlawful in any area to use, operate, or carry aboard a commercial fishing vessel a licensed net or combination of such nets, whether fished singly or separately, in excess of the maximum lawful size or length prescribed for a single net in that area. Nets not specifically authorized for use in these areas may be onboard a 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.

(c) Nets that are fished at any time between official sunset and official sunrise must have lighted buoys on both ends of the net unless the net is attached to the boat. If the net is attached to the boat, then one lighted buoy on the opposite end of the net from the boat is required.

(d) During the winter season, outlined above in subsection (2)(a), it is unlawful to use a gill net having a mesh size that is less than 7-inches.

(e) During the spring season, outlined above in subsection (2)(b) it is unlawful to use a gill net having a mesh size that is more than 9.75-inches.

(4) Transportation or possession of fish outside the fishing area (except to the sampling station) is unlawful until WDFW staff has biologically sampled individual catches. After sampling, fishers will be issued a transportation permit by WDFW staff. During the winter season, described in subsection (2)(a) above, fishers are required to call (360) 795-0319 to confirm the location and time of sampling. During the spring season, described in subsection (2)(b) above, a sampling station will be established at WDFW's Oneida Road boat ramp, about 0.5 miles upstream of the lower Deep River area boundary (USCG navigation marker #16).

Stat. Auth.: ORS 183.325, 506.109 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 19-2003(Temp), f. 3-12-03, cert. ef. 4-17-03 thru 6-13-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; DFW 11-2004, f. & cert. ef. 2-13-04; DFW 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 28-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05; DFW 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; DFW 40-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; DFW 77-2006(Temp), f. 8-8-06, cert. ef. 9-4-06 thru 12-31-06; DFW 103-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 119-2006(Temp), f. & cert. ef. 10-18-06; Administrative correction 1-16-07; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 25-2007(Temp), f. 4-17-07, cert. ef. 4-18-07 thru 7-26-07; DFW 28-2007(Temp), f. & cert. ef. 4-26-07 thru 7-26-07; DFW 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 108-2007(Temp), f. 10-12-07, cert. ef. 10-14-07 thru 12-31-07; Administrative Correction 1-24-08; DFW 6-2008(Temp), f. 1-29-08, cert. ef. 1-31-08 thru 7-28-08; DFW 16-2008(Temp), f. 2-26-08, cert. ef. 3-2-08 thru 8-28-08; DFW 48-2008(Temp), f. & cert. ef. 5-12-08 thru 8-28-08; DFW 58-2008(Temp), f. & cert. ef. 6-4-08 thru 8-31-08; DFW 85-2008(Temp), f. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 108-2008(Temp), f. 9-8-08, cert. ef. 9-9-08 thru 12-31-08; Administrative correction 1-23-09; DFW 12-2009(Temp), f. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; DFW 23-2009(Temp), f. 3-5-09, cert. ef. 3-6-09 thru 4-30-09; DFW 35-2009(Temp), f. 4-7-09, cert. ef. 4-8-09 thru 4-30-09; DFW 49-2009(Temp), f. 5-14-09, cert. ef. 5-17-09 thru 7-31-09; DFW 89-2009(Temp), f. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; DFW 107-2009(Temp), f. 9-2-09, cert. ef. 9-5-09 thru 10-31-09; DFW 112-2009(Temp), f. 9-11-09, cert. ef. 9-13-09 thru 10-30-09; DFW 121-2009(Temp), f. & cert. ef. 9-30-09 thru 10-31-09; Administrative correction 11-19-09; DFW 16-2010(Temp), f. 2-19-10, cert. ef. 2-22-10 thru 6-10-10; DFW 40-2010(Temp), f. & cert. ef. 4-1-10 thru 7-31-10; DFW 46-2010(Temp), f. & cert. ef. 4-21-10 thru 7-31-10; DFW 53-2010(Temp), f. & cert. ef. 5-4-10 thru 7-31-10; DFW 57-2010(Temp), f. & cert. ef. 5-11-10 thru 7-31-10; DFW 69-2010(Temp), f. & cert. ef. 5-18-10 thru 7-31-10; DFW 113-2010(Temp), f. 8-2-10, cert. ef. 8-4-10 thru 10-31-10; DFW 129-2010(Temp), f. & cert. ef. 9-10-10 thru 10-31-10; Administrative correction 11-23-10; DFW 12-2011(Temp), f. 2-10-11, cert. ef. 2-13-11 thru 7-29-11; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 32-2011(Temp), f. 4-20-11, cert. ef. 4-21-11 thru 7-29-11; DFW 53-2011(Temp), f. & cert. ef. 5-18-11 thru 6-10-11; Administrative correction 6-28-11; DFW 113-2011(Temp), f. 8-10-11, cert. ef. 8-15-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 12-2012(Temp), f. 2-8-12, cert. ef. 2-12-12 thru 7-31-12; DFW 104-2012(Temp), f. 8-6-12, cert. ef. 8-13-12 thru 10-31-12; Administrative correction 11-23-12; DFW 11-2013(Temp), f. 2-8-13, cert. ef. 2-11-13 thru 7-31-13; DFW 24-2013(Temp), f. & cert. ef. 3-21-13 thru 7-31-13; Administrative correction, 8-21-13; DFW 91-2013(Temp), f. 8-22-13, cert. ef. 8-26-13 thru 10-31-13; DFW 110-2013(Temp), f. 9-27-13, cert. ef. 9-30-13 thru 10-31-13; Administrative correction, 11-22-13; DFW 8-2014(Temp), f. & cert. ef. 2-10-14 thru 7-31-14; DFW 115-2014(Temp), f. 8-5-14, cert. ef. 8-18-14 thru 10-31-14; DFW 135-2014(Temp), f. & cert. ef. 9-19-14 thru 10-31-14; Administrative correction 11-24-14; DFW 10-2015(Temp), f. 2-3-15, cert. ef. 2-9-15 thru 7-30-15; DFW 29-2015(Temp), f. & cert. ef. 4-21-15 thru 7-30-15; DFW 37-2015(Temp), f. 5-1-15, cert. ef. 5-4-15 thru 7-30-15; DFW 102-2015(Temp), f. 8-10-15, cert. ef. 8-17-15 thru 10-31-15; Administrative correction, 11-20-15; DFW 8-2016(Temp), f. 2-1-16, cert. ef. 2-8-16 thru 7-31-16; DFW 23-2016(Temp), f. & cert. ef. 3-28-16 thru 7-31-16; DFW 32-2016(Temp), f. 4-20-16, cert. ef. 4-21-16 thru 7-31-16

Rule Caption: 2016 Salmon Seasons for Commercial and Sport Fisheries in the Pacific Ocean.

Adm. Order No.: DFW 33-2016

Filed with Sec. of State: 4-25-2016

Certified to be Effective: 4-25-16

Notice Publication Date: 3-1-2016

Rules Amended: 635-003-0003, 635-003-0085, 635-013-0003, 635-013-0007

Subject: These amended rules are related to commercial and sport salmon fishing in the Pacific Ocean within Oregon State jurisdiction. Housekeeping and technical corrections to the regulations were made to ensure rule consistency.

Rules Coordinator: Michelle Tate—(503) 947-6044

ADMINISTRATIVE RULES

635-003-0003

Purpose and Scope

(1) The purpose of Division 003 is to provide for management of commercial salmon fisheries off the Oregon Coast over which the state has jurisdiction.

(2) Division 003 incorporates into Oregon Administrative Rules, by reference, the annual ocean troll salmon specifications and management measures as adopted by the Pacific Fishery Management Council in its annual Ocean Salmon Management Measures and Impacts, as finalized in April 2016, and in addition to the extent they are consistent with these rules, Code of Federal Regulations (CFR), Title 50, Part 660, Subpart H (61FR34572, July 2, 1996, as amended to incorporate the standards in the Pacific Fishery Management Council referenced document). Therefore, persons must consult the Pacific Fishery Management Council referenced document and Federal Regulations in addition to Division 003 to determine all applicable troll salmon fishing requirements. A copy of the Pacific Fishery Management Council referenced document and the Federal Regulations may be obtained by contacting the Pacific Fishery Management Council at www.pcouncil.org or at 7700 NE Ambassador Place, Suite 101, Portland, OR 97220-1384.

(3) To the extent not preempted by Federal law, these regulations apply within the State of Oregon's Fisheries Conservation Zone (out to fifty miles from shore).

Stat. Auth.: ORS 496.138, 496.146 & 506.119
Stats. Implemented: ORS 506.129

Hist.: FWC 29-1989, f. 4-28-89, cert. ef. 5-1-89; FWC 25-1994, f. & cert. ef. 5-2-94; FWC 20-1996, f. & cert. ef. 4-29-96; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 31-1999, f. & cert. ef. 5-3-99; DFW 38-2000, f. & cert. ef. 7-3-00; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 35-2003, f. 4-30-03, cert. ef. 5-1-03; DFW 32-2004, f. 4-22-04, cert. ef. 5-1-04; DFW 25-2005, f. & cert. ef. 4-15-05; DFW 26-2006(Temp), f. 4-20-06, cert. ef. 5-1-06 thru 10-27-06; Administrative correction, 11-16-06; DFW 24-2007, f. 4-16-07, cert. ef. 5-1-07; DFW 36-2008, f. 4-21-08, cert. ef. 5-1-08; DFW 52-2009, f. & cert. ef. 5-18-09; DFW 72-2010, f. & cert. ef. 5-25-10; DFW 34-2011, f. 4-27-11, cert. ef. 5-1-11; DFW 38-2012, f. 4-24-12, cert. ef. 5-1-12; DFW 28-2013(Temp), f. 4-25-13, cert. ef. 5-1-13 thru 5-15-13; DFW 33-2013, f. & cert. ef. 5-14-13; DFW 41-2014(Temp), f. & cert. ef. 5-8-14 thru 6-30-14; DFW 61-2014, f. & cert. ef. 6-10-14; DFW 78-2014, f. & cert. ef. 6-24-14; DFW 31-2015, f. & cert. ef. 4-27-15; DFW 33-2016, f. & cert. ef. 4-25-16

635-003-0085

Extended Commercial Seasons

In addition to the open seasons prescribed in OAR 635-003-0003 there are open seasons for Chinook salmon as follows:

(1) Elk River Ocean Terminal Area - from October 15 through November 30 in the area described in section (1)(a) of this rule.

(a) The open area is all Pacific Ocean waters shoreward of a line drawn from Cape Blanco (42°50'20" N. Lat.) thence SW to Black Rock (42°49'24" N. Lat. 124°35'00" W. Long.), thence SSW to Best Rock (42°47'24" N. Lat. 124°35'42" W. Long.), thence SE to 42°40'30" N. Lat. 124°29'00" W. Long., thence to shore (Humbug Mountain).

(b) During the season described in this section (1), it is unlawful to take Chinook salmon less than 26 inches in total length; it is unlawful to use multipoint or barbed hooks or to fish more than four spreads per line; and it is unlawful to have in possession or to land more than 20 Chinook per day taken in this fishery. Landings are restricted to Port Orford.

(2) Chetco River Ocean Terminal Area - from October 10 through the earlier of October 31 or quota of 300 Chinook in the area described in section (2)(a) of this rule:

(a) The open area is all Pacific Ocean waters inside an area south of the north shore of Twin Rocks (42°05'36" N. Lat.) to the Oregon/California border (42°00'00" N. Lat.) and seaward three nautical miles offshore;

(b) During the season described in this section (2) it is unlawful to take Chinook salmon less than 28 inches in total length; it is unlawful to use multipoint or barbed hooks, or to fish more than four spreads per line; and it is unlawful to have in possession or to land more than 5 Chinook per day taken in this fishery. Landings are restricted to Brookings.

(c) All vessels landing salmon caught in this season must report to ODFW within one hour of delivery or prior to transport away from the port of landing by either calling (541) 867-0300, ext. 252 or by e-mail to kmzor.trollreport@state.or.us. Notification shall include vessel name and number, number of salmon by species, port of landing, location of delivery, and estimated time of delivery.

(3) Tillamook Terminal Area - from October 1 through October 31 in the area described in section (3)(a) of this rule:

(a) The open area is all Pacific Ocean waters inside an area south of Twin Rocks (45°35'54" N. Lat.) to Pyramid Rock (45°29'48" N. Lat.) and seaward three nautical miles offshore;

(b) During the season described in this section (3) it is unlawful to take Chinook salmon less than 28 inches in total length; it is unlawful to use multipoint or barbed hooks, or to fish more than four spreads per line; and

it is unlawful to have in possession or to land more than 20 Chinook per day taken in this fishery. Landings are restricted to Garibaldi and Tillamook Bay.

Stat. Auth.: ORS 496.138, 496.146 & 506.119
Stat. Implemented: ORS 506.129

Hist.: FWC 48-1984(Temp), f. & cert. ef. 8-31-84; 57-1984(Temp), f. & cert. ef. 9-15-84; FWC 59-1986(Temp), f. & cert. ef. 9-19-86; FWC 106-1992(Temp), f. 10-8-92, cert. ef. 10-24-92; FWC 111-1992(Temp), f. 10-26-92, cert. ef. 10-27-92; FWC 62-1993, f. & cert. ef. 10-1-93; FWC 56-1994, f. 8-30-94, cert. ef. 9-1-94; FWC 80-1994(Temp), f. 10-25-94, cert. ef. 10-26-94; FWC 82-1994(Temp), f. 10-28-94, cert. ef. 10-30-94; FWC 81-1995, f. 9-29-95, cert. ef. 10-1-95; FWC 85-1995(Temp), f. & cert. ef. 10-20-95; FWC 56-1996, f. 9-27-96, cert. ef. 10-1-96; FWC 30-1997, f. & cert. ef. 5-5-97; FWC 66-1997(Temp), f. 10-24-97, cert. ef. 10-26-97; FWC 67-1997(Temp), f. 10-28-97, cert. ef. 10-29-97; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 31-1999, f. & cert. ef. 5-3-99; DFW 24-2000, f. 4-28-00, cert. ef. 5-1-00; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 35-2003, f. 4-30-03, cert. ef. 5-1-03; DFW 26-2006(Temp), f. 4-20-06, cert. ef. 5-1-06 thru 10-27-06; DFW 78-2006(Temp), f. 8-7-06, cert. ef. 9-1-06 thru 12-15-06; Administrative correction 12-16-06; DFW 24-2007, f. 4-16-07, cert. ef. 5-1-07; DFW 65-2008(Temp), f. 6-20-08, cert. ef. 9-1-08 thru 12-31-08; DFW 128-2008(Temp), f. 10-9-08, cert. ef. 10-12-08 thru 12-31-08; Administrative correction 1-23-09; DFW 52-2009, f. & cert. ef. 5-18-09; DFW 102-2009(Temp), f. 8-27-09, cert. ef. 9-1-09 thru 12-31-09; DFW 132-2009(Temp), f. & cert. ef. 10-19-09 thru 10-31-09; Administrative correction 11-19-09; DFW 76-2010, f. 6-8-10, cert. ef. 8-1-10; DFW 147-2010(Temp), f. & cert. ef. 10-15-10 thru 10-31-10; DFW 151-2010(Temp), f. 10-19-10, cert. ef. 10-20-10 thru 10-31-10; DFW 153-2010(Temp), f. & cert. ef. 10-29-10 thru 10-31-10; Administrative correction 11-23-10; DFW 83-2011, f. 6-30-11, cert. ef. 7-1-11; DFW 62-2012, f. 6-12-12, cert. ef. 7-1-12; DFW 61-2014, f. & cert. ef. 6-10-14; DFW 78-2014, f. & cert. ef. 6-24-14; DFW 31-2015, f. & cert. ef. 4-27-15; DFW 143-2015(Temp), f. & cert. ef. 10-16-15 thru 12-31-15; DFW 146-2015(Temp), f. 10-19-15, cert. ef. 10-21-15 thru 12-31-15; DFW 148-2015(Temp), f. 10-22-15, cert. ef. 10-23-15 thru 12-31-15; DFW 149-2015(Temp), f. 10-26-15, cert. ef. 10-27-15 thru 12-31-15; Administrative correction, 1-22-16; DFW 33-2016, f. & cert. ef. 4-25-16

635-013-0003

Purpose and Scope

(1) The purpose of Division 013 is to provide for management of sport salmon fisheries off the Oregon Coast over which the State has jurisdiction.

(2) This rule incorporates by reference, the annual ocean sport salmon specifications and management measures as adopted by the Pacific Fishery Management Council in its annual Ocean Salmon Management Measures and Impacts, as finalized in April 2016, and in addition to the extent they are consistent with these rules, Code of Federal Regulations (CFR), Title 50, Part 660, Subparts A and H.

(3) This rule also incorporates by reference the Oregon Sport Fishing Regulations.

(4) A copy of the Pacific Fishery Management Council referenced document and the Federal Regulations may be obtained by contacting the Pacific Fishery Management Council at www.pcouncil.org or at 7700 NE Ambassador Place, Suite 101, Portland, OR 97220-1384.

(5) To the extent not preempted by Federal law, these regulations apply within the State of Oregon's Fisheries Conservation Zone (out to fifty miles from shore).

Stat. Auth.: ORS 496.138, 496.146 & 506.119
Stats. Implemented: ORS 496.162 & 506.129

Hist.: FWC 44-1984(Temp), f. & cert. ef. 8-23-84; FWC 29-1989, f. 4-28-89, cert. ef. 5-1-89; FWC 52-1989(Temp), f. & cert. ef. 7-28-89; FWC 37-1990, f. & cert. ef. 5-1-90; FWC 31-1992, f. 4-29-92, cert. ef. 5-1-92; FWC 25-1994, f. & cert. ef. 5-2-94; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-95; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 72-1996, f. 12-21-96, cert. ef. 1-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 31-1999, f. & cert. ef. 5-3-99; DFW 38-2000, f. & cert. ef. 7-3-00; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 35-2003, f. 4-30-03, cert. ef. 5-1-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 32-2004, f. 4-22-04, cert. ef. 5-1-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 25-2005, f. & cert. ef. 4-15-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 26-2006(Temp), f. 4-20-06, cert. ef. 5-1-06 thru 10-27-06; Administrative correction, 11-16-06; DFW 24-2007, f. 4-16-07, cert. ef. 5-1-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 36-2008, f. 4-21-08, cert. ef. 5-1-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 52-2009, f. & cert. ef. 5-18-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 72-2010, f. & cert. ef. 5-25-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 34-2011, f. 4-27-11, cert. ef. 5-1-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 38-2012, f. 4-24-12, cert. ef. 5-1-12; DFW 149-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 28-2013(Temp), f. 4-25-13, cert. ef. 5-1-13 thru 5-15-13; DFW 33-2013, f. & cert. ef. 5-14-13; DFW 41-2014(Temp), f. & cert. ef. 5-8-14 thru 6-30-14; DFW 61-2014, f. & cert. ef. 6-10-14; DFW 78-2014, f. & cert. ef. 6-24-14; DFW 31-2015, f. & cert. ef. 4-27-15; DFW 33-2016, f. & cert. ef. 4-25-16

635-013-0007

Special South Coast Seasons

In addition to the open seasons prescribed in OAR 635-013-0005 there are open seasons for Chinook salmon as follows:

(1) Elk River Area.

(a) From November 1 through November 30 in all Pacific Ocean waters shoreward of a line drawn from Cape Blanco (42°50'20" N. Lat.) thence SW to Black Rock (42°49'24" N. Lat. 124°35'00" W. Long.), thence SSW to Best Rock (42°47'24" N. Lat. 124°35'42" W. Long.), thence SE to 42°40'30" N. Lat. 124°29'00" W. Long., thence to shore (Humbug Mountain);

ADMINISTRATIVE RULES

(b) During the season described for the Elk River Area in section (1)(a) of this rule it is unlawful to take Chinook salmon less than 24 inches in length. Two Chinook salmon per day of which no more than one wild Chinook salmon per day and 10 wild Chinook salmon in the seasonal aggregate when combined with waters of Floras Creek/New River, Sixes River and Elk River. It is unlawful to use multipoint or barbed hooks.

(2) Chetco River Area.

(a) From October 1-3 and October 8-9 in an area south of the north shore of Twin Rocks (42°05'36" N. Lat.) to the Oregon/California border (42°00'00" N. Lat.) and seaward three nautical miles offshore.

(b) During the seasons described in section (2)(a) of this rule it is unlawful to take Chinook salmon less than 24 inches in length. Two Chinook salmon per day of which no more than one wild Chinook salmon per day and no more than 5 wild Chinook salmon may be retained during the October 1-3 and October 8-9 season. It is unlawful to use multipoint or barbed hooks.

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

Stats. Implemented: ORS 496.162 & 506.129

Hist.: FWC 25-1982, f. & ef. 4-30-82; FWC 62-1983(Temp), f. & ef. 11-1-83; FWC 69-1984(Temp), f. & ef. 10-2-84; FWC 59-1985(Temp), f. & ef. 9-13-85; FWC 59-1986(Temp), f. & ef. 9-19-86; FWC 77-1986(Temp), f. & ef. 11-26-86; FWC 76-1987, f. & ef. 9-15-87; FWC 84-1988, f. & cert. ef. 9-9-88; FWC 83-1989, f. 8-31-89, cert. ef. 9-16-89; FWC 86-1990, f. 8-24-90, cert. ef. 9-1-90; FWC 42-1991, f. 4-29-91, cert. ef. 5-1-91; FWC 101-1992, f. 9-29-92, cert. ef. 10-1-92; FWC 114-1992(Temp), f. 10-26-92, cert. ef. 10-27-92; FWC 62-1993, f. & cert. ef. 10-1-93; FWC 56-1994, f. 8-30-94, cert. ef. 9-1-94; FWC 78-1994(Temp), f. 10-20-94, cert. ef. 10-21-94; FWC 81-1995, f. 9-29-95, cert. ef. 10-1-95; FWC 84-1995(Temp), f. 10-13-95, cert. ef. 10-16-95; FWC 86-1995(Temp), f. 10-20-95, cert. ef. 10-21-95; FWC 56-1996, f. 9-27-96, cert. ef. 10-1-96; FWC 30-1997, f. & cert. ef. 5-5-97; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 31-1999, f. & cert. ef. 5-3-99; DFW 24-2000, f. 4-28-00, cert. ef. 5-1-00; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 67-2008(Temp), f. 6-20-08, cert. ef. 8-1-08 thru 12-31-08; DFW 121-2008(Temp), f. & cert. ef. 10-2-08 thru 12-31-08; Administrative correction 1-23-09; DFW 52-2009, f. & cert. ef. 5-18-09; DFW 87-2009(Temp), f. 7-31-09, cert. ef. 8-1-09 thru 12-31-09; Administrative correction 1-25-10; DFW 76-2010, f. 6-8-10, cert. ef. 8-1-10; DFW 83-2011, f. 6-30-11, cert. ef. 7-1-11; DFW 151-2011(Temp), f. 10-27-11, cert. ef. 11-1-11 thru 11-30-11; Administrative correction, 12-27-11; DFW 62-2012, f. 6-12-12, cert. ef. 7-1-12; DFW 50-2013, f. 6-10-13, cert. ef. 7-1-13; DFW 61-2014, f. & cert. ef. 6-10-14; DFW 78-2014, f. & cert. ef. 6-24-14; DFW 31-2015, f. & cert. ef. 4-27-15; DFW 33-2016, f. & cert. ef. 4-25-16

Rule Caption: Confederated Tribes of the Grand Ronde Community of Oregon Ceremonial Fishery.

Adm. Order No.: DFW 34-2016

Filed with Sec. of State: 4-25-2016

Certified to be Effective: 4-25-16

Notice Publication Date: 3-1-2016

Rules Adopted: 635-041-0610

Subject: Adopt new rules to allow the harvest of up to fifteen hatchery salmon and/or hatchery steelhead annually from the Willamette River near Willamette Falls by the Confederated Tribes of the Grand Ronde Community of Oregon (CTGR) for ceremonial and educational purposes. Ceremonial fishing will be allowed only during the dates, times, and locations, and by the methods specified in these rules. The rules include other provisions such as authorized Tribal representatives will provide at least two working days advanced written notice to the Oregon State Police and ODFW of when fishing activities will occur. The rules also require that fishing only occur from the shore or from a platform erected by the Tribe within the designated area, and that salmon and steelhead harvested under the permit may be used for ceremonial or cultural purposes only. The rules also clarify that this authorization is administrative only and does not create, convey, or imply any additional tribal legal or treaty entitlement, nor does it modify any existing agreement or court decree.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-041-0610

Ceremonial Salmon and Steelhead Harvest at Willamette Falls

(1) Members of the Grand Ronde Community of Oregon (Tribe, for purposes of this rule) may harvest hatchery salmon and hatchery steelhead (salmonids, for the purposes of this rule) at Willamette Falls for ceremonial purposes, in accordance with these rules.

(2) The Director shall annually authorize the Ceremonial Salmonid Harvest by issuance of a Ceremonial Harvest Permit upon written request from the Tribe.

(3) Upon issuance of the Ceremonial Harvest Permit, the Director shall also issue up to 15 Ceremonial Harvest Tags (tags) to the Tribe. The tags shall:

(a) Be provided to the Tribe and may be used only by enrolled and authorized members of the Tribe under such terms and conditions as the Tribe may specify, consistent with the Ceremonial Harvest Permit.

(b) Authorize the harvest of one salmonid per tag, up to the maximum harvest of 15 salmonids per calendar year authorized by the Ceremonial Harvest Permit.

(c) Require fishing pursuant to these rules to:

(A) Be in an area upstream of an imaginary line across the main channel of the Willamette River between the northeast corner of the farthest downstream building on Moores Island (commonly referred to as Mill A grinder room) and the southwest corner of the concrete structure on Black Point.

(B) Occur from the shore or from a single platform erected by the Tribe within the designated fishing area described in sub-section (A) above. The platform will be constructed at a location mutually agreed upon between the Director and the Tribe, but no closer than 75 feet of any fishway entrance.

(C) Be by dip net only. "Dip net" means a net with a mesh size no larger than five inches (measured from the inside of one vertical knot to the outside of the opposite vertical knot), attached to a hoop no larger than four feet in diameter and attached directly to a handle; dip nets shall be attended at all times.

(D) Occur from one hour before sunrise until one hour after sunset.

(d) Be carried in the field by Tribal Ceremonial Fishers along with Tribal identification and a Tribal hunting and fishing license. Tribal Ceremonial Fishers shall present these items to Department employees or law enforcement officers and permit the inspection of tribal catch and gear upon request. Tribal fishers designated to harvest salmon using Ceremonial Harvest Tags shall not be required to possess other State of Oregon licenses or Combined Angling Tags.

(e) Include such other conditions and limitations as the Director considers necessary, after consultation with the Tribe, to facilitate orderly prosecution of this or other fisheries or to protect fishery resources at the site.

(4) An authorized Tribal representative will provide at least two business days advanced written notification to the Oregon State Police and to the Director or the Director's designee prior to each ceremonial salmon fishing occasion conducted pursuant to these rules and any time the Tribe will be accessing the fishing platform for maintenance, inspection, viewing, or other non-fishing purposes. The notice must include the name of individuals who will be accessing the platform or designated as Tribal Ceremonial Fishers and the names of any helpers who will be assisting or transporting fish. Helpers may not fish, are not required to be Tribal members, and need not possess the documentation required under section (3)(d) above.

(5) Each salmonid harvested shall be validated or tagged immediately upon landing with the Ceremonial Harvest Tag in accordance with requirements specified in the Ceremonial Harvest Permit. The Tag shall remain with the harvested fish at all times while in the field and during transit to the location of the tribal ceremony.

(6) Captured non-target fish must be immediately released back to the water unharmed.

(7) All harvest of salmonids by the Tribe pursuant to the Ceremonial Harvest Permit shall be reported to the Department within 30 days following the end date of the season specified in the permit. The harvest report shall include, at minimum, the number of fish harvested by species and the number of unmarked salmon and steelhead released.

(8) Salmon harvested under an authorized Ceremonial Harvest Permit may only be used by the Tribe or Tribal members for ceremonial and cultural purposes designated by the Tribe. Salmon and steelhead and parts thereof may not be bartered or sold.

(9) Authorization of this ceremonial harvest does not create, convey or imply any additional tribal legal or treaty entitlement, nor does it modify any existing agreement, treaty, or court decree.

Stat. Auth.: ORS 497.075, 496.138, 506.036, 506.109, 506.119, 506.129

Stats. Implemented: ORS 506.109, 506.129, 508.111

Hist.: DFW 34-2016, f. & cert. ef. 4-25-16

Rule Caption: Amend Rules for Sport and Commercial Halibut Fisheries.

Adm. Order No.: DFW 35-2016

Filed with Sec. of State: 4-26-2016

Certified to be Effective: 4-26-16

Notice Publication Date: 3-1-2016

Rules Amended: 635-004-0585, 635-039-0085, 635-039-0090

Rules Repealed: 635-039-0090(T)

ADMINISTRATIVE RULES

Subject: Amendments to Oregon's regulations for sport and commercial halibut fisheries will bring the State concurrent with federally adopted regulations. Modifications establish 2016 seasons and/or quotas for these halibut fisheries. Housekeeping and technical corrections to the regulations may occur to ensure rule consistency.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-004-0585

Scope, Inclusion, and Modification of Rules

(1) The commercial Pacific halibut fishery in the Pacific Ocean off Oregon is jointly managed by the state of Oregon, the federal government, and the International Pacific Halibut Commission (IPHC). The Code of Federal Regulations provides federal requirements for this fishery, including but not limited to the time, place, and manner of taking Pacific halibut. However, additional federal regulations may be promulgated subsequently by publication in the Federal Register, and these supersede, to the extent of any inconsistency, the Code of Federal Regulations. Therefore, the following publications are incorporated into Oregon Administrative Rule by reference:

(a) **Code of Federal Regulations, Part 660, Subpart E**, (October 1, 2015 ed.);

(b) **Federal Register Vol. 81, No. 51**, dated March 16, 2016 (81 FR 14000); and

(c) **Federal Register Vol. 81, No. 63**, dated April 1, 2016 (81 FR 18789).

(2) Persons must consult the federal regulations in addition to Division 004 to determine all applicable Pacific halibut fishing requirements. The area that federal regulations apply to is hereby extended to the area from shore to three nautical miles from shore, coterminous with the Exclusive Economic Zone.

(3) The Commission may adopt additional or modified regulations that are more conservative than federal regulations, in which case Oregon Administrative Rule takes precedence.

(4) It is unlawful to take Pacific halibut for commercial purposes except as set by federal regulations and the IPHC and in accordance with a valid permit issued by the IPHC.

[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 469.162, 506.109, 506.129 & 508.306
Hist.: DFW 75-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 32-2013, f. & cert. ef. 5-14-13; DFW 36-2014, f. 4-29-14, cert. ef. 5-1-14; DFW 34-2015, f. & cert. ef. 4-28-15; DFW 35-2016, f. & cert. ef. 4-26-16

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:

(a) **Title 50 of the Code of Federal Regulations, Part 300, Subpart E** (October 1, 2015 ed.), as amended;

(b) **Federal Register Vol. 81, No. 51**, dated March 16, 2016 (81 FR 140000); and

(c) **Federal Register Vol. 81, No. 63**, dated April 1, 2016 (81 FR 18789).

(2) Therefore, persons must consult all publications referenced in this rule in addition to Division 039 to determine applicable halibut fishing seasons.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 496.138, 496.162, 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 496.162 & 506.129
Hist.: DFW 56-2005, f. 6-21-05, cert. ef. 7-1-05; DFW 89-2005(Temp), f. & cert. ef. 8-12-05 thru 12-12-05; DFW 107-2005(Temp), f. 9-14-05, cert. ef. 9-15-05 thru 10-31-05; DFW 121-2005(Temp), f. 10-12-05, cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-19-06; DFW 34-2006(Temp), f. 5-25-06, cert. ef. 5-27-06 thru 8-3-06; Administrative correction 8-22-06; DFW 3-2007, f. & cert. ef. 1-12-07; DFW 35-2007(Temp), f. 5-25-07, cert. ef. 5-26-07 thru 8-2-07; DFW 67-2007(Temp), f. 8-9-07, cert. ef. 8-12-07 thru 9-30-07; DFW 76-2007(Temp), f. 8-17-07, cert. ef. 8-24-07 thru 9-30-07; DFW 84-2007(Temp), f. 9-5-07, cert. ef. 9-15-07 thru 9-30-07; DFW 87-2007(Temp), f. 9-10-07, cert. ef. 9-14-07 thru 10-28-07; DFW 90-2007(Temp), f. 9-19-07, cert. ef. 9-20-07 thru 10-31-07; Administrative correction 11-17-07; DFW 57-2008(Temp), f. 5-30-08, cert. ef. 6-1-08 thru 7-31-08; DFW 81-2008(Temp), f. 7-11-08, cert. ef. 8-2-08 thru 9-30-08; DFW 92-2008(Temp), f. & cert. ef. 8-11-08 thru 9-30-08; DFW 101-2008(Temp), f. 8-25-08, cert. ef. 8-29-08 thru 9-30-08; DFW 107-2008(Temp), f. 9-5-08, cert. ef. 9-7-08 thru 12-31-08; DFW 111-2008(Temp), f. & cert. ef. 9-16-08 thru 12-31-08; DFW 120-2008(Temp), f. 9-25-08, cert. ef. 9-27-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 39-2009, f. & cert. ef. 4-27-09; DFW 55-2009(Temp), f. & cert. ef. 5-22-09 thru 8-6-09; DFW 94-2009(Temp), f. 8-14-09, cert. ef. 8-16-09 thru 12-31-09; Administrative correction 1-25-10; DFW 32-2010, f. & cert. ef. 3-15-10; DFW 37-2010, f. 3-30-10, cert. ef. 4-1-10; DFW 100-2010(Temp), f. 7-15-10, cert. ef. 7-17-10 thru 10-31-10; DFW 118-2010(Temp), f. & cert. ef. 8-13-10 thru 10-31-10; Administrative correction 11-23-10; DFW 24-2011, f. & cert. ef. 3-22-11; DFW 58-2011(Temp), f. 5-27-11, cert. ef. 6-4-11 thru 8-4-11; DFW 82-2011(Temp), f. 6-30-11, cert.

ef. 7-1-11 thru 8-4-11; DFW 85-2011(Temp), f. 7-5-11, cert. ef. 7-6-11 thru 10-31-11; DFW 114-2011(Temp), f. & cert. ef. 8-12-11 thru 10-31-11; DFW 135-2011(Temp), f. 9-21-11, cert. ef. 10-1-11 thru 12-31-11; DFW 39-2012, f. & cert. ef. 4-24-12; DFW 84-2012(Temp), f. & cert. ef. 7-5-12 thru 8-2-12; DFW 91-2012(Temp), f. 7-19-12, cert. ef. 7-22-12 thru 10-31-12; DFW 111-2012(Temp), f. 8-23-12, cert. ef. 8-24-12 thru 12-31-12; DFW 123-2012(Temp), f. 9-19-12, cert. ef. 9-24-12 thru 10-31-12; Administrative correction 11-23-12; DFW 65-2013(Temp), f. 6-27-13, cert. ef. 6-28-13 thru 8-2-13; DFW 78-2013(Temp), f. & cert. ef. 7-23-13 thru 10-31-13; DFW 86-2013(Temp), f. & cert. ef. 8-8-13 thru 10-31-13; Administrative correction, 11-22-13; DFW 36-2014, f. 4-29-14, cert. ef. 5-1-14; DFW 80-2014(Temp), f. 6-26-14, cert. ef. 6-27-14 thru 12-24-14; DFW 123-2014(Temp), f. & cert. ef. 8-21-14 thru 12-31-14; Administrative correction, 1-27-15; DFW 34-2015, f. & cert. ef. 4-28-15; DFW 56-2015(Temp), f. 6-2-15, cert. ef. 6-3-15 thru 9-30-15; DFW 65-2015(Temp), f. 6-10-15, cert. ef. 6-15-15 thru 9-30-15; Administrative correction, 10-22-15; DFW 35-2016, f. & cert. ef. 4-26-16

635-039-0090

Inclusions and Modifications

(1) The **2016 Oregon Sport Fishing Regulations** provide requirements for sport fisheries for marine fish, shellfish, and marine invertebrates in the Pacific Ocean, coastal bays, and beaches, commonly referred to as the Marine Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the **2016 Oregon Sport Fishing Regulations**.

(2) For the purposes of this rule, a "sport harvest guideline" is defined as a specified numerical harvest objective that is not a quota. Attainment of a harvest guideline does not automatically close a fishery. Upon attainment of a sport harvest guideline, the Department shall initiate consultation to determine if additional regulatory actions are necessary to achieve management objectives.

(a) The following sport harvest guidelines include the combined landings and other fishery related mortality by the Oregon sport fishery in a single calendar year:

(A) Black rockfish, 440.8 metric tons.

(B) Cabezon, 16.8 metric tons.

(C) Blue rockfish, deacon rockfish, and other nearshore rockfish combined, 26 metric tons.

(b) The following sport harvest guidelines include total landings in the Oregon sport ocean boat fishery in a single calendar year: Greenling, 5.2 metric tons.

(3) For the purposes of this rule, "Other nearshore rockfish" means the following rockfish species: black and yellow (*Sebastes chrysomelas*); brown (*S. auriculatus*); calico (*S. dalli*); China (*S. nebulosus*); copper (*S. caurinus*); gopher (*S. carnatus*); grass (*S. rastrelliger*); kelp (*S. atrovirens*); olive (*S. serranoides*); quillback (*S. maliger*); and treefish (*S. serriceps*).

(4) In addition to the regulations for Marine Fish in the **2016 Oregon Sport Fishing Regulations**, the following apply for the sport fishery in the Marine Zone:

(a) Lingcod (including green colored lingcod): 2 fish daily bag limit.

(b) All rockfish ("sea bass" "snapper"), greenling ("sea trout"), cabezon, skates, and other marine fish species not listed in the **2016 Oregon Sport Fishing Regulations** in the Marine Zone, located under the category of Species Name, Marine Fish: 7 fish daily bag limit in aggregate (total sum or number), of which no more than three may be blue rockfish or deacon rockfish in aggregate, no more than one may be a canary rockfish, and no more than one may be a cabezon. Retention of the following species is prohibited:

(A) Yelloweye rockfish;

(B) China rockfish;

(C) Copper rockfish;

(D) Quillback rockfish; and

(E) Cabezon from January 1 through June 30.

(c) Flatfish (flounder, sole, sanddabs, turbot, and all halibut species except Pacific halibut): 25 fish daily bag limit in aggregate (total sum or number).

(d) Retention of all marine fish listed under the category of Species Name, Marine Fish, except Pacific cod, sablefish, flatfish, herring, anchovy, smelt, sardine, striped bass, hybrid bass, and offshore pelagic species (excluding leopard shark and soupfin shark), is prohibited when Pacific halibut is retained on the vessel during open days for the all-depth sport fishery for Pacific halibut. Persons must also consult all publications referenced in OAR 635-039-0080 to determine all rules applicable to the taking of Pacific halibut.

(e) Harvest methods and other specifications for marine fish in subsections (4)(a), (4)(b) and (4)(c) including the following:

(A) Minimum length for lingcod, 22 inches.

(B) Minimum length for cabezon, 16 inches.

(C) Minimum length for greenling, 10 inches.

(D) May be taken by angling, hand, bow and arrow, spear, gaff hook, snag hook and herring jigs.

ADMINISTRATIVE RULES

(E) Mutilating the fish so the size or species cannot be determined prior to landing or transporting mutilated fish across state waters is prohibited.

(f) Sport fisheries for species in subsections (4)(a), (4)(b) and (4)(c) and including leopard shark and soupfin shark are open January 1 through December 31, twenty-four hours per day, except as provided in subsections 4(b) and (4)(d). Ocean waters are closed for these species during April 1 through September 30, outside of the 30-fathom curve (defined by latitude and longitude) as shown on **Title 50 Code of Federal Regulations Part 660 Section 71**, except as provided in subsection 4(d). A 20-fathom, 25-fathom, or 30-fathom curve, as shown on **Title 50 Code of Federal Regulations Part 660 Section 71** may be implemented as the management line as in-season modifications necessitate. In addition, the following management lines may be used to set area specific regulations for inseason action only:

- (A) Cape Lookout (45°20'30" N latitude); and
- (B) Cape Blanco (42°50'20" N latitude).

(g) The Stonewall Bank Yelloweye Rockfish Conservation Area (YRCA) is defined by coordinates specified in **Title 50 Code of Federal Regulations Part 660 Section 70** (October 1, 2015 ed.). Within the YRCA, it is unlawful to fish for, take, or retain species listed in subsections (4)(a), (4)(b) and (4)(c) of this rule, leopard shark, soupfin shark, and Pacific halibut using recreational fishing gear. A vessel engaged in recreational fishing within the YRCA is prohibited from possessing any species listed in subsections (4)(a), (4)(b) and (4)(c) of this rule, leopard shark, soupfin shark, and Pacific halibut. Recreational fishing vessels in possession of species listed in subsections (4)(a), (4)(b) and (4)(c) and including leopard shark, soupfin shark, and Pacific halibut may transit the YRCA without fishing gear in the water.

Stat. Auth.: ORS 496.138, 496.146, 497.121 & 506.119
Stats. Implemented: ORS 496.004, 496.009, 496.162 & 506.129
Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 22-1994, f. 4-29-94, cert. ef. 5-2-94; FWC 29-1994(Temp), f. 5-20-94, cert. ef. 5-21-94; FWC 31-1994, f. 5-26-94, cert. ef. 6-20-94; FWC 43-1994(Temp), f. & cert. ef. 7-19-94; FWC 83-1994(Temp), f. 10-28-94, cert. ef. 11-1-94; FWC 95-1994, f. 12-28-94, cert. ef. 1-1-95; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 25-1995, f. 3-29-95, cert. ef. 4-1-95; FWC 26-1995, 3-29-95, cert. ef. 4-2-95; FWC 36-1995, f. 5-3-95, cert. ef. 5-5-95; FWC 43-1995(Temp), f. 5-26-95, cert. ef. 5-28-95; FWC 46-1995(Temp), f. & cert. ef. 6-2-95; FWC 58-1995(Temp), f. 7-3-95, cert. ef. 7-5-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 28-1996(Temp), f. 5-24-96, cert. ef. 5-26-96; FWC 30-1996(Temp), f. 5-31-96, cert. ef. 6-2-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 68-1999(Temp), f. & cert. ef. 9-17-99 thru 9-30-99; administrative correction 11-17-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 118-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 35-2003, f. 4-30-03, cert. ef. 5-1-03; DFW 114-2003(Temp), f. 11-18-03, cert. ef. 11-21-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 128-2003, f. 12-15-03, cert. ef. 1-1-04; DFW 83-2004(Temp), f. 8-17-04, cert. ef. 8-18-04 thru 12-31-04; DFW 91-2004(Temp), f. 8-31-04, cert. ef. 9-2-04 thru 12-31-04; DFW 97-2004(Temp), f. 9-22-04, cert. ef. 9-30-04 thru 12-31-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 34-2005(Temp), f. 4-29-05, cert. ef. 5-1-05 thru 10-27-05; DFW 75-2005(Temp), f. 7-13-05, cert. ef. 7-16-05 thru 12-31-05; DFW 87-2005(Temp), f. 8-8-05, cert. ef. 8-11-05 thru 12-31-05; DFW 121-2005(Temp), f. 10-12-05, cert. ef. 10-18-05 thru 12-31-05; DFW 129-2005(Temp), f. & cert. ef. 11-29-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 138-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 141-2005(Temp), f. 12-12-05, cert. ef. 12-30-05 thru 12-31-05; Administrative correction 1-19-06; DFW 61-2006, f. 7-13-06, cert. ef. 10-1-06; DFW 65-2006(Temp), f. 7-21-06, cert. ef. 7-24-06 thru 12-31-06; DFW 105-2006(Temp), f. 9-21-06, cert. ef. 9-22-06 thru 12-31-06; DFW 134-2006(Temp), f. 12-21-06, cert. ef. 1-1-07 thru 6-29-07; DFW 3-2007, f. & cert. ef. 1-12-07; DFW 10-2007, f. & cert. ef. 2-14-07; DFW 66-2007(Temp), f. 8-6-07, cert. ef. 8-11-07 thru 12-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 73-2008(Temp), f. 6-30-08, cert. ef. 7-7-08 thru 12-31-08; DFW 97-2008(Temp), f. 8-18-08, cert. ef. 8-21-08 thru 12-31-08; DFW 105-2008(Temp), f. 9-4-08, cert. ef. 9-7-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 7-2009(Temp), f. & cert. ef. 2-2-09 thru 7-31-09; DFW 39-2009, f. & cert. ef. 4-27-09; DFW 110-2009(Temp), f. 9-10-09, cert. ef. 9-13-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 103-2010(Temp), f. 7-21-10, cert. ef. 7-23-10 thru 12-31-10; DFW 157-2010, f. 12-6-10, cert. ef. 1-1-11; DFW 24-2011, f. & cert. ef. 3-22-11; DFW 97-2011(Temp), f. & cert. ef. 7-20-11 thru 12-31-11; DFW 135-2011(Temp), f. 9-21-11, cert. ef. 10-1-11 thru 12-31-11; DFW 155-2011(Temp), f. 11-18-11, cert. ef. 12-1-11 thru 12-31-11; DFW 156-2011(Temp), f. 12-9-11, cert. ef. 12-15-11 thru 1-31-12; DFW 164-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 90-2012(Temp), f. 7-17-12, cert. ef. 9-20-12 thru 12-31-12; DFW 151-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 155-2012(Temp), f. 12-28-12, cert. ef. 1-1-13 thru 6-29-13; DFW 23-2013(Temp), f. 3-20-13, cert. ef. 4-1-13 thru 9-27-13; DFW 32-2013, f. & cert. ef. 5-14-13; DFW 112-2013(Temp), f. & cert. ef. 9-27-13 thru 12-31-13; DFW 136-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 4-2015, f. 1-13-15, cert. ef. 1-15-15; DFW 5-2015(Temp), f. 1-13-15, cert. ef. 1-15-15 thru 7-13-15; Temporary suspended by DFW 18-2015, f. & cert. ef. 3-10-15; DFW 34-2015, f. & cert. ef. 4-28-15; DFW 167-2015, f. 12-29-15, cert. ef. 1-1-16; DFW 3-2016, f. & cert. ef. 1-19-16; DFW 24-2016(Temp), f. 3-30-16, cert. ef. 4-1-16 thru 9-27-16; DFW 35-2016, f. & cert. ef. 4-26-16

Rule Caption: Bonneville Pool White Sturgeon Recreational Fisheries Authorized.

Adm. Order No.: DFW 36-2016(Temp)

Filed with Sec. of State: 4-26-2016

Certified to be Effective: 5-1-16 thru 7-31-16

Notice Publication Date:

Rules Amended: 635-023-0095

Rules Suspended: 635-023-0095(T)

Subject: This amended rule authorizes two one-day retention fisheries for recreational white sturgeon in the Bonneville Pool of the Columbia River. The two days are Saturday, June 18 and Friday, July 1, 2016. Catch-and-release sturgeon angling will still be allowed except in the area from The Dalles Dam downstream 1.8 miles to a line from the east (upstream) dock at the Port of The Dalles boat ramp straight across to a marker on the Washington shore during the period from May 1 through July 31, 2016. Revisions are consistent with action taken April 7, 2016 by the Departments of Fish and Wildlife for the States of Oregon and Washington at a meeting of the Columbia River Compact.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-023-0095

Sturgeon Season

(1) The **2016 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 **2016 Oregon Sport Fishing Regulations**.

(2)(a) Retention of white sturgeon in the Columbia River from Bonneville Dam upstream to The Dalles Dam (Bonneville Pool), including adjacent tributaries, is allowed on Saturday, June 18 and Friday, July 1, 2016.

(b) Retention of white sturgeon in the area described in 2(a) above is prohibited from 12:01 a.m. Monday, February 8 through Friday, June 17, 2016; from Sunday, June 19 through Thursday, June 30; and from Saturday, July 2 until further notice.

(c) Catch-and-release angling is allowed during periods closed to sturgeon retention.

(d) All other limits, restrictions and regulations for the Bonneville Pool as described in the **2016 Oregon Sport Fishing Regulations** pamphlet remain in effect.

Stat. Auth.: ORS 183.325, 506.109 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: DFW 129-2004(Temp), f. 12-23-04, cert. ef. 1-1-05 thru 2-28-05; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 22-2005(Temp), f. 4-1-05, cert. ef. 4-30-05 thru 7-31-05; DFW 50-2005(Temp), f. 6-3-05, cert. ef. 6-11-05 thru 11-30-05; DFW 60-2005(Temp), f. 6-21-05, cert. ef. 6-24-05 thru 12-21-05; DFW 65-2005(Temp), f. 6-30-05, cert. ef. 7-10-05 thru 12-31-05; DFW 76-2005(Temp), f. 7-14-05, cert. ef. 7-18-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 145-2005(Temp), f. 12-21-05, cert. ef. 1-1-06 thru 3-31-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 19-2006(Temp), f. 4-6-06, cert. ef. 4-8-06 thru 7-31-06; DFW 54-2006(Temp), f. 6-29-06, cert. ef. 7-1-06 thru 12-27-06; DFW 62-2006(Temp), f. 7-13-06, cert. ef. 7-24-06 thru 12-31-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 131-2006(Temp), f. 12-20-06, cert. ef. 1-1-07 thru 6-29-07; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 20-2007(Temp), f. 3-26-07, cert. ef. 3-28-07 thru 7-30-07; DFW 38-2007(Temp), f. & cert. ef. 5-31-07 thru 11-26-07; DFW 59-2007(Temp), f. 7-18-07, cert. ef. 7-29-07 thru 12-31-07; DFW 75-2007(Temp), f. 8-17-07, cert. ef. 8-18-07 thru 12-31-07; DFW 102-2007(Temp), f. 9-28-07, cert. ef. 10-1-07 thru 12-31-07; DFW 135-2007(Temp), f. 12-28-07, cert. ef. 1-1-08 thru 6-28-08; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 8-2008, f. & cert. ef. 2-11-08; DFW 23-2008(Temp), f. 3-12-08, cert. ef. 3-15-08 thru 9-10-08; DFW 28-2008(Temp), f. 3-24-08, cert. ef. 3-26-08 thru 9-10-08; DFW 72-2008(Temp), f. 6-30-08, cert. ef. 7-10-08 thru 12-31-08; DFW 78-2008(Temp), f. 7-9-08, cert. ef. 7-12-08 thru 12-31-08; DFW 86-2008(Temp), f. & cert. ef. 7-25-08 thru 12-31-08; DFW 148-2008(Temp), f. 12-19-08, cert. ef. 1-1-09 thru 6-29-09; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 18-2009, f. & cert. ef. 2-26-09; DFW 33-2009(Temp), f. 4-2-09, cert. ef. 4-13-09 thru 10-9-09; DFW 63-2009(Temp), f. 6-3-09, cert. ef. 6-6-09 thru 10-9-09; DFW 83-2009(Temp), f. 7-8-09, cert. ef. 7-9-09 thru 12-31-09; DFW 86-2009(Temp), f. 7-22-09, cert. ef. 7-24-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 13-2010(Temp), f. 2-16-10, cert. ef. 2-21-10 thru 7-31-10; DFW 19-2010(Temp), f. 2-26-10, cert. ef. 3-1-10 thru 8-27-10; DFW 34-2010, f. 3-16-10, cert. ef. 4-1-10; DFW 49-2010(Temp), f. 4-27-10, cert. ef. 4-29-10 thru 7-31-10; DFW 50-2010(Temp), f. 4-29-10, cert. ef. 5-6-10 thru 11-1-10; DFW 88-2010(Temp), f. 6-25-10, cert. ef. 6-26-10 thru 7-31-10; DFW 91-2010(Temp), f. 6-29-10, cert. ef. 8-1-10 thru 12-31-10; DFW 99-2010(Temp), f. 7-13-10, cert. ef. 7-15-10 thru 12-31-10; DFW 165-2010(Temp), f. 12-28-10, cert. ef. 1-1-11 thru 6-29-11; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 11-2011(Temp), f. 2-10-11, cert. ef. 2-11-11 thru 7-31-11; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 26-2011(Temp), f. 4-5-11, cert. ef. 4-10-11 thru 9-30-11; DFW 74-2011(Temp), f. 6-24-11, cert. ef. 6-27-11 thru 7-31-11; DFW 87-2011(Temp), f. 7-8-11, cert. ef. 7-9-11 thru 7-31-11; DFW 96-2011(Temp), f. 7-20-11, cert. ef. 7-30-11 thru 12-31-11; DFW 129-2011(Temp), f. 9-15-11, cert. ef. 9-30-11 thru 12-31-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 1-2012(Temp), f. & cert. ef. 1-5-12 thru 7-2-12; DFW 10-2012, f. & cert. ef. 2-7-12; DFW 16-2012(Temp), f. 2-14-12, cert. ef. 2-18-12 thru 7-31-12; DFW 44-2012(Temp), f. 5-1-12, cert. ef. 5-20-12 thru 7-31-12; DFW 73-2012(Temp), f. 6-29-12, cert. ef. 7-1-12 thru 8-31-12; DFW 97-2012(Temp), f. 7-30-12, cert. ef. 8-1-12 thru 12-31-12; DFW 129-2012(Temp), f. 10-3-12, cert. ef. 10-20-12 thru 12-31-12; DFW 140-2012(Temp), f. 10-31-12, cert. ef. 11-4-12 thru 12-31-12; DFW 152-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 154-2012(Temp), f. 12-28-12, cert. ef. 1-1-13 thru 2-28-13; DFW 12-2013(Temp), f. 2-12-13, cert. ef. 2-28-13 thru 7-31-13; DFW 23-2013(Temp), f. 3-20-13, cert. ef. 4-1-13 thru 9-27-13; DFW 47-2013(Temp), f. 5-30-13, cert. ef. 6-14-13 thru 9-30-13; DFW 59-2013(Temp), f. 6-19-13, cert. ef. 6-21-13 thru 10-31-13; DFW 64-2013(Temp), f. 6-27-13, cert. ef. 6-29-13 thru 10-31-13; DFW 104-2013(Temp), f. 9-13-13,

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cert. ef. 10-19-13 thru 12-31-13; DFW 126-2013(Temp), f. 10-31-13, cert. ef. 11-12-13 thru 12-31-13; DFW 135-2013(Temp), f. 12-12-13, cert. ef. 1-1-14 thru 1-31-14; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 5-2014(Temp), f. 1-30-14, cert. ef. 2-1-14 thru 7-30-14; DFW 14-2014(Temp), f. 2-20-14, cert. ef. 2-24-14 thru 7-31-14; DFW 27-2014(Temp), f. 3-28-14, cert. ef. 5-1-14 thru 7-31-14; DFW 56-2014(Temp), f. 6-9-14, cert. ef. 6-13-14 thru 7-31-14; DFW 87-2014(Temp), f. 7-2-14, cert. ef. 7-11-14 thru 12-31-14; DFW 94-2014(Temp), f. & cert. ef. 7-14-14 thru 12-31-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 166-2014(Temp), f. 12-18-14, cert. ef. 1-1-15 thru 3-1-15; Administrative correction, 3-23-15; DFW 41-2015(Temp), f. & cert. ef. 5-12-15 thru 7-31-15; DFW 54-2015(Temp), f. 5-28-15, cert. ef. 6-3-15 thru 7-31-15; DFW 89-2015(Temp), f. 7-16-15, cert. ef. 7-18-15 thru 9-30-15; Temporary suspended by DFW 122-2015(Temp), f. 8-31-15, cert. ef. 9-1-15 thru 9-30-15; Administrative correction, 10-22-15; DFW 167-2015, f. 12-29-15, cert. ef. 1-1-16; DFW 7-2016(Temp), f. 1-28-16, cert. ef. 2-8-16 thru 8-05-16; DFW 36-2016(Temp), f. 4-26-16, cert. ef. 5-1-16 thru 7-31-16

Rule Caption: Burns Paiute Tribal Experimental Spring Chinook Fishery Opens May 1, 2016.

Adm. Order No.: DFW 37-2016(Temp)

Filed with Sec. of State: 4-26-2016

Certified to be Effective: 5-1-16 thru 10-27-16

Notice Publication Date:

Rules Amended: 635-021-0090

Rules Suspended: 635-021-0090(T)

Subject: This amended rule sets the parameters that allow an experimental Burns Paiute Tribal fishery for spring Chinook salmon, using traditional fishing techniques, to occur in the Malheur River Basin. This experimental fishery has been coordinated between the Oregon Department of Fish and Wildlife and the Burns Paiute Tribe.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-021-0090

Inclusions and Modifications

(1) **2016 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 **2016 Oregon Sport Fishing Regulations**.

(2) The Malheur River is open to angling for spring Chinook salmon on the mainstem river from the Bluebucket Creek confluence upstream to the headwaters of McCoy Creek, Lake Creek, Big Creek and tributaries, and Bosenberg Creek from May 1 through August 15, 2016.

(a) The daily bag limit is two (2) hatchery spring Chinook salmon; two daily limits in possession.

(b) All other General, Statewide and Southeast Zone regulations, as provided in the **2016 Oregon Sport Fishing Regulations**, remain in effect.

(3) Burns Paiute Tribal Members participating in this experimental spring Chinook fishery are governed by the conditions and limitations established in the Burns Paiute Tribal Fishing Code.

(a) Burns Paiute Tribal members are not required to have an ODFW angling license or report catch on an ODFW combined angling tag when fishing for spring Chinook in the area described above in section (2).

(b) Burns Paiute Tribal members must have a valid tribal identification card in their possession.

(c) When fishing for any species other than spring Chinook, an ODFW angling license is required and General, Statewide and Southeast Zone regulations, as provided in the **2016 Oregon Sport Fishing Regulations**, remain in effect.

(4) Crystal Creek: Use of bait is allowed.

Stat. Auth.: ORS 183.325, 496.138, 496.146

Stats. Implemented: ORS 496.162

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 76-1994(Temp), f. & cert. ef. 10-17-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 55-2001(Temp), f. & cert. ef. 6-29-01 thru 12-26-01; DFW 56-2001(Temp), f. & cert. ef. 6-29-01 thru 12-26-01; DFW 85-2001(Temp), f. & cert. ef. 8-30-01 thru 12-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 54-2002(Temp), f. 5-24-02, cert. ef. 6-15-02 thru 12-1-02; DFW 91-2002(Temp), f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 93-2002(Temp), f. 8-22-02, cert. ef. 8-24-02 thru 12-31-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 80-2003(Temp), f. & cert. ef. 8-22-03 thru 9-30-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 101-2005(Temp), f. 8-31-05, cert. ef. 9-2-05 thru 9-30-05; Administrative correction 10-19-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 36-2007(Temp), f. 5-25-07, cert. ef. 5-26-07 thru 9-30-07; DFW 54-2007(Temp), f. 7-6-07, cert. ef. 7-14-07 thru 9-30-07; DFW 62-2007(Temp), f. 7-31-07, cert. ef. 8-1-07 thru 9-30-07; Administrative correction 10-16-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 51-2008(Temp), f. 5-16-08, cert. ef. 5-31-08 thru 9-1-08; DFW 74-2008(Temp), f. 7-3-08, cert. ef. 7-4-08 thru 9-1-08; DFW 77-2008(Temp), f. & cert. ef. 7-9-08 thru 9-1-08; Administrative correction 9-29-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 53-2009(Temp), f. 5-18-09, cert. ef. 5-30-09 thru 9-1-09; DFW 62-2009(Temp), f. 6-2-09, cert. ef. 6-13-09 thru 9-1-09; DFW 79-2009(Temp), f. 6-30-09, cert. ef. 7-5-09 thru 9-1-09;

Administrative correction 9-29-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 52-2010(Temp), f. 4-30-10, cert. ef. 5-1-10 thru 9-30-10; DFW 60-2010(Temp), f. 5-13-10, cert. ef. 5-22-10 thru 9-30-10; DFW 67-2010(Temp), f. 5-18-10, cert. ef. 5-22-10 thru 9-30-10; DFW 78-2010(Temp), f. 6-10-10, cert. ef. 6-11-10 thru 9-1-10; Administrative correction 9-22-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 50-2011(Temp), f. 5-16-11, cert. ef. 5-28-11 thru 9-1-11; Administrative correction 9-23-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 60-2012(Temp), f. 6-11-12, cert. ef. 6-13-12 thru 9-1-12; DFW 114-2012(Temp), f. 8-30-12, cert. ef. 9-1-12 thru 2-27-13; DFW 117-2012(Temp), f. 9-5-12, cert. ef. 9-7-12 thru 2-27-13; DFW 122-2012(Temp), f. 9-21-12, cert. ef. 9-21-12 thru 12-31-12; DFW 149-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 61-2013(Temp), f. 6-24-13, cert. ef. 7-1-13 thru 12-27-13; DFW 93-2013(Temp), f. 8-22-13, cert. ef. 8-24-13 thru 12-31-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 57-2014(Temp), f. 6-9-14, cert. ef. 6-11-14 thru 9-1-14; DFW 90-2014(Temp), f. 7-10-14, cert. ef. 7-11-14 thru 12-31-14; DFW 116-2014(Temp), f. 8-6-14, cert. ef. 8-9-14 thru 12-31-14; DFW 149-2014(Temp), f. 10-13-14, cert. ef. 11-1-14 thru 12-31-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 44-2015(Temp), f. 5-15-15, cert. ef. 5-20-15 thru 9-1-15; DFW 85-2015(Temp), f. 7-13-15, cert. ef. 7-18-15 thru 10-31-15; DFW 88-2015(Temp), f. 7-16-15, cert. ef. 7-18-15 thru 12-31-15; DFW 121-2015(Temp), f. 8-31-15, cert. ef. 9-1-15 thru 12-31-15; DFW 167-2015, f. 12-29-15, cert. ef. 1-1-16; DFW 24-2016(Temp), f. 3-30-16, cert. ef. 4-1-16 thru 9-27-16; DFW 37-2016(Temp), f. 4-26-16, cert. ef. 5-1-16 thru 10-27-16

Rule Caption: Corrections and Updates to published 2016 Marine Zone Regulations.

Adm. Order No.: DFW 38-2016(Temp)

Filed with Sec. of State: 4-26-2016

Certified to be Effective: 4-26-16 thru 10-22-16

Notice Publication Date:

Rules Amended: 635-039-0090

Subject: This amended rule corrects errors in the Marine Zone of the published version of the 2016 Oregon Sport Fishing Regulations. Corrections include gear restriction clarifications, location and deadline clarifications, and updates made to the permanent rule adopted by the Oregon Fish and Wildlife Commission at a hearing on April 22, 2016.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-039-0090

Inclusions and Modifications

(1) The **2016 Oregon Sport Fishing Regulations** provide requirements for sport fisheries for marine fish, shellfish, and marine invertebrates in the Pacific Ocean, coastal bays, and beaches, commonly referred to as the Marine Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the **2016 Oregon Sport Fishing Regulations**.

(2) For the purposes of this rule, a “sport harvest guideline” is defined as a specified numerical harvest objective that is not a quota. Attainment of a harvest guideline does not automatically close a fishery. Upon attainment of a sport harvest guideline, the Department shall initiate consultation to determine if additional regulatory actions are necessary to achieve management objectives.

(a) The following sport harvest guidelines include the combined landings and other fishery related mortality by the Oregon sport fishery in a single calendar year:

(A) Black rockfish, 440.8 metric tons.

(B) Cabezon, 16.8 metric tons.

(C) Blue rockfish, deacon rockfish, and other nearshore rockfish combined, 26 metric tons.

(b) The following sport harvest guidelines include total landings in the Oregon sport ocean boat fishery in a single calendar year: Greenling, 5.2 metric tons.

(3) For the purposes of this rule, “Other nearshore rockfish” means the following rockfish species: black and yellow (Sebastes chrysomelas); brown (S. auriculatus); calico (S. dallii); China (S. nebulosus); copper (S. caurinus); gopher (S. carnatus); grass (S. rastrelliger); kelp (S. atrovirens); olive (S. serranoides); quillback (S. maliger); and treefish (S. serriceps).

(4) In addition to the regulations for Marine Fish in the **2016 Oregon Sport Fishing Regulations**, the following apply for the sport fishery in the Marine Zone:

(a) Lingcod (including green colored lingcod): 2 fish daily bag limit.

(b) All rockfish (“sea bass” “snapper”), greenling (“sea trout”), cabezon, skates, and other marine fish species not listed in the **2016 Oregon Sport Fishing Regulations** in the Marine Zone, located under the category of Species Name, Marine Fish: 7 fish daily bag limit in aggregate (total sum or number), of which no more than three may be blue rockfish or deacon rockfish in aggregate, no more than one may be a canary rockfish, and no more than one may be a cabezon. Retention of the following species is prohibited:

(A) Yelloweye rockfish;

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- (B) China rockfish;
- (C) Copper rockfish;
- (D) Quillback rockfish; and
- (E) Cabezon from January 1 through June 30.

(c) Flatfish (flounder, sole, sanddabs, turbot, and all halibut species except Pacific halibut): 25 fish daily bag limit in aggregate (total sum or number).

(d) Retention of all marine fish listed under the category of Species Name, Marine Fish, except Pacific cod, sablefish, flatfish, herring, anchovy, smelt, sardine, striped bass, hybrid bass, and offshore pelagic species (excluding leopard shark and soupfin shark), is prohibited when Pacific halibut is retained on the vessel during open days for the all-depth sport fishery for Pacific halibut. Persons must also consult all publications referenced in OAR 635-039-0080 to determine all rules applicable to the taking of Pacific halibut.

(e) Harvest methods and other specifications for marine fish in subsections (4)(a), (4)(b) and (4)(c) including the following:

- (A) Minimum length for lingcod, 22 inches.
- (B) Minimum length for cabezon, 16 inches.
- (C) Minimum length for greenling, 10 inches.

(D) May be taken by angling, hand, bow and arrow, spear, gaff hook, snag hook and herring jigs.

(E) Mutilating the fish so the size or species cannot be determined prior to landing or transporting mutilated fish across state waters is prohibited.

(f) Sport fisheries for species in subsections (4)(a), (4)(b) and (4)(c) and including leopard shark and soupfin shark are open January 1 through December 31, twenty-four hours per day, except as provided in subsections 4(b) and 4(d). Ocean waters are closed for these species during April 1 through September 30, outside of the 30-fathom curve (defined by latitude and longitude) as shown on **Title 50 Code of Federal Regulations Part 660 Section 71**, except as provided in subsection 4(d). A 20-fathom, 25-fathom, or 30-fathom curve, as shown on **Title 50 Code of Federal Regulations Part 660 Section 71** may be implemented as the management line as in-season modifications necessitate. In addition, the following management lines may be used to set area specific regulations for inseason action only:

- (A) Cape Lookout (45°20'30" N latitude); and
- (B) Cape Blanco (42°50'20" N latitude).

(g) The Stonewall Bank Yelloweye Rockfish Conservation Area (YRCA) is defined by coordinates specified in **Title 50 Code of Federal Regulations Part 660 Section 70** (October 1, 2015 ed.). Within the YRCA, it is unlawful to fish for, take, or retain species listed in subsections (4)(a), (4)(b) and (4)(c) of this rule, leopard shark, soupfin shark, and Pacific halibut using recreational fishing gear. A vessel engaged in recreational fishing within the YRCA is prohibited from possessing any species listed in subsections (4)(a), (4)(b) and (4)(c) of this rule, leopard shark, soupfin shark, and Pacific halibut. Recreational fishing vessels in possession of species listed in subsections (4)(a), (4)(b) and (4)(c) and including leopard shark, soupfin shark, and Pacific halibut may transit the YRCA without fishing gear in the water.

- (5) Edible Shrimp:
 - (a) Daily limit is 20 lbs in the shell;
 - (b) May be taken by traps, pots, or rings.
- (6) Razor Clams:

(a) May be taken by hand, shovel, clam gun, or tube with an opening no less than 4 inches in diameter (cylindrical) or 4 inches by 3 inches (elliptical);

(b) All razor clams must be retained regardless of size or condition;

(c) Each digger must have their own container, dig their own clams, and may not possess more than one limit of clams while in the clam digging area except under the allowances of an Oregon Disabilities Hunting and Fishing Permit.

(7) Whale Cove Habitat Refuge: No take of fish, shellfish and marine invertebrates in all areas in Whale Cove below the extreme high tide east of a line drawn across the mouth of the cove, as defined by points at:

- (a) 44°47.237'N., 124°04.298'W; and
- (b) 44°47.367'N., 124°04.320'W.

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

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

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 22-1994, f. 4-29-94, cert. ef. 5-2-94; FWC 29-1994(Temp), f. 5-20-94, cert. ef. 5-21-94; FWC 31-1994, f. 5-26-94, cert. ef. 6-20-94; FWC 43-1994(Temp), f. & cert. ef. 7-19-94; FWC 83-1994(Temp), f. 10-28-94, cert. ef. 11-1-94; FWC 95-1994, f. 12-28-94, cert. ef. 1-1-95; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 25-1995, f. 3-29-95, cert. ef. 4-1-95; FWC 26-1995, 3-29-95, cert. ef. 4-2-95; FWC 36-1995, f. 5-3-95, cert. ef. 5-5-95; FWC 43-1995(Temp), f. 5-26-95, cert. ef. 5-28-95; FWC 46-1995(Temp), f. & cert. ef. 6-2-95; FWC 58-1995(Temp), f. 7-3-95, cert. ef. 7-5-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 28-1996(Temp), f. 5-24-96, cert. ef. 5-26-96;

FWC 30-1996(Temp), f. 5-31-96, cert. ef. 6-2-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 68-1999(Temp), f. & cert. ef. 9-17-99 thru 9-30-99; administrative correction 11-17-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 118-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 35-2003, f. 4-30-03, cert. ef. 5-1-03; DFW 114-2003(Temp), f. 11-18-03, cert. ef. 11-21-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 128-2003, f. 12-15-03, cert. ef. 1-1-04; DFW 83-2004(Temp), f. 8-17-04, cert. ef. 8-18-04 thru 12-31-04; DFW 91-2004(Temp), f. 8-31-04, cert. ef. 9-2-04 thru 12-31-04; DFW 97-2004(Temp), f. 9-22-04, cert. ef. 9-30-04 thru 12-31-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 34-2005(Temp), f. 4-29-05, cert. ef. 5-1-05 thru 10-27-05; DFW 75-2005(Temp), f. 7-13-05, cert. ef. 7-16-05 thru 12-31-05; DFW 87-2005(Temp), f. 8-8-05, cert. ef. 8-11-05 thru 12-31-05; DFW 121-2005(Temp), f. 10-12-05, cert. ef. 10-18-05 thru 12-31-05; DFW 129-2005(Temp), f. & cert. ef. 11-29-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 138-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 141-2005(Temp), f. 12-12-05, cert. ef. 12-30-05 thru 12-31-05; Administrative correction 1-19-06; DFW 61-2006, f. 7-13-06, cert. ef. 10-1-06; DFW 65-2006(Temp), f. 7-21-06, cert. ef. 7-24-06 thru 12-31-06; DFW 105-2006(Temp), f. 9-21-06, cert. ef. 9-22-06 thru 12-31-06; DFW 134-2006(Temp), f. 12-21-06, cert. ef. 1-1-07 thru 6-29-07; DFW 3-2007, f. & cert. ef. 1-12-07; DFW 10-2007, f. & cert. ef. 2-14-07; DFW 66-2007(Temp), f. 8-6-07, cert. ef. 8-11-07 thru 12-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 73-2008(Temp), f. 6-30-08, cert. ef. 7-7-08 thru 12-31-08; DFW 97-2008(Temp), f. 8-18-08, cert. ef. 8-21-08 thru 12-31-08; DFW 105-2008(Temp), f. 9-4-08, cert. ef. 9-7-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 7-2009(Temp), f. & cert. ef. 2-2-09 thru 7-31-09; DFW 39-2009, f. & cert. ef. 4-27-09; DFW 110-2009(Temp), f. 9-10-09, cert. ef. 9-13-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 103-2010(Temp), f. 7-21-10, cert. ef. 7-23-10 thru 12-31-10; DFW 157-2010, f. 12-6-10, cert. ef. 1-1-11; DFW 24-2011, f. & cert. ef. 3-22-11; DFW 97-2011(Temp), f. & cert. ef. 7-20-11 thru 12-31-11; DFW 135-2011(Temp), f. 9-21-11, cert. ef. 10-1-11 thru 12-31-11; DFW 155-2011(Temp), f. 11-18-11, cert. ef. 12-1-11 thru 12-31-11; DFW 156-2011(Temp), f. 12-9-11, cert. ef. 12-15-11 thru 1-31-12; DFW 164-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 90-2012(Temp), f. 7-17-12, cert. ef. 9-20-12 thru 12-31-12; DFW 151-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 155-2012(Temp), f. 12-28-12, cert. ef. 1-1-13 thru 6-29-13; DFW 23-2013(Temp), f. 3-20-13, cert. ef. 4-1-13 thru 9-27-13; DFW 32-2013, f. & cert. ef. 5-14-13; DFW 112-2013(Temp), f. & cert. ef. 9-27-13 thru 12-31-13; DFW 136-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 4-2015, f. 1-13-15, cert. ef. 1-15-15; DFW 5-2015(Temp), f. 1-13-15, cert. ef. 1-15-15 thru 7-13-15; Temporary suspended by DFW 18-2015, f. & cert. ef. 3-10-15; DFW 34-2015, f. & cert. ef. 4-28-15; DFW 167-2015, f. 12-29-15, cert. ef. 1-1-16; DFW 3-2016, f. & cert. ef. 1-1-16; DFW 24-2016(Temp), f. 3-30-16, cert. ef. 4-1-16 thru 9-27-16; DFW 35-2016, f. & cert. ef. 4-26-16; DFW 38-2016(Temp), f. & cert. ef. 4-26-16 thru 10-22-16

Rule Caption: Amend rules implementing ORS 496.750, Wildlife Violator Compact

Adm. Order No.: DFW 39-2016

Filed with Sec. of State: 4-27-2016

Certified to be Effective: 4-27-16

Notice Publication Date: 3-1-2016

Rules Amended: 635-001-0210

Subject: This amendment is needed to clarify the rule implementing the Wildlife Violator Compact ORS 496.750.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-001-0210

Standard for License Suspension or Revocation

(1)(a) Upon receipt of the following information from a party state to the Compact, the Director shall initiate license suspension proceedings in accordance with OAR 635-001-0215:

(b) That a person has failed to comply with the terms of a citation for a fish or wildlife offense from the licensing authority of a party state. Such suspension shall remain in effect until the Director receives adequate evidence of compliance with the citation.

(2) Upon receipt of the following information from a party state to the Compact, the Director or Commission may initiate license suspension or revocation proceedings as appropriate in accordance with OAR 635-001-0215.

(a) That a person has had his or her license privileges suspended or revoked in a party state for a fish and wildlife offense. The period of suspension is the period provided by Oregon statute for an equivalent offense or such longer period imposed by the party state.

(b) That a person has been convicted in a party state of a fish or wildlife offense. The period of suspension is the period provided by Oregon statute for an equivalent offense or such longer period imposed by the party state.

(3) Any suspension under this rule begins when the Commission or Department issues a final order of suspension.

Stat. Auth.: ORS 496.750

Stats. Implemented:

Hist.: FWC 43-1991, f. 5-1-91, cert. ef. 5-6-91; DFW 40-2006, f. & cert. ef. 6-9-06; DFW 130-2007, f. 12-20-07, cert. ef. 1-1-08; DFW 39-2016, f. & cert. ef. 4-27-16

Rule Caption: Approve rules and adopt Coquille Valley Wildlife Area Management Plan

ADMINISTRATIVE RULES

Adm. Order No.: DFW 40-2016
Filed with Sec. of State: 4-27-2016
Certified to be Effective: 4-27-16
Notice Publication Date: 3-1-2016
Rules Amended: 635-008-0068

Subject: Amendments to Oregon Administrative Rules for the Coquille Valley Wildlife Area Management Plan. Amendments will guide management activities for the next five years.
Rules Coordinator: Michelle Tate—(503) 947-6044

635-008-0068

Coquille Valley Wildlife Area (Coos County)

The Coquille Valley Wildlife Area is open for wildlife-oriented public use compatible with the goals and objectives contained in the 2016 Coquille Valley Wildlife Area Management Plan (the “Plan”) unless otherwise excluded or restricted by the following rules. The Wildlife Area Goals and Objectives in the Plan are incorporated into this rule by reference.

(1) Free daily Hunting/Access permits are required, must be possessed at all times by users and must be completed and returned at the end of the day. Consult annual Game Bird regulations for time and date restrictions and hunting requirements.

(2) Discharging firearms is prohibited except as authorized during game bird and game mammal seasons, or by access permit issued by ODFW.

(3) All dogs must be on a leash except when used in the pursuit or retrieval of game during authorized game bird seasons, or by access permit issued by ODFW.

(4) No person shall possess or use any shot other than federally-approved nontoxic shot at any time, except for big game hunters using buckshot or slugs.

(5) Discharge of firearms into, from or across Safety Zones is prohibited.

(6) Posted Refuges are closed to public access except to retrieve lawfully taken wildlife during authorized hunting seasons, or by access permit issued by ODFW.

(7) Camping and/or open fires are prohibited.

(8) The wildlife area is closed to the public 10 pm to 4 am.

(9) Any vehicle found parked or unattended on the Wildlife Area between the hours of 10 pm and 4 am, or obstructing public or administrative access may be towed at the expense of the registered owner or owners.

(10) Parking is allowed in designated areas only.

(11) No boats with gas powered motors may be launched from the area except by access permit issued by ODFW.

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

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

Hist.: DFW 104-2015, f. & cert. ef. 8-12-15; DFW 40-2016, f. & cert. ef. 4-27-16

Rule Caption: Amendments regarding harvest of game birds, season dates, open areas, bag limits and hunting preserves

Adm. Order No.: DFW 41-2016
Filed with Sec. of State: 4-27-2016
Certified to be Effective: 4-27-16
Notice Publication Date: 3-1-2016

Rules Amended: 635-008-0053, 635-008-0080, 635-008-0095, 635-008-0115, 635-008-0147, 635-008-0155, 635-008-0190, 635-045-0000, 635-047-0010, 635-051-0000, 635-052-0000, 635-053-0000, 635-054-0000, 635-060-0000, 635-008-0120

Subject: Amend rules regarding the harvest of game birds including 2016-2017 season dates, open areas, regulations, bag limits and hunting preserves

Rules Coordinator: Michelle Tate—(503) 947-6044

635-008-0053

Procedures for Issuance and Enforcement of Parking Permits for Department Wildlife Areas

The Oregon Department of Fish and Wildlife hereby adopts the following procedures relating to issuance and enforcement of parking permits for certain vehicles on Department Wildlife Areas where parking permits are required:

(1) Parking is permitted only in designated parking areas. A parking permit is required at all times for all fee parking areas.

(2) Fee parking areas are designated by ODFW approved signs.

(3) One of the following permits is required: an annual permit or a daily permit.

(4) The fee for parking permits is \$10.00 (plus \$2.00 agent fee) for permits issued on a daily basis or \$30.00 (plus \$2.00 agent fee) for permits issued on an annual basis beginning each January 1. Any annual hunting license (including Combination and Sports Pac) will include a free annual parking permit.

(5) Permits are issued by selected local agents, Department offices that sell licenses and the Department’s Online License Sales website to a party upon payment and may be transferred from vehicle to vehicle.

(6) The permits must be visible from outside the vehicle and be displayed in the front or rear window of the vehicle.

(7) No parking permits will be required for those vehicles which are owned or operated by government agencies. Notwithstanding paragraph (5), the Department reserves the right to issue free administrative parking permits for private vehicles used by volunteers while participating in official Department-related activities. Parking permits will not be required for individuals arriving in private vehicles to address fire, health or safety emergencies.

(8)(a) A person who operates or parks a motor-propelled vehicle in violation of restrictions established and posted under OAR 635-008-0051 through 635-008-0053 commits an offense punishable as provided in ORS 496.992;

(b) The procedure for a peace officer (or other person authorized to enforce the wildlife laws) to follow upon finding a non government vehicle parked in a designated fee parking area without a permit shall consist of the issuance of a citation which shall be either delivered to the defendant or placed in a conspicuous place upon the vehicle in the violation.

(c) A person who is the registered owner of an unattended motor-propelled vehicle parked in violation of the restrictions established and posted under OAR 635-008-0051 through 635-008-0053 shall be presumed to have violated OAR 635-008-0053(8)(a). It is an affirmative defense to a prosecution of the registered owner of a vehicle under subsection (8)(a) of this section that the use was not authorized by the owner, either expressly or by implication or the owner was not present when the vehicle was parked.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 497.071

Other Auth.: 2015 SB 247

Stats. Implementation: ORS 496.012, 496.138, 496.146 & 497.071

Hist.: FWC 12-1990, f. & cert. ef. 2-2-90; FWC 8-1993, f. & cert. ef. 2-8-93; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 3-2002(Temp), f. & cert. ef. 1-3-02 thru 1-23-02; DFW 74-2003(Temp), f. 8-1-03, cert. ef. 8-3-03 thru 8-7-03; Administrative correction 1-12-04; DFW 142-2009, f. 11-12-09, cert. ef. 1-1-10; DFW 3-2011, f. & cert. ef. 1-14-11; DFW 54-2011, f. & cert. ef. 5-24-11; DFW 6-2012(Temp), f. & cert. ef. 2-6-12 thru 8-1-12; DFW 57-2012, f. & cert. ef. 6-11-12; DFW 144-2012(Temp), f. & cert. ef. 11-13-12 thru 5-10-13; DFW 30-2013, f. & cert. ef. 5-10-13; DFW 85-2013, f. & cert. ef. 8-5-13; DFW 65-2014, f. 6-11-14, cert. ef. 7-4-14; Renumbered from 635-008-0151 by DFW 117-2014, f. & cert. ef. 8-7-14; DFW 139-2015, f. 10-14-15, cert. ef. 1-1-16; DFW 41-2016, f. & cert. ef. 4-27-16

635-008-0080

Ken Denman Wildlife Area (Jackson County)

The Ken Denman (Denman) Wildlife Area is open to wildlife-oriented public use compatible with the goals and objectives contained in the 2006 Ken Denman Wildlife Area Management Plan unless otherwise excluded or restricted by the following rules:

(1) Open to the discharge of firearms only while hunting big game and game birds during authorized seasons, or by access permit issued by ODFW.

(2) No person shall possess or use any shot other than federally-approved nontoxic shot at any time, except for big game hunters using buckshot or slugs.

(3) Use of rifles and handguns is prohibited at all times.

(4) Running or training of dogs is prohibited April 1 through July 31 except on designated Dog Training Areas or by access permit issued by ODFW.

(5) Camping is prohibited except by access permit issued by ODFW.

(6) Boats with gas propelled motors are prohibited.

(7) The use of air guns, BB guns and paintball guns is prohibited.

(8) Free daily hunting permits available at self-service check stations located at area access points are required, must be possessed at all times by users and must be completed and returned at the end of the day.

(9) Trapping is prohibited except by access permit issued by ODFW.

(10) ODFW Wildlife Area Parking Permit required.

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

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

Hist.: GC 64, f. 4-3-57; GC 232, f. 8-13-70, ef. 9-11-70; GC 252, f. 5-11-72, ef. 6-1-72, Renumbered from 630-010-0500, Renumbered from 635-015-0005; FWC 63-1980, f. & ef. 11-4-80; FWC 2-1981(Temp), f. & ef. 1-20-81; FWC 30-1982, f. & ef. 5-18-82, Renumbered from 635-008-0005(4); FWC 53-1994, f. & cert. ef. 8-25-94; DFW 118-2006, f. & cert. ef. 10-16-06; DFW 108-2011, f. & cert. ef. 8-5-11; DFW 117-2014, f. & cert. ef. 8-7-14; DFW 151-2014, f. & cert. ef. 10-17-14; DFW 41-2016, f. & cert. ef. 4-27-16

ADMINISTRATIVE RULES

635-008-0095

Fern Ridge Wildlife Area (Lane County)

As the underlying landowner, the U.S. Army Corps of Engineers has adopted rules and regulations (CFR Title 36) that apply to all Fern Ridge project land and water areas. The Fern Ridge Wildlife Area is open to wildlife-oriented public use compatible with the goals and objectives contained in the 2009 Fern Ridge Wildlife Area Management Plan unless otherwise excluded or restricted by the following rules:

(1) Open to the discharge of firearms only while hunting big game and game birds during authorized seasons, or by access permit issued by ODFW.

(2) Discharging rifles and handguns is prohibited.

(3) No person shall possess or use any shot other than federally-approved nontoxic shot at any time, except for big game hunters using buckshot or slugs.

(4) The use of air guns, BB guns and paintball guns is prohibited.

(5) All dogs must be on a leash except during authorized hunting seasons, or by access permit issued by ODFW.

(6) Camping is prohibited except by access permit issued by ODFW.

(7) Open fires are prohibited.

(8) The wildlife area is closed to the public 10 pm to 4 am.

(9) Horses and horseback riding are prohibited except by access permit issued by ODFW.

(10) Free daily hunting permits are required for hunting various wildlife area units, must be possessed at all times by users and must be completed and returned at the end of the day. Consult annual Game Bird regulations for check station locations, time and date restrictions, and hunting requirements.

(11) Seasonal access restrictions may be in place to provide wildlife sanctuary. Consult annual Game Bird Regulations and posted signage for dates and locations.

(12) Trapping is prohibited except by access permit issued by ODFW.

(13) ODFW Wildlife Area Parking Permit required.

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

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

Hist.: GC 64, f. 4-3-57; GC 232, f. 8-13-70, ef. 9-11-70; GC 252, f. 5-11-72, ef. 6-1-72, Renumbered from 630-010-0500, Renumbered from 635-015-0005; FWC 63-1980, f. & ef. 11-4-80; FWC 2-1981(Temp), f. & ef. 1-20-81; FWC 30-1982, f. & ef. 5-18-82, Renumbered from 635-008-0005(7); FWC 53-1994, f. & cert. ef. 8-25-94; DFW 64-2009, f. & cert. ef. 6-10-09; DFW 108-2011, f. & cert. ef. 8-5-11; DFW 117-2014, f. & cert. ef. 8-7-14; DFW 151-2014, f. & cert. ef. 10-17-14; DFW 41-2016, f. & cert. ef. 4-27-16

635-008-0115

Klamath Wildlife Area (Klamath County)

The Klamath Wildlife Area is open to wildlife-oriented public use compatible with the goals and objectives contained in the 2008 Klamath Wildlife Area Management Plan unless otherwise excluded or restricted by the following rules:

(1) Discharging firearms is prohibited except as authorized during game bird seasons, or by access permit issued by ODFW.

(2) Running or training of dogs is prohibited February 1 through August 31 except on designated Dog Training Areas or by access permit issued by ODFW.

(3) Camping is prohibited.

(4) Personal property must be removed from the area at the end of each hunt day.

(5) No person shall possess or use any shot other than federally-approved nontoxic shot at any time.

(6) Miller Island Unit is closed to all deer hunting.

(7) A daily hunting permit is required for the Miller Island Unit, must be possessed at all times by users and must be completed and returned at the end of the day. Consult annual Game Bird regulations for check station locations, time and date restrictions, and hunting requirements.

(8) The wildlife area is closed to the public 10 pm to 4 am.

(9) Trapping is prohibited except by access permit by ODFW.

(10) ODFW Wildlife Area Parking Permit required.

(11) The wildlife area is closed to all access from February 1 through April 30 except public roads, parking areas, birding trail and dog training area or by access permit issued by ODFW.

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

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

Hist.: GC 64, f. 4-3-57; GC 232, f. 8-13-70, ef. 9-11-70; GC 252, f. 5-11-72, ef. 6-1-72, Renumbered from 630-010-0500, Renumbered from 635-015-0005; FWC 63-1980, f. & ef. 11-4-80; FWC 2-1981(Temp), f. & ef. 1-20-81; FWC 30-1982, f. & ef. 5-18-82, Renumbered from 635-008-0005(10); FWC 53-1994, f. & cert. ef. 8-25-95; DFW 38-2008, f. & cert. ef. 4-24-08; DFW 108-2011, f. & cert. ef. 8-5-11; DFW 117-2014, f. & cert. ef. 8-7-14; DFW 151-2014, f. & cert. ef. 10-17-14; DFW 104-2015, f. & cert. ef. 8-12-15; DFW 41-2016, f. & cert. ef. 4-27-16

635-008-0120

Ladd Marsh Wildlife Area (Union County)

The Ladd Marsh Wildlife Area is open to wildlife-oriented public use compatible with the goals and objectives contained in the 2008 Ladd Marsh Wildlife Area Management Plan unless otherwise excluded or restricted by the following rules:

(1) All wildlife area lands, except those west of Foothill Road, are closed to public entry except Wed., Sat., Sun. and holidays during pheasant, quail and waterfowl hunting seasons with the following exceptions:

(a) The Nature Trail, adjacent to I-84, is open year-round;

(b) The Foothill Road Viewpoint is open year-round;

(c) The Peach Road Fishing Pond is open year-round;

(d) The Tule Lake Public Access Area is open March 1 – September 30.

(2) All lands west of Foothill Road are closed to all entry Feb. 1 through March 31.

(3) A daily public access permit, is required, must be possessed at all times by users and must be completed and returned at the end of the day.

(4) The wildlife area is closed to the public between 10 pm and 4 am.

(5) All land north and east of Foothill Road is closed to big game hunting except for youth deer hunts 652T1 and 652T2. Big game hunting may be allowed on Ladd Marsh Wildlife Area as authorized by the Department.

(6) Open to the discharge of firearms only while hunting during authorized game bird and big game hunting seasons, or by permit. Discharge of all handgun and centerfire or rimfire rifles is prohibited east of Foothill Road. Discharge of air guns, BB guns, and paintball guns is prohibited at all times.

(7) Camping is prohibited.

(8) Dogs are prohibited except during authorized bird hunting seasons.

(9) No person shall possess or use any shot other than federally-approved nontoxic shot at any time, except for big game hunters using buckshot or slugs.

(10) Horses are prohibited east of Foothill Road.

(11) ATV and snowmobile use is prohibited on all area lands except for administrative use.

(12) Trapping is prohibited except by access permit issued by ODFW.

(13) ODFW Wildlife Area Parking Permit required.

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

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

Hist.: GC 64, f. 4-3-57; GC 232, f. 8-13-70, ef. 9-11-70; GC 252, f. 5-11-72, ef. 6-1-72, Renumbered from 630-010-0500, Renumbered from 635-015-0005; FWC 63-1980, f. & ef. 11-4-80; FWC 2-1981(Temp), f. & ef. 1-20-81; FWC 30-1982, f. & ef. 5-18-82, Renumbered from 635-008-0005(11); FWC 53-1994, f. & cert. ef. 8-25-94; DFW 38-2008, f. & cert. ef. 4-24-08; DFW 108-2011, f. & cert. ef. 8-5-11; DFW 103-2012, f. & cert. ef. 8-6-12; DFW 80-2013(Temp), f. 7-25-13, cert. ef. 7-26-13 thru 1-21-14; DFW 85-2013, f. & cert. ef. 8-5-13; DFW 117-2014, f. & cert. ef. 8-7-14; DFW 151-2014, f. & cert. ef. 10-17-14; DFW 41-2016, f. & cert. ef. 4-27-16

635-008-0147

Rules Regarding Public Use for Sauvie Island Wildlife Area

The Sauvie Island Wildlife Area is open to wildlife-oriented public use compatible with the goals and objectives contained in the 2012 Sauvie Island Wildlife Area Management Plan unless otherwise excluded or restricted by the following rules:

(1) Hunting is prohibited except by daily hunt permit. The permit must be possessed at all times by users and must be completed and returned at the end of the day.

(2) Discharging firearms is prohibited except for shotguns on designated Dog Training Areas, Trapshooting Areas, or as authorized during game bird and game mammal season.

(3) The wildlife area is closed to the public between 10 pm and 4 am.

(4) Camping is prohibited.

(5) All dogs must be on leash, except while hunting during seasons authorized on Sauvie Island Wildlife Area, or pursuant to a valid "Competitive Hunting Dog Trial Permit" or "Sauvie Island Wildlife Area Individual Dog Training Permit."

(6) Domestically-raised game birds may only be released, pursued or taken pursuant to:

(a) A valid "Competitive Hunting Dog Trial Permit" or;

(b) A valid "Game Bird Release Permit for Hunting Dog and Raptor Training" and a "Sauvie Island Wildlife Area Individual Dog Training Permit" or;

(c) As authorized by the Department.

(7) Open fires are prohibited.

ADMINISTRATIVE RULES

(8) Any vehicle found parked or unattended on the Wildlife Area between the hours of 10 pm and 4 am, or obstructing public access, may be towed at the expense of the registered owner or owners.

(9) No person shall possess or use lead shot at any time.

(10) Horses and bicycles are restricted to roads open to vehicles.

(11) Portions of Sauvie Island Wildlife Area are closed to all entry except by hunting permit during authorized waterfowl hunting seasons.

(12) Portions of Sauvie Island Wildlife Area will be closed from the end of waterfowl hunting season through April 30 each year.

(13) The use of air guns, BB guns and paintball guns is prohibited.

(14) Operation of boats in Sturgeon Lake Refuge is prohibited from Oct. 1 to April 15. Operating boats over 5 mi per hour is prohibited on all area lakes. Sturgeon Lake Refuge is closed to all hunting year-round.

(15) Closed to hunting of furbearers, predators, unprotected and protected wildlife (except black-tailed deer, rabbit, crow, Eurasian collared-dove and game birds).

(16) Trapping is prohibited except by access permit issued by ODFW.

(17) ODFW Wildlife Area Parking Permit required.

Stat. Auth.: ORS 496.012, 496.138, 496.146, 496.162 & 496.992

Stats. Implemented: ORS 496.012, 496.138, 496.146, 496.162 & 496.992

Hist.: GC 64, f. 4-3-57; GC 232, f. 8-13-70, ef. 9-11-70; GC 252, f. 5-11-72, ef. 6-1-72, Renumbered from 630-010-0500, Renumbered from 635-015-0005; FWC 63-1980, f. & ef. 11-4-80; FWC 2-1981(Temp), f. & ef. 1-20-81; FWC 30-1982, f. & ef. 5-18-82, Renumbered from 635-008-0005(16); FWC 12-1990, f. & cert. ef. 2-2-90, Renumbered from 635-008-0150; FWC 8-1993, f. & cert. ef. 2-8-93; FWC 53-1994, f. & cert. ef. 8-25-94; DFW 26-2009(Temp), f. & cert. ef. 3-11-09 thru 8-10-09; DFW 32-2009(Temp), f. & cert. ef. 3-30-09 thru 8-10-09; DFW 93-2009, f. & cert. ef. 8-12-09; DFW 42-2012, f. & cert. ef. 4-24-12; DFW 117-2014, f. & cert. ef. 8-7-14; DFW 151-2014, f. & cert. ef. 10-17-14; DFW 41-2016, f. & cert. ef. 4-27-16

635-008-0155

Summer Lake Wildlife Area (Lake County)

The Summer Lake Wildlife Area is open to wildlife-oriented public use compatible with the goals and objectives contained in the 2007 Summer Lake Wildlife Area Management Plan unless otherwise excluded or restricted by the following rules:

(1) Posted Refuges are closed to all entry seven days prior to opening day through the end of the respective Zone 2 general waterfowl season during authorized game bird and game mammal hunting seasons, except to retrieve lawfully taken wildlife, or by access permit issued by ODFW. Motor vehicle access along the Wildlife Viewing Loop, which goes through a posted refuge, is permitted except during the youth waterfowl hunt and 7 days prior to and through the general waterfowl season.

(2) Entering any portion of the Wildlife Area south of Thousand Springs Lane (Lake County Road 4-17), except the Foster Place unit and open roads and campgrounds, seven days prior to Zone 2 waterfowl season (see game bird regulations for specific dates) is prohibited.

(3) Discharging firearms is prohibited except as authorized during game bird and game mammal hunting seasons, between September 1 and January 31 or by access permit issued by ODFW.

(4) Discharging firearms into and hunting in posted refuges, campgrounds and safety zones is prohibited.

(5) Centerfire rifles and handguns are prohibited for game mammal hunting except on that portion of the wildlife area west of Hwy. 31.

(6) No person shall hunt game mammals with a firearm east of Hwy. 31 during any game bird hunting seasons open on the wildlife area.

(7) No person shall possess or use any shot other than federally-approved nontoxic shot at any time, except for big game hunters using buckshot or slugs or by access permit issued by ODFW.

(8) No person shall leave decoys set out overnight (8 pm to 4 am).

(9) All hunters must obtain a daily hunt permit (available at Headquarters 1.3 miles south of the town of Summer Lake) which must be possessed at all times by users. Daily permits for 2 consecutive days are allowed. Check-out at the end of the day or following 2 consecutive days is required.

(10) Trapping is prohibited except by access permit issued by ODFW.

(11) Motorized vehicle travel is only allowed on open roads, campgrounds or parking areas.

(12) Bullgate and Windbreak dikes and the Work Road are closed to motor vehicles from March 15 to August 15 and one week prior to and through the end of Zone 2 general waterfowl and three days prior to and during youth waterfowl hunting seasons.

(13) Operating boats with gas-powered motors is prohibited.

(14) Camping or leaving vehicles unattended is prohibited except on areas designated for that use, and may not exceed a total of 14 days per stay in a 30 day period, except by access permit issued by ODFW.

(15) Running or training of dogs is prohibited except by access permit issued by ODFW.

(16) ODFW Wildlife Area Parking Permit required.

Stat. Auth.: ORS 496.012, 496.138, 496.146, 496.162 & 496.992

Stats. Implemented: ORS 496.012, 496.138, 496.146, 496.162 & 496.992

Hist.: GC 64, f. 4-3-57; GC 232, f. 8-13-70, ef. 9-11-70; GC 252, f. 5-11-72, ef. 6-1-72, Renumbered from 630-010-0500, Renumbered from 635-015-0005; FWC 63-1980, f. & ef. 11-4-80; FWC 2-1981(Temp), f. & ef. 1-20-81; FWC 30-1982, f. & ef. 5-18-82, Renumbered from 635-008-0005(17); FWC 53-1994, f. & cert. ef. 8-25-94; DFW 118-2007, f. 10-31-07, cert. ef. 1-1-08; DFW 93-2009, f. & cert. ef. 8-12-09; DFW 117 2010, f. & cert. ef. 8-13-10; DFW 108-2011, f. & cert. ef. 8-5-11; DFW 159-2011, f. 12-14-11, cert. ef. 1-1-12; DFW 117-2014, f. & cert. ef. 8-7-14; DFW 151-2014, f. & cert. ef. 10-17-14; DFW 41-2016, f. & cert. ef. 4-27-16

635-008-0190

E.E. Wilson Wildlife Area (Benton/Polk Counties)

The E. E. Wilson Wildlife Area is open to wildlife-oriented public use compatible with the goals and objectives contained in the 2008 E. E. Wilson Wildlife Area Management Plan unless otherwise excluded or restricted by the following rules:

(1) All hunting is prohibited March 1 through July 31.

(2) Hunting and fishing is prohibited except:

(a) As authorized during game bird, big game and fishing seasons;

(b) The hunting of nongame non protected wildlife;

(c) Furbearer trapping and hunting is prohibited except by access permit issued by ODFW;

(d) Hunting for rabbits is permitted from November 1 through February.

(3) Free daily hunting permits are required, must be possessed at all times by users and must be completed and returned at the end of the day.

(4) Open to the discharge of firearms only while hunting big game and game birds during authorized seasons, at the trap shooting area from 7am – 7pm daily or by access permit issued by ODFW.

(5) Hunting with or discharging rifles, handguns, crossbows, air guns and paintball guns is prohibited.

(6) Big game hunting is closed when youth pheasant hunts are in progress.

(7) During the week between the youth pheasant hunts, game bird hunting is prohibited.

(8) All game bird hunters must have a valid Fee Pheasant tag on their person during the month of October.

(9) No person shall possess or use any shot other than federally-approved nontoxic shot at any time, except for big game hunters using buckshot or slugs.

(10) During the month of October, all hunting ends at 5pm.

(11) All dogs must be on a leash except during authorized game bird and rabbit hunting seasons, or by access permit issued by ODFW.

(12) Camping is prohibited except by access permit issued by ODFW.

(13) Horses and other domestic livestock use are restricted to established roads only.

(14) The wildlife area is closed to the public between 10 pm and 4 am.

(15) Motorized vehicle travel is only allowed on open roads or parking areas.

(16) All participants using the trap range or archery range must adhere to the posted rules and guidelines.

(17) Open fires are prohibited.

(18) ODFW Wildlife Area Parking Permit required.

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

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

Hist.: GC 64, f. 4-3-57; GC 232, f. 8-13-70, ef. 9-11-70; GC 252, f. 5-11-72, ef. 6-1-72, Renumbered from 630-010-0500, Renumbered from 635-015-0005; FWC 63-1980, f. & ef. 11-4-80; FWC 2-1981(Temp), f. & ef. 1-20-81; FWC 30-1982, f. & ef. 5-18-82, Renumbered from 635-008-0005(24); FWC 53-1994, f. & cert. ef. 8-25-94; DFW 91-2005, f. & cert. ef. 8-19-05; DFW 137-2008, f. & cert. ef. 10-27-08; DFW 108-2011, f. & cert. ef. 8-5-11; DFW 117-2014, f. & cert. ef. 8-7-14; DFW 151-2014, f. & cert. ef. 10-17-14; DFW 41-2016, f. & cert. ef. 4-27-16

635-045-0000

Purpose

(1) The purpose of these rules is to list definitions pursuant to hunting seasons for big game and game birds.

(2) The documents entitled “2016 – 2017 Oregon Game Bird Regulations,” and “2016 Oregon Big Game Regulations”, are incorporated by reference into these rules. These documents are available at hunting license vendors and regional, district and headquarters offices of the Oregon Department of Fish and Wildlife.

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

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

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

Hist.: FWC 36-1988, f. & cert. ef. 6-13-88; FWC 47-1989, f. & cert. ef. 7-25-89; FWC 14-1990, f. & cert. ef. 2-2-90; FWC 91-1990, f. & cert. ef. 9-4-90; FWC 42-1996, f. & cert. ef. 8-12-96; FWC 53-1997, f. & cert. ef. 9-3-97; DFW 61-1998, f. & cert. ef. 8-10-98; DFW 75-1998, f. & cert. ef. 9-4-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 56-1999, f. & cert. ef. 8-13-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 51-2000, f. & cert. ef. 8-22-00;

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DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 73-2001, f. & cert. ef. 8-15-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 88-2002, f. & cert. ef. 8-14-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 76-2003, f. & cert. ef. 8-13-03; DFW 118-2003, f. 12-4-03, cert. ef. 1-1-04; DFW 84-2004, f. & cert. ef. 8-18-04; DFW 91-2005, f. & cert. ef. 8-19-05; DFW 128-2005, f. 12-1-05, cert. ef. 1-1-06; DFW 81-2006, f. & cert. ef. 8-11-06; DFW 127-2006, f. 12-7-06, cert. ef. 1-1-07; DFW 68-2007, f. & cert. ef. 8-14-07; DFW 118-2007, f. 10-31-07, c. cert. ef. 1-1-08; DFW 90-2008, f. & cert. ef. 8-13-08; DFW 150-2008, f. 12-18-08, cert. ef. 1-1-09; DFW 93-2009, f. & cert. ef. 8-12-09; DFW 140-2009, f. 11-3-09, cert. ef. 1-1-10; DFW 117-2010, f. & cert. ef. 8-13-10; DFW 140-2010(Temp), f. & cert. ef. 10-6-10 thru 12-31-10; Administrative correction 1-25-11; DFW 108-2011, f. & cert. ef. 8-5-11; DFW 103-2012, f. & cert. ef. 8-6-12; DFW 147-2012, f. 12-18-12, cert. ef. 1-1-13; DFW 85-2013, f. & cert. ef. 8-5-13; DFW 63-2014, f. & cert. ef. 6-10-14; DFW 112-2014, f. & cert. ef. 8-4-14; DFW 69-2015, f. & cert. ef. 6-11-15; DFW 105-2015, f. & cert. ef. 8-12-15; DFW 158-2015, f. & cert. ef. 11-25-15; DFW 41-2016, f. & cert. ef. 4-27-16

635-047-0010

Requirements for Licenses

(1) Each hunting preserve shall contain not more than the following acreages in one continuous tract of land, owned or leased by the permittee:

(a) 640 acres if the preserve is located in the area west of the summit of the Cascade Mountains; or

(b) 1,280 acres if the preserve is located in the area east of the summit of the Cascade Mountains.

(2) An applicant for a hunting preserve license shall submit a statement from the appropriate local planning authorities concerning the preserve's compliance with the local comprehensive land use plan and other applicable land use laws.

(3) A person who owns a private hunting preserve that was licensed under ORS 497.248 on or before July 30, 2003 and that has not been submitted to the appropriate local governing body or its designee for land use approval may continue to operate the hunting preserve without local land use approval. The hunting preserve may include one sport clay station that existed on July 30, 2003, is used during the hunting season only for shooting practice in conjunction with hunting and is subordinate to the use of the land as a hunting preserve.

(4) The exterior boundaries of each hunting preserve shall be clearly defined and posted with signs erected around the extremity at intervals of 1,320 feet, or less. Signs shall be as prescribed by the department.

(a) The boundaries of a licensed hunting preserve shall be posted with legible signs that meet the following minimum specifications. All signs marking the perimeter of the hunting preserve boundary shall be maintained in legible condition and visible at all times.

(b) Size — Not less than 10" x 10".

(c) Lettering — "Private Hunting Preserve" in not less than 1-1/2" block letters at the top half of the sign, and including the following descriptive information in not less than 3/8" block letters:

"This sign marks the boundary of a ___ acre property that has been licensed by the Oregon Department of Fish and Wildlife under the provisions of ORS 497 to permit the hunting of privately owned game birds."

(5) There shall be at least one-half mile distance between licensed hunting preserves.

(6) No license will be granted for any hunting preserve, which at the time of initial application any portion of which is less than one-half mile distant from any state or federal park, wilderness area, refuge, or wildlife area operated by the state or federal government.

(7) Licensee shall not attempt to prevent public hunting on lands adjacent to a hunting preserve.

(8) The applicant shall have the facilities to propagate or hold not less than 500 of each of the game bird species to be released for shooting on the area.

(9) The department shall issue licenses only to hunting preserves available for use by the general public.

(a) Application for a hunting preserve license shall be made upon a form provided by the department. Each application shall include proof of ownership or lease and a map of the preserve and shall state the township, range and section(s) on which the preserve is located.

(b) Fees charged for shooting and other services rendered shall be stated by the applicant provided that the fees shall be the same for all persons.

(10) The license shall authorize the licensee to shoot, or permit to be shot, only certain legally propagated upland game birds that the department has determined may be hunted upon the property for which the license is issued. Other species of wildlife upon such property and marked birds outside its boundaries shall be subject to all protection provided by State wildlife laws and regulations.

(11) In the event that a permittee chooses to cease hunting preserve activities during the term of a hunting preserve license, the permittee shall so notify the department in writing.

Stat. Auth.: ORS 496.012, 496.138, 496.570, 497.102, 497.156 & 497.248

Stats. Implemented: ORS 496.012, 496.138, 496.570, 497.102, 497.156 & 248

Hist.: GC 101, f. 7-9-59, Renumbered from 630-023-0010, Renumbered from 635-007-0010; FWC 115-1992, f. & cert. ef. 10-28-92; DFW 86-1999, f. & cert. ef. 11-1-99; DFW 7-2002, f. & cert. ef. 1-17-02; DFW 73-2003(Temp), f. & cert. ef. 7-30-03 thru 1-26-04; DFW 109-2003, f. & cert. ef. 11-13-03; DFW 41-2016, f. & cert. ef. 4-27-16

635-051-0000

Purpose

(1) The purpose of these rules is to establish dates, areas and other restrictions for hunting game birds pursuant to ORS Chapter 496.

(2) The document entitled "2016 – 2017 Oregon Game Bird Regulations," is incorporated by reference into these rules.

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

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

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

Hist.: FWC 8-1988, f. & cert. ef. 9-2-88; FWC 45-1997, f. & cert. ef. 8-13-97; FWC 53-1997, f. & cert. ef. 9-3-97; DFW 61-1998, f. & cert. ef. 8-10-98; DFW 75-1998, f. & cert. ef. 9-4-98; DFW 56-1999, f. & cert. ef. 8-13-99; DFW 51-2000, f. & cert. ef. 8-22-00; DFW 73-2001, f. & cert. ef. 8-15-01; DFW 3-2002(Temp), f. & cert. ef. 1-3-02 thru 1-23-02; DFW 88-2002, f. & cert. ef. 8-14-02; DFW 76-2003, f. & cert. ef. 8-13-03; DFW 84-2003(Temp), f. & cert. ef. 8-26-03 thru 2-20-04; DFW 84-2004, f. & cert. ef. 8-18-04; DFW 91-2005, f. & cert. ef. 8-19-05; DFW 81-2006, f. & cert. ef. 8-11-06; DFW 68-2007, f. & cert. ef. 8-14-07; DFW 90-2008, f. & cert. ef. 8-13-08; DFW 93-2009, f. & cert. ef. 8-12-09; DFW 117 2010, f. & cert. ef. 8-13-10; DFW 108-2011, f. & cert. ef. 8-5-11; DFW 103-2012, f. & cert. ef. 8-6-12; DFW 85-2013, f. & cert. ef. 8-5-13; DFW 112-2014, f. & cert. ef. 8-4-14; DFW 105-2015, f. & cert. ef. 8-12-15; DFW 41-2016, f. & cert. ef. 4-27-16

635-052-0000

Purpose

(1) The purpose of these rules is to establish season dates, areas and bag limits for migratory upland game birds pursuant to ORS Chapter 496.

(2) The document entitled "2016 – 2017 Oregon Game Bird Regulations," is incorporated by reference into these rules

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

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

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

Hist.: FWC 61-1988, f. & cert. ef. 7-28-88; FWC 45-1997, f. & cert. ef. 8-13-97; DFW 61-1998, f. & cert. ef. 8-10-98; DFW 56-1999, f. & cert. ef. 8-13-99; DFW 82-1999(Temp), f. & cert. ef. 10-25-99 thru 2-1-00; DFW 51-2000, f. & cert. ef. 8-22-00; DFW 73-2001, f. & cert. ef. 8-15-01; DFW 88-2002, f. & cert. ef. 8-14-02; DFW 76-2003, f. & cert. ef. 8-13-03; DFW 84-2004, f. & cert. ef. 8-18-04; DFW 91-2005, f. & cert. ef. 8-19-05; DFW 81-2006, f. & cert. ef. 8-11-06; DFW 68-2007, f. & cert. ef. 8-14-07; DFW 90-2008, f. & cert. ef. 8-13-08; DFW 93-2009, f. & cert. ef. 8-12-09; DFW 117 2010, f. & cert. ef. 8-13-10; DFW 108-2011, f. & cert. ef. 8-5-11; DFW 103-2012, f. & cert. ef. 8-6-12; DFW 85-2013, f. & cert. ef. 8-5-13; DFW 112-2014, f. & cert. ef. 8-4-14; DFW 105-2015, f. & cert. ef. 8-12-15; DFW 41-2016, f. & cert. ef. 4-27-16

635-053-0000

Purpose

(1) The purpose of these rules is to establish season dates, bag limits, areas and other restrictions for hunting upland game birds pursuant to ORS Chapter 496.

(2) The document entitled "2016 – 2017 Oregon Game Bird Regulations," is incorporated by reference into these rules.

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

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

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

Hist.: FWC 81-1988, f. & cert. ef. 9-2-88; FWC 33-1996, f. & cert. ef. 6-7-96; FWC 45-1997, f. & cert. ef. 8-13-97; DFW 61-1998, f. & cert. ef. 8-10-98; DFW 75-1998, f. & cert. ef. 9-4-98; DFW 56-1999, f. & cert. ef. 8-13-99; DFW 82-1999(Temp), f. & cert. ef. 10-25-99 thru 2-1-00; DFW 51-2000, f. & cert. ef. 8-22-00; DFW 73-2001, f. & cert. ef. 8-15-01; DFW 3-2002(Temp), f. & cert. ef. 1-3-02 thru 1-23-02; DFW 88-2002, f. & cert. ef. 8-14-02; DFW 76-2003, f. & cert. ef. 8-13-03; DFW 2-2004(Temp), f. 1-13-04, cert. ef. 1-16-04 thru 1-31-04; DFW 84-2004, f. & cert. ef. 8-18-04; DFW 91-2005, f. & cert. ef. 8-19-05; DFW 81-2006, f. & cert. ef. 8-11-06; DFW 68-2007, f. & cert. ef. 8-14-07; DFW 90-2008, f. & cert. ef. 8-13-08; DFW 93-2009, f. & cert. ef. 8-12-09; DFW 117 2010, f. & cert. ef. 8-13-10; DFW 108-2011, f. & cert. ef. 8-5-11; DFW 103-2012, f. & cert. ef. 8-6-12; DFW 85-2013, f. & cert. ef. 8-5-13; DFW 112-2014, f. & cert. ef. 8-4-14; DFW 105-2015, f. & cert. ef. 8-12-15; DFW 41-2016, f. & cert. ef. 4-27-16

635-054-0000

Purpose

(1) The purpose of these rules is to establish season dates, bag limits, areas and other restrictions for hunting ducks, geese, coots, Wilson's snipe and crow pursuant to ORS Chapter 496.

(2) The document entitled "2016 – 2017 Oregon Game Bird Regulations," is incorporated by reference into these rules.

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

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

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

Hist.: FWC 82-1988, f. & cert. ef. 9-2-88; FWC 45-1997, f. & cert. ef. 8-13-97; FWC 53-1997, f. & cert. ef. 9-3-97; DFW 61-1998, f. & cert. ef. 8-10-98; DFW 75-1998, f. & cert. ef. 9-4-98; DFW 95-1998(Temp), f. & cert. ef. 12-1-98 thru 12-18-98; DFW 98-1998(Temp), f. & cert. ef. 12-18-98 thru 2-28-99; DFW 56-1999, f. & cert. ef. 8-13-99; DFW 82-1999(Temp), f. & cert. ef. 10-25-99 thru 2-1-00; DFW 51-2000, f. & cert. ef. 8-22-00; DFW 73-2001, f. & cert. ef. 8-15-01; DFW 99-2001(Temp), f. & cert. ef. 10-12-01 thru 4-10-02; DFW 3-2002(Temp), f. & cert. ef. 1-3-02 thru 1-23-02; DFW 88-2002, f. & cert. ef. 8-14-02; DFW 76-2003, f. & cert. ef. 8-13-03; DFW 84-2004, f. & cert. ef. 8-18-04; DFW 87-2004(Temp), f. & cert. ef. 8-18-04 thru 9-16-04; Administrative correction 10-25-04; DFW 91-2005, f. & cert. ef. 8-19-05; DFW 81-2006, f. & cert. ef. 8-11-06; DFW 68-2007, f. & cert. ef. 8-14-07

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ef. 8-14-07; DFW 90-2008, f. & cert. ef. 8-13-08; DFW 93-2009, f. & cert. ef. 8-12-09; DFW 117-2010, f. & cert. ef. 8-13-10; DFW 108-2011, f. & cert. ef. 8-5-11; DFW 103-2012, f. & cert. ef. 8-6-12; DFW 85-2013, f. & cert. ef. 8-5-13; DFW 112-2014, f. & cert. ef. 8-4-14; DFW 105-2015, f. & cert. ef. 8-12-15; DFW 41-2016, f. & cert. ef. 4-27-16

635-060-0000

Purpose and General Information

(1) The purpose of these rules is to describe the requirements and procedures for controlled hunts pursuant to ORS Chapter 496.162.

(2) The documents entitled “2016 – 2017 Oregon Game Bird Regulations,” and “2016 Oregon Big Game Regulations,” are incorporated by reference into these rules. These documents are available at hunting license agents and regional, district, and headquarters offices of the Oregon Department of Fish and Wildlife.

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

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

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

Hist.: FWC 118, f. & ef. 6-3-77; FWC 25-1978, f. & ef. 5-26-78; FWC 32-1978, f. & ef. 6-30-78; FWC 29-1979, f. & ef. 8-2-79; FWC 33-1980, f. & ef. 6-30-80; FWC 7-1981, f. 2-18-81, ef. 6-1-81; FWC 10-1981, f. & ef. 3-31-81; FWC 22-1981, f. & ef. 6-29-81; FWC 21-1982, f. & ef. 3-31-82; FWC 38-1982, f. & ef. 6-25-82; FWC 34-1984, f. & ef. 7-24-84; FWC 16-1985, f. & ef. 4-11-85; FWC 43-1985, f. & ef. 8-22-85; FWC 35-1986, f. & ef. 8-7-86; FWC 11-1987, f. & ef. 3-6-87; FWC 40-1987, f. & ef. 7-6-87; FWC 12-1988, f. & cert. ef. 3-10-88; FWC 37-1988, f. & cert. ef. 6-13-88; FWC 14-1989, f. & cert. ef. 3-28-89; FWC 48-1989, f. & cert. ef. 7-25-89; FWC 23-1990, f. & cert. ef. 3-21-90; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 61-1998, f. & cert. ef. 8-10-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 56-1999, f. & cert. ef. 8-13-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 51-2000, f. & cert. ef. 8-22-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 73-2001, f. & cert. ef. 8-15-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 3-2002(Temp), f. & cert. ef. 1-3-02 thru 1-23-02; DFW 28-2002(Temp), f. 4-1-02, cert. ef. 4-2-02 thru 9-28-02; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 88-2002, f. & cert. ef. 8-14-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 76-2003, f. & cert. ef. 8-13-03; DFW 118-2003, f. 12-4-03, cert. ef. 1-1-04; DFW 84-2004, f. & cert. ef. 8-18-04; DFW 122-2004, f. 12-21-04, cert. ef. 1-1-05; DFW 91-2005, f. & cert. ef. 8-19-05; DFW 128-2005, f. 12-1-05, cert. ef. 1-1-06; DFW 81-2006, f. & cert. ef. 8-11-06; DFW 127-2006, f. 12-7-06, cert. ef. 1-1-07; DFW 68-2007, f. & cert. ef. 8-14-07; DFW 118-2007, f. 10-31-07, cert. ef. 1-1-08; DFW 60-2008, f. & cert. ef. 6-12-08; DFW 90-2008, f. & cert. ef. 8-13-08; DFW 150-2008, f. 12-18-08, cert. ef. 1-1-09; DFW 93-2009, f. & cert. ef. 8-12-09; DFW 140-2009, f. 11-3-09, cert. ef. 1-1-10; DFW 117-2010, f. & cert. ef. 8-13-10; DFW 140-2010(Temp), f. & cert. ef. 10-6-10 thru 12-31-10; Administrative correction 1-25-11; DFW 108-2011, f. & cert. ef. 8-5-11; DFW 103-2012, f. & cert. ef. 8-6-12; DFW 85-2013, f. & cert. ef. 8-5-13; DFW 112-2014, f. & cert. ef. 8-4-14; DFW 151-2014, f. & cert. ef. 10-17-14; DFW 105-2015, f. & cert. ef. 8-12-15; DFW 158-2015, f. & cert. ef. 11-25-15; DFW 41-2016, f. & cert. ef. 4-27-16

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Rule Caption: The Dalles Pool White Sturgeon Recreational Fishery Closes.

Adm. Order No.: DFW 42-2016(Temp)

Filed with Sec. of State: 4-27-2016

Certified to be Effective: 4-30-16 thru 7-31-16

Notice Publication Date:

Rules Amended: 635-023-0095

Rules Suspended: 635-023-0095(T)

Subject: This amended rule closes the recreational white sturgeon fishery in The Dalles Pool (an area from The Dalles Dam upstream to McNary Dam) beginning 12:01 a.m. Saturday, April 30, 2016. Catch in The Dalles Pool is at 96% of the 100 fish annual guideline. Revisions are consistent with action taken April 27, 2016 by the Departments of Fish and Wildlife for the States of Oregon and Washington at a meeting of the Columbia River Compact.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-023-0095

Sturgeon Season

(1) The 2016 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 2016 Oregon Sport Fishing Regulations.

(2)(a) Retention of white sturgeon in the Columbia River from Bonneville Dam upstream to The Dalles Dam (Bonneville Pool), including adjacent tributaries, is allowed on Saturday, June 18 and Friday, July 1, 2016.

(b) Retention of white sturgeon in the area described in 2(a) above is prohibited from 12:01 a.m. Monday, February 8 through Friday, June 17, 2016; from Sunday, June 19 through Thursday, June 30; and from Saturday, July 2 until further notice.

(c) Catch-and-release angling is allowed during periods closed to sturgeon retention.

(d) All other limits, restrictions and regulations for the Bonneville Pool as described in the 2016 Oregon Sport Fishing Regulations remain in effect.

(3)(a) Retention of white sturgeon in the Columbia River from The Dalles Dam (The Dalles Pool), including adjacent tributaries, is prohibited from 12:01 a.m. Saturday, April 30 until further notice.

(b) Catch-and-release angling is allowed during periods closed to sturgeon retention.

(c) All other limits, restrictions and regulations for The Dalles Pool as described in the 2016 Oregon Sport Fishing Regulations remain in effect.

Stat. Auth.: ORS 183.325, 506.109 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

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 136-2005, f. & cert. ef. 6-3-05, cert. ef. 6-11-05 thru 11-30-05; DFW 60-2005(Temp), f. 6-21-05, cert. ef. 6-24-05 thru 12-21-05; DFW 65-2005(Temp), f. 6-30-05, cert. ef. 7-10-05 thru 12-31-05; DFW 76-2005(Temp), f. 7-14-05, cert. ef. 7-18-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 145-2005(Temp), f. 12-21-05, cert. ef. 1-1-06 thru 3-31-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 19-2006(Temp), f. 4-6-06, cert. ef. 4-8-06 thru 7-31-06; DFW 54-2006(Temp), f. 6-29-06, cert. ef. 7-1-06 thru 12-27-06; DFW 62-2006(Temp), f. 7-13-06, cert. ef. 7-24-06 thru 12-31-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 131-2006(Temp), f. 12-20-06, cert. ef. 1-1-07 thru 6-29-07; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 20-2007(Temp), f. 3-26-07, cert. ef. 3-28-07 thru 7-30-07; DFW 38-2007(Temp), f. & cert. ef. 5-31-07 thru 11-26-07; DFW 59-2007(Temp), f. 7-18-07, cert. ef. 7-29-07 thru 12-31-07; DFW 75-2007(Temp), f. 8-17-07, cert. ef. 8-18-07 thru 12-31-07; DFW 102-2007(Temp), f. 9-28-07, cert. ef. 10-1-07 thru 12-31-07; DFW 135-2007(Temp), f. 12-28-07, cert. ef. 1-1-08 thru 6-28-08; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 8-2008, f. & cert. ef. 2-11-08; DFW 23-2008(Temp), f. 3-12-08, cert. ef. 3-15-08 thru 9-10-08; DFW 28-2008(Temp), f. 3-24-08, cert. ef. 3-26-08 thru 9-10-08; DFW 72-2008(Temp), f. 6-30-08, cert. ef. 7-10-08 thru 12-31-08; DFW 78-2008(Temp), f. 7-9-08, cert. ef. 7-12-08 thru 12-31-08; DFW 86-2008(Temp), f. & cert. ef. 7-25-08 thru 12-31-08; DFW 148-2008(Temp), f. 12-19-08, cert. ef. 1-1-09 thru 6-29-09; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 18-2009, f. & cert. ef. 2-26-09; DFW 33-2009(Temp), f. 4-2-09, cert. ef. 4-13-09 thru 10-9-09; DFW 63-2009(Temp), f. 6-3-09, cert. ef. 6-6-09 thru 10-9-09; DFW 83-2009(Temp), f. 7-8-09, cert. ef. 7-9-09 thru 12-31-09; DFW 86-2009(Temp), f. 7-22-09, cert. ef. 7-24-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 13-2010(Temp), f. 2-16-10, cert. ef. 2-21-10 thru 7-31-10; DFW 19-2010(Temp), f. 2-26-10, cert. ef. 3-1-10 thru 8-27-10; DFW 34-2010, f. 3-16-10, cert. ef. 4-1-10; DFW 49-2010(Temp), f. 4-27-10, cert. ef. 4-29-10 thru 7-31-10; DFW 50-2010(Temp), f. 4-29-10, cert. ef. 5-6-10 thru 11-1-10; DFW 88-2010(Temp), f. 6-25-10, cert. ef. 6-26-10 thru 7-31-10; DFW 91-2010(Temp), f. 6-29-10, cert. ef. 8-1-10 thru 12-31-10; DFW 99-2010(Temp), f. 7-13-10, cert. ef. 7-15-10 thru 12-31-10; DFW 165-2010(Temp), f. 12-28-10, cert. ef. 1-1-11 thru 6-29-11; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 11-2011(Temp), f. 2-10-11, cert. ef. 2-11-11 thru 7-31-11; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 26-2011(Temp), f. 4-5-11, cert. ef. 4-10-11 thru 9-30-11; DFW 74-2011(Temp), f. 6-24-11, cert. ef. 6-27-11 thru 7-31-11; DFW 87-2011(Temp), f. 7-8-11, cert. ef. 7-9-11 thru 7-31-11; DFW 96-2011(Temp), f. 7-20-11, cert. ef. 7-30-11 thru 12-31-11; DFW 129-2011(Temp), f. 9-15-11, cert. ef. 9-30-11 thru 12-31-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 1-2012(Temp), f. & cert. ef. 1-5-12 thru 7-2-12; DFW 10-2012, f. & cert. ef. 2-7-12; DFW 16-2012(Temp), f. 2-14-12, cert. ef. 2-18-12 thru 7-31-12; DFW 44-2012(Temp), f. 5-1-12, cert. ef. 5-20-12 thru 7-31-12; DFW 73-2012(Temp), f. 6-29-12, cert. ef. 7-1-12 thru 8-31-12; DFW 97-2012(Temp), f. 7-30-12, cert. ef. 8-1-12 thru 12-31-12; DFW 129-2012(Temp), f. 10-3-12, cert. ef. 10-20-12 thru 12-31-12; DFW 140-2012(Temp), f. 10-31-12, cert. ef. 11-4-12 thru 12-31-12; DFW 152-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 154-2012(Temp), f. 12-28-12, cert. ef. 1-1-13 thru 2-28-13; DFW 12-2013(Temp), f. 2-12-13, cert. ef. 2-28-13 thru 7-31-13; DFW 23-2013(Temp), f. 3-20-13, cert. ef. 4-1-13 thru 9-27-13; DFW 47-2013(Temp), f. 5-30-13, cert. ef. 6-14-13 thru 9-30-13; DFW 59-2013(Temp), f. 6-19-13, cert. ef. 6-21-13 thru 10-31-13; DFW 64-2013(Temp), f. 6-27-13, cert. ef. 6-29-13 thru 10-31-13; DFW 104-2013(Temp), f. 9-13-13, cert. ef. 10-19-13 thru 12-31-13; DFW 126-2013(Temp), f. 10-31-13, cert. ef. 11-12-13 thru 12-31-13; DFW 135-2013(Temp), f. 12-12-13, cert. ef. 1-1-14 thru 1-31-14; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 5-2014(Temp), f. 1-30-14, cert. ef. 2-1-14 thru 7-30-14; DFW 14-2014(Temp), f. 2-20-14, cert. ef. 2-24-14 thru 7-31-14; DFW 27-2014(Temp), f. 3-28-14, cert. ef. 5-1-14 thru 7-31-14; DFW 56-2014(Temp), f. 6-9-14, cert. ef. 6-13-14 thru 7-31-14; DFW 87-2014(Temp), f. 7-2-14, cert. ef. 7-11-14 thru 12-31-14; DFW 94-2014(Temp), f. & cert. ef. 7-14-14 thru 12-31-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 166-2014(Temp), f. 12-18-14, cert. ef. 1-1-15 thru 3-1-15; Administrative correction, 3-23-15; DFW 41-2015(Temp), f. & cert. ef. 5-12-15 thru 7-31-15; DFW 54-2015(Temp), f. 5-28-15, cert. ef. 6-3-15 thru 7-31-15; DFW 89-2015(Temp), f. 7-16-15, cert. ef. 7-18-15 thru 9-30-15; Temporary suspended by DFW 122-2015(Temp), f. 8-31-15, cert. ef. 9-1-15 thru 9-30-15; Administrative correction, 10-22-15; DFW 167-2015, f. 12-29-15, cert. ef. 1-1-16; DFW 7-2016(Temp), f. 1-28-16, cert. ef. 2-8-16 thru 8-05-16; DFW 36-2016(Temp), f. 4-26-16, cert. ef. 5-1-16 thru 7-31-16; DFW 42-2016(Temp), f. 4-27-16, cert. ef. 4-30-16 thru 7-31-16

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Rule Caption: Rules for Two-Rod Usage in the Northwest Angling Zone.

Adm. Order No.: DFW 43-2016(Temp)

Filed with Sec. of State: 4-27-2016

Certified to be Effective: 5-1-16 thru 9-30-16

Notice Publication Date:

Rules Amended: 635-014-0090

Rules Suspended: 635-014-0090(T)

Subject: This amended rule clarifies new regulations for usage of a Two-Rod Validation in the Northwest angling zone. Modifications allow the use of two fishing rods while fishing for either hatchery spring Chinook and hatchery steelhead in the Tillamook Bay Basin, Nestucca Bay, and tributaries. Only a single rod can be used when angling for any other game and non-game fish species.

Rules Coordinator: Michelle Tate—(503) 947-6044

ADMINISTRATIVE RULES

635-014-0090

Inclusions and Modifications

(1) The **2016 Oregon Sport Fishing Regulations** provide requirements for the Northwest Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the **2016 Oregon Sport Fishing Regulations** pamphlet.

(2) Beginning May 1 through July 31, 2016, the following rules apply:

(a) In all waters of the, Tillamook Bay Basin (which include: Tillamook Bay, Kilchis, Miami, Tillamook, Trask, and Wilson River(s)) when open to angling for hatchery spring Chinook and hatchery steelhead, anglers with a valid 2016 Two-Rod Angling Validation may use up to two fishing rods when fishing for hatchery spring Chinook salmon and hatchery steelhead.

(b) In all waters of the Nestucca River Basin and Bay and Little Nestucca River, when open to angling for hatchery spring Chinook and hatchery steelhead, anglers with a valid 2016 Two-Rod Angling Validation may use up to two fishing rods when fishing for hatchery spring Chinook salmon and hatchery steelhead.

(c) Youth anglers under 12 years of age may use two rods in these areas without purchasing the Two-Rod Angling Validation.

(d) Only a single rod may be used when angling for any other game or non game species.

(e) All other rules and licensing requirements specified in the **2016 Oregon Sport Fishing Regulations** remain in effect.

(3) Alsea River and Bay is open for retention of hatchery steelhead January 1 to April 30 and November 1 to December 31, 2016.

(4) Gnat Creek from Aldrich Point Road Bridge to Falls is open for hatchery steelhead from January 1 to August 31 and October 1 to December 31, 2016.

(5) Nehalem River: Open for retention of hatchery steelhead upstream of the Highway 26 bridge at Elsie from January 1 to March 31, May 22 to August 31, and November 1 to December 31, 2016.

(6) North Fork Nehalem River is open for retention of one (1) wild Chinook per day from May 22 to September 15, 2016 from the mouth upstream to Highway 53 bridge. The North Coast Wild Chinook Aggregate limit applies.

(7) Wilson River from Highway 101 Bridge upstream to South Fork is open for retention of hatchery spring Chinook salmon from April 1 to July 31, 2016.

(8) Yaquina River and Bay is open for retention of hatchery steelhead from January 1 to March 31 and December 1 to December 31, 2016, from the visible ends of the jetty tips upstream to first bridge on Eddyville-Nashville Road. It is also open for retention of Chinook salmon from April 1 to December 31, 2016 from the visible ends of the jetty tips upstream to Simpson Creek.

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

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

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 21-1994(Temp), f. 4-22-94, cert. ef. 4-25-94; FWC 31-1994, f. 5-26-94, cert. ef. 6-20-94; FWC 65-1994(Temp), f. 9-15-94, cert. ef. 9-17-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 28-1995(Temp), f. 3-31-95, cert. ef. 5-1-95; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 39-1995, f. 5-10-95, cert. ef. 5-12-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 19-1996, f. & cert. ef. 5-16-96; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 29-1996, f. & cert. ef. 5-31-96; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 55-1996(Temp), f. 9-25-96, cert. ef. 10-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 73-1996(Temp), f. 12-31-96, cert. ef. 1-1-97; FWC 5-1997, f. & cert. ef. 2-4-97; FWC 30-1997, f. & cert. ef. 5-5-97; FWC 58-1997, f. 9-8-97, cert. ef. 10-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 12-1998(Temp), f. & cert. ef. 2-24-98 thru 4-24-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 69-1998, f. 8-28-98, cert. ef. 9-1-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 36-1999, f. & cert. ef. 5-20-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 24-2000, f. 4-28-00, cert. ef. 5-1-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 72-2001(Temp), f. 8-10-01, cert. ef. 8-16-01 thru 12-31-01; DFW 81-2001, f. & cert. ef. 8-29-01; DFW 85-2001(Temp), f. & cert. ef. 8-30-01 thru 12-31-01; DFW 90-2001(Temp), f. 9-14-01, cert. ef. 9-15-01 thru 12-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 5-2002(Temp), f. 1-11-02 cert. ef. 1-12-02 thru 7-11-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 91-2002(Temp), f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 118-2002(Temp), f. 10-22-02, cert. ef. 12-1-02 thru 3-31-03; DFW 120-2002(Temp), f. 10-24-02, cert. ef. 10-26-02 thru 3-31-03; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 18-2003(Temp), f. 2-28-03, cert. ef. 3-1-03 thru 4-30-03; DFW 38-2003(Temp), f. 5-7-03, cert. ef. 5-10-03 thru 10-31-03; DFW 51-2003(Temp), f. & cert. ef. 6-13-03 thru 10-31-03; DFW 90-2003(Temp), f. 9-12-03 cert. ef. 9-13-03 thru 12-31-03; DFW 108-2003(Temp), f. 10-28-03, cert. ef. 12-1-03 thru 3-31-04; DFW 123-2003(Temp), f. 12-10-03, cert. ef. 12-11-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 126-2003(Temp), f. 12-11-03, cert. ef. 1-1-04 thru 3-31-04; DFW 60-2004(Temp), f. 6-29-04, cert. ef. 7-1-04 thru 7-15-04; DFW 90-2004(Temp), f. 8-30-04, cert. ef. 10-1-04 thru 12-31-04; DFW 103-2004(Temp), f. & cert. ef. 10-4-04 thru 12-31-04; DFW 108-2004(Temp), f. & cert. ef. 10-18-04 thru 12-31-04; DFW 111-2004(Temp), f. 11-16-04, cert. ef. 11-20-04 thru 12-31-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 62-2005(Temp), f. 6-29-05, cert. ef. 7-1-05 thru 7-10-05; Administrative correction 7-20-05; DFW 105-2005(Temp), f. 9-12-05, cert. ef. 10-1-05 thru 12-15-05; DFW 127-2005(Temp),

f. & cert. ef. 11-23-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 53-2006(Temp), f. 6-29-06, cert. ef. 7-1-06 thru 7-9-06; Administrative correction 7-20-06; DFW 64-2006(Temp), f. 7-17-06, cert. ef. 8-1-06 thru 12-31-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 104-2006(Temp), f. 9-19-06, cert. ef. 10-1-06 thru 12-31-06; DFW 24-2007, f. 4-16-07, cert. ef. 5-1-07; DFW 63-2007(Temp), f. 8-6-07, cert. ef. 8-11-07 thru 12-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 25-2008(Temp), f. 3-13-08, cert. ef. 3-15-08 thru 9-10-08; DFW 67-2008(Temp), f. 6-20-08, cert. ef. 8-1-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 43-2009(Temp), f. 5-5-09, cert. ef. 5-22-09 thru 10-31-09; DFW 67-2009(Temp), f. 6-9-09, cert. ef. 6-15-09 thru 10-31-09; DFW 87-2009(Temp), f. 7-31-09, cert. ef. 8-1-09 thru 12-31-09; DFW 99-2009(Temp), f. 8-26-09, cert. ef. 9-1-09 thru 12-31-09; DFW 115-2009(Temp), f. & cert. ef. 9-22-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 44-2010(Temp), f. 4-20-10, cert. ef. 4-21-10 thru 9-30-10; DFW 73-2010(Temp), f. 5-27-10, cert. ef. 6-1-10 thru 9-30-10; DFW 76-2010, f. 6-8-10, cert. ef. 8-1-10; DFW 89-2010(Temp), f. 6-28-10, cert. ef. 7-1-10 thru 9-30-10; Administrative correction 10-26-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 57-2011(Temp), f. 5-27-11, cert. ef. 6-1-11 thru 6-30-11; DFW 83-2011, f. 6-30-11, cert. ef. 7-1-11; DFW 139-2011(Temp), f. 10-3-11, cert. ef. 10-6-11 thru 12-31-11; DFW 141-2011(Temp), f. 10-6-11, cert. ef. 10-10-11 thru 12-31-11; DFW 143-2011(Temp), f. 10-10-11, cert. ef. 10-11-11 thru 12-31-11; DFW 148-2011(Temp), f. 10-20-11, cert. ef. 10-21-11 thru 12-31-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 53-2012(Temp), f. 5-29-12, cert. ef. 6-1-12 thru 10-31-12; DFW 62-2012, f. 6-12-12, cert. ef. 9-22-09 thru 12-31-09; DFW 2012(Temp), f. & cert. ef. 6-12-12 thru 10-31-12; DFW 71-2012(Temp), f. 6-27-12, cert. ef. 7-1-12 thru 11-30-12; DFW 130-2012(Temp), f. 10-10-12, cert. ef. 10-13-12 thru 12-31-12; DFW 135-2012(Temp), f. 10-22-12, cert. ef. 10-24-12 thru 12-31-12; DFW 139-2012(Temp), f. 10-30-12, cert. ef. 10-31-12 thru 12-31-12; DFW 152-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 23-2013(Temp), f. 3-20-13, cert. ef. 4-1-13 thru 9-27-13; DFW 43-2013(Temp), f. 5-29-13, cert. ef. 6-1-13 thru 10-31-13; DFW 50-2013, f. 6-10-13, cert. ef. 7-1-13; DFW 60-2013(Temp), f. 6-24-13, cert. ef. 6-30-13 thru 9-30-13; Administrative correction 11-1-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 74-2014(Temp), f. 6-23-14, cert. ef. 6-30-14 thru 9-30-14; DFW 110-2014, f. & cert. ef. 8-4-14; DFW 111-2014(Temp), f. & cert. ef. 8-4-14 thru 9-30-14; DFW 133-2014(Temp), f. 9-16-14 & cert. ef. 9-17-14 thru 12-31-14; DFW 148-2014(Temp), f. 10-13-14, cert. ef. 10-15-14 thru 12-31-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 23-2015(Temp), f. & cert. ef. 4-1-15 thru 7-31-15; DFW 73-2015, f. 6-22-15, cert. ef. 6-23-15; DFW 75-2015(Temp), f. 6-23-15, cert. ef. 6-24-15 thru 7-31-15; DFW 88-2015(Temp), f. 7-16-15, cert. ef. 7-18-15 thru 12-31-15; DFW 94-2015(Temp), f. 7-27-15, cert. ef. 8-1-15 thru 12-31-15; DFW 118-2015(Temp), f. 8-28-15, cert. ef. 9-1-15 thru 12-31-15; DFW 120-2015(Temp), f. 8-31-15, cert. ef. 9-1-15 thru 12-31-15; DFW 142-2015(Temp), f. & cert. ef. 10-16-15 thru 12-31-15; DFW 167-2015, f. 12-29-15, cert. ef. 1-1-16; DFW 24-2016(Temp), f. 3-30-16, cert. ef. 4-1-16 thru 9-27-16; DFW 43-2016(Temp), f. 4-27-16, cert. ef. 5-1-16 thru 9-30-16

Rule Caption: Columbia River Sport Salmon and Steelhead Season Above Bonneville Dam Extended.

Adm. Order No.: DFW 44-2016(Temp)

Filed with Sec. of State: 5-5-2016

Certified to be Effective: 5-6-16 thru 6-15-16

Notice Publication Date:

Rules Amended: 635-023-0125

Rules Suspended: 635-023-0125(T)

Subject: This amended rule extends the season for recreational Spring Chinook and steelhead in the mainstem Columbia River upstream of Bonneville Dam by two days, beginning at 11:59 pm Friday, May 6, 2016. All other regulations as published in the 2016 Oregon Sport Fishing Regulations pamphlet remain in effect. Modifications are consistent with action taken by the Departments of Fish and Wildlife for the States of Oregon and Washington on May 5, 2016.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-023-0125

Spring Sport Fishery

(1) The **2016 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 **2016 Oregon Sport Fishing Regulations**.

(2) The Columbia River recreational salmon and steelhead fishery downstream of Bonneville Dam is open from the mouth at Buoy 10 upstream to Beacon Rock (boat and bank) plus bank angling only from Beacon Rock upstream to the Bonneville Dam deadline from Tuesday, March 1 through Friday, April 8, 2016, except closed Tuesday, March 29, Tuesday and Tuesday, April 5, 2016 (38 retention days) with the following restrictions:

(a) No more than two adult adipose fin-clipped salmonids, of which only one may be a Chinook, may be retained per day. All non-adipose fin-clipped salmon and non-adipose fin-clipped steelhead must be released immediately unharmed.

(b) The upstream boat boundary at Beacon Rock is defined as: “a deadline marker on the Oregon bank (approximately four miles downstream from Bonneville Dam Powerhouse One) in a straight line through the western tip of Pierce Island to a deadline marker on the Washington bank at Beacon Rock.”

ADMINISTRATIVE RULES

(c) All other permanent **2016 Oregon Sport Fishing Regulations** apply.

(3) The Columbia River recreational salmon and steelhead fishery upstream of the Tower Island power lines (approximately 6 miles below The Dalles Dam) to the Oregon/Washington border, plus the Oregon and Washington banks between Bonneville Dam and the Tower Island power lines is open from Wednesday, March 16 through Sunday, May 8, 2016 (54 retention days) with the following restrictions:

(a) No more than two adult adipose fin-clipped salmonids, of which only one may be a Chinook, may be retained per day. All non-adipose fin-clipped salmon and non-adipose fin-clipped steelhead must be released immediately unharmed.

(b) All other permanent **2016 Oregon Sport Fishing Regulations** apply.

(4) Beginning Tuesday, March 1 through Wednesday, June 15, 2016 the following restrictions are in effect for Columbia River Select Area recreational salmon and steelhead fisheries:

(a) On days when the recreational fishery below Bonneville Dam is open to retention of Chinook, the salmonid daily bag limit in Select Areas will be the same as mainstem Columbia River bag limits; and

(b) On days when the mainstem Columbia River fishery is closed to Chinook retention, the permanent salmonid bag limit regulations for Select Areas apply.

(5) Beginning Wednesday, March 16 through Sunday, May 15, 2016, the mainstem Columbia River will be open for retention of adipose fin-clipped steelhead from Buoy 10 upstream to the Oregon/Washington border and open for shad from Buoy 10 upstream to Bonneville Dam only during days and in areas open for retention of adipose fin-clipped spring Chinook.

[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; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 13-2008(Temp), f. 2-21-08, cert. ef. 2-25-08 thru 8-22-08; DFW 17-2008(Temp), f. & cert. ef. 2-27-08 thru 8-22-08; DFW 35-2008(Temp), f. 4-17-08, cert. ef. 4-21-08 thru 8-22-08; DFW 49-2008(Temp), f. & cert. ef. 5-13-08 thru 6-15-08; Administrative correction 7-22-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 10-2009(Temp), f. 2-13-09, cert. ef. 3-1-09 thru 6-15-09; DFW 18-2009, f. & cert. ef. 2-26-09; DFW 48-2009(Temp), f. 5-14-09, cert. ef. 5-15-09 thru 6-16-09; DFW 68-2009(Temp), f. 6-11-09, cert. ef. 6-12-09 thru 6-16-09; Administrative correction 7-21-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 19-2010(Temp), f. 2-26-10, cert. ef. 3-1-10 thru 8-27-10; DFW 23-2010(Temp), f. & cert. ef. 3-2-10 thru 8-27-10; DFW 45-2010(Temp), f. 4-21-10, cert. ef. 4-24-10 thru 7-31-10; DFW 49-2010(Temp), f. 4-27-10, cert. ef. 4-29-10 thru 7-31-10; DFW 55-2010(Temp), f. 5-7-10, cert. ef. 5-8-10 thru 7-31-10; Suspended by DFW 88-2010(Temp), f. 6-25-10, cert. ef. 6-26-10 thru 7-31-10; Administrative correction 8-18-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 13-2011(Temp), f. & cert. ef. 2-14-11 thru 6-15-11; DFW 28-2011(Temp), f. 4-7-11, cert. ef. 4-8-11 thru 6-15-11; DFW 30-2011(Temp), f. 4-15-11, cert. ef. 4-16-11 thru 6-15-11; DFW 33-2011(Temp), f. & cert. ef. 4-21-11 thru 6-15-11; DFW 39-2011(Temp), f. 5-5-11, cert. ef. 5-7-11 thru 6-15-11; DFW 48-2011(Temp), f. 5-13-11, cert. ef. 5-15-11 thru 6-15-11; DFW 55-2011(Temp), f. 5-25-11, cert. ef. 5-27-11 thru 6-15-11; DFW 59-2011(Temp), f. & cert. ef. 6-2-11 thru 6-15-11; Administrative correction 6-28-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 8-2012(Temp), f. 2-6-12, cert. ef. 2-15-12 thru 6-15-12; DFW 31-2012(Temp), f. 4-5-12, cert. ef. 4-6-12 thru 6-15-12; DFW 33-2012(Temp), f. 4-12-12, cert. ef. 4-14-12 thru 6-15-12; DFW 45-2012(Temp), f. 5-1-12, cert. ef. 5-2-12 thru 7-31-12; DFW 47-2012(Temp), f. 5-15-12, cert. ef. 5-16-12 thru 7-31-12; DFW 49-2012(Temp), f. 5-18-12, cert. ef. 5-19-12 thru 7-31-12; DFW 51-2012(Temp), f. 5-23-12, cert. ef. 5-26-12 thru 7-31-12; Suspended by DFW 85-2012(Temp), f. 7-6-12, cert. ef. 7-9-12 thru 8-31-12; DFW 149-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 12-2013(Temp), f. 2-12-13, cert. ef. 2-28-13 thru 7-31-13; DFW 26-2013(Temp), f. 4-4-13, cert. ef. 4-5-13 thru 7-1-13; DFW 38-2013(Temp), f. 5-22-13, cert. ef. 5-25-13 thru 7-1-13; DFW 49-2013(Temp), f. 6-7-13, cert. ef. 6-8-13 thru 6-30-13; Administrative correction, 7-18-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 12-2014(Temp), f. 2-13-14, cert. ef. 3-1-14 thru 6-15-14; DFW 29-2014(Temp), f. 4-3-14, cert. ef. 4-4-14 thru 6-15-14; DFW 31-2014(Temp), f. 4-17-14, cert. ef. 4-19-14 thru 7-31-14; DFW 40-2014(Temp), f. 5-7-14, cert. ef. 5-9-14 thru 6-30-14; DFW 44-2014(Temp), f. 5-14-14, cert. ef. 5-15-14 thru 6-15-14; DFW 52-2014(Temp), f. 5-28-14, cert. ef. 5-31-14 thru 6-30-14; Administrative correction, 7-24-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 12-2015(Temp), f. 2-3-15, cert. ef. 3-1-15 thru 6-15-15; DFW 16-2015(Temp), f. & cert. ef. 3-5-15 thru 6-15-15; DFW 26-2015(Temp), f. 4-8-15, cert. ef. 4-10-15 thru 6-15-15; DFW 35-2015(Temp), f. 4-30-15, cert. ef. 5-2-15 thru 6-15-15; DFW 40-2015(Temp), f. & cert. ef. 5-6-15 thru 6-15-15; DFW 52-2015(Temp), f. 5-27-15, cert. ef. 5-28-15 thru 6-15-15; DFW 59-2015(Temp), f. 6-2-15, cert. ef. 6-3-15 thru 6-15-15; DFW 167-2015, f. 12-29-15, cert. ef. 1-1-16; DFW 9-

2016(Temp), f. 2-1-16, cert. ef. 3-1-16 thru 6-15-16; DFW 29-2016(Temp), f. 4-7-16, cert. ef. 4-8-16 thru 6-15-16; DFW 44-2016(Temp), f. 5-5-16, cert. ef. 5-6-16 thru 6-15-16

Rule Caption: John Day River Spring Chinook Fishery In the Northeast Angling Zone.

Adm. Order No.: DFW 45-2016(Temp)

Filed with Sec. of State: 5-5-2016

Certified to be Effective: 5-10-16 thru 6-5-16

Notice Publication Date:

Rules Amended: 635-019-0090

Subject: This amended rule allows recreational anglers opportunities to harvest adipose fin-clipped and wild adult and jack Spring Chinook salmon in the upper mainstem John Day River, which are in excess of the Department's escapement goals, beginning May 10 through June 5, 2016.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-019-0090

Inclusions and Modifications

(1) The **2016 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 **2016 Oregon Sport Fishing Regulations**.

(2) The John Day River from the Hwy 207 bridge (located .5 miles downstream of Service Creek, OR) upstream to the mouth of Rattlesnake Creek (19.5 miles), near the south end of Picture Gorge, is open to angling for adult Chinook salmon from May 10 through June 5, 2016.

(a) The daily bag limit is two (2) adult Chinook and five (5) jacks; two daily limits in possession. It is illegal to continue fishing for jack Chinook once the adult daily bag limit is met.

(b) Statewide salmon gear restrictions apply.

(c) All other General, Statewide and Northeast Zone Regulations, as provided in the **2016 Oregon Sport Fishing Regulations**, remain in effect.

Stat. Auth.: ORS 496.138, 496.146, 506.119

Stats. Implemented: ORS 496.162, 506.129

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 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. 10-30-02 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; Administrative correction 10-16-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 56-2008(Temp), f. 5-30-08, cert. ef. 5-31-08 thru 6-30-08; DFW 76-2008(Temp), f. & cert. ef. 7-9-08 thru 9-1-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 128-2009(Temp), f. 10-12-09, cert. ef. 10-18-09 thru 4-15-10; DFW 131-2009(Temp), f. 10-14-09, cert. ef. 10-18-09 thru 4-15-10; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 54-2010(Temp), f. 5-6-10, cert. ef. 5-22-10 thru 9-1-10; DFW 95-2010(Temp), f. 7-1-10, cert. ef. 7-11-10 thru 9-1-10; DFW 102-2010(Temp), f. 7-20-10, cert. ef. 7-25-10 thru 9-1-10; Administrative correction 9-22-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 49-2011(Temp), f. 5-16-11, cert. ef. 5-28-11 thru 9-1-11; DFW 64-2011(Temp), f. 6-10-11, cert. ef. 6-13-11 thru 9-1-11; DFW 90-2011(Temp), f. & cert. ef. 7-11-11 thru 9-1-11; DFW 92-2011(Temp), f. 7-12-11, cert. ef. 7-16-11 thru 10-31-11; DFW 99-2011(Temp), f. 7-21-11, cert. ef. 7-23-11 thru 9-1-11; DFW 104-2011(Temp), f. 8-1-11, cert. ef. 8-7-11 thru 9-1-11; Administrative correction 9-23-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 48-2012(Temp), f. 5-18-12, cert. ef. 5-23-12 thru 9-1-12; DFW 50-2012(Temp), f. 5-22-12, cert. ef. 5-24-12 thru 9-1-12; DFW 61-2012(Temp), f. & cert. ef. 6-

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11-12 thru 8-31-12; DFW 69-2012(Temp), f. 6-20-12, cert. ef. 6-22-12 thru 9-1-12; DFW 70-2012(Temp), f. 6-26-12, cert. ef. 6-27-12 thru 9-1-12; DFW 72-2012(Temp), f. 6-29-12, cert. ef. 7-1-12 thru 8-31-12; DFW 86-2012(Temp), f. 7-10-12, cert. ef. 7-15-12 thru 9-1-12; Administrative correction 9-20-12; DFW 149-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 153-2012(Temp), f. 12-28-12, cert. ef. 1-1-13 thru 4-30-13; DFW 31-2013(Temp), f. 5-14-13, cert. ef. 5-16-13 thru 6-30-13; DFW 39-2013(Temp), f. 5-22-13, cert. ef. 5-24-13 thru 11-19-13; DFW 46-2013(Temp), f. 5-30-13, cert. ef. 6-1-13 thru 11-26-13; DFW 62-2013(Temp), f. 6-26-13, cert. ef. 7-5-13 thru 12-31-13; DFW 74-2013(Temp), f. 7-15-13, cert. ef. 7-19-13 thru 9-1-13; Administrative correction 11-1-13; DFW 121-2013(Temp), f. 10-24-13, cert. ef. 11-1-13 thru 12-31-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 42-2014(Temp), f. 5-12-14, cert. ef. 5-17-14 thru 6-1-14; DFW 47-2014(Temp), f. 5-27-14, cert. ef. 5-31-14 thru 7-31-14; DFW 53-2014(Temp), f. 5-28-14, cert. ef. 6-1-14 thru 7-31-14; DFW 58-2014(Temp), f. 6-9-14, cert. ef. 6-21-14 thru 8-31-14; DFW 71-2014(Temp), f. 6-16-14, cert. ef. 6-18-14 thru 9-1-14; DFW 72-2014(Temp), f. & cert. ef. 6-19-14 thru 9-1-14; DFW 75-2014(Temp), f. 6-23-14, cert. ef. 6-27-14 thru 9-1-14; DFW 82-2014(Temp), f. 7-1-14, cert. ef. 7-5-14 thru 9-1-14; DFW 86-2014(Temp), f. 7-2-14, cert. ef. 7-5-14 thru 9-1-14; DFW 97-2014(Temp), f. 7-18-14, cert. ef. 7-21-14 thru 9-30-14; Administrative correction, 10-24-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 45-2015(Temp), f. 5-15-15, cert. ef. 5-20-15 thru 6-30-15; DFW 53-2015(Temp), f. 5-27-15, cert. ef. 6-6-15 thru 8-31-15; DFW 64-2015(Temp), f. & cert. ef. 6-9-15 thru 8-31-15; DFW 81-2015(Temp), f. 7-1-15, cert. ef. 7-5-15 thru 8-31-15; DFW 88-2015(Temp), f. 7-16-15, cert. ef. 7-18-15 thru 12-31-15; DFW 99-2015(Temp), f. & cert. ef. 8-3-15 thru 12-31-15; DFW 121-2015(Temp), f. 8-31-15, cert. ef. 9-1-15 thru 12-31-15; DFW 167-2015, f. 12-29-15, cert. ef. 1-1-16; DFW 45-2016(Temp), f. 5-5-16, cert. ef. 5-10-16 thru 6-5-16

Rule Caption: Amendment to Correct Premium Hunt Text on Page 16 of the 2016 Big Game Regulations

Adm. Order No.: DFW 46-2016(Temp)

Filed with Sec. of State: 5-10-2016

Certified to be Effective: 5-10-16 thru 11-1-16

Notice Publication Date:

Rules Amended: 635-073-0000

Subject: On page 16 of the 2016 Big Game Regulations, Premium Hunts, the following text is inaccurate and is being removed: "Pronghorn antelope hunt is any where there is an authorized pronghorn season and tag in 2016."

Rules Coordinator: Michelle Tate—(503) 947-6044

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, Premium Hunts, and controlled deer and elk youth hunts; pursuant to ORS Chapter 496.

(2) Controlled hunt tag numbers for 2015 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, Premium Hunts, and controlled deer and elk youth hunts set out in the document entitled "2016 Oregon Big Game Regulations," into Oregon Administrative Rules. Therefore, persons must consult the "2016 Oregon Big Game Regulations," in addition to OAR chapter 635, to determine all applicable requirements for bow and muzzleloader hunting, Premium Hunts, 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 and website of the Oregon Department of Fish and Wildlife.

(4) Additional regulation information is available on the Oregon Department of Fish and Wildlife website at www.odfw.com.

(5) Notwithstanding the provisions of the 2016 Oregon Big Game Regulations: The following text on page 16 of the Regulations is inaccurate and is being removed: "Pronghorn antelope hunt is anywhere there is an authorized pronghorn season and tag in 2016." (635-073-0100 Controlled Premium Hunt Regulations.)

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

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

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

Hist.: FWC 44-1988, f. & cert. ef. 6-13-88; FWC 18-1994, f. 3-30-94, cert. ef. 5-1-94; FWC 17-1996, f. 4-10-96, cert. ef. 4-15-96; FWC 35-1996, f. & cert. ef. 6-7-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 21-2000(Temp), f. 4-12-00, cert. ef. 4-12-00 thru 6-30-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 47-2001, f. & cert. ef. 6-13-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 3-2003, f. 1-17-03, cert. ef. 1-20-03; DFW 50-2003, f. & cert. ef. 6-13-03; DFW 122-2003, f. 12-4-03, cert. ef. 2-2-04; DFW 130-2003(Temp), f. & cert. ef. 12-24-03 thru 3-1-04; DFW 53-2004, f. & cert. ef. 6-16-04; DFW 123-2004, f. 12-21-04, cert. ef. 2-1-05; DFW 53-2005, f. & cert. ef. 6-14-05; DFW 130-2005, f. 12-1-05, cert. ef. 2-1-06; DFW 22-2006(Temp), f. & cert. ef. 4-7-06 thru 10-4-06; DFW 41-2006, f. & cert. ef. 6-14-06; DFW 124-2006, f. 12-7-06, cert. ef. 2-1-07; DFW 42-2007, f. & cert. ef. 6-14-07; DFW 117-2007, f. 10-31-07, cert. ef. 2-1-08; DFW 60-2008, f. & cert. ef. 6-12-08; DFW 8-2009, f. & cert. ef. 2-3-09; DFW 66-2009, f. & cert. ef. 6-10-09; DFW 4-2010, f. 1-12-10, cert. ef. 2-1-10; DFW 83-2010, f. & cert. ef. 6-15-10; DFW 7-2011,

f. 1-31-11, cert. ef. 2-1-11; DFW 62-2011, f. & cert. ef. 6-3-11; DFW 3-2012, f. 1-13-12, cert. ef. 2-1-12; DFW 58-2012, f. & cert. ef. 6-11-12; DFW 4-2013, f. 1-15-13, cert. ef. 2-1-13; DFW 53-2013, f. & cert. ef. 6-10-13; DFW 3-2014, f. & cert. ef. 1-22-14; DFW 63-2014, f. & cert. ef. 6-10-14; DFW 89-2014(Temp), f. & cert. ef. 7-7-14 thru 11-1-14; Administrative correction 11-24-14; DFW 15-2015, f. & cert. ef. 2-26-15; DFW 69-2015, f. & cert. ef. 6-11-15; DFW 18-2016, f. & cert. ef. 3-21-16; DFW 46-2016(Temp), f. & cert. ef. 5-10-16 thru 11-1-16

Rule Caption: Columbia River Commercial Spring Chinook Drift Net Fishery Set for May 11, 2016.

Adm. Order No.: DFW 47-2016(Temp)

Filed with Sec. of State: 5-11-2016

Certified to be Effective: 5-11-16 thru 7-31-16

Notice Publication Date:

Rules Amended: 635-042-0022, 635-042-0145

Rules Suspended: 635-042-0022(T), 635-042-0145(T)

Subject: This amended rule authorizes a 14-hour non-Indian commercial spring Chinook drift net fishery in the mainstem Columbia River to commence on Wednesday, May 11 at 12:00 noon through 2:00 a.m. Thursday, May 12, 2016 (14 hours) from the mouth of the Columbia River upstream to Beacon Rock (Zones 1 thru 5). Modifications are consistent with action taken May 10, 2016 by the Oregon and Washington Departments of Fish and Wildlife at a meeting of the Columbia River Compact.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-042-0022

Spring Chinook Gillnet and Tangle Net Fisheries

(1) Adipose fin-clipped Chinook salmon and shad may be taken by drift tangle net for commercial purposes from the mouth of the Columbia River upstream to Beacon Rock (Zones 1–5) during the period: 12:00 noon Wednesday May 11, to 2:00 a.m. Thursday, May 12, 2016 (14 hours). An adipose fin clipped 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.

(2) 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. 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. Other permanent gear regulations remain in effect.

(b) Mesh size is determined by placing three consecutive meshes under hand tension and the measurement is taken from the inside of one knot to the inside of the opposite knot of the center mesh. Hand tension means sufficient linear tension to draw opposing knots of meshes into contact.

(3) 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.

(4) On tangle nets, an optional steelhead excluder panel of mesh may be hung between the corkline and the 4 1/4 inch maximum mesh size tangle net. The excluder panel web must be a minimum mesh size of 12 inches when stretched taut under hand tension. Monofilament mesh is allowed for the excluder panel. The excluder panel (including any associated hangings) must be a minimum of 5 linear feet in depth and not exceed 10 linear feet in depth, as measured from the corkline to the upper margin of the tangle net mesh as the net hangs naturally from a taut corkline. Weedlines or droppers (bobber-type) may be used in place of the steelhead excluder panel. A weedline-type excluder means the net is suspended below the corkline by lines of no less than five feet in length between the corkline and the upper margin of the tangle net. A dropper-type excluder means the entire net is suspended below the surface of the water by lines of no less than five feet in length extending from individual surface floats to a 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).

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(b) Tangle nets constructed with a steelhead excluder panel, weed-lines, or droppers, along with a red cork every 25 fathoms as required in section (5) above, must have two red corks at each end of the net.

(5) 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.

(6) There are no restrictions on the use of slackers or stringers to slacken the net vertically.

(7) 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.

(8) 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; pumps must continue to run until the net is fully retrieved and completely on board the vessel. Pumps shall continue to run whenever a fish is in the recovery box.

(b) Non-adipose fin-clipped salmon and all 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 the Department and Washington Department of Fish and Wildlife 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.

(9) At least one fisher on each boat engaged in the fishery must have attended a one-day workshop hosted by the Department or Washington Department of Fish and Wildlife to educate fishers on regulations and best methods for conduct of the fishery.

(10) Nothing in this section sets any precedent for any future spring Chinook fishery. The fact that an individual has attended a live capture training workshop does not entitle the individual to participate in any other fishery. If the Department authorizes a Live Capture fishery in the spring or at any other time, the Department may establish qualifications and requirements that are different from those already established. In particular, the Department may consider an individual's compliance with these rules in determining that individual's eligibility to participate in any future Live Capture fisheries.

(11) 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. In addition, cooperation with department personnel prior to a fishing period is expected.

(12) Closed waters, as described in OAR 635-042-0005 for Grays River, Elokomin-B, Abernathy Creek, Cowlitz River, Kalama-B, Lewis-B, Sandy and Washougal sanctuaries 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. 3-22-04, cert. ef. 3-23-04 thru 7-31-04; DFW 26-2004(Temp), f. & cert. ef. 3-25-04 thru 7-31-04; DFW 27-2004(Temp), f. & cert. ef. 3-29-04 thru 7-31-04; Administrative correction 8-19-04; DFW 6-2005, f. & cert. ef. 2-14-05;

DFW 9-2005(Temp), f. & cert. ef. 3-1-05 thru 7-31-05; DFW 11-2005(Temp), f. 3-2-05, cert. ef. 3-3-05 & 7-31-05; DFW 13-2005(Temp), f. & cert. ef. 3-7-05 thru 7-31-05; DFW 14-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; DFW 20-2005(Temp), f. & cert. ef. 3-29-05 thru 3-30-05; DFW 21-2005(Temp), f. & cert. ef. 3-31-05 thru 4-1-05; Administrative correction, 4-20-05; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 7-2006(Temp), f. & cert. ef. 2-23-06 thru 7-31-06; DFW 9-2006(Temp), f. 3-1-06, cert. ef. 3-2-06 thru 7-31-06; DFW 10-2006(Temp), f. 3-6-06, cert. ef. 3-7-06 thru 7-31-06; DFW 11-2006(Temp), f. & cert. ef. 3-9-06 thru 7-31-06; DFW 12-2006(Temp), f. 3-13-06, cert. ef. 3-14-06 thru 7-31-06; DFW 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; DFW 30-2006(Temp), f. & cert. ef. 5-18-06 thru 7-31-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; Administrative correction 8-22-06; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; 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; Administrative correction 9-18-07; DFW 31-2008(Temp), f. 3-31-08, cert. ef. 4-1-08 thru 9-27-08; DFW 33-2008(Temp), f. 4-7-08, cert. ef. 4-8-08 thru 9-27-08; DFW 34-2008(Temp), f. 4-14-08, cert. ef. 4-15-08 thru 9-27-08; Suspended by DFW 71-2008(Temp), f. 6-27-08, cert. ef. 6-28-08 thru 8-31-08; Administrative correction 10-21-08; DFW 142-2008, f. & cert. ef. 11-21-08; DFW 30-2009(Temp), f. 3-23-09, cert. ef. 3-27-09 thru 4-30-09; DFW 34-2009(Temp), f. 4-6-09, cert. ef. 4-7-09 thru 4-30-09; DFW 36-2009(Temp), f. 4-13-09, cert. ef. 4-14-09 thru 4-30-09; Administrative correction 5-20-09; DFW 38-2010(Temp), f. & cert. ef. 3-30-10 thru 4-30-10; DFW 41-2010(Temp), f. 4-6-10, cert. ef. 5-7-10 thru 4-30-10; Administrative correction 5-19-10; DFW 25-2011(Temp), f. & cert. ef. 3-29-11 thru 4-1-11; DFW 27-2011(Temp), f. 4-5-11, cert. ef. 4-6-11 thru 4-10-11; Administrative correction 4-25-11; DFW 45-2011(Temp), f. & cert. ef. 5-12-11 thru 6-30-11; DFW 51-2011(Temp), f. & cert. ef. 5-18-11 thru 6-30-11; Administrative correction 7-22-11; DFW 29-2012(Temp), f. 4-2-12, cert. ef. 4-3-12 thru 4-30-12; DFW 32-2012(Temp), f. 4-9-12, cert. ef. 4-10-12 thru 4-30-12; Administrative correction, 5-25-12; DFW 27-2013(Temp), f. 4-8-13, cert. ef. 4-9-13 thru 4-30-13; DFW 34-2013(Temp), f. 5-14-13, cert. ef. 5-15-13 thru 7-31-13; DFW 37-2013(Temp), f. & cert. ef. 5-22-13 thru 5-31-13; DFW 45-2013(Temp), f. & cert. ef. 5-29-13 thru 6-15-13; Administrative correction, 7-18-13; DFW 28-2014(Temp), f. 3-31-14, cert. ef. 4-1-14 thru 7-31-14; DFW 38-2014(Temp), f. & cert. ef. 5-7-14 thru 7-31-14; DFW 43-2014(Temp), f. 5-14-14, cert. ef. 5-20-14 thru 7-31-14; DFW 50-2014(Temp), f. & cert. ef. 5-28-14 thru 7-31-14; DFW 55-2014(Temp), f. 6-3-14, cert. ef. 6-4-14 thru 7-31-14; Administrative correction, 8-28-14; DFW 22-2015(Temp), f. 3-30-15, cert. ef. 3-31-15 thru 4-1-15; DFW 24-2015(Temp), f. 4-6-15, cert. ef. 4-7-15 thru 4-8-15; Administrative correction, 4-21-15; DFW 36-2015(Temp), f. 5-1-15, cert. ef. 5-4-15 thru 5-5-15; DFW 39-2015(Temp), f. & cert. ef. 5-6-15 thru 5-7-15; DFW 43-2015(Temp), f. & cert. ef. 5-12-15 thru 5-13-15; Administrative correction, 5-21-15; DFW 51-2015(Temp), f. & cert. ef. 5-27-15 thru 5-28-15; DFW 57-2015(Temp), f. & cert. ef. 6-2-15 thru 6-3-15; DFW 62-2015(Temp), f. 6-9-15, cert. ef. 6-10-15 thru 6-11-15; Administrative correction, 6-23-15; DFW 23-2016(Temp), f. & cert. ef. 3-28-16 thru 7-31-16; DFW 25-2016(Temp), f. 4-4-16, cert. ef. 4-5-16 thru 7-31-16; DFW 47-2016(Temp), f. & cert. ef. 5-11-16 thru 7-31-16

635-042-0145

Youngs Bay Salmon Season

(1) Salmon and shad may be taken for commercial purposes during open 2016 fishing periods in waters of Youngs Bay as described below. Retention and sale of white sturgeon is prohibited.

(a) The 2016 open fishing periods are established in three segments categorized as the winter fishery, subsection (1)(a)(A); the spring fishery, subsection (1)(a)(B); and summer fishery, subsection (1)(a)(C), as follows:

(A) Winter Season: Open Mondays, Wednesdays, and Thursdays from February 8 through March 28. Beginning March 14 through March 28 the following open periods apply:

Monday, March 14, 12:00 noon-4:00 p.m. (4 hours);

Wednesday, March 16, 2:00 p.m.-6:00 p.m. (4 hours);

Thursday, March 17, 3:00 p.m.-7:00 p.m. (4 hours);

Monday, March 21, 7:00 p.m.-11:00 p.m. (4 hours);

Wednesday, March 23, 8:00 p.m.-midnight (4 hours);

Thursday, March 24, 8:00 p.m.-midnight (4 hours); and

Monday, March 28, 10:00 a.m.-2:00 p.m. (4 hours).

Beginning April 6 through April 10 the following open periods apply:

Wednesday, April 6, 6:30 p.m.-10:30 p.m. (4 hours);

Sunday, April 10, 9:30 a.m.-1:30 p.m. (4 hours);

(B) Spring Season: Open during the following periods:

Thursday, April 28, 11:00 a.m.-3:00 p.m. (4 hours);

Monday, May 2, 3:00 p.m.-9:00 p.m. (6 hours);

Wednesday, May 4, 9:00 a.m.-9:00 p.m. (12 hours);

Thursday, May 5, 4:00 p.m.-10:00 a.m. Friday, May 6 (18 hours);

Monday, May 9, Noon to Noon Friday, June 10 (4 days/week, 20 days total); and

Monday, June 13, Noon to Noon Wednesday, June 15 (2 days).

Retention and sales of non-adipose fin-clipped Chinook is prohibited from 12:00 noon Wednesday, May 11 through 12:00 noon Thursday, May 12, 2016.

(C) Summer Season: Beginning June 16 the following open periods apply:

Thursday, June 16, Noon to Noon Friday, June 17 (1 day);

Monday, June 20, Noon to Noon Friday, June 24 (4 days);

Monday, June 27, Noon to Noon Friday, July 1 (4 days);

Monday, July 4, Noon to Noon Thursday, July 7 (3 days); and

Tuesdays, July 12, Noon to Noon Thursdays, July 28 (2 days/week, 6 days total)

(b) The fishing areas for the winter fisheries, 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 including the lower Walluski River upstream to the Highway 202 Bridge are open, with the exception of March 28 through April 17 when the open area boundaries are from the first powerlines downstream of the Walluski River upstream to the confluence of the Youngs and Klaskanine rivers including the lower Walluski River upstream to the Highway 202 Bridge (Walluski Area).

ADMINISTRATIVE RULES

Those waters southerly of the alternate Highway 101 Bridge (Lewis and Clark River) are closed. For the spring and summer fisheries 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 and includes the lower Walluski River upstream to Highway 202 Bridge and the lower Lewis and Clark River upstream to the overhead power lines immediately upstream of Barrett Slough.

(2) Gill nets may not exceed 1,500 feet (250 fathoms) in length and weight may not exceed two pounds per any fathom except the use of additional weights and/or anchors attached directly to the leadline is allowed upstream of markers located approximately 200 yards upstream of the mouth of the Walluski River during all Youngs Bay commercial fisheries and upstream of the alternate Highway 101 Bridge in the Lewis and Clark River. 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. It is unlawful to use a gill net having a mesh size that is more than 9.75 inches during the spring and summer seasons.

(b) Nets not specifically authorized for use in these areas may be onboard a 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.

(3) Non-resident commercial fishing and boat licenses are not required for Washington fishers participating in Youngs Bay commercial fisheries. A valid fishing and boat license issued by the state of Washington is considered adequate for participation in this fishery. The open area for non-resident commercial fishers includes all areas open for commercial fishing.

Stat. Auth.: ORS 183.325, 506.109 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 32-1979, f. & ef. 8-22-79; FWC 28-1980, f. & ef. 6-23-80; FWC 42-1980(Temp), f. & ef. 8-22-80; FWC 30-1981, f. & ef. 8-14-81; FWC 42-1981(Temp), f. & ef. 11-5-81; FWC 54-1982, f. & ef. 8-17-82; FWC 37-1983, f. & ef. 8-18-83; FWC 61-1983(Temp), f. & ef. 10-19-83; FWC 42-1984, f. & ef. 8-20-84; FWC 39-1985, f. & ef. 8-15-85; FWC 37-1986, f. & ef. 8-11-86; FWC 72-1986(Temp), f. & ef. 10-31-86; FWC 64-1987, f. & ef. 8-7-87; FWC 73-1988, f. & ef. 8-19-88; FWC 55-1989(Temp), f. 8-7-89, cert. ef. 8-20-89; FWC 82-1990(Temp), f. 8-14-90, cert. ef. 8-19-90; FWC 86-1991, f. 8-7-91, cert. ef. 8-18-91; FWC 123-1991(Temp), f. & ef. 10-21-91; FWC 30-1992(Temp), f. & ef. 4-27-92; FWC 35-1992(Temp), f. 5-22-92, cert. ef. 5-25-92; FWC 74-1992(Temp), f. 8-10-92, cert. ef. 8-16-92; FWC 28-1993(Temp), f. & ef. 4-26-93; FWC 48-1993, f. 8-6-93, cert. ef. 8-9-93; FWC 21-1994(Temp), f. 4-22-94, cert. ef. 4-25-94; FWC 51-1994, f. 8-19-94, cert. ef. 8-22-94; FWC 64-1994(Temp), f. 9-14-94, cert. ef. 9-15-94; FWC 66-1994(Temp), f. & ef. 9-20-94; FWC 27-1995, f. 3-29-95, cert. ef. 4-1-95; FWC 48-1995(Temp), f. & ef. 6-5-95; FWC 66-1995, f. 8-22-95, cert. ef. 8-27-95; FWC 69-1995, f. 8-25-95, cert. ef. 8-27-95; FWC 8-1995, f. 2-28-96, cert. ef. 3-1-96; FWC 37-1996(Temp), f. 6-11-96, cert. ef. 6-12-96; FWC 41-1996, f. & ef. 8-12-96; FWC 45-1996(Temp), f. 8-16-96, cert. ef. 8-19-96; FWC 54-1996(Temp), f. & ef. 9-23-96; FWC 4-1997, f. & ef. 1-30-97; FWC 47-1997, f. & ef. 8-15-97; FWC 8-1998(Temp), f. & ef. 2-5-98 thru 2-28-98; FWC 14-1998, f. & ef. 3-3-98; FWC 18-1998(Temp), f. 3-9-98, cert. ef. 3-11-98 thru 3-31-98; FWC 60-1998(Temp), f. & ef. 8-7-98 thru 8-21-98; FWC 67-1998, f. & ef. 8-24-98; FWC 10-1999, f. & ef. 2-26-99; FWC 52-1999(Temp), f. & ef. 8-2-99 thru 8-6-99; FWC 55-1999, f. & ef. 8-12-99; FWC 9-2000, f. & ef. 2-25-00; FWC 42-2000, f. & ef. 8-3-00; FWC 3-2001, f. & ef. 2-6-01; FWC 66-2001(Temp), f. 8-2-01, cert. ef. 8-6-01 thru 8-14-01; FWC 76-2001(Temp), f. & ef. 8-20-01 thru 10-31-01; FWC 106-2001(Temp), f. & ef. 10-26-01 thru 12-31-01; FWC 15-2002(Temp), f. & ef. 2-20-02 thru 8-18-02; FWC 82-2002(Temp), f. 8-5-02, cert. ef. 8-7-02 thru 9-1-02; FWC 96-2002(Temp), f. & ef. 8-26-02 thru 12-31-02; FWC 12-2003, f. & ef. 2-14-03; FWC 17-2003(Temp), f. 2-27-03, cert. ef. 3-1-03 thru 8-1-03; FWC 32-2003(Temp), f. & ef. 4-23-03 thru 8-1-03; FWC 34-2003(Temp), f. & ef. 4-24-03 thru 10-1-03; FWC 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; FWC 37-2003(Temp), f. & ef. 5-7-03 thru 10-1-03; FWC 75-2003(Temp), f. & ef. 8-1-03 thru 12-31-03; FWC 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; FWC 11-2004, f. & ef. 2-13-04; FWC 19-2004(Temp), f. & ef. 3-12-04 thru 3-31-04; FWC 22-2004(Temp), f. & ef. 3-18-04 thru 3-31-04; FWC 28-2004(Temp), f. 4-8-04, cert. ef. 4-12-04 thru 4-15-04; FWC 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; FWC 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; FWC 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; FWC 109-2004(Temp), f. & ef. 10-19-04 thru 12-31-04; FWC 6-2005, f. & ef. 2-14-05; FWC 15-2005(Temp), f. & ef. 3-10-05 thru 7-31-05; FWC 18-2005(Temp), f. & ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; FWC 27-2005(Temp), f. & ef. 4-20-05 thru 6-15-05; FWC 28-2005(Temp), f. & ef. 4-28-05 thru 6-16-05; FWC 37-2005(Temp), f. & ef. 5-5-05 thru 10-16-05; FWC 40-2005(Temp), f. & ef. 5-10-05 thru 10-16-05; FWC 46-2005(Temp), f. 5-17-05, cert. ef. 5-18-05 thru 10-16-05; FWC 73-2005(Temp), f. 7-8-05, cert. ef. 7-11-05 thru 7-31-05; FWC 77-2005(Temp), f. 7-14-05, cert. ef. 7-18-05 thru 7-31-05; FWC 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; FWC 109-2005(Temp), f. & ef. 9-19-05 thru 12-31-05; FWC 110-2005(Temp), f. & ef. 9-26-05 thru 12-31-05; FWC 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; FWC 120-2005(Temp), f. & ef. 10-11-05 thru 12-31-05; FWC 124-2005(Temp), f. & ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; FWC 5-2006, f. & ef. 2-15-06; FWC 14-2006(Temp), f. 3-15-06, cert. ef. 3-16-06 thru 7-27-06; FWC 15-2006(Temp), f. & ef. 3-23-06 thru 7-27-06; FWC 17-2006(Temp), f. 3-29-06, cert. ef. 3-30-06 thru 7-27-06; FWC 29-2006(Temp), f. & ef. 5-16-06 thru 7-31-06; FWC 32-2006(Temp), f. & ef. 5-23-06 thru 7-31-06; FWC 35-2006(Temp), f. & ef. 5-30-06 thru 7-31-06; FWC 52-2006(Temp), f. & ef. 6-28-06 thru 7-27-06; FWC 73-2006(Temp), f. 8-1-06, cert. ef. 8-2-06 thru 12-31-06; FWC 103-2006(Temp), f. 9-

15-06, cert. ef. 9-18-06 thru 12-31-06; FWC 119-2006(Temp), f. & ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; FWC 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; FWC 9-2007, f. & ef. 2-14-07; FWC 13-2007(Temp), f. & ef. 3-6-07 thru 9-1-07; FWC 16-2007(Temp), f. & ef. 3-14-07 thru 9-9-07; FWC 25-2007(Temp), f. 4-17-07, cert. ef. 4-18-07 thru 7-26-07; FWC 45-2007(Temp), f. 6-15-07, cert. ef. 6-25-07 thru 7-31-07; FWC 50-2007(Temp), f. 6-29-07, cert. ef. 7-4-07 thru 7-31-07; FWC 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; FWC 108-2007(Temp), f. 10-12-07, cert. ef. 10-14-07 thru 12-31-07; Administrative correction 1-24-08; FWC 6-2008(Temp), f. 1-29-08, cert. ef. 1-31-08 thru 7-28-08; FWC 16-2008(Temp), f. 2-26-08, cert. ef. 3-2-08 thru 8-28-08; FWC 30-2008(Temp), f. 3-27-08, cert. ef. 3-30-08 thru 8-28-08; FWC 48-2008(Temp), f. & ef. 5-12-08 thru 8-28-08; FWC 58-2008(Temp), f. & ef. 6-4-08 thru 8-31-08; FWC 85-2008(Temp), f. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; FWC 108-2008(Temp), f. 9-8-08, cert. ef. 9-9-08 thru 12-31-08; Administrative correction 1-23-09; FWC 12-2009(Temp), f. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; FWC 24-2009(Temp), f. 3-10-09, cert. ef. 3-11-09 thru 7-31-09; FWC 49-2009(Temp), f. 5-14-09, cert. ef. 5-17-09 thru 7-31-09; FWC 89-2009(Temp), f. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; FWC 107-2009(Temp), f. 9-2-09, cert. ef. 9-5-09 thru 10-31-09; Administrative correction 11-19-09; FWC 17-2010(Temp), f. & ef. 2-22-10 thru 7-31-10; FWC 20-2010(Temp), f. & ef. 2-26-10 thru 7-31-10; FWC 30-2010(Temp), f. 3-11-10, cert. ef. 3-14-10 thru 7-31-10; FWC 35-2010(Temp), f. 3-23-10, cert. ef. 3-24-10 thru 7-31-10; FWC 40-2010(Temp), f. & ef. 4-1-10 thru 7-31-10; FWC 46-2010(Temp), f. & ef. 4-21-10 thru 7-31-10; FWC 53-2010(Temp), f. & ef. 5-4-10 thru 7-31-10; FWC 57-2010(Temp), f. & ef. 5-11-10 thru 7-31-10; FWC 69-2010(Temp), f. & ef. 5-18-10 thru 7-31-10; FWC 113-2010(Temp), f. 8-2-10, cert. ef. 8-4-10 thru 10-31-10; FWC 129-2010(Temp), f. & ef. 9-10-10 thru 10-31-10; Administrative correction 11-23-10; FWC 12-2011(Temp), f. & ef. 2-10-11, cert. ef. 2-13-11 thru 7-29-11; FWC 23-2011, f. & ef. 3-21-11; FWC 32-2011(Temp), f. 4-20-11, cert. ef. 4-21-11 thru 7-29-11; FWC 35-2011(Temp), f. & ef. 4-28-11 thru 7-29-11; FWC 46-2011(Temp), f. & ef. 5-12-11 thru 7-29-11; FWC 52-2011(Temp), f. & ef. 5-18-11 thru 7-29-11; FWC 76-2011(Temp), f. 6-24-11, cert. ef. 6-27-11 thru 7-29-11; FWC 106-2011(Temp), f. 8-2-11, cert. ef. 8-3-11 thru 10-31-11; FWC 121-2011(Temp), f. 8-29-11, cert. ef. 9-5-11 thru 10-31-11; Administrative correction, 11-18-11; FWC 12-2012(Temp), f. 2-8-12, cert. ef. 2-12-12 thru 7-31-12; FWC 24-2012(Temp), f. 3-15-12, cert. ef. 3-18-12 thru 7-31-12; FWC 26-2012(Temp), f. 3-20-12, cert. ef. 3-21-12 thru 7-31-12; FWC 27-2012(Temp), f. 3-27-12, cert. ef. 3-29-12 thru 7-31-12; FWC 28-2012(Temp), f. 3-30-12, cert. ef. 4-1-12 thru 7-31-12; FWC 30-2012(Temp), f. 4-4-12, cert. ef. 4-5-12 thru 7-31-12; FWC 36-2012(Temp), f. 4-16-12, cert. ef. 4-19-12 thru 7-31-12; FWC 82-2012(Temp), f. 6-29-12, cert. ef. 7-2-12 thru 7-31-12; FWC 96-2012(Temp), f. 7-30-12, cert. ef. 8-1-12 thru 10-31-12; Administrative correction 11-23-12; FWC 11-2013(Temp), f. 2-8-13, cert. ef. 2-11-13 thru 7-31-13; FWC 22-2013(Temp), f. 3-12-13, cert. ef. 3-13-13 thru 7-31-13; FWC 34-2013(Temp), f. 5-14-13, cert. ef. 5-15-13 thru 7-31-13; FWC 36-2013(Temp), f. & ef. 5-22-13 thru 7-31-13; FWC 44-2013(Temp), f. & ef. 5-29-13 thru 7-31-13; FWC 82-2013(Temp), f. 7-29-13, cert. ef. 7-31-13 thru 10-31-13; FWC 87-2013(Temp), f. & ef. 8-9-13 thru 10-31-13; FWC 109-2013(Temp), f. 9-27-13, cert. ef. 9-30-13 thru 10-31-13; Administrative correction, 11-22-13; FWC 8-2014(Temp), f. & ef. 2-10-14 thru 7-31-14; FWC 18-2014(Temp), f. 3-7-14, cert. ef. 3-10-14 thru 7-30-14; FWC 25-2014(Temp), f. 3-13-14, cert. ef. 3-17-14 thru 7-31-14; FWC 32-2014(Temp), f. 4-21-14, cert. ef. 4-22-14 thru 7-31-14; FWC 35-2014(Temp), f. & ef. 4-24-14 thru 7-31-14; FWC 39-2014(Temp), f. 5-7-14, cert. ef. 5-8-14 thru 7-31-14; FWC 45-2014(Temp), f. 5-14-14, cert. ef. 5-20-14 thru 7-31-14; FWC 51-2014(Temp), f. & ef. 5-28-14 thru 7-31-14; FWC 55-2014(Temp), f. 6-3-14, cert. ef. 6-4-14 thru 7-31-14; FWC 104-2014(Temp), f. 8-4-14, cert. ef. 8-5-14 thru 10-31-14; Administrative correction 11-24-14; FWC 10-2015(Temp), f. 2-3-15, cert. ef. 2-9-15 thru 7-30-15; FWC 17-2015(Temp), f. 3-5-15, cert. ef. 3-9-15 thru 7-30-15; FWC 21-2015(Temp), f. & ef. 3-24-15 thru 7-30-15; FWC 29-2015(Temp), f. & ef. 4-21-15 thru 7-30-15; FWC 37-2015(Temp), f. 5-1-15, cert. ef. 5-4-15 thru 7-30-15; FWC 42-2015(Temp), f. & ef. 5-12-15 thru 7-31-15; FWC 50-2015(Temp), f. & ef. 5-27-15 thru 7-31-15; FWC 58-2015(Temp), f. & ef. 6-2-15 thru 7-31-15; FWC 63-2015(Temp), f. 6-9-15, cert. ef. 6-10-15 thru 7-31-15; FWC 98-2015(Temp), f. 7-30-15, cert. ef. 8-4-15 thru 10-31-15; FWC 110-2015(Temp), f. 8-18-15, cert. ef. 8-24-15 thru 10-31-15; FWC 117-2015(Temp), f. 8-28-15, cert. ef. 8-31-15 thru 10-31-15; Administrative correction, 11-20-15; FWC 8-2016(Temp), f. 2-1-16, cert. ef. 2-8-16 thru 7-31-16; FWC 20-2016(Temp), f. 3-25-16, cert. ef. 3-28-16 thru 7-31-16; FWC 26-2016(Temp), f. 4-5-16, cert. ef. 4-6-16 thru 7-31-16; FWC 31-2016(Temp), f. 4-11-16, cert. ef. 4-13-16 thru 7-31-16; FWC 32-2016(Temp), f. 4-20-16, cert. ef. 4-21-16 thru 7-31-16; FWC 47-2016(Temp), f. & ef. 5-11-16 thru 7-31-16

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Rule Caption: Tiger Trout Catch-and-release Only Fishery Opens on Diamond Lake.

Adm. Order No.: DFW 48-2016(Temp)

Filed with Sec. of State: 5-11-2016

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

Notice Publication Date:

Rules Amended: 635-016-0090

Rules Suspended: 635-016-0090(T)

Subject: This amended rule prohibits the retention of Tiger trout in Diamond Lake for a very specific fisheries management purpose. The confirmed presence of Tui chub in Diamond Lake in the fall of 2015 requires pro-active measures to reduce their population. By stocking piscivorous Tiger trout into the lake it is hoped that these fish will feed on the non-native and invasive Tui chub, as well as golden shiners, which are also non-native and unwanted in the lake. Fisheries managers believe the presence of Tiger trout in Diamond Lake will have little to no negative biological and/or conservation impact and is beneficial for both anglers and law enforcement personnel.

Rules Coordinator: Michelle Tate—(503) 947-6044

ADMINISTRATIVE RULES

635-016-0090

Inclusions and Modifications

(1) The **2016 Oregon Sport Fishing Regulations** provide requirements for the Southwest 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 **2016 Oregon Sport Fishing Regulations** pamphlet.

(2) Brush Creek identified in the **2016 Oregon Sport Fishing Regulations** exceptions is located in Curry County.

(3) Cow Creek above Middle Creek bridge and tributaries:

(a) Catch-and-release for trout May 22 to Sep 15, 2016;

(b) Artificial flies and lures only;

(c) No limit on size or number of bass;

(d) Closed to all angling May 1-21 and Sep 16 to Nov 30, 2016; Open for catch-and-release for trout from May 22 to September 15, 2016.

(4) Hubbard Creek and Tributaries identified in the **2016 Oregon Sport Fishing Regulations** exceptions is located in Curry County.

(5) Middle Creek identified in the **2016 Oregon Sport Fishing Regulations** exceptions is located in Coos County.

(6) North Fork Smith River identified in the **2016 Oregon Sport Fishing Regulations** exceptions is located in Douglas County.

(a) North Fork Smith River is open for hatchery steelhead from January 1 to April 30 and December 1-31, 2016, from Johnson Creek to Bridge 10.

(b) Open all year for hatchery steelhead, in tidewater.

(7) North Umpqua River from the mouth to the fly area boundary, the Anti Snagging Gear Restriction is in place stipulating that any attached weight may be no more than 36 inches above the lower most hook. This restriction is in effect from March 1 to July 31, 2016 from Lone Rock boat launch to markers (painted lines) upstream of Rock Creek.

(8) Smith River:

(a) The mainstem Smith River is open for hatchery steelhead from January 1 to April 30 and December 1-31, 2016, from Spencer Creek to Sisters Creek.

(b) Open all year for hatchery steelhead, in tidewater.

(9) South Umpqua River use of bait is allowed.

(10) South Umpqua River Tributaries:

(a) Catch-and-release for trout allowed May 22 to September 15, 2016;

(b) Artificial flies and lures only;

(c) No limit on the size or number of bass;

(d) Closed to angling May 1-21 and September 16 to November 30, 2016; and

(e) Jackson Creek is closed to all angling.

(f) All tributaries above Jackson Creek Bridge are closed to all angling.

(11) Tenmile Creek identified in the **2016 Oregon Sport Fishing Regulations** exceptions is located in Coos County.

(12) Diamond Lake:

(a) Catch-and-release only for Tiger trout beginning May 11, 2016 until further notice.

(b) All other regulations for Diamond Lake, as stated in the **2016 Oregon Sport Fishing Regulations**, remain in effect.

Stat. Auth.: ORS 496.138, 496.146

Stats. Implemented: ORS 496.162

Hist.: FWC 80-1993(Temp), f. 12-21-93, cert. ef. 1-1-94; FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 31-1994, f. 5-26-94, cert. ef. 6-20-94; FWC 79-1994(Temp), f. 10-21-94, cert. ef. 7-22-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 57-1995(Temp), f. 7-3-95, cert. ef. 7-4-95; FWC 59-1995(Temp), f. 7-24-95, cert. ef. 8-1-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 82-1995(Temp), f. 9-29-95, cert. ef. 10-1-95; FWC 90-1995(Temp), f. 11-29-95, cert. ef. 1-1-96; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 52-1996, f. & cert. ef. 9-11-96; FWC 61-1996, f. & cert. ef. 10-9-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 73-1996(Temp), f. 12-31-96, cert. ef. 1-1-97; FWC 5-1997, f. & cert. ef. 2-4-97; FWC 17-1997(Temp), f. 3-19-97, cert. ef. 4-1-97; FWC 32-1997(Temp), f. & cert. ef. 5-23-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 24-1998(Temp), f. & cert. ef. 3-25-98 thru 9-15-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 52-1998(Temp), f. 7-10-98, cert. ef. 7-11-98 thru 7-24-98; DFW 55-1998(Temp), f. & cert. ef. 7-24-98 thru 12-31-98; DFW 70-1998, f. & cert. ef. 8-28-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 36-1999, f. & cert. ef. 5-20-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 48-2000(Temp), f. 8-14-00, cert. ef. 8-15-00 thru 12-31-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 8-2001, f. & cert. ef. 3-5-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 42-2001(Temp), f. 5-25-01, cert. ef. 5-29-01 thru 7-31-01; DFW 70-2001, f. & cert. ef. 8-10-01; DFW 72-2001(Temp), f. 8-10-01, cert. ef. 8-16-01 thru 12-31-01; DFW 90-2001(Temp), f. 9-14-01, cert. ef. 9-15-01 thru 12-31-01; DFW 97-2001(Temp), f. 10-4-01, cert. ef. 11-1-01 thru 12-31-01; DFW 105-2001(Temp), f. 10-26-01, cert. ef. 11-1-01 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 5-2002(Temp), f. 1-11-02, cert. ef. 1-12-02 thru 7-11-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 55-2002(Temp), f. 5-28-02, cert. ef. 7-1-02 thru 11-31-02; DFW 91-2002(Temp), f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 124-2002(Temp), f. & cert. ef. 10-30-02 thru 12-31-02 (Suspended by DFW 125-

2002(Temp), f. 11-8-02, cert. ef. 11-9-2002); DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 90-2003(Temp), f. 9-12-03 cert. ef. 9-13-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 127-2004, f. 12-22-04, cert. ef. 1-1-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 24-2006(Temp), f. 4-25-06, cert. ef. 5-13-06 thru 10-31-06; DFW 37-2006(Temp), f. 6-2-06, cert. ef. 6-5-06 thru 12-1-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 47-2007(Temp), f. 6-18-07, cert. ef. 6-21-07 thru 10-31-07; DFW 56-2007(Temp), 7-6-07, cert. ef. 8-1-07 thru 12-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 137-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 54-2008(Temp), f. 5-28-08, cert. ef. 6-1-08 thru 7-31-08; DFW 67-2008(Temp), f. 6-20-08, cert. ef. 8-1-08 thru 12-31-08; DFW 138-2008(Temp), f. 10-28-08, cert. ef. 11-1-08 thru 11-30-08; DFW 140-2008(Temp), f. 11-4-08, cert. ef. 11-5-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 57-2009(Temp), f. 5-27-09, cert. ef. 6-1-09 thru 7-31-09; DFW 77-2009(Temp), f. 6-29-09, cert. ef. 7-1-09 thru 7-31-09; DFW 87-2009(Temp), f. 7-31-09, cert. ef. 8-1-09 thru 12-31-09; DFW 113-2009(Temp), f. & cert. ef. 9-18-09 thru 12-31-09; DFW 141-2009(Temp), f. 11-4-09, cert. ef. 11-7-09 thru 12-21-09; DFW 143-2009(Temp), f. 11-17-09, cert. ef. 11-19-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 65-2010(Temp), f. 5-18-10, cert. ef. 5-22-10 thru 5-31-10; DFW 76-2010, f. 6-8-10, cert. ef. 8-1-10; DFW 143-2010(Temp), f. 10-8-10, cert. ef. 10-10-10 thru 12-31-10; DFW 152-2010(Temp), f. 10-27-10, cert. ef. 10-30-10 thru 12-31-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 31-2011(Temp), f. 4-18-11, cert. ef. 5-1-11 thru 10-27-11; DFW 83-2011, f. 6-30-11, cert. ef. 7-1-11; DFW 137-2011(Temp), 9-30-11, cert. ef. 10-1-11 thru 12-31-11; DFW 145-2011(Temp), f. 10-11-11, cert. ef. 10-12-11 thru 12-31-11; DFW 149-2011(Temp), f. 10-20-11, cert. ef. 10-22-11 thru 12-31-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 62-2012, f. 6-12-12, cert. ef. 7-1-12; DFW 138-2012(Temp), f. 10-29-12, cert. ef. 10-31-12 thru 12-31-12; DFW 149-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 155-2012(Temp), f. 12-28-12, cert. ef. 1-1-13 thru 6-29-13; DFW 23-2013(Temp), f. 3-20-13, cert. ef. 4-1-13 thru 9-27-13; DFW 50-2013, f. 6-10-13, cert. ef. 7-1-13; DFW 124-2013(Temp), f. 10-29-13, cert. ef. 11-1-13 thru 12-31-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 110-2014, f. & cert. ef. 8-4-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 73-2015, f. 6-22-15, cert. ef. 6-23-15; DFW 74-2015(Temp), f. & cert. ef. 6-23-15 thru 12-19-15; DFW 88-2015(Temp), f. 7-16-15, cert. ef. 7-18-15 thru 12-31-15; DFW 106-2015(Temp), f. & cert. ef. 8-13-15 thru 12-15-15; DFW 120-2015(Temp), f. 8-31-15, cert. ef. 9-1-15 thru 12-31-15; DFW 167-2015, f. 12-29-15, cert. ef. 1-1-16; DFW 24-2016(Temp), f. 3-30-16, cert. ef. 4-1-16 thru 9-27-16; DFW 48-2016(Temp), f. & cert. ef. 5-11-16 thru 11-6-16

Rule Caption: Three Day Columbia River Mainstem Sport Salmon and Steelhead Season Authorized.

Adm. Order No.: DFW 49-2016(Temp)

Filed with Sec. of State: 5-11-2016

Certified to be Effective: 5-13-16 thru 6-15-16

Notice Publication Date:

Rules Amended: 635-023-0125

Rules Suspended: 635-023-0125(T)

Subject: This amended rule authorizes a three-day recreational season for retention of spring Chinook, steelhead and shad in the mainstem Columbia River, with the exception of a closure area near the mouth of the Lewis River. The three-day period begins Friday, May 13 and continues through Sunday, May 15, 2016. Fishers may only keep healed adipose fin-clipped Chinook salmon or steelhead, two adult salmonids per day, only one of which may be a Chinook. Modifications are consistent with action taken by the Departments of Fish and Wildlife for the States of Oregon and Washington on May 10, 2016.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-023-0125

Spring Sport Fishery

(1) The **2016 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 **2016 Oregon Sport Fishing Regulations**.

(2) The Columbia River recreational salmon and steelhead fishery downstream of Bonneville Dam is open from the mouth at Buoy 10 upstream to Beacon Rock (boat and bank) plus bank angling only from Beacon Rock upstream to the Bonneville Dam deadline from Tuesday, March 1 through Friday, April 8, 2016, except closed Tuesday, March 29, Tuesday and Tuesday, April 5, 2016 (38 retention days) with the following restrictions:

(a) No more than two adult adipose fin-clipped salmonids, of which only one may be a Chinook, may be retained per day. All non-adipose fin-clipped salmon and non-adipose fin-clipped steelhead must be released immediately unharmed.

(b) The upstream boat boundary at Beacon Rock is defined as: "a deadline marker on the Oregon bank (approximately four miles downstream from Bonneville Dam Powerhouse One) in a straight line through the western tip of Pierce Island to a deadline marker on the Washington bank at Beacon Rock."

(c) All other permanent **2016 Oregon Sport Fishing Regulations** apply.

ADMINISTRATIVE RULES

(3) The Columbia River recreational salmon and steelhead fishery upstream of the Tower Island power lines (approximately 6 miles below The Dalles Dam) to the Oregon/Washington border, plus the Oregon and Washington banks between Bonneville Dam and the Tower Island power lines is open from Wednesday, March 16 through Sunday, May 8, 2016 (54 retention days) with the following restrictions:

(a) No more than two adult adipose fin-clipped salmonids, of which only one may be a Chinook, may be retained per day. All non-adipose fin-clipped salmon and non-adipose fin-clipped steelhead must be released immediately unharmed.

(b) All other permanent **2016 Oregon Sport Fishing Regulations** apply.

(4) Beginning Tuesday, March 1 through Wednesday, June 15, 2016 the following restrictions are in effect for Columbia River Select Area recreational salmon and steelhead fisheries:

(a) On days when the recreational fishery below Bonneville Dam is open to retention of Chinook, the salmonid daily bag limit in Select Areas will be the same as mainstem Columbia River bag limits; and

(b) On days when the mainstem Columbia River fishery is closed to Chinook retention, the permanent salmonid bag limit regulations for Select Areas apply.

(5) Beginning Wednesday, March 16 through Sunday, May 15, 2016, the mainstem Columbia River will be open for retention of adipose fin-clipped steelhead from Buoy 10 upstream to the Oregon/Washington border and open for shad from Buoy 10 upstream to Bonneville Dam only during days and in areas open for retention of adipose fin-clipped spring Chinook.

(6) Beginning Friday, May 13 through Sunday, May 15, 2016, the mainstem Columbia River will be open for retention of adipose fin-clipped Chinook salmon, adipose fin-clipped steelhead and shad in the area from the Tongue Point/Rocky Point line upstream to Beacon Rock (boat and bank); plus bank angling only from Beacon Rock upstream to the Bonneville Dam deadline; and in the area from the Tower Island powerlines (approximately 6 miles below The Dalles Dam) upstream to the Oregon/Washington border; plus the Oregon and Washington banks between Bonneville Dam and the Tower Island powerlines, with the following restrictions:

(a) No more than two adult adipose fin-clipped salmonids, of which only one may be a Chinook, may be retained per day. All non-adipose fin-clipped salmon and non-adipose fin-clipped steelhead must be released immediately unharmed. Retention of adipose fin-clipped Chinook jacks is allowed. All sockeye salmon must be released.

(b) No angling is allowed within a closure area near the mouth of the Lewis River. This closure area is defined as: A line from a marker on the lower end of Bachelor Island through USCG buoy Red #4 to the Oregon shore, downstream to a line from the lower (north) end of Sauvie Island across to the downstream range marker (0.7 miles downstream of the Lewis R.) and continuing along the wing jetty to the Washington Shore.

[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; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 13-2008(Temp), f. 2-21-08, cert. ef. 2-25-08 thru 8-22-08; DFW 17-2008(Temp), f. & cert. ef. 2-27-08 thru 8-22-08; DFW 35-2008(Temp), f. 4-17-08, cert. ef. 4-21-08 thru 8-22-08; DFW 49-2008(Temp), f. & cert. ef. 5-13-08 thru 6-15-08; Administrative correction 7-22-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 10-2009(Temp), f. 2-13-09, cert. ef. 3-1-09 thru 6-15-09; DFW 18-2009, f. & cert. ef. 2-26-09; DFW 48-2009(Temp), f. 5-14-09, cert. ef. 5-15-09 thru 6-16-09; DFW 68-2009(Temp), f. 6-11-09, cert. ef. 6-12-09 thru 6-16-09; Administrative correction 7-21-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 19-2010(Temp), f. 2-26-10, cert. ef. 3-1-10 thru 8-27-10; DFW 23-2010(Temp), f. & cert. ef. 3-2-10 thru 8-27-10; DFW 45-2010(Temp), f. 4-21-10, cert. ef. 4-24-10 thru 7-31-10; DFW 49-2010(Temp), f. 4-27-10, cert. ef. 4-29-10 thru 7-31-10; DFW 55-2010(Temp), f. 5-7-10, cert. ef. 5-8-10 thru 7-31-10; Suspended by DFW 88-2010(Temp), f. 6-25-10, cert. ef. 6-26-10 thru 7-31-10; Administrative correction 8-18-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 13-2011(Temp), f. & cert. ef. 2-14-11 thru 6-15-11; DFW 28-2011(Temp), f. 4-7-11, cert. ef. 4-8-11 thru 6-15-11; DFW 30-2011(Temp), f. 4-15-11, cert. ef. 4-16-11 thru 6-15-11; DFW 33-2011(Temp), f. & cert. ef. 4-21-11 thru 6-

15-11; DFW 39-2011(Temp), f. 5-5-11, cert. ef. 5-7-11 thru 6-15-11; DFW 48-2011(Temp), f. 5-13-11, cert. ef. 5-15-11 thru 6-15-11; DFW 55-2011(Temp), f. 5-25-11, cert. ef. 5-27-11 thru 6-15-11; DFW 59-2011(Temp), f. & cert. ef. 6-2-11 thru 6-15-11; Administrative correction 6-28-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 8-2012(Temp), f. 2-6-12, cert. ef. 2-15-12 thru 6-15-12; DFW 31-2012(Temp), f. 4-5-12, cert. ef. 4-6-12 thru 6-15-12; DFW 33-2012(Temp), f. 4-12-12, cert. ef. 4-14-12 thru 6-15-12; DFW 45-2012(Temp), f. 5-1-12, cert. ef. 5-2-12 thru 7-31-12; DFW 47-2012(Temp), f. 5-15-12, cert. ef. 5-16-12 thru 7-31-12; DFW 49-2012(Temp), f. 5-18-12, cert. ef. 5-19-12 thru 7-31-12; DFW 51-2012(Temp), f. 5-23-12, cert. ef. 5-26-12 thru 7-31-12; Suspended by DFW 85-2012(Temp), f. 7-6-12, cert. ef. 7-9-12 thru 8-31-12; DFW 149-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 12-2013(Temp), f. 2-12-13, cert. ef. 2-28-13 thru 7-31-13; DFW 26-2013(Temp), f. 4-4-13, cert. ef. 4-5-13 thru 7-1-13; DFW 38-2013(Temp), f. 5-22-13, cert. ef. 5-25-13 thru 7-1-13; DFW 49-2013(Temp), f. 6-7-13, cert. ef. 6-8-13 thru 6-30-13; Administrative correction, 7-18-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 12-2014(Temp), f. 2-13-14, cert. ef. 3-1-14 thru 6-15-14; DFW 29-2014(Temp), f. 4-3-14, cert. ef. 4-4-14 thru 6-15-14; DFW 31-2014(Temp), f. 4-17-14, cert. ef. 4-19-14 thru 7-31-14; DFW 40-2014(Temp), f. 5-7-14, cert. ef. 5-9-14 thru 6-30-14; DFW 44-2014(Temp), f. 5-14-14, cert. ef. 5-15-14 thru 6-15-14; DFW 52-2014(Temp), f. 5-28-14, cert. ef. 5-31-14 thru 6-30-14; Administrative correction, 7-24-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 12-2015(Temp), f. 2-3-15, cert. ef. 3-1-15 thru 6-15-15; DFW 16-2015(Temp), f. & cert. ef. 3-5-15 thru 6-15-15; DFW 26-2015(Temp), f. 4-8-15, cert. ef. 4-10-15 thru 6-15-15; DFW 35-2015(Temp), f. 4-30-15, cert. ef. 5-2-15 thru 6-15-15; DFW 40-2015(Temp), f. & cert. ef. 5-6-15 thru 6-15-15; DFW 52-2015(Temp), f. 5-27-15, cert. ef. 5-28-15 thru 6-15-15; DFW 59-2015(Temp), f. 6-2-15, cert. ef. 6-3-15 thru 6-15-15; DFW 167-2015, f. 12-29-15, cert. ef. 1-1-16; DFW 9-2016(Temp), f. 2-1-16, cert. ef. 3-1-16 thru 6-15-16; DFW 29-2016(Temp), f. 4-7-16, cert. ef. 4-8-16 thru 6-15-16; DFW 44-2016(Temp), f. 5-5-16, cert. ef. 5-6-16 thru 6-15-16; DFW 49-2016(Temp), f. 5-11-16, cert. ef. 5-13-16 thru 6-15-16

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Rule Caption: Columbia River Zone 6 and Tributary Treaty Indian Commercial Fisheries Set.

Adm. Order No.: DFW 50-2016(Temp)

Filed with Sec. of State: 5-12-2016

Certified to be Effective: 5-16-16 thru 7-31-16

Notice Publication Date:

Rules Amended: 635-041-0065

Subject: This amended rule allows sales of fish from a platform and hook-and-line fishery in all of Zone 6 beginning 6:00 a.m. Monday, May 16 through 11:59 p.m. Wednesday, June 15, 2016; and a Yakama Nation tributary fishery from 6:00 a.m. Monday, May 16, 2016 until further notice. Modifications are consistent with action taken May 10, 2016 by the Oregon and Washington Departments of Fish and Wildlife, in cooperation with the Columbia River Treaty Tribes, at a meeting of the Columbia River Compact.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-041-0065

Spring Season

(1) Salmon, steelhead, shad, walleye, catfish, bass, yellow perch, and carp may be taken for commercial purposes from the Zone 6 Columbia River Treaty Indian Fishery, from 6:00 a.m. Monday, May 16, through 11:59 p.m. Wednesday June 15, 2016.

(2) Gear is restricted to subsistence fishing gear which includes hoop-nets, dipnets, rod and reel with hook-and-line. Fish landed during any open period may be sold after the close of that period.

(3) Closed areas as set forth in OAR 635-041-0045 remain in effect with the exception of Spring Creek Hatchery sanctuary.

(4) White sturgeon between 43–54 inches in fork length caught in The Dalles and John Day pools and white sturgeon between 38–54 inches in fork length caught in the Bonneville Pool may not be sold but may be kept for subsistence use.

(5) Beginning 6:00 a.m. Monday, May 16, 2016 until further notice, commercial sales of salmon, steelhead, walleye, shad, catfish, carp, bass and yellow perch caught during open Yakama Nation tributary fisheries in the Klickitat River; Wind River; and Drano Lake are allowed for Yakama Nation members.

(a) Sturgeon between 38–54 inches in fork length harvested in tributaries within Bonneville Pool may not be sold but may be kept for subsistence purposes.

(b) Gear is restricted to subsistence fishing gear which includes hoop-nets, dipnets, and rod and reel with hook-and-line. Gillnets may only be used in Drano Lake.

(c) Fish landed during open Yakama Nation tributary fishing periods may be sold after the close of that period.

Stat. Auth.: ORS 183.325, 506.109, 506.119

Stats. Implemented: ORS 506.129, 507.030

Hist.: FWC 89, f. & ef. 1-28-77; FWC 2-1978, f. & ef. 1-31-78; FWC 7-1978, f. & ef. 2-21-78; FWC 2-1979, f. & ef. 1-25-79; FWC 13-1979(Temp), f. & ef. 3-30-1979, Renumbered from 635-035-0065; FWC 6-1980, f. & ef. 1-28-80; FWC 1-1981, f. & ef. 1-19-81; FWC 6-1982, f. & ef. 1-28-82; FWC 2-1983, f. 1-21-83, cert. ef. 2-1-83; FWC 4-1984, f. & ef. 1-31-84; FWC 2-1985, f. & ef. 1-30-85; FWC 4-1986(Temp), f. & ef. 1-28-86; FWC 79-1986(Temp), f. & ef. 12-22-86; FWC 2-1987, f. & ef. 1-23-87; FWC 3-1988(Temp), f. & cert. ef. 1-29-88; FWC 10-1988, f. & cert. ef. 3-4-88; FWC 5-1989, f. 2-6-89, cert. ef. 2-7-89; FWC 13-

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1989(Temp), f. & cert. ef. 3-21-89; FWC 15-1990(Temp), f. 2-8-90, cert. ef. 2-9-90; FWC 20-1990, f. 3-6-90, cert. ef. 3-15-90; FWC 13-1992(Temp), f. & cert. ef. 3-5-92; FWC 7-1993, f. & cert. ef. 2-1-93; FWC 12-1993(Temp), f. & cert. ef. 2-22-93; FWC 18-1993(Temp), f. & cert. ef. 3-2-93; FWC 7-1994, f. & cert. ef. 2-1-94; FWC 11-1994(Temp), f. & cert. ef. 2-28-94; FWC 9-1995, f. & cert. ef. 2-1-95; FWC 19-1995(Temp), f. & cert. ef. 3-3-95; FWC 5-1996, f. & cert. ef. 2-7-96; FWC 4-1997, f. & cert. ef. 1-30-97; DFW 8-1998(Temp), f. & cert. ef. 2-5-98 thru 2-28-98; DFW 14-1998, f. & cert. ef. 3-3-98; DFW 20-1998(Temp), f. & cert. ef. 3-13-98 thru 3-20-98; DFW 23-1998(Temp), f. & cert. ef. 3-20-98 thru 6-30-98; DFW 2-1999(Temp), f. & cert. ef. 2-1-99 through 2-19-99; DFW 9-1999, f. & cert. ef. 2-26-99; DFW 14-1999(Temp), f. 3-5-99, cert. ef. 3-6-99 thru 3-20-99; Administrative correction 11-17-99; DFW 6-2000(Temp), f. & cert. ef. 2-1-00 thru 2-29-00; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 19-2000, f. 3-18-00, cert. ef. 3-18-00 thru 3-21-00; DFW 26-2000(Temp), f. 5-4-00, cert. ef. 5-6-00 thru 5-28-00; Administrative correction 5-22-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 14-2001(Temp), f. 3-12-01, cert. ef. 3-14-01 thru 3-21-01; Administrative correction 6-20-01; DFW 9-2002, f. & cert. ef. 2-1-02; DFW 11-2002(Temp), f. & cert. ef. 2-8-02 thru 8-7-02; DFW 17-2002(Temp), f. 3-7-02, cert. ef. 3-8-02 thru 9-1-02; DFW 18-2002(Temp), f. 3-13-02, cert. ef. 3-15-02 thru 9-11-02; DFW 134-2002(Temp), f. & cert. ef. 12-19-02 thru 4-1-03; DFW 20-2003(Temp), f. 3-12-03, cert. ef. 3-13-03 thru 4-1-03; DFW 131-2003(Temp), f. 12-26-03, cert. ef. 1-1-04 thru 4-1-04; DFW 5-2004(Temp), f. 1-26-04, cert. ef. 2-2-04 thru 4-1-04; DFW 15-2004(Temp), f. 3-8-04, cert. ef. 3-10-04 thru 4-1-04; DFW 130-2004(Temp), f. 12-23-04, cert. ef. 1-1-05 thru 4-1-05; DFW 4-2005(Temp), f. & cert. ef. 1-31-05 thru 4-1-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; DFW 3-2006(Temp), f. & cert. ef. 1-27-06 thru 3-31-06; Administrative correction 4-19-06; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 14-2007(Temp), f. & cert. ef. 3-9-07 thru 9-4-07; DFW 15-2007(Temp), f. & cert. ef. 3-14-07 thru 9-9-07; Administrative correction 9-16-07; DFW 6-2008(Temp), f. 1-29-08, cert. ef. 1-31-08 thru 7-28-08; DFW 20-2008(Temp), f. 2-28-08, cert. ef. 2-29-08 thru 7-28-08; DFW 21-2008(Temp), f. & cert. ef. 3-5-08 thru 7-28-08; DFW 22-2008(Temp), f. 3-7-08, cert. ef. 3-10-08 thru 7-28-08; Administrative correction 8-21-08; DFW 142-2008, f. & cert. ef. 11-21-08; DFW 6-2009(Temp), f. 1-30-09, cert. ef. 2-2-09 thru 8-1-09; DFW 11-2009(Temp), f. 2-13-09, cert. ef. 2-16-09 thru 7-31-09; DFW 22-2009(Temp), f. 3-5-09, cert. ef. 3-6-09 thru 7-31-09; Administrative correction 8-21-09; DFW 9-2010(Temp), f. & cert. ef. 2-3-10 thru 8-1-10; DFW 12-2010(Temp), f. 2-10-10, cert. ef. 2-11-10 thru 8-1-10; DFW 18-2010(Temp), f. 2-24-10, cert. ef. 2-26-10 thru 4-1-10; DFW 24-2010(Temp), f. 3-2-10, cert. ef. 3-3-10 thru 4-1-10; Administrative correction 4-21-10; DFW 8-2011(Temp), f. 1-31-11, cert. ef. 2-1-11 thru 4-1-11; DFW 9-2011(Temp), f. 2-9-11, cert. ef. 2-10-11 thru 4-1-11; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 5-2012(Temp), f. 1-30-12, cert. ef. 2-1-12 thru 3-31-12; DFW 18-2012(Temp), f. 2-28-12, cert. ef. 2-29-12 thru 6-15-12; DFW 19-2012(Temp), f. 3-2-12, cert. ef. 3-5-12 thru 6-15-12; DFW 20-2012(Temp), f. & cert. ef. 3-5-12 thru 6-15-12; DFW 46-2012(Temp), f. 5-14-12, cert. ef. 5-15-12 thru 6-30-12; Administrative correction, 8-1-12; DFW 9-2013(Temp), f. 1-31-13, cert. ef. 2-1-13 thru 3-31-13; DFW 15-2013(Temp), f. 2-22-13, cert. ef. 2-27-13 thru 6-15-13; DFW 18-2013(Temp), f. 3-5-13, cert. ef. 3-6-13 thru 6-15-13; DFW 35-2013(Temp), f. & cert. ef. 5-21-13 thru 6-30-13; DFW 48-2013(Temp), f. 6-7-13, cert. ef. 6-8-13 thru 7-31-13; Administrative correction, 8-21-13; DFW 6-2014(Temp), f. 1-30-14, cert. ef. 2-1-14 thru 7-30-14; DFW 15-2014(Temp), f. 2-25-14, cert. ef. 2-26-14 thru 7-30-14; DFW 17-2014(Temp), f. 2-28-14, cert. ef. 3-1-14 thru 7-30-14; DFW 23-2014(Temp), f. 3-11-14, cert. ef. 3-12-14 thru 7-31-14; DFW 37-2014(Temp), f. & cert. ef. 5-6-14 thru 7-31-14; DFW 46-2014(Temp), f. 5-19-14, cert. ef. 5-20-14 thru 7-31-14; DFW 48-2014(Temp), f. 5-27-14, cert. ef. 5-28-14 thru 7-31-13; DFW 54-2014(Temp), f. 6-2-14, cert. ef. 6-3-14 thru 7-31-14; DFW 59-2014(Temp), f. 6-9-14, cert. ef. 6-10-14 thru 7-31-14; Administrative correction, 8-28-14; DFW 9-2015(Temp), f. 1-29-15, cert. ef. 2-2-15 thru 3-31-15; DFW 13-2015(Temp), f. 2-19-15, cert. ef. 2-20-15 thru 3-31-15; DFW 19-2015(Temp), f. 3-11-15, cert. ef. 3-12-15 thru 3-31-15; Administrative correction, 4-21-15; DFW 38-2015(Temp), f. & cert. ef. 5-5-15 thru 7-31-15; DFW 46-2015(Temp), f. 5-18-15, cert. ef. 5-19-15 thru 7-31-15; DFW 48-2015(Temp), f. 5-26-15, cert. ef. 5-27-15 thru 7-31-15; DFW 55-2015(Temp), f. & cert. ef. 6-2-15 thru 7-31-15; DFW 60-2015(Temp), f. 6-8-15, cert. ef. 6-9-15 thru 7-31-15; DFW 67-2015(Temp), f. 6-10-15, cert. ef. 6-11-15 thru 7-31-15; Administrative correction, 8-18-15; DFW 6-2016(Temp), f. 1-28-16, cert. ef. 2-1-16 thru 3-31-16; DFW 10-2016(Temp), f. 2-11-16, cert. ef. 2-12-16 thru 3-31-16; DFW 11-2016(Temp), f. 2-18-16, cert. ef. 2-19-16 thru 3-31-16; DFW 15-2016(Temp), f. 2-25-16, cert. ef. 2-26-16 thru 3-31-16; DFW 16-2016(Temp), f. 3-3-16, cert. ef. 3-5-16 thru 3-31-16; Administrative correction, 4-29-16; DFW 50-2016(Temp), f. 5-12-16, cert. ef. 5-16-16 thru 7-31-16

**Department of Human Services,
Aging and People with Disabilities and
Developmental Disabilities
Chapter 411**

Rule Caption: Adult Protective Services Definition of Sexual Abuse and Addition of Mandatory Reporters

Adm. Order No.: APD 8-2016

Filed with Sec. of State: 5-6-2016

Certified to be Effective: 5-6-16

Notice Publication Date: 4-1-2015

Rules Amended: 411-020-0002

Rules Repealed: 411-020-0002(T)

Subject: The Department of Human Services (Department) is permanently updating 411-020-0002 in the adult protective services rules to make permanent temporary changes that became effective January 1, 2016. The Department is updating the definitions in 411-020-0002 to comply with provisions of House Bill 2227 and Senate Bill 622, which expanded the list of mandatory reporters and updated the definition of sexual abuse.

Rules Coordinator: Kimberly Colkitt-Hallman—(503) 945-6398

411-020-0002

Definitions

Unless the context indicates otherwise, the following definitions apply to the rules in OAR chapter 411, division 020:

(1) "Abuse" means any of the following:

(a) PHYSICAL ABUSE.

(A) Physical abuse includes:

(i) The use of physical force that may result in bodily injury, physical pain, or impairment; or

(ii) Any physical injury to an adult caused by other than accidental means.

(B) For purposes of this section, conduct that may be considered physical abuse includes, but is not limited to:

(i) Acts of violence such as striking (with or without an object), hitting, beating, punching, shoving, shaking, kicking, pinching, choking, or burning; or

(ii) The use of force-feeding or physical punishment.

(C) Physical abuse is presumed to cause physical injury, including pain, to adults in a coma or adults otherwise incapable of expressing injury or pain.

(b) NEGLECT. Neglect including:

(A) Failure to provide the basic care, or services necessary to maintain the health and safety of an adult:

(i) Failure may be active or passive.

(ii) Failure creating a risk of serious harm or results in physical harm, significant emotional harm or unreasonable discomfort, or serious loss of personal dignity.

(iii) The expectation for care may exist as a result of an assumed responsibility or a legal or contractual agreement, including but not limited to, where an individual has a fiduciary responsibility to assure the continuation of necessary care or services.

(B) An adult who in good faith is voluntarily under treatment solely by spiritual means in accordance with the tenets and practices of a recognized church or religious denomination shall, for this reason alone, not be considered subjected to abuse by reason of neglect as defined in these rules.

(c) ABANDONMENT. Abandonment including desertion or willful forsaking of an adult for any period of time by an individual who has assumed responsibility for providing care, when that desertion or forsaking results in harm or places the adult at risk of serious harm.

(d) VERBAL OR EMOTIONAL ABUSE.

(A) Verbal or emotional abuse includes threatening significant physical harm or threatening or causing significant emotional harm to an adult through the use of:

(i) Derogatory or inappropriate names, insults, verbal assaults, profanity, or ridicule; or

(ii) Harassment, coercion, threats, intimidation, humiliation, mental cruelty, or inappropriate sexual comments.

(B) For the purposes of this section:

(i) Conduct that may be considered verbal or emotional abuse includes, but is not limited to, the use of oral, written, or gestured communication that is directed to an adult or within their hearing distance, regardless of their ability to comprehend.

(ii) The emotional harm that may result from verbal or emotional abuse includes, but is not limited to, anguish, distress, fear, unreasonable emotional discomfort, loss of personal dignity, or loss of autonomy.

(e) FINANCIAL EXPLOITATION. Financial exploitation including:

(A) Wrongfully taking, by means including, but not limited to, deceit, trickery, subterfuge, coercion, harassment, duress, fraud, or undue influence, the assets, funds, property, or medications belonging to or intended for the use of an adult;

(B) Alarming an adult by conveying a threat to wrongfully take or appropriate money or property of the adult if the adult reasonably believes that the threat conveyed maybe carried out;

(C) Misappropriating or misusing any money from any account held jointly or singly by an adult; or

(D) Failing to use income or assets of an adult for the benefit, support, and maintenance of the adult.

(f) SEXUAL ABUSE. Sexual abuse including:

(A) Sexual contact with a non-consenting adult or with an adult considered incapable of consenting to a sexual act. Consent, for purposes of this definition, means a voluntary agreement or concurrence of wills. Mere failure to object does not, in and of itself, constitute an expression of consent;

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(B) Verbal or physical harassment of a sexual nature, including but not limited to severe, threatening, pervasive or inappropriate exposure of an adult to sexually explicit material or language;

(C) Sexual exploitation of an adult;

(D) Any sexual contact between an employee of a facility and an adult residing in the facility unless the two are spouses;

(E) Any sexual contact that is achieved through force, trickery, threat, or coercion; or

(F) An act that constitutes a crime under ORS 163.375, 163.405, 163.411, 163.415, 163.425, 163.427, 163.465, 163.467, or 163.525 except for incest due to marriage alone.

(g) INVOLUNTARY SECLUSION. Involuntary seclusion of an adult for the convenience of a caregiver or to discipline the adult.

(A) Involuntary seclusion may include:

(i) Confinement or restriction of an adult to his or her room or a specific area; or

(ii) Placing restrictions on an adult's ability to associate, interact, or communicate with other individuals.

(B) In a facility, emergency or short-term, monitored separation from other residents may be permitted if used for a limited period of time when:

(i) Used as part of the care plan after other interventions have been attempted;

(ii) Used as a de-escalating intervention until the facility evaluates the behavior and develops care plan interventions to meet the resident's needs; or

(iii) The resident needs to be secluded from certain areas of the facility when their presence in that specified area poses a risk to health or safety.

(h) WRONGFUL USE OF A PHYSICAL OR CHEMICAL RESTRAINT OF AN ADULT.

(A) A wrongful use of a physical or chemical restraint includes situations where:

(i) A licensed health professional has not conducted a thorough assessment before implementing a licensed physician's prescription for restraint;

(ii) Less restrictive alternatives have not been evaluated before the use of the restraint; or

(iii) The restraint is used for convenience or discipline.

(B) Physical restraints may be permitted if used when a resident's actions present an imminent danger to self or others and only until immediate action is taken by medical, emergency, or police personnel.

(2) "Adult" means an individual who is 18 years of age or older.

(3) "Aging and People with Disabilities" means the program area of Aging and People with Disabilities, within the Department of Human Services.

(4) "APD" means "Aging and People with Disabilities".

(5) "APS" means adult protective services as described in these rules.

(6) "APS Risk Management" means the process by which adult protective services continues to maintain ongoing active contact with a reported victim who continues to be at serious risk of harm.

(7) "Area Agency on Aging (AAA)" means the Department designated agency charged with the responsibility to provide a comprehensive and coordinated system of service to individuals in a planning and service area.

(8) "At-risk" means there is reason to believe injury, hazard, damage, or loss may occur.

(9) "Basic Care" means care essential to maintain the health and safety needs of an adult, but is not limited to, assistance with medication administration, medical needs, nutrition and supervision for safety as well as activities of daily living including assistance with bathing, dressing, hygiene, eating, mobility and toileting.

(10) "Community-Based Care Facility" means an assisted living facility, residential care facility, adult foster home, or registered room and board facility.

(11) "Conclusion" means:

(a) For the purposes of a facility investigation, a determination by the adult protective services worker whether an incident occurred and, if it did, whether the incident was the result of wrongdoing; and

(b) For the purposes of a community investigation or self-neglect assessment, a determination by the adult protective services worker as to whether an incident occurred and, if it did, whether the incident was the result of wrongdoing or self-neglect.

(12) "Conservatorship" means a court has issued an order appointing and investing an individual with the power and duty of managing the property of another individual.

(13) "Consumer" means the person applying for or eligible for Medicaid home or community-based services.

(14) "Department" means the Department of Human Services (DHS).

(15) "Evidence" means material gathered, examined, or produced during an adult protective services investigation. Evidence includes, but is not limited to, witness statements, documentation, photographs, and relevant physical evidence.

(16) "Financial Institution" has the meaning given that term in ORS 192.583.

(17) "Financial Records" has the meaning given that term in ORS 192.583.

(18) "Guardianship" means a court has issued an order appointing and investing an individual with the power and duty of managing the care, comfort, or maintenance of an incapacitated adult.

(19) "Health Care Provider" has the meaning given that term in ORS 192.556.

(20) "Imminent Danger" means there is reasonable cause to believe an adult's life, physical well-being, or resources are in danger if no intervention is initiated immediately.

(21) "Inconclusive" means that after a careful analysis of the evidence gathered in an investigation, a determination of whether wrongdoing occurred cannot be reached by a preponderance of the evidence.

(22) "Informed Choice" means the individual has the mental capacity, adequate information, and freedom from undue influence to understand the current situation, understand the options available and their likely consequences, be able to reasonably choose from among those options, and communicate that choice.

(23) "Law Enforcement Agency" means:

(a) Any city or municipal police department;

(b) Any county sheriff's office;

(c) The Oregon State Police;

(d) Any district attorney; or

(e) The Oregon Department of Justice.

(24) "Licensed Care Facility" means a facility licensed by the Department, including nursing facilities, assisted living facilities, residential care facilities, and adult foster homes.

(25) "Local Office" means the local service staff of the Department or Area Agency on Aging.

(26) "Mandatory Reporter" for the purpose of these rules, means any public or private official who is required by statute to report suspected abuse or neglect.

(a) If an individual is a mandatory reporter and comes in contact with and has reasonable cause to believe that any individual living in a nursing facility or an older adult in any setting has suffered abuse or neglect, the mandatory reporter must immediately file a report with local law enforcement or an office of the Department.

(b) Definitions of abuse or neglect for these purposes and procedures for investigation are defined in ORS 124.050 to 124.095 or ORS 441.615 to 441.695 and OAR 411-085-0005, 411-085-0360, and 411-085-0370 (Nursing Facility Abuse).

(c) Mandatory reporting is also required if the individual comes into contact with anyone who has abused an older adult or any individual living in a nursing facility.

(d) The public or private officials who are mandatory reporters are:

(A) Physician, psychiatrist, naturopathic physician, osteopathic physician, chiropractor, podiatric physician, physician assistant, or surgeon including any intern or resident;

(B) Licensed practical nurse, registered nurse, nurse practitioner, nurse's aide, home health aide, or employee of an in-home health service;

(C) Employee of the Department of Human Services, community developmental disabilities program, or Area Agency on Aging;

(D) Employee of the Oregon Health Authority, county health department, or community mental health program;

(E) Employee of a nursing facility or an individual who contracts to provide services to a nursing facility;

(F) Peace officer;

(G) Member of the Clergy;

(H) Regulated social worker, licensed professional counselor, or licensed marriage and family therapist;

(I) Physical, speech, or occupational therapist, audiologist, or speech language pathologist;

(J) Senior center employee;

(K) Information and referral or outreach worker;

(L) Firefighter or emergency medical services provider;

(M) Psychologist;

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- (N) Licensee of an adult foster home or an employee of the licensee;
- (O) Attorney;
- (P) Dentist;
- (Q) Optometrist;
- (R) Member of the Legislative Assembly;
- (S) Personal support worker;
- (T) Home care worker; and
- (U) For nursing facilities, all of the above, plus legal counsel, guardian, or family member of the resident.

(27) "Multidisciplinary Team (MDT)" means a county-based investigative and assessment team that coordinates and collaborates for allegations of adult abuse and self-neglect. The team may consist of personnel of law enforcement, the local district attorney office, local Department or Area Agency on Aging offices, community mental health and developmental disability programs, plus advocates for older adults and individuals with disabilities, and individuals specially trained in abuse.

(28) "Multidisciplinary Team (MDT) Member" means an individual or a representative of an agency that is allowed by law and recognized to participate on the multidisciplinary team.

(29) "Older Adult" means any individual 65 years of age or older.

(30) "Physical Disability" means any physical condition or cognitive condition such as brain injury or dementia that significantly interferes with an adult's ability to protect themselves from harm or neglect. (See OAR 411-020-0015, Eligibility).

(31) "Protected Health Information" has the meaning given that term in ORS 192.556.

(32) "Relevant" means tending to prove or disprove the allegation at hand.

(33) "Reported Perpetrator (RP)" means the facility, an agent or employee of the facility, or any individual reported to have committed wrongdoing.

(34) "Reported Victim (RV)" means the individual whom wrongdoing or self-neglect is reported to have been committed against.

(35) "Risk Assessment" means the process by which an individual is evaluated for risk of harm and for the physical and cognitive abilities to protect his or her interests and personal safety. The living situation, support system, and other relevant factors are also evaluated to determine the impact on the individual's ability to become or remain safe.

(36) "Risk of Serious Harm" means that without intervention, the individual is likely to incur substantial injury or loss.

(37) "Self-Determination" means an adult's ability to decide his or her own fate or course of action without undue influence.

(38) "Self-Neglect" means the inability of an adult to understand the consequences of his or her actions or inaction when that inability leads to or may lead to harm or endangerment to self or others.

(39) "Services" as used in the definition of abuse includes, but is not limited to, the provision of food, clothing, medicine, housing, medical services, housekeeping, and transportation as well as assistance with bathing or personal hygiene, or any other service essential to the well-being of an adult.

(40) "Substantiated" means that the preponderance (majority) of the evidence gathered and analyzed in an investigation indicates that the allegation is true.

(41) "These Rules" mean the rules in OAR chapter 411, division 020.

(42) "Undue Influence" means the process by which an individual uses his or her role and power to exploit the trust, dependency, and fear of another individual and to deceptively gain control over the decision making of the second individual.

(43) "Unsubstantiated" means that the preponderance (majority) of the evidence gathered and analyzed in an investigation indicates that the allegation is not true.

(44) "Wrongdoing" means:

(a) For the purposes of a facility investigation, an act that violates a licensing or other rule without regard to the intent of the reported perpetrator or the outcome to the reported victim; and

(b) For the purposes of a community investigation, an action or inaction that meets the definition of abuse, without regard to the intent of the reported perpetrator or the outcome to the reported victim.

Stat. Auth.: ORS 410.070, 411.116, 441.637, 443.450, 443.765, & 443.767

Stats. Implemented: ORS 124.050-124.095, 410.020, 410.040, 410.070, 411.116, 441.630-441.695, 443.450, 443.500, 443.767, & 2012 OL Ch. 70

Hist.: SSD 5-1994, f. & cert. ef. 11-15-94; SSD 5-1995, f. 5-31-95, cert. ef. 6-1-95; SPD 6-2005, f. 4-29-05, cert. ef. 7-1-05; SPD 10-2006, f. 3-23-06, cert. ef. 4-1-06; SPD 33-2006, f. & cert. ef. 12-21-06; SPD 21-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SPD 8-2010, f. 6-29-10, cert. ef. 7-1-10; SPD 7-2012(Temp), f. & cert. ef. 6-1-12 thru 11-28-12; SPD 15-2012, f. & cert. ef. 11-28-12; APD 37-2014, f. 11-24-14, cert. ef. 1-1-15; APD 24-2015(Temp), f. 12-16-15, cert. ef. 1-1-16 thru 6-28-16; APD 8-2016, f. & cert. ef. 5-6-16

Rule Caption: Amending rule about when the Department may waive the home study requirement for independent adoptions

Adm. Order No.: CWP 6-2016(Temp)

Filed with Sec. of State: 4-26-2016

Certified to be Effective: 4-26-16 thru 10-22-16

Notice Publication Date:

Rules Amended: 413-140-0032

Subject: The Department of Human Services is adopting temporary changes to OAR 413-140-0032 to allow the Department to waive the home study requirement when the birth mother retains parental rights as allowed under ORS 109.309(7)(b). The rule text showing proposed changes is available at http://www.dhs.state.or.us/policy/childwelfare/implement/temp_rules.htm.

Rules Coordinator: Kris Skaro—(503) 945-6067

413-140-0032

Waivers the Department May Issue

(1) Waiver of the 90-day waiting period.

(a) In accordance with ORS 109.309(10), the Department may waive the required 90-day waiting period for an adoption.

(b) Upon receipt of the adoption petition and accompanying documents, the Department will review and consider all items listed in OAR 413-140-0030 when determining whether to waive the required 90-day waiting period.

(c) The Department will provide written notification regarding the determination of the 90-day waiver request to the court, petitioner and, when applicable, the Oregon licensed adoption agency involved.

(d) The Department may reconsider the initial determination of the 90-day waiver request provided:

(A) All remaining items outlined in the Department's prior written notification have been sufficiently addressed; and

(B) The required 90-day waiting period has not expired.

(2) Waiver of the Adoption Home Study.

(a) In accordance with ORS 109.309(7)(b), the Department has discretion to waive the home study requirement for some adoptions.

(b) The Department may consider a waiver of the adoption home study in an independent adoption when:

(A) One biological parent, including birth mother, or adoptive parent retains parental rights; or

(B) The petitioner qualifies as a relative. For the purpose of this rule, a relative is an individual who meets the following conditions:

(i) At least one of the adopting petitioners is the biological or adoptive sibling or half-sibling, aunt, uncle, grandparent, great-aunt, great-uncle, or great-grandparent of the child; and either

(ii) The child has lived with the petitioner since birth and for at least six months immediately prior to the petitioner's request to waive the adoption home study requirement; or

(iii) The child has lived with the petitioner on a continuous basis for at least one year prior to the petitioner's request to waive the adoption home study requirement.

(c) The Department may consider waiving the adoption home study requirement in an independent adoption involving a child born to a surrogate mother when there is evidence documenting that the following conditions, as applicable, are met:

(A) At least one of the petitioners is a biological parent of the child; and

(B) When the surrogate mother is married:

(i) Her husband has consented to the adoption; or

(ii) There is a joint affidavit of non-paternity completed by the surrogate and her husband.

(d) The following documents must be submitted to the Department before consideration may be given to a waiver of the adoption home study requirement:

(A) A Request for Waiver of the Adoption Home Study Form.

(B) Background checks as described in OAR 413-140-0065.

(C) A copy of the petition for adoption.

(D) Verification that the child being adopted shares a residence with the adopting petitioner.

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(E) Additional information, when requested by the Department, to clarify any concerns that could compromise the safety, permanency or well-being of the child being adopted.

(e) The Department does not waive the adoption home study requirement when there are safety, permanency, or well-being concerns that warrant completion of an adoption home study.

(f) Any concerns that come to the attention of the Department regarding the ability of a petitioner to meet the standards set forth in OAR 413-140-0033 may also be considered when determining whether the Department will waive the adoption home study.

(g) Upon receipt of all requested documents listed in subsection (d) of this section, the Department will:

(A) Make a determination as to whether an adoption home study waiver is appropriate;

(B) Provide written notification of the Department's determination regarding the adoption home study waiver request to the court and petitioner or petitioner's attorney;

(C) Outline in written notification any remaining information the Department determines is needed to reconsider the petitioner's adoption home study waiver request; and

(D) Provide petitioner or petitioner's attorney with a list of Oregon licensed adoption agencies authorized to complete an adoption home study if the Department determines petitioner's request for waiver cannot be granted.

(3) Waiver of the Placement Report.

(a) In accordance with ORS 109.309(8)(a), the Department has the authority to waive the placement report requirement.

(b) The Department must waive the placement report for an adoption in which one biological or adoptive parent retains parental rights.

(c) When a written request is received from the petitioner, the Department may waive the placement report for any of the following:

(A) An adoption for which the Department has waived the adoption home study;

(B) An independent or out-of-state public agency adoption in which the petitioner and the child are currently receiving services from the Department or a licensed adoption agency or have received services in the past 12 months and the Department or an Oregon licensed adoption agency provides a written recommendation that adoption is in the best interests of the child.

(C) When the adoptee is 14 years of age or older, has consented to his or her adoption, and an Oregon licensed adoption agency provides a written recommendation that adoption is in the best interest of the child.

Stat. Auth.: ORS 109.309, 409.050, 418.005

Stats. Implemented: ORS 109.243, 109.309, 109.315, 109.328, 409.010

Hist.: CWP 15-2013, f. 12-31-13, cert. ef. 1-1-14; CWP 6-2016(Temp), f. & cert. ef. 4-26-16 thru 10-22-16

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Department of Human Services, Self-Sufficiency Programs Chapter 461

Rule Caption: Amending citizenship and alien status requirements to add an exception for children in Head Start

Adm. Order No.: SSP 17-2016

Filed with Sec. of State: 4-27-2016

Certified to be Effective: 5-1-16

Notice Publication Date: 4-1-2016

Rules Amended: 461-120-0110

Rules Repealed: 461-120-0110(T)

Subject: OAR 461-120-0110 about citizenship and alien status requirements is being amended to include a waiver of the proof of citizenship requirements for children participating in Head Start programs. This change is to comply with US Department of Health and Human Services guidance issued on May 2, 2008 available at http://www.acf.hhs.gov/sites/default/files/occ/pi2008_01.pdf. This makes permanent a temporary rule adopted on March 4, 2016.

Rules Coordinator: Kris Skaro—(503) 945-6067

461-120-0110

Citizenship and Alien Status Requirements

(1) Except as provided in section (5) of this rule, in all programs except the CAWEM, ERDC, REF, and REF M programs, to be a member of a benefit group (see OAR 461-110-0750) an individual must meet the requirements of at least one of the following subsections:

(a) Be a citizen of the United States;

(b) Meet the alien status requirements in OAR 461-120-0125;

(c) Be a citizen of Puerto Rico, Guam, the Virgin Islands or Saipan, Tinian, Rota or Pagan of the Northern Mariana Islands; or

(d) Be a national from American Samoa or Swains Islands.

(2) In the CAWEM program, to be a member of the benefit group an individual must meet the eligibility requirements of OAR 461-135-1070.

(3) In the ERDC program, the need group (see OAR 461-110-0630) and benefit group must include a child who meets the requirements of section (1) of this rule except that:

(a) For children enrolled in programs that are subject to Head Start Performance Standards and are supported by both Head Start and CCDF funds, parents must submit verification of Head Start enrollment in lieu of other documentation; and

(b) For children in contracted programs, a Head Start eligibility checklist may be used as verification.

(4) In the REF and REF M programs, to be a member of the need group and the benefit group an individual must meet the alien status requirements of OAR 461-120-0125.

(5) In the TA-DVS and TANF programs, a victim of domestic violence (see OAR 461-001-0000) is not subject to section (1) of this rule when OAR 461-135-1200 applies.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.006, 412.014, 412.049, 412.124

Stats. Implemented: ORS 411.060, 411.070, 411.117, 411.404, 411.706, 411.816, 412.006, 412.014, 412.049, 412.124

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 17-1992, f. & cert. ef. 7-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 4-2009(Temp), f. 3-11-09, cert. ef. 4-1-09 thru 9-28-09; SSP 6-2009(Temp), f. & cert. ef. 4-1-09 thru 9-28-09; Administrative correction 10-22-09; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12; SSP 11-2016(Temp), f. & cert. ef. 3-4-16 thru 8-30-16; SSP 17-2016, f. 4-27-16, cert. ef. 5-1-16

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Rule Caption: Amending rule relating to exemptions to the ABAWD time limit

Adm. Order No.: SSP 18-2016(Temp)

Filed with Sec. of State: 4-29-2016

Certified to be Effective: 5-1-16 thru 6-30-16

Notice Publication Date:

Rules Amended: 461-135-0520

Subject: OAR 461-135-0520 about the time limit and special requirements for ABAWD (able-bodied adults without dependents) clients is being amended to allow the Department to grant discretionary exemptions to the federal three-month time limit on SNAP benefits to an ABAWD client in the month of May 2016 or June 2016 if the ABAWD did not receive timely notice that their benefits were ending due to the time limit. Additionally the Department will grant discretionary exemptions for both May 2016 and June 2016 to an ABAWD who did not receive at least three months' notification about the SNAP time limit and related requirements in their preferred language. Oregon's statewide waiver of the federal time limit expired on December 31, 2015. ABAWD clients who reside in Multnomah or Washington County who do not meet work requirements or who are not otherwise exempt may become ineligible for SNAP benefits as of April 1, 2016.

Rules Coordinator: Kris Skaro—(503) 945-6067

461-135-0520

Time Limit and Special Requirements for ABAWD; SNAP

This rule establishes the time limit and special requirements for receipt of SNAP benefits for certain adults.

(1) An able-bodied adult without dependents (ABAWD) means an individual 18 years of age or over, but under the age of 50, without dependents. For the purpose of this definition, "without dependents" means there is no child (see OAR 461-001-0000) under the age of 18 years in the filing group (see OAR 461-110-0310 and 461-110-0370).

(2) Except as provided otherwise in this rule, an ABAWD who resides in Multnomah or Washington County is ineligible to receive food benefits as a member of any household after the individual received food benefits for three countable months (see section (3) of this rule) during January 1, 2016 to December 31, 2018.

(3) "Countable months" means months within the 36-month period of January 1, 2016 to December 31, 2018 in which an individual as a member

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of any household receives SNAP benefits in Oregon or in any other state, unless at least one of the following applies:

(a) The individual resided for any part of the month in a county identified in a waiver approved by United States Department of Agriculture on the limitation on eligibility for SNAP benefits contained in section 6(o)(2) of the Food and Nutrition Act of 2008 (7 U.S.C. 2015(o)(2)). Under the waiver, the time limit in section (2) of this rule does not apply to residents of the following counties: Baker, Benton, Clackamas, Clatsop, Columbia, Coos, Crook, Curry, Deschutes, Douglas, Gilliam, Grant, Harney, Hood River, Jackson, Jefferson, Josephine, Klamath, Lake, Lane, Lincoln, Linn, Malheur, Marion, Marrow, Polk, Sherman, Tillamook, Umatilla, Union, Wallowa, Wasco, Wheeler, and Yamhill.

(b) Benefits were prorated for the month.

(c) The individual was exempt (see OAR 461-130-0305) for any part of the month under OAR 461-130-0310(3)(a)(A) to (J).

(d) The individual participated in one or more of the activities in paragraphs (A) to (D) of this subsection for 20 hours per week averaged monthly. For purposes of this rule, 20 hours per week averaged monthly means 80 hours per month. (Activities may be combined in one month to meet the 20 hours per week averaged monthly requirement.)

(A) Work for pay, in exchange for goods or services, or as a volunteer.

(i) Work in exchange for goods and services includes bartering and in-kind work.

(ii) Voluntary work hours must be verified by the employer.

(ii) For self-employed individuals, countable income after deducting the costs of producing income must average at least the federal minimum wage times 20 hours per week.

(B) Participate in a program under the Workforce Investment Act of 1998, Pub. L. No. 105 220, 112 Stat. 936 (1998).

(C) Participate in a program under section 236 of the Trade Act of 1974, Pub. L. 93 618, 88 Stat. 2023, (1975) (19 U.S.C. 2296).

(D) Comply with the employment and training requirements described in OAR 461-001-0020, 461-130-0305, and 461-130-0315. Work search activities must be combined with other work-related activities to equal 20 hours per week and may not exceed 9 hours per week.

(e) The individual complied with the Workfare requirements in OAR 461-190-0500.

(4) An ABAWD must submit evidence to the Department on the issue of whether a month is countable within 90 days following the last day of the month in question.

(5) An ABAWD who is ineligible under section (2) of this rule but otherwise eligible may regain eligibility if the requirements of subsections (a) or (b) of this section are met.

(a) The individual becomes exempt under OAR 461-130-0310(3)(a)(A) to (J). Eligibility regained under this subsection begins on the date the individual files a new application and continues as long as the individual is exempt and is otherwise eligible. If not eligible on the filing date (see OAR 461-115-0040), eligibility begins the date all other eligibility requirements are met.

(b) The individual, during a consecutive 30-day period during which the individual is ineligible, meets the requirements of subsection (3)(d) or (3)(e) of this rule.

(A) Eligibility regained under this subsection begins on the date the individual files a new application and continues as long as the individual meets the requirements of subsection (3)(d) or (3)(e) of this rule and is otherwise eligible. If not eligible on the filing date, eligibility begins the date all other eligibility requirements are met.

(B) There is no limit to how many times an individual may regain eligibility under this subsection during January 1, 2016 to December 31, 2018.

(c) See OAR 461-180-0010 to add an individual to an open SNAP case after the individual has regained eligibility under this section.

(6) An individual who regains eligibility under section (5) of this rule and later fails to comply with the participation requirements of subsection (3)(d) or (3)(e) of this rule may receive a second set of food benefits for three consecutive countable months. The countable months are determined as follows:

(a) If the individual stopped participation in a work program, countable months start when the Department notifies the individual he or she is no longer meeting the work requirement.

(b) If the individual stopped participation in a work program, countable months start when the individual notifies the Department he or she is no longer meeting the work requirement.

(c) If a change occurred which results in an individual becoming subject to the time limit in section (2) of this rule and the change was required

to be reported under rules in OAR chapter 461, division 170, the countable months start when the change occurred.

(d) If a change occurred which results in an individual becoming subject to the time limit and the change was not required to be reported under rules in OAR chapter 461, division 170, countable months start when the Department notifies the individual he or she must meet the work requirement.

(e) An individual may only receive benefits without meeting the requirements of subsection (3)(d) or (3)(e) of this rule for a total of six countable months during January 1, 2016 to December 31, 2018.

(7) The Department may issue discretionary exemptions to ABAWD clients who are otherwise ineligible under this rule in the following circumstances:

(a) An ABAWD who did not receive timely notice of benefits closure due to the time limit may receive an exemption for May 2016 or June 2016.

(b) An ABAWD who did not receive at least three months' notice about the ABAWD participation requirements in the client's preferred language may receive exemptions for May 2016 and June 2016.

(8) An ABAWD involved in the activities specified in subsection (3)(d) or (3)(e) of this rule or an activity listed in the individual's case plan (see OAR 461-001-0020) is eligible for support service payments necessary for transportation or other costs related to completing the activity as allowed by OAR 461-190-0360.

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

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.121, 411.816

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.121, 411.816, 411.825, 411.837

Hist.: AFS 39-1996(Temp), f. 11-27-96, cert. ef. 12-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 5-1997, f. 4-30-97, cert. ef. 5-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 6-1998(Temp), f. 3-30-98, cert. ef. 4-1-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 15-1998(Temp), f. 9-15-98, cert. ef. 10-1-98 thru 10-31-98; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 22-1998, f. 10-30-98, cert. ef. 11-1-98; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 12-2000(Temp), f. 5-1-00, cert. ef. 5-1-00 thru 9-30-00; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 8-2001, f. & cert. ef. 5-1-01; AFS 8-2002, f. & cert. ef. 5-1-02; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 37-2015, f. 12-23-15, cert. ef. 1-1-16; SSP 6-2016(Temp), f. & cert. ef. 2-5-16 thru 8-2-16; SSP 10-2016(Temp), f. & cert. ef. 3-2-16 thru 8-2-16; SSP 15-2016, f. & cert. ef. 4-1-16; SSP 16-2016(Temp), f. & cert. ef. 4-5-16 thru 4-30-16; SSP 18-2016(Temp), f. 4-29-16, cert. ef. 5-1-16 thru 6-30-16

Rule Caption: Expanding pilot project to provide assistance with Social Security disability benefits to eligible clients

Adm. Order No.: SSP 19-2016

Filed with Sec. of State: 5-10-2016

Certified to be Effective: 5-10-16

Notice Publication Date: 2-1-2016

Rules Amended: 461-125-0370

Subject: OAR 461-125-0370 about disability as the basis of need is being amended to expand a pilot program (started by temporary rule on October 5, 2015 and expanded by temporary rule on March 1, 2016 and again by permanent rule on April 1, 2016) to include AAA (Area Agency on Aging) and APD (Aging and People with Disabilities) offices in Corvallis and Washington County. The pilot project offers free assistance with Social Security disability applications and administrative appeals to clients who meet the following requirements:

- Have a disability under OAR 461-125-0370(1)(c);
- Receive benefits from one of the OCCS Medical Programs (see OAR 461-001-0000);
- Receive SNAP benefits; and
- Are served by an AAA or APD office in Albany, Baker City, Bend, Brookings, Burns, Canby, Coos Bay, Corvallis, Cottage Grove, Enterprise, Estacada, Eugene, Florence, Gold Beach, Hermiston, John Day, La Grande, La Pine, Madras, Milwaukie, North Bend, Ontario, Oregon City, Pendleton, Prineville, Redmond, Reedsport, Roseburg, The Dalles, or Toledo, Oregon or Washington County.

Rules Coordinator: Kris Skaro—(503) 945-6067

461-125-0370

Disability as the Basis of Need

(1) In the OSIP and OSIPM programs (except OSIP-EPD and OSIPM-EPD), an individual meets the eligibility requirement to have a disability if the requirements of one of the following subsections are met:

(a) The individual is receiving Social Security Disability Income (SSDI) or Supplemental Security Income (SSI) based on disability.

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Eligibility continues as long as the individual remains eligible for SSDI or SSI.

(b) The individual was eligible for and received Aid to the Disabled benefits in Oregon in December 1973. These grandfathered cases continue to be eligible as long as they are continuously disabled as defined by Oregon requirements that were in effect in 1973.

(c) The Department has determined the individual meets the listing of impairments found in 20 C.F.R. Part 404, Subpart P, Appendix 1; meets the medical vocational guidelines found in 20 C.F.R. Part 404, Subpart P, Appendix 2 for SSI; or meets the definition of disability in 20 C.F.R. 404.1505 or 416.905.

(d) The Social Security Administration (SSA) has determined the individual meets the listing of impairments found in 20 C.F.R. Part 404, Subpart P, Appendix 1; meets the medical vocational guidelines found in 20 C.F.R. Part 404, Subpart P, Appendix 2; or meets the definition of disability in 20 C.F.R. 404.1505 or 416.905.

(2) If the Department finds the individual eligible for OSIPM in the absence of a disability determination by SSA, the individual remains eligible, provided that the individual continues to meet the disability criteria for eligibility for OSIPM, until SSA denies the disability claim in a final administrative decision.

(3) For OSIP and OSIPM, a disability determination made by SSA that is unfavorable to an individual is binding on the Department unless the requirements of at least one of the following subsections are met (see 42 C.F.R. 435.541(c)(1) and (c)(4)):

(a) SSA made the determination for a reason other than disability.

(b) The individual alleges a disabling condition different from, or in addition to, that considered by SSA in making its determination.

(c) More than 12 months after the most recent SSA determination denying disability, the individual alleges that his or her condition has changed or deteriorated since that SSA determination, and the individual has not made application to SSA based on these allegations.

(d) The individual alleges less than 12 months after the most recent SSA determination denying disability that the condition which SSA evaluated has changed or deteriorated since that SSA determination; and one or both of the following apply:

(A) The individual has requested reconsideration or reopening of the most recent SSA determination denying disability and SSA has declined to consider the new allegations.

(B) It is clear that the individual no longer meets SSI eligibility requirements unrelated to disability status but may satisfy comparable Medicaid eligibility requirements.

(4) If a binding SSA disability determination is not in place, the determination of disability to qualify for OSIPM is made by the Presumptive Medicaid Disability Determination Team (PMDDT), composed of a medical or psychological consultant and another individual who is qualified to interpret and evaluate medical reports, other evidence relating to the individual's physical or mental impairments, and (as necessary) to determine the capacities of the individual to perform substantial gainful activity, as specified in 20 C.F.R. Part 416, Subpart J (see 42 C.F.R. 435.541(f)(2)).

(5) The Presumptive Medicaid Disability Determination Team (PMDDT) obtains and reviews medical reports and other non-medical evidence pertaining to the individual and the claimed disability. The medical report and non-medical evidence must include diagnosis and other information in accordance with the requirements for evidence applicable to disability determinations under the SSI program specified in 20 CFR Part 416, Subpart I. The PMDDT then makes a decision about medical eligibility and whether and when a redetermination will be made (see 42 C.F.R. 435.541(f)(1) and (3)).

(6) In the OSIP-EPD and OSIPM-EPD programs, an individual is disabled (see OAR 461-001-0035) or has a disability (see OAR 461-001-0035) if the individual has a physical or mental impairment, or a combination of these impairments, that meets the definition of disability used by SSA when determining eligibility for SSI or SSDI under 20 C.F.R. Part 404. The determination is made as follows:

(a) A determination by SSA that the individual is disabled or has a disability is accepted by the Department.

(b) If the individual was determined to have a disability by SSA and lost their SSDI eligibility due to their own income, the SSA determination remains effective for one year from the date that the individual loses eligibility for SSDI.

(c) If there is no currently effective SSA determination finding the individual has a disability, the case is referred to the Department's central office for a disability determination (see OAR 461-001-0035) using the

standards of 20 C.F.R. Parts 404 and 416 and considering all relevant medical and vocational information.

(d) For OSIPM-EPD, an individual is engaging in substantial gainful activity (SGA, see OAR 461-001-0035) if the earnings of the individual are at or above the EPD Income Standard.

(e) For OSIPM-EPD, any work activity engaged in during the OSIPM-EPD application process or certification period is not evaluated as past relevant work (PRW, see OAR 461-001-0035).

(7) An individual who is served by a branch office (see OAR 461-001-0000) and who has been determined by the Presumptive Medicaid Disability Determination Team (PMDDT) to have a disability (see section (1) of this rule) may receive free assistance from the Department with applications and administrative appeals for Social Security benefits based on a disability for purposes including, but not limited to, meeting the requirement to pursue assets under OAR 461-120-0330.

(8) An individual may receive free assistance from the Department with applications and administrative appeals for Social Security benefits based on a disability for purposes including, but not limited to, meeting the requirement to pursue assets under OAR 410-200-0220 if the individual:

(a) Is determined to have a disability under subsection (1)(c) of this rule;

(b) Receives benefits from one of the OCCS Medical Programs (see OAR 461-001-0000); and

(c) Is served by the AAA (Area Agency on Aging) or APD (Aging and People with Disabilities) office in the cities of Albany, Baker City, Bend, Brookings, Burns, Canby, Coos Bay, Corvallis, Cottage Grove, Enterprise, Estacada, Eugene, Florence, Gold Beach, Hermiston, John Day, La Grande, La Pine, Madras, Milwaukie, North Bend, Ontario, Oregon City, Pendleton, Prineville, Redmond, Reedsport, Roseburg, The Dalles, Toledo or Washington County.

Stat. Auth.: ORS 409.050, 410.070, 411.060, 411.070, 411.121, 411.404, 411.706, 411.816, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 410.010, 410.020, 410.070, 411.060, 411.070, 411.121, 411.404, 411.704, 411.706, 411.816, 413.085, 414.685

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1991, f. & cert. ef. 10-1-91; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 7-1999, f. 4-27-99, cert. ef. 5-1-99; SSP 9-2003(Temp), f. & cert. ef. 4-11-03 thru 6-30-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 20-2014(Temp), f. & cert. ef. 8-1-14 thru 1-28-15; SSP 22-2014(Temp), f. 8-29-14, cert. ef. 9-1-14 thru 1-28-15; SSP 27-2014(Temp), f. & cert. ef. 10-1-14 thru 1-28-15; SSP 31-2014(Temp), f. & cert. ef. 12-8-14 thru 1-28-15; SSP 5-2015, f. & cert. ef. 1-29-15; SSP 26-2015(Temp), f. 9-29-15, cert. ef. 10-5-15 thru 4-1-16; SSP 9-2016(Temp), f. 2-23-16, cert. ef. 3-1-16 thru 4-1-16; SSP 13-2016, f. 3-21-16, cert. ef. 4-1-16; SSP 21-2016(Temp), f. & cert. ef. 5-13-16 thru 11-8-16; SSP 19-2016, f. & cert. ef. 5-10-16

Rule Caption: Amending rule relating to income limits for the REF program

Adm. Order No.: SSP 20-2016(Temp)

Filed with Sec. of State: 5-12-2016

Certified to be Effective: 5-12-16 thru 11-7-16

Notice Publication Date:

Rules Amended: 461-155-0030

Subject: OAR 461-155-0030 is being amended to state that the new Exit Limit Increase (ELI) does not apply to the Refugee (REF) program. The ELI was established on April 1, 2016 as part of the implementation of the TANF redesign in HB 3535 (2015). The ELI is an increased income limit standard applied to clients who would otherwise become ineligible due to increased earnings from employment. The ELI is intended to help clients ease off public assistance and avoid the so-called "benefits cliff" that may serve as a disincentive to employment. Although REF policy is aligned whenever possible, due to systems limitations, in this case the ELI will only apply to TANF until the system can be changed to apply the ELI to REF clients. The rule text showing proposed changes is available at http://www.dhs.state.or.us/policy/selfsufficiency/ar_temporary.htm.

Rules Coordinator: Kris Skaro—(503) 945-6067

461-155-0030

Income and Payment Standards; REF, TANF

(1) In the REF and TANF programs, the standards in this rule are applied to determine eligibility (see OAR 461-001-0000) and benefit amount as provided in OAR 461-160-0100.

(2) The Countable Income Limit Standards in this section apply to all individuals applying for or receiving REF or TANF benefits who are not

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eligible for the Exit Limit Increase (ELI) Standards in section (3) of this rule.

(a) For each need group (see OAR 461-110-0630) containing an adult, the following table is used: [Table not included. See ED. NOTE.]

(b) For each need group containing no adult, the following table is used: [Table not included. See ED. NOTE.]

(c) In the TANF program, a caretaker relative (see OAR 461-001-0000) other than a parent (see OAR 461-001-0000) who chooses not to be included in the need group is subject to the “non-needy caretaker relative countable income limit standard” for the filing group which is set at 185 percent of the federal poverty level (see OAR 461-155-0180).

(3) The ELI Standards in this section apply to an open TANF benefit group with income (must include earned income) above the standards in section (2) of this rule or upon restoring benefits to a TANF benefit group after closure due to earned income over the standards in section (2) or (3) of this rule within the previous 30 days.

(a) For each need group containing an adult, the following table is used: [Table not included. See ED. NOTE.]

(b) For each need group containing no adult, the following table is used:

(4) The Adjusted Income Limit Standards in this section apply to all individuals applying for or receiving REF or TANF benefits who are not eligible for the ELI Standards in section (3) of this rule.

(a) For each need group containing an adult, the following table is used: [Table not included. See ED. NOTE.]

(b) For each need group containing no adult, the following table is used: [Table not included. See ED. NOTE.]

(5) The Payment Standards in this section are used to calculate benefit amounts for individuals receiving REF or TANF benefits.

(a) For each benefit group containing an adult, the following table is used: [Table not included. See ED. NOTE.]

(b) For each benefit group containing no adult, the following table is used: [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 409.050, 411.060, 411.070, 412.006, 412.049, 412.124

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 412.006, 412.049, 412.124

Hist.: AFS 80-1989, f. & cert. ef. 2-1-90; AFS 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 20-

1990, f. 8-17-90, cert. ef. 9-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 13-1995, f. 6-29-

95, cert. ef. 7-1-95; AFS 32-1996(Temp), f. & cert. ef. 9-23-96; AFS 42-1996, f. 12-31-96,

cert. ef. 1-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04;

SSP 7-2006(Temp), f. 3-31-06, cert. ef. 4-1-06 thru 9-28-06; SSP 10-2006, f. 6-30-06, cert.

ef. 7-1-06; SSP 6-2007(Temp), f. 6-29-07, cert. ef. 7-1-07 thru 9-30-07; SSP 10-2007, f. &

cert. ef. 10-1-07; SSP 8-2009(Temp), f. 4-20-09, cert. ef. 5-1-09 thru 10-28-09; SSP 28-2009,

f. & cert. ef. 10-1-09; SSP 26-2010(Temp), f. & cert. ef. 8-16-10 thru 2-12-11; SSP 41-2010,

f. 12-30-10, cert. ef. 1-1-11; SSP 42-2010(Temp), f. 12-30-10, cert. ef. 1-1-11 thru 6-30-11;

SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 3-2012(Temp), f. & cert. ef. 1-26-12 thru 3-31-

12; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru

3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 38-2015, f. 12-25-15, cert. ef. 1-1-

16; SSP 15-2016, f. & cert. ef. 4-1-16; SSP 20-2016(Temp), f. & cert. ef. 5-12-16 thru 11-7-

16

Rule Caption: Expanding pilot project to provide assistance with Social Security disability benefits to eligible clients

Adm. Order No.: SSP 21-2016(Temp)

Filed with Sec. of State: 5-13-2016

Certified to be Effective: 5-13-16 thru 11-8-16

Notice Publication Date:

Rules Amended: 461-125-0370

Subject: OAR 461-125-0370 about disability as the basis of need is being amended to change the eligibility criteria for a pilot project that allows clients to receive free assistance from the Department with Social Security disability applications and appeals. Under the previous rule, to qualify, clients must be receiving SNAP benefits. The rule is being amended to eliminate that requirement. To receive free assistance through the pilot project under the amended rule, an individual must:

- Have a disability under OAR 461-125-0370(1)(c);
- Receive benefits from one of the OCCS Medical Programs (defined in OAR 461-001-0000); and
- Be served by an AAA or APD office in the cities of Albany, Baker City, Bend, Brookings, Burns, Canby, Coos Bay, Corvallis, Cottage Grove, Enterprise, Estacada, Eugene, Florence, Gold Beach, Hermiston, John Day, La Grande, La Pine, Madras, Milwaukie,

North Bend, Ontario, Oregon City, Pendleton, Prineville, Redmond, Reedsport, Roseburg, The Dalles, Toledo, or Washington County.

The rule text showing proposed changes is available at http://www.dhs.state.or.us/policy/selfsufficiency/ar_temporary.htm.

Rules Coordinator: Kris Skaro—(503) 945-6067

461-125-0370

Disability as the Basis of Need

(1) In the OSIP and OSIPM programs (except OSIP-EPD and OSIPM-EPD), an individual meets the eligibility requirement to have a disability if the requirements of one of the following subsections are met:

(a) The individual is receiving Social Security Disability Income (SSDI) or Supplemental Security Income (SSI) based on disability. Eligibility continues as long as the individual remains eligible for SSDI or SSI.

(b) The individual was eligible for and received Aid to the Disabled benefits in Oregon in December 1973. These grandfathered cases continue to be eligible as long as they are continuously disabled as defined by Oregon requirements that were in effect in 1973.

(c) The Department has determined the individual meets the listing of impairments found in 20 C.F.R. Part 404, Subpart P, Appendix 1; meets the medical vocational guidelines found in 20 C.F.R. Part 404, Subpart P, Appendix 2 for SSI; or meets the definition of disability in 20 C.F.R. 404.1505 or 416.905.

(d) The Social Security Administration (SSA) has determined the individual meets the listing of impairments found in 20 C.F.R. Part 404, Subpart P, Appendix 1; meets the medical vocational guidelines found in 20 C.F.R. Part 404, Subpart P, Appendix 2; or meets the definition of disability in 20 C.F.R. 404.1505 or 416.905.

(2) If the Department finds the individual eligible for OSIPM in the absence of a disability determination by SSA, the individual remains eligible, provided that the individual continues to meet the disability criteria for eligibility for OSIPM, until SSA denies the disability claim in a final administrative decision.

(3) For OSIP and OSIPM, a disability determination made by SSA that is unfavorable to an individual is binding on the Department unless the requirements of at least one of the following subsections are met (see 42 C.F.R. 435.541(c)(1) and (c)(4)):

(a) SSA made the determination for a reason other than disability.

(b) The individual alleges a disabling condition different from, or in addition to, that considered by SSA in making its determination.

(c) More than 12 months after the most recent SSA determination denying disability, the individual alleges that his or her condition has changed or deteriorated since that SSA determination, and the individual has not made application to SSA based on these allegations.

(d) The individual alleges less than 12 months after the most recent SSA determination denying disability that the condition which SSA evaluated has changed or deteriorated since that SSA determination; and one or both of the following apply:

(A) The individual has requested reconsideration or reopening of the most recent SSA determination denying disability and SSA has declined to consider the new allegations.

(B) It is clear that the individual no longer meets SSI eligibility requirements unrelated to disability status but may satisfy comparable Medicaid eligibility requirements.

(4) If a binding SSA disability determination is not in place, the determination of disability to qualify for OSIPM is made by the Presumptive Medicaid Disability Determination Team (PMDDT), composed of a medical or psychological consultant and another individual who is qualified to interpret and evaluate medical reports, other evidence relating to the individual's physical or mental impairments, and (as necessary) to determine the capacities of the individual to perform substantial gainful activity, as specified in 20 C.F.R. Part 416, Subpart J (see 42 C.F.R. 435.541(f)(2)).

(5) The Presumptive Medicaid Disability Determination Team (PMDDT) obtains and reviews medical reports and other non-medical evidence pertaining to the individual and the claimed disability. The medical report and non-medical evidence must include diagnosis and other information in accordance with the requirements for evidence applicable to disability determinations under the SSI program specified in 20 CFR Part 416, Subpart I. The PMDDT then makes a decision about medical eligibility and whether and when a redetermination will be made (see 42 C.F.R. 435.541(f)(1) and (3)).

(6) In the OSIP-EPD and OSIPM-EPD programs, an individual is disabled (see OAR 461-001-0035) or has a disability (see OAR 461-001-0035) if the individual has a physical or mental impairment, or a combina-

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tion of these impairments, that meets the definition of disability used by SSA when determining eligibility for SSI or SSDI under 20 C.F.R. Part 404. The determination is made as follows:

(a) A determination by SSA that the individual is disabled or has a disability is accepted by the Department.

(b) If the individual was determined to have a disability by SSA and lost their SSDI eligibility due to their own income, the SSA determination remains effective for one year from the date that the individual loses eligibility for SSDI.

(c) If there is no currently effective SSA determination finding the individual has a disability, the case is referred to the Department's central office for a disability determination (see OAR 461-001-0035) using the standards of 20 C.F.R. Parts 404 and 416 and considering all relevant medical and vocational information.

(d) For OSIPM-EPD, an individual is engaging in substantial gainful activity (SGA, see OAR 461-001-0035) if the earnings of the individual are at or above the EPD Income Standard.

(e) For OSIPM-EPD, any work activity engaged in during the OSIPM-EPD application process or certification period is not evaluated as past relevant work (PRW, see OAR 461-001-0035).

(7) An individual who is served by a branch office (see OAR 461-001-0000) and who has been determined by the Presumptive Medicaid Disability Determination Team (PMDDT) to have a disability (see section (1) of this rule) may receive free assistance from the Department with applications and administrative appeals for Social Security benefits based on a disability for purposes including, but not limited to, meeting the requirement to pursue assets under OAR 461-120-0330.

(8) An individual may receive free assistance from the Department with applications and administrative appeals for Social Security benefits based on a disability for purposes including, but not limited to, meeting the requirement to pursue assets under OAR 410-200-0220 if the individual:

(a) Is determined to have a disability under subsection (1)(c) of this rule;

(b) Receives benefits from one of the OCCS Medical Programs (see OAR 461-001-0000);

(c) Receives SNAP benefits; and

(d) Is served by the AAA (Area Agency on Aging) or APD (Aging and People with Disabilities) office in Albany, Baker City, Bend, Brookings, Burns, Canby, Coos Bay, Corvallis, Cottage Grove, Enterprise, Estacada, Eugene, Florence, Gold Beach, Hermiston, John Day, La Grande, La Pine, Madras, Milwaukie, North Bend, Ontario, Oregon City, Pendleton, Prineville, Redmond, Reedsport, Roseburg, The Dalles, or Toledo, Oregon or Washington County.

Stat. Auth.: ORS 409.050, 410.070, 411.060, 411.070, 411.121, 411.404, 411.706, 411.816, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 410.010, 410.020, 410.070, 411.060, 411.070, 411.121, 411.404, 411.704, 411.706, 411.816, 413.085, 414.685

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1991, f. & cert. ef. 10-1-91; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 7-1999, f. 4-27-99, cert. ef. 5-1-99; SSP 9-2003(Temp), f. & cert. ef. 4-11-03 thru 6-30-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 20-2014(Temp), f. & cert. ef. 8-1-14 thru 1-28-15; SSP 22-2014(Temp), f. 8-29-14, cert. ef. 9-1-14 thru 1-28-15; SSP 27-2014(Temp), f. & cert. ef. 10-1-14 thru 1-28-15; SSP 31-2014(Temp), f. & cert. ef. 12-8-14 thru 1-28-15; SSP 5-2015, f. & cert. ef. 1-29-15; SSP 26-2015(Temp), f. 9-29-15, cert. ef. 10-5-15 thru 4-1-16; SSP 9-2016(Temp), f. 2-23-16, cert. ef. 3-1-16 thru 4-1-16; SSP 13-2016, f. 3-21-16, cert. ef. 4-1-16; SSP 21-2016(Temp), f. & cert. ef. 5-13-16 thru 11-8-16

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Department of Justice Chapter 137

Rule Caption: Addition of counseling benefits and payments to physicians through the SAVE Fund.

Adm. Order No.: DOJ 6-2016(Temp)

Filed with Sec. of State: 4-19-2016

Certified to be Effective: 4-19-16 thru 10-15-16

Notice Publication Date:

Rules Amended: 137-084-0001, 137-084-0010, 137-084-0020, 137-084-0030

Subject: In order to address hospital and physician billing issues, the Sexual Assault Victims' Emergency Medical Response (SAVE) Fund will begin making separate payments to a Doctor of Medicine or a Doctor of Osteopathy who provides services for a sexual assault exam. The SAVE Fund will also offer five counseling sessions to any

sexual assault survivor who has had a forensic sexual assault exam. Other minor changes address vague or outdated rule language.

Rules Coordinator: Carol Riches—(503) 378-5987

137-084-0001

Definitions

(1) "Department" means the Oregon Department of Justice.

(2) "Fund" means the Sexual Assault Victims' Emergency Medical Response Fund.

(3) "Application Form" means the most current version of the Application for Payment Sexual Assault Victims' Emergency Medical Response Fund form issued by the Department of Justice.

(4) "Eligible victim" means a person who has self-identified or been identified by another as a victim of a sexual assault that occurred in Oregon and who receives a medical examination by an eligible medical services provider within the time periods established in OAR 137-084-0010(4) and (5).

(5) "Eligible Medical Services Provider" means a person who has the facilities and supplies necessary to provide the complete medical assessment as provided in these rules and who is currently licensed in Oregon, Washington, Idaho or California in one of the following categories: a SANE/SAE certified nurse, a registered nurse acting under the direct supervision of a Doctor of Medicine or a Doctor of Osteopathy, a nurse practitioner, a Doctor of Medicine, or a Doctor of Osteopathy.

(6) "Oregon State Police SAFE Kit" means the sexual assault forensic evidence collection kit, including protocol guidelines, approved by and distributed by the Oregon Department of State Police.

(7) "Medical Examination" means a medical examination of a victim of sexual assault conducted within the accepted patient standard of care by an eligible medical services provider.

(8) "Complete Medical Assessment" means use of an Oregon State Police SAFE Kit in conjunction with a medical examination of a victim of sexual assault conducted within the accepted patient standard of care by an eligible medical services provider and the offering and, if requested, provision of prescriptions for emergency contraception and sexually transmitted disease prevention.

(9) "Partial Medical Assessment" means a medical examination of a victim of sexual assault conducted within the accepted patient standard of care by an eligible medical services provider and the offering and, if requested, provision of prescriptions for emergency contraception and sexually transmitted disease prevention.

(10) "Sexually Transmitted Disease Prophylaxis" means administering prophylactic drugs to prevent sexually transmitted disease, or providing a prescription for such medication to be filled on-site, in conjunction with a complete medical assessment or a partial medical assessment.

(11) "Emergency Contraception" means administering prophylactic drugs to prevent pregnancy, or providing a prescription for such medication to be filled on-site, in conjunction with a complete medical assessment or a partial medical assessment.

(12) "SANE/SAE Certified Sexual Assault Nurse" means a nurse who has received certification as a SANE/SAE from the International Association of Forensic Nurses or from the Oregon Attorney General's Sexual Assault Task Force.

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

Stat. Auth.: 2003 OL Ch. 789 (SB 752)

Stats. Implemented: 2003 OL Ch. 789 (SB 752)

Hist.: DOJ 3-2004, f. & cert. ef. 1-29-04; DOJ 14-2004, f. & cert. ef. 11-22-04; DOJ 13-2007, f. & cert. ef. 12-11-07; DOJ 6-2016(Temp), f. & cert. ef. 4-19-16 thru 10-15-16

137-084-0010

Claims Processing

(1) A victim of a sexual assault who wants the Fund to pay for a medical examination, collection of forensic evidence using the Oregon State Police SAFE Kit, emergency contraception, or sexually transmitted disease prophylaxis must indicate to the medical service provider that they wish for the provider to submit a completed Application Form to the Department.

(2) To obtain payment from the Fund, an eligible medical services provider must submit the Application Form to the Department within one year of the date the medical services are provided. At the Department's discretion, the Department may choose to pay claims that are received after one year of the date the medical services are provided.

(3) All medical services invoices must be submitted by the eligible medical services provider with the Application Form. Invoices submitted separately will not be paid.

(4) To be paid for by the Fund, a complete medical assessment using the Oregon State Police SAFE Kit must be completed within 84 hours (three and one-half days) of the sexual assault. The Kit must have been

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released to appropriate law enforcement personnel in a timely manner after its use for collection of information.

(5) To be paid for by the Fund, a partial medical assessment must be completed within 168 hours (seven days) of the sexual assault of the victim.

(6) Completed Application Forms submitted with medical services invoices will be processed for payment by the Fund within 60 days of submission.

[ED. NOTE: Forms referenced are available from the agency.]
Stat. Auth.: 2003 OL Ch. 789 (SB 752)
Stats. Implemented: 2003 OL Ch. 789 (SB 752)
Hist.: DOJ 3-2004, f. & cert. ef. 1-29-04; DOJ 13-2007, f. & cert. ef. 12-11-07; DOJ 6-2016(Temp), f. & cert. ef. 4-19-16 thru 10-15-16

137-084-0020

Maximum Amounts Paid for Medical Services

(1) The Fund will pay eligible medical services providers the actual costs incurred for providing medical services to sexual assault victims up to the following maximum amounts:

- (a) \$380 for a medical examination plus collection of forensic evidence using the Oregon State Police SAFE Kit;
- (b) \$175 for a medical examination without collection of forensic evidence using the Oregon State Police SAFE Kit;
- (c) \$55 for emergency contraception (including pregnancy test);
- (d) \$100 for sexually transmitted disease prophylaxis;
- (e) For dates of service April 1, 2016 or later, \$75 for services provided by a Doctor of Medicine or a Doctor of Osteopathy;
- (f) For dates of services January 1, 2015 or later, five (5) counseling sessions, not to exceed \$700.00:
 - (i) \$140.00 per hour for a Doctor of Medicine;
 - (ii) \$110.00 per hour for a PhD or PsyD;
 - (iii) \$85.00 per hour for an LCSW, LCP, or LMFT;
 - (iv) \$55.00 per hour for a QMHP.

(2) An additional payment of \$75 will be made to eligible medical services providers who document that the medical examination, as part of either a partial or complete medical assessment, was conducted by a SANE/SAE certified nurse.

(3) The payment amounts set out in this rule will be reviewed at least every two years by the Attorney General or the Attorney General's designee to determine whether they should be adjusted to meet current circumstances.

(4) An eligible medical services provider (including subcontractor or other designee) who submits a bill to the Fund under these rules may not bill the victim or the victim's insurance carrier for a medical examination, collection of forensic evidence using the Oregon State Police SAFE Kit, emergency contraception, or sexually transmitted disease prophylaxis, except to the extent the Department is unable to pay the bill due to lack of funds or declines to pay the bill for reasons other than untimely or incomplete submission of the bill to the Fund under OAR 137-084-0030(2)(e).

Stat. Auth.: 2003 OL Ch. 789 (SB 752)
Stats. Implemented: 2003 OL Ch. 789 (SB 752)
Hist.: DOJ 3-2004, f. & cert. ef. 1-29-04; DOJ 13-2007, f. & cert. ef. 12-11-07; DOJ 6-2016(Temp), f. & cert. ef. 4-19-16 thru 10-15-16

137-084-0030

Payment Restrictions and Disqualifications

(1) The Fund will not pay for any service not specifically described in ORS 147.397 or OAR 137-084-0001 through 137-084-0030. Examples of services not covered by the Fund include, but are not limited to: treatment of injuries; DNA testing; HIV testing; laboratory testing of blood for any purpose, other than pregnancy; and prescriptions filled off-site of the location of a medical examination. Nothing in this rule is intended to preclude an eligible medical services provider from submitting a claim against the victim, the victim's insurance carrier or any other source for payment for services not specifically described in ORS 147.395 through 147.397 or OAR 137-084-0001 through 137-084-0030.

(2) The Fund reserves the right not to pay for medical services described in ORS 147.395 through 147.397 or OAR 137-084-0001 through 137-084-0030 for any one of the following reasons:

- (a) Services were not provided by an eligible medical services provider.
- (b) Services were provided to someone other than an eligible victim.
- (c) Services were not provided in accordance with the requirements in ORS 147.395 through 147.397 or OAR 137-084-0001 through 137-084-0030, including the timeliness requirements for complete medical assessments (within 84 hours (three and one-half days) of the sexual assault) and partial medical assessments (within 168 hours (seven days) of the sexual assault).

(d) Services provided were duplicate services for the same incident.

(e) Failure of the eligible medical services provider to submit a completed Application Form, submission of incomplete invoice(s) for medical services or submission of the Application Form or invoice(s) for medical services more than one year after date services provided. At the Departments discretion, the Department may choose to pay claims that are received after one year of the date the medical services are provided.

(f) Insufficient funds in the Fund to cover the services provided. The Fund will pay in full for services provided and billed to the Fund until the money in the Fund is exhausted.

(3) If the Attorney General or the Attorney General's designee determines that the Fund will not pay for one or more of the services described in ORS 147.395 through 147.397 or OAR 137-084-0020(1) and (2) for reasons other than those set out in 137-084-0030(2)(e) above, the Attorney General or the Attorney General's designee will provide notice to the medical services provider(s) affected. After receiving such notice, a medical services provider may bill the victim, the victim's insurance carrier or any other source for those medical services provided but not paid for by the Fund.

[ED. NOTE: Forms referenced are available from the agency.]
Stat. Auth.: 2003 OL Ch. 789 (SB 752)
Stats. Implemented: 2003 OL Ch. 789 (SB 752)
Hist.: DOJ 3-2004, f. & cert. ef. 1-29-04; DOJ 6-2016(Temp), f. & cert. ef. 4-19-16 thru 10-15-16

Department of State Lands Chapter 141

Rule Caption: Establish an identification/notification process for historically filled lands, and requirements for creating new lands.

Adm. Order No.: DSL 2-2016

Filed with Sec. of State: 5-13-2016

Certified to be Effective: 6-1-16

Notice Publication Date: 12-1-2015

Rules Adopted: 141-068-0000, 141-068-0010, 141-068-0020, 141-068-0030, 141-068-0040, 141-068-0050, 141-068-0060, 141-068-0070, 141-068-0080, 141-068-0090, 141-068-0100, 141-068-0110, 141-068-0120, 141-068-0130, 141-068-0140

Rules Amended: 141-067-0130, 141-067-0150, 141-067-0155, 141-067-0170, 141-067-0195, 141-067-0215, 141-067-0220, 141-067-0270, 141-067-0300, 141-067-0180

Rules Repealed: 141-067-0200

Subject: Senate Bill 912 was passed during the 2015 regular legislative session. This bill clarifies the distinction between "historically filled lands" and "new lands" for purposes of determining ownership and transfer of ownership of lands created upon submersible or submerged lands by artificial fill or deposit. Re-affirms the State Land Board's authority to sell, lease or trade the newly defined "historically filled lands," identical to their authority over "new lands." Establishes process for State Land Board to identify and declare state's interest in historically filled lands and to provide notice of declaration. This legislation is based on recommendations from the Filled Lands Advisory Group (FLAG) that reported on its work to the State Land Board in June 2014. This rulemaking addresses the recommendations of the FLAG and sets up the process and procedures for inventorying historically filled lands and notifying affected stakeholders.

OAR 141-067 will be amended to reflect the adoption of OAR 141-068. The process for identifying and selling or exchanging historically filled or new lands will be removed from division 67 and placed in division 68.

Rules Coordinator: Sabrina L. Foward—(503) 986-5236

141-067-0130

Purpose and Applicability

These rules:

- (1) Establish procedures for the sale, exchange, and purchase of certain types and classifications of land and other interests including mineral and geothermal resource rights in land managed or to be managed by the State Land Board and the Department of State Lands in order to comply with all Constitutional and statutory requirements including, but not limited to: Oregon Constitution Article VIII, Section 5(2), and ORS 270, 271, 272, 273, and 274.

ADMINISTRATIVE RULES

(2) Do not pertain to the leasing of lands or the granting of easements across lands managed by the State Land Board and the Department of State Lands, which are governed by other Department administrative rules.

(3) Apply to all land transactions (for example, sales, exchanges and purchases) for the South Slough National Estuarine Research Reserve as established in ORS 273.553.

(4) Do not apply to:

(a) The sale of submerged, submersible fronting upon the Pacific Ocean, or

(b) Land sold by the Department under the administrative rules of Procedure for the Recovery of Escheat Property (OAR chapter 141 division 030) or the Administration of Estates - Probate (OAR chapter 141 division 035)

(c) Contracts for the sale of timber or other forest products.

(d) The sale of historically filled lands or new lands as administered through OAR 141-068.

Stat. Auth.: ORS 270.005 - 270.190, 273.045, 273.245 - 273.247, 273.251 - 273.311, 273.316 - 273.321, 273.413 - 273.456, 274.040, 274.905 - 274.940, 274.960 - 274.985

Stats. Implemented: ORS 270.005 - 270.190, 273.045, 273.245 - 273.247, 273.251 - 273.311, 273.316 - 273.321, 273.413 - 273.456, 274.040, 274.905 - 274.940, 274.960 - 274.985

Hist.: DSL 2-2002, f. 4-12-02, cert. ef. 7-1-02; DSL 6-2009, f. & cert. ef. 7-1-09; DSL 2-2016, f. 5-13-16, cert. ef. 6-1-16

141-067-0150

Definitions

(1) "Abutting" means immediately adjacent to or facing.

(2) "Apparent Successful Purchaser" is the person who is the highest acceptable bidder and who has agreed to the terms and conditions of a land sale prior to the final approval of the sale by the State Land Board.

(3) "Applicant" is any person who submits a written request to the Department to purchase or exchange state land or interests in land.

(4) "Appraisal" or "Appraisal Report" means a written statement setting forth an opinion as to the market value of the lands or interests in lands as of a specific date(s) prepared by a qualified appraiser in accordance with the Uniform Standards of Professional Appraisal Practices (USPAP) standards.

(5) "Asset Management Plan" or "AMP" is the plan adopted by the State Land Board that provides the policy direction and management principles to guide both the short and long term management by the Department of State Lands of its real estate assets.

(6) "Bargain" is a process by which the Department and another person attempt to agree to a final sale price of state land or interests in state land.

(7) "Bargain and Sale Deed" is a form of a deed that conveys real property from a seller to a buyer but does not guarantee clear title.

(8) "Bid" means a written or oral monetary commitment to purchase land or interest in land offered at the specified time and place by a person determined by the Department as provided in OAR 141-067-0220 of these rules to be eligible to participate in an auction process.

(9) "Deed" means a written, legal instrument that conveys an estate or interest in real property when it is properly executed and delivered.

(10) "Director" means the Director of the Oregon Department of State Lands or designee.

(11) "Department" means the Department of State Lands.

(12) "Department Estimate of Value" is the monetary value of a land parcel established by the Department and approved by the State Land Board based on a critical review of the appraisal report; any review appraisal information; and other relevant or supporting data. The value may be derived, at the discretion of the Director, by considering factors or costs as are appropriate and applicable to the transaction.

(13) "Easement" is an authorization granted by the Department that gives a person the use of a specifically designated parcel of state-owned land for a specific purpose and length of time. An easement does not convey any proprietary or other rights of use to the holder other than those specifically granted in the easement authorization.

(14) "Filled Lands" as defined in ORS 274.705 (1) means submerged and submersible lands reclaimed artificially through raising such lands above the highest probable elevation of the tides to form dry land, by placement of a fill or deposit of earth, rock, sand or other solid imperishable material.

(15) "Formerly Submerged and Submersible Lands" are lands such as de-watered channels that once were part of the submerged and submersible lands of a navigable body of water but are no longer part of the waterway due to the dynamic forces of the waterway.

(16) "Geothermal Resources" as defined in ORS 522.005 means the natural heat of the earth, the energy, in whatever form, below the surface of the earth present in, resulting from, or created by, or that may be extracted

from, the natural heat, and all minerals in solution or other products obtained from naturally heated fluids, brines, associated gases, and steam in whatever form, found below the surface of the earth, exclusive of helium or of oil, hydrocarbon gas or other hydrocarbon substances, but including, specifically:

(a) All products of geothermal processes, including indigenous steam, hot water and hot brines;

(b) Steam and other gases, hot water and hot brines resulting from water, gas, or other fluids artificially introduced into geothermal formations;

(c) Heat or other associated energy found in geothermal formations; and

(d) Any by-product derived from them.

(17) "High Bid" means the highest monetary commitment to purchase land offered by a person eligible to participate in a land sale auction.

(18) "Highest and Best Use" means the reasonably probable and legal use of vacant or an improved property which is physically possible, appropriately supported, financially feasible, and that results in the highest value.

(19) "Individual Person" means a natural person and does not include such entities as a corporation, public agency, political subdivision or association.

(20) "Land Acquisition Evaluation" is an analytical review of land or interest being considered for acquisition by the Department to determine whether or not the land or interests should be acquired by purchase or exchange. The review includes:

(a) An examination of the physical, land management, financial, natural resource, recreational and cultural resource aspects of the land or interest; and

(b) A comparison of the information from (a) above, with the acquisition criteria and strategies of the Asset Management Plan."

(21) "Land Disposal Evaluation" is an analytical review of state land or interest being considered for sale or exchange to determine whether or not the land or interest should be retained or disposed. The review includes:

(a) An examination of the physical, land management, financial, natural resource, recreational and cultural resource aspects of the land or interest; and

(b) A comparison of the information from (a) above, with the disposal criteria and strategies of the Asset Management Plan.

(22) "Land Exchange" means a simultaneous conveyance of land or interest in state land for land or interest in land of another entity of equal value (either appraised or Department-estimate of value).

(23) "Land Exchange Agreement" is a non-binding agreement between the Department and another party that sets out the terms of the exchange proposal and the responsibilities of each party to complete the exchange. The agreement, at a minimum, describes the lands to be exchanged; assigns responsibility for completion of and payment for appraisals, surveys, land use applications, advertising, closing and any special studies including environmental audits; and establishes a reasonable time schedule for completion.

(24) "Lease" means a valid enforceable contract executed by the Department and signed by the lease applicant (called lessee) allowing the use of a specific area of state land for a specific use under specific terms and conditions specified in the lease contract and these rules.

(25) "Lessee" refers to any person having a valid lease issued by the Department.

(26) "Market Value" or "Fair Market Value" means the most probable price in cash, or terms equivalent to cash, which land or interests in land should bring in a competitive and open market under all conditions requisite to a fair sale, where the buyer and seller each acts prudently and knowledgeably, and the price is not affected by undue influence.

(27) "Mineral and Energy Resource Potential Analysis" is an analysis of the mineral and geothermal interests of a parcel to determine if any minerals or energy resources exist in commercially valuable and extractable abundance.

(28) "Mineral and Geothermal Resource Rights" are all mineral rights as defined in ORS 273.775(1), including soil, clay, stone, sand, and gravel, and all geothermal resources, as defined in 273.775(2), together with the right to make use of the surface as may be reasonably necessary for prospecting for, exploring for, mining, extracting, reinjecting, storing, drilling for, and removing, such minerals, materials, and geothermal resources.

(29) "Minimum Bid" is the lowest monetary commitment to purchase land offered from a person eligible to participate at a land sale auction that the Department will accept.

ADMINISTRATIVE RULES

(30) “Non-Trust Land” or “Statutory Land” is state-owned land managed by the Department other than Trust Land. Examples of Non-Trust Land include state-owned Swamp Land Act Land, and submerged and submersible land (land below the line of ordinary high water) under navigable waterways.

(31) “Person” includes individuals, corporations, associations, firms, partnerships, limited liability companies and joint stock companies as well as any state or other governmental or political subdivision or agency, public corporation, public authority, or Indian Tribe.

(32) “Public Body” means the State of Oregon or any port organized under the laws of Oregon or dock commission of any city of this state.

(33) “Public Trust Values” are the rights and interests held by the public to use and enjoy submerged and submersible lands and waters of the state for fishing, navigation, recreation and commerce (also termed “jus publicum rights”).

(34) “Qualified Appraiser” is a person who is a state-certified appraiser, or a salaried public employee of the federal government, the State of Oregon or a political subdivision of the federal government or the State of Oregon engaged in the performance of the duties of the employee as defined in ORS 674.100(2)(h).

(35) “Quitclaim Deed” is a form of deed in which any interest the grantor possesses in the property described in the deed is conveyed to the grantee without warranty of title.

(36) “Rangelands” means Trust and Non-Trust Lands that are classified by the Department for management primarily for livestock grazing largely on uncultivated forage areas with limited improvements or development.

(37) “Reserved Interest” means an interest in the land that is retained by the Department from a conveyance of the title to the state land.

(38) “South Slough National Estuarine Research Reserve” is a component of the National Estuary Reserve System situated at South Slough (Coos County) established under ORS 273.553.

(39) “South Slough Management Commission” is the public body established in ORS 273.554 for the purpose of directing the management of the South Slough National Estuarine Research Reserve.

(40) “State Forester” is as described in ORS 526.005(03).

(41) “State Land” means real property, including improvements, or any interest in real property (for example, timber or minerals) managed by the State Land Board and the Department of State Lands as Trust or Non-Trust Land.

(42) “State Land Board” or “Board” means the constitutionally created body consisting of the Governor, Secretary of State and the State Treasurer that is responsible for managing the assets of the Common School Fund as well as for additional functions placed under its jurisdiction by law.

(43) “Submerged Land” means land lying below the line of ordinary low water of all title navigable and tidally influenced waters within the boundaries of the State of Oregon.

(44) “Submersible Land” means land lying between the line of ordinary high water and the line of ordinary low water of all title navigable and tidally influenced waters and all islands, shore lands or other such lands held by or granted to this state by virtue of her sovereignty, wherever applicable within the boundaries of the State of Oregon.

(45) “Trust Lands” or “Constitutional Lands” is all land granted to the state for the use of schools upon its admission into the Union, or obtained by the state as the result of an exchange of Trust Land, or obtained in lieu of originally granted Trust Land, or purchased with trust funds, or obtained through foreclosure of loans using trust funds.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 270.005 - 270.190, 273.045, 273.245 - 273.247, 273.251 - 273.311, 273.316 - 273.321, 273.413 - 273.456, 274.040, 274.905 - 274.940, 274.960 - 274.985
Stats. Implemented: ORS 270.005 - 270.190, 273.045, 273.245 - 273.247, 273.251 - 273.311, 273.316 - 273.321, 273.413 - 273.456, 274.040, 274.905 - 274.940, 274.960 - 274.985
Hist.: DSL 2-2002, f. 4-12-02, cert. ef. 7-1-02; DSL 6-2009, f. & cert. ef. 7-1-09; DSL 2-2016, f. 5-13-16, cert. ef. 6-1-16

141-067-0155

Policies

(1) Pursuant to Article VIII, Section 5(2) of the Oregon Constitution, the State Land Board has a constitutional responsibility to manage all land (Trust and Non-Trust) under its jurisdiction “with the object of obtaining the greatest benefit for the people of this state, consistent with the conservation of this resource under sound techniques of land management.”

(2) In order to achieve the constitutional mandate described above and to maximize the financial return to the Common School Fund from Trust Lands, the Department will seek to obtain the full fair market value for any land or interests in land sold or exchanged.

(3) Trust Lands will be sold or exchanged in a manner that complies with state law while ensuring absolute adherence to both constitutional and Admission Act trust responsibilities as determined by the State Land Board and subject to review by the courts.

(4) The Department will follow the guiding principles and resource-specific management prescriptions contained in the Asset Management Plan.

(5) In order to carry out the directives of the Asset Management Plan the Department may initiate efforts, subject to approval of the State Land Board, to purchase, sell or exchange Trust and/or Non-Trust Lands.

(6) Any Trust Land or interest in Trust Land may be exchanged for other land or interest in land, of equal or superior value. The newly acquired land or interest in land shall become Trust Land.

(7) The Director may, with State Land Board approval, purchase, sell or exchange lands in any such size, configuration or class (e.g. forest, agriculture, commercial).

(8) The State Forester may initiate and process land exchanges involving Common School Forest Lands under its management as allowed in the management agreement between State Land Board, the Department of State Lands and the State Forester. Such land exchanges require the approval of the State Land Board.

(9) Qualified persons and agencies may apply to purchase or exchange state land or interests in state land at any time. An application fee, as required by these rules, shall be included with each application. The Department reserves the right to accept or reject any application as well as to prioritize land sale and exchange projects according to available agency funds and income potential.

(10) The Department will not sell or exchange state-owned submerged land except to facilitate remedial action conducted pursuant to a plan approved by the Oregon Department of Environmental Quality (DEQ) or the U.S. Environmental Protection Agency (EPA) and with DEQ or EPA oversight. In instances when the Department chooses to sell or exchange submerged lands under circumstances as stated in these rules, such transaction shall occur only upon a finding that the transaction will provide a net gain in public trust values to the people of Oregon when viewed alone or in conjunction with other nearby or related sites. The State Land Board must approve all sales or exchanges of state-owned submerged land.

(11) The Department recognizes that uncertainty exists as to the extent of the State’s ownership of some formerly submerged and submersible lands. Actions to determine and assert the State’s interest, if any, in formerly sub-merged and submersible land should be done in a prompt and orderly manner and as funding allows. The State Land Board authorizes the Department to negotiate settlements in lieu of litigation, when and where appropriate, with regard to the ownership of formerly submerged and submersible lands.

(12) The Department may exchange or sell submersible lands subject to the approval of the State Land Board, based on its finding that the proposed transaction will accrue a net gain of public trust values to the people of Oregon when viewed alone or in conjunction with other nearby or related lands within the control of the applicant.

(13) The State Land Board authorizes the Director or designee to issue such certificates of sale, deeds or conveyances as are necessary to carry out the land transactions approved by the State Land Board in conformance with these rules. Such instruments shall include, but not be limited to bargain and sale, limited warranty and quitclaim deeds, and be drawn in a manner to transfer any and all rights and interests to the buyer/exchange partner that the Department may hold or has agreed to convey.

(14) Land or interest in land sold to another state agency or political subdivision under the provisions of ORS 270.100 shall be used for public purpose or benefit, and not be sold for resale to a private purchaser. Restrictions to further this policy shall be included in the deed and be enforceable through such terms as, but not limited to, reversionary clauses.

(15) The State Land Board shall recognize and adhere to all terms and conditions of valid existing leases and easements as they affect proposed land sales or exchanges.

(16) The State Land Board shall retain all mineral and geothermal resource rights (as defined) except as allowed under OAR 141-067-0320.

(17) The Department will seek certification of these rules by the Department of Administrative Services (DAS) as permitted under OAR 125-045-0210. These rules are intended to carry out land transactions in a manner consistent with DAS rules for the Disposition and Acquisition of Real Property Interests (OAR 125-045).

(18) DAS approval is not required for:

ADMINISTRATIVE RULES

- (a) Sale of Non-Trust Land (except those lands sold at less than the appraised value);
- (b) Sale of Trust Land;
- (c) Any land exchange;
- (d) Any release, sale or exchange of mineral and geothermal resource rights.

Stat. Auth.: ORS 270.005 - 270.190, 273.045, 273.245 - 273.247, 273.251 - 273.311, 273.316 - 273.321, 273.413 - 273.456, 274.040, 274.905 - 274.940, 274.960 - 274.985
Stats. Implemented: ORS 270.005 - 270.190, 273.045, 273.245 - 273.247, 273.251 - 273.311, 273.316 - 273.321, 273.413 - 273.456, 274.040, 274.905 - 274.940, 274.960 - 274.985
Hist.: DSL 6-2009, f. & cert. ef. 7-1-09; DSL 2-2016, f. 5-13-16, cert. ef. 6-1-16

141-067-0170

Land Exchanges

(1) Except as provided in OAR 141-067-0300 or as limited by 141-067-0155, the Department may exchange any lands or interests in lands for any other lands to meet objectives of the Asset Management Plan or the South Slough National Estuarine Research Reserve Management Plan. Exchanges shall be made on the basis of value. The Department may accept a monetary payment or reserve rights as part of the consideration to the extent required for a fair transaction.

(2) The Department may initiate a land exchange without requiring that an application be submitted.

(3) Any person, eligible to do so, may submit an application to the Department to initiate a land exchange. The application must be submitted on a form provided by the Department.

(4) The Department will notify the lessee, if any, by registered or certified mail and the applicant of receipt of the land exchange application. Within a reasonable time after receipt of the land exchange application, the Director will conduct an initial review of the application and determine the action to be taken including but not be limited to:

(a) Rejecting the application. A rejected application shall be returned to the applicant with the reasons for its rejection clearly stated. The lessee, if any, will also be notified. An additional non-refundable application fee will not be required for an application that is resubmitted within 120 calendar days of its rejection.

(b) Accepting the application for further processing; or

(c) Requesting more information.

(5) Following initial review and acceptance of the application, the Department will:

(a) Complete a Land Disposal Evaluation and Land Acquisition Evaluation of the lands involved in the exchange;

(b) Initiate the applicable elements of the public interest review process.

(6) If the Director determines to proceed with the land exchange proposal, the Department will negotiate a Land Exchange Agreement with the applicant. The State Land Board shall approve the Land Exchange Agreement.

(7) The Department may group together similar land exchange applications for more efficient processing. The willingness of applicants or other interested parties to pay for or share in the cost of appraisals, surveys, public notices or other expenses may be a factor in the Department's prioritization of land exchange proposals.

Stat. Auth.: ORS 270.005 - 270.190, 273.045, 273.245 - 273.247, 273.251 - 273.311, 273.316 - 273.321, 273.413 - 273.456, 274.040, 274.905 - 274.940, 274.960 - 274.985
Stats. Implemented: ORS 270.005 - 270.190, 273.045, 273.245 - 273.247, 273.251 - 273.311, 273.316 - 273.321, 273.413 - 273.456, 274.040, 274.905 - 274.940, 274.960 - 274.985
Hist.: DSL 2-2002, f. 4-12-02, cert. ef. 7-1-02; DSL 6-2009, f. & cert. ef. 7-1-09; DSL 2-2016, f. 5-13-16, cert. ef. 6-1-16

141-067-0180

Public Interest Review Process; Public Meetings and Hearings

(1) After an application has been accepted for further processing or at anytime the Department decides to sell or exchange land the Department will notify, in writing, all affected lessees (by registered or certified mail) and adjacent lessees of a potential land sale or land exchange.

(2) Lessees affected by a land exchange proposal will be given notice that if a written protest is submitted by an affected lessee to the Department within 20 calendar days of the mailing a public hearing will be held on the exchange proposal. Such a hearing will be scheduled as described in OAR 141-067-0180(7).

(3) The Department will notify, in writing, all adjacent landowners, and all affected school districts, city and county governments, including the county board of commissioners of a potential land sale or land exchange. The notice will offer all entities and persons an opportunity to comment on the proposal.

(4) Notify, in writing, those individuals and public interest groups that have indicated, through prior contact with the Department, an interest in potential land sales or land exchanges.

(5) Notify the Department of Administrative Services as described in OAR 141-067-0190.

(6) The Department may hold a public meeting on any land sale or exchange proposal to solicit public comment and explain the proposal. The Department will give 45 calendar days notice of any such meeting(s) to adjacent land owners, lessees, interested parties, agencies and local governments by mail and press releases or public notice in a newspaper of general circulation within the county in which the proposal is located. The public meeting information will also be posted on the Department's website.

(7) The Department will hold a public hearing on the proposal if it receives a timely written protest of a land exchange proposal from an affected lessee. The hearing will be cancelled or not scheduled if, anytime after the lessee's written protest is received, the Department rejects the land exchange proposal or the applicant withdraws the application. The hearing will be held at least 45 calendar days, but not more than 90 calendar days, after the written protest has been received by the Department. All affected lessees of land considered for exchange will be notified of the hearing by certified or registered mail. All others will be given notice in the same manner as described in OAR 141-067-0180(6). All comments by the lessees or their representatives and all other interested parties will be recorded and compiled in the hearing record for review by the State Land Board or Director. The affected lessee and all registered public hearing attendees will be notified of any decision of the Director or the State Land Board resulting from the public hearing.

Stat. Auth.: ORS 270.005 - 270.190, 273.045, 273.245 - 273.247, 273.251 - 273.311, 273.316 - 273.321, 273.413 - 273.456, 274.040, 274.905 - 274.940, 274.960 - 274.985
Stats. Implemented: ORS 270.005 - 270.190, 273.045, 273.245 - 273.247, 273.251 - 273.311, 273.316 - 273.321, 273.413 - 273.456, 274.040, 274.905 - 274.940, 274.960 - 274.985
Hist.: DSL 2-2002, f. 4-12-02, cert. ef. 7-1-02; DSL 6-2009, f. & cert. ef. 7-1-09; DSL 2-2016, f. 5-13-16, cert. ef. 6-1-16

141-067-0195

Resolving Ownership of Formerly Submerged and Submersible Lands

(1) Any person interested in resolving ownership of formerly submerged and submersible lands may meet with the Department to discuss the facts concerning the creation and ownership of the lands in question.

(2) Based on the facts presented, as well as the Department's own investigation, the Department may do the following:

(a) Agree that the Department has no interest in the formerly submerged or submersible land;

(b) Determine who is entitled to purchase the formerly submerged or submersible land under these rules;

(c) Enter into litigation to resolve the ownership issue, including but not limited to a suit to quiet title;

(d) Enter into negotiation in lieu of litigation with the person to resolve the ownership question;

(e) Request more information from the landowner or person; or

(f) Pursue other actions aimed at resolving the ownership question.

(3) Factors the Department may weigh in determining its course of action include but are not limited to:

(a) The chronological history of the creation of the formerly submerged or submersible land;

(b) The identity of the person(s) who created the formerly submerged or submersible land;

(c) The past actions of the Department regarding the sale of submersible lands;

(d) The identity of the current riparian owner;

(e) The cause for the change in the location of the waterway; and

(f) The relative strength of the Department's ownership claim.

Stat. Auth.: ORS 270.005 - 270.190, 273.045, 273.245 - 273.247, 273.251 - 273.311, 273.316 - 273.321, 273.413 - 273.456, 274.040, 274.905 - 274.940, 274.960 - 274.985
Stats. Implemented: ORS 270.005 - 270.190, 273.045, 273.245 - 273.247, 273.251 - 273.311, 273.316 - 273.321, 273.413 - 273.456, 274.040, 274.905 - 274.940, 274.960 - 274.985
Hist.: DSL 6-2009, f. & cert. ef. 7-1-09; DSL 2-2016, f. 5-13-16, cert. ef. 6-1-16

141-067-0215

Sale of Submerged and Submersible Lands

(1) Any person may submit an application to purchase submerged and submersible land. The application must be submitted on a form provided by the Department. A non-refundable application fee in the amount shown in OAR 141-067-0165 must be included with the application.

(2) The sale of submerged lands is limited to lands subject to remedial environmental action pursuant to a plan approved by DEQ or EPA.

(3) Applications will be processed in accordance with the applicable provisions of OAR 141-067-0220 and 141-067-0155.

ADMINISTRATIVE RULES

(4) The applicant will be required to acknowledge the character of the land being applied for and the title interest in the land held by the Department. Further, the applicant must waive all claims against the State, including but not limited to claims for the return of the purchase price, if all or part of the land are determined to not belong to the Department.

(5) Following notice that the land is available for sale, the applicant, at their own expense, shall have a survey of the land prepared. The survey must:

(a) Be prepared by a registered land surveyor approved by the Department in writing before the start of the survey work;

(b) Connect and conform to adjacent surveys acceptable to the Department, to the extent reasonably practicable; and

(c) Be notarized and submitted to the Department along with a hard copy map that is also notarized and electronic file in a format of the Department's choosing.

Stat. Auth.: ORS 270.005 - 270.190, 273.045, 273.245 - 273.247, 273.251 - 273.311, 273.316 - 273.321, 273.413 - 273.456, 274.040, 274.905 - 274.940, 274.960 - 274.985
Stats. Implemented: ORS 270.005 - 270.190, 273.045, 273.245 - 273.247, 273.251 - 273.311, 273.316 - 273.321, 273.413 - RS 273.456, 274.040, 274.905 - 274.940, 274.960 - 274.985
Hist.: DSL 6-2009, f. & cert. ef. 7-1-09; DSL 2-2016, f. 5-13-16, cert. ef. 6-1-16

141-067-0220

General Procedures for Land Sales (Except OAR 141-067-0215)

(1) These general procedures apply to the processing of all land sale applications, except sales of formerly submerged and submersible land (under 141-067-0300), and release of mineral and geothermal resource rights to owners of residential real property (under 141-067-0320). The Department may offer land for sale at any time without having first received an application from an individual or person. (Refer to 141-067-0230 for additional requirements for the sale of rangelands.)

(2) Any person who is eligible to do so as described in OAR 141-067-0160, may submit an application to purchase state land.

(3) Upon receipt of the application, the Department will conduct an initial review of the land sale application, including but not limited to:

(a) A determination whether or not the land described in the land sale application is a legal lot of record as described in ORS Chapter 92;

(b) A determination, of the Department's rights and interests in the land or interests in land described in the land sale application, based, if necessary, on a preliminary title report by the Department or its agent;

(c) A Land Disposal Evaluation of the lands described in the land sale application;

(d) The results of the DAS notice process, if applicable, as described in OAR 141-067-0190;

(e) The applicable elements of the public interest review process as described in OAR 141-067-0180 of these rules; and

(f) A determination of whether the proposal is consistent with the policies set forth in OAR 141-067-0155.

(4) The Department will notify the lessee, if applicable (by registered or certified mail) and the applicant of receipt of the land sale application. Within a reasonable time after receipt of the sale application and following completion of the initial review, the Director will determine the action to be taken including, but not limited to:

(a) Rejecting the application. A rejected application shall be returned to the applicant with the reasons for its rejection clearly stated. The lessee, if any, will also be notified. An additional non-refundable application fee will not be required for an application that is resubmitted within 120 calendar days of its rejection;

(b) Accepting the application for further processing; or

(c) Requesting more information.

(5) The Department may group together similar land sale applications for more efficient processing and to attract more buyer interest. The willingness of applicants or other interested parties to pay for or share in the cost of appraisals, surveys, advertising or other expenses may be a factor in the Department's prioritization of land sales applications for processing.

(6) If following the initial review of the land sale application is accepted for further processing, the Director will within a reasonable time:

(a) Classify as "available for sale" the land under consideration; or

(b) Not classify the lands under consideration as "available for sale."

If the decision is to not classify the land as "available for sale" the Department will terminate further processing of the land sale application. As soon as possible after the Director's determination, the Department will notify the applicant and, if applicable, the lessee (by registered or certified mail) of the Director's decision.

(7) If the lands are classified as "available for sale":

(a) The Director will determine the method of sale for the land as described in OAR 141-067-0270 and request the State Land Board's approval of the land sale;

(b) The Department, its agent, or the applicant will, take such action as is necessary to obtain a legal lot of record determination as described in ORS 92 before the final closing of the sale;

(c) The Department will exercise its authorities under any applicable lease contract provisions allowing for the land to be sold without the encumbrance of the lease;

(d) The Department, its agent, or the applicant, will obtain a land appraisal in accordance with the provisions of OAR 141-067-0310; and

(e) The Department will determine the Department Estimate of Value as the minimum bid, reserve price or final purchase price, as applicable, depending on the approved method of sale.

(8) The Department will conduct the sale in accordance with the method of sale established by the Director and approved by the State Land Board.

(9) The Department, its agent or the applicant will give public notice of the proposed land sale by publication in a local newspaper of general circulation within the county where the proposed land sale is located and on the Department's website. The newspaper notice will be published for at least one day per week for at least three consecutive weeks prior to the sale. The Department will notify all landowners and lessees of land adjacent to the land being offered for sale of the sales procedure and all pertinent information concerning the proposed land sale.

(10) The Department may, at any time prior to the closing, withdraw from the sale process any or all of the lands subject to the land sale. If lands are withdrawn from sale under these rules, any monetary deposit on the land withdrawn will be refunded to the owner.

Stat. Auth.: ORS 270.005 - 270.190, 273.045, 273.245 - 273.247, 273.251 - 273.311, 273.316 - 273.321, 273.413 - 273.456, 274.040, 274.905 - 274.940, 274.960 - 274.985
Stats. Implemented: ORS 270.005 - 270.190, 273.045, 273.245 - 273.247, 273.251 - 273.311, 273.316 - 273.321, 273.413 - 273.456, 274.040, 274.905 - 274.940, 274.960 - 274.985
Hist.: DSL 2-2002, f. 4-12-02, cert. ef. 7-1-02; DSL 6-2009, f. & cert. ef. 7-1-09; DSL 2-2016, f. 5-13-16, cert. ef. 6-1-16

141-067-0270

Methods for Conducting Land Sales

(1) The director shall recommend to the State Land Board the method for conducting a land sale based upon the policies described in OAR 141-067-0155 and as set forth in these rules.

(2) The following methods shall be used:

(a) Direct sale at Department Estimate of Value. This method is generally used for the sale of: Certain Trust and Non-Trust land transactions involving agencies of the federal government with powers of eminent domain.

(b) Direct sale at Department Estimate of Value with reversionary rights, existing leases or other reserved interests, limitations and encumbrances. This method is used principally for land sales to state agencies and political subdivisions and is aimed at assuring that the land will continue to be used for public purposes after it has been transferred.

(c) Direct sale to a qualified lessee, or if not applicable, to an adjacent landowner at a sale price based on a Department Estimate of Value.

(d) Sale to the highest bidder via oral or sealed bid auction or combination thereof; minimum bid or reserve price approved by the Director. This method is used for all classes of Trust and Non-Trust land except as otherwise described in these rules.

(e) Sale to the highest bidder via oral or sealed bid auction with an eligible lessee having the right to bid last to exceed the final high bid; minimum bid or reserve price established by the Director based on Department Estimate of Value. This method is used for qualified rangeland lessees as described in OAR 141-067-0230 or for those lessees with lease contract terms and conditions that clearly and explicitly provide this opportunity.

(f) Negotiated sale. This method allows the Department to negotiate or bargain for the highest sale price possible from among interested parties.

(g) Brokered Sale. This method allows for the Department to offer land through a State of Oregon licensed real estate broker at a fair market value and to negotiate the final sale price with a buyer through the broker. A brokerage fee may be paid to the Department's broker or the buyer's agent or both in accordance with generally accepted real estate practices. This method is used when local real estate market conditions indicate and the land being offered best fits disposal through a more traditional marketing approach.

(3) The Department reserves the right, but not the obligation, to offer all property to lessees, followed by adjacent landowners and others when the Director determines that doing so will provide the greatest benefit for the people of the state and not conflict with the Department's constitutional and statutory obligations.

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(4) The Director will report to the State Land Board the land sale method chosen for each sale and the reasons supporting the choice of sale method. The land sale method must be approved by the State Land Board.

(5) If the sale method selected involves an auction, the Department will establish the sale procedures to be followed including, but not limited to: the form and schedule for bid submittals; the amount of deposit required; the time and location of the bid openings and/or oral auction; the minimum bid or reserve price; preliminary terms and conditions of sale; payment options and any additional costs to be borne by the successful purchaser. The Department will fully disclose these procedures and all other pertinent information to the public as well as give ample advance public notice of the auction.

Stat. Auth.: ORS 270.005 - 270.190, 273.045, 273.245 - 273.247, 273.251 - 273.311, 273.316 - 273.321, 273.413 - 273.456, 274.040, 274.905 - 274.940, 274.960 - 274.985
Stats. Implemented: ORS 270.005 - 270.190, 273.045, 273.245 - 273.247, 273.251 - 273.311, 273.316 - 273.321, 273.413 - 273.456, 274.040, 274.905 - 274.940, 274.960 - 274.985
Hist.: DSL 2-2002, f. 4-12-02, cert. ef. 7-1-02; DSL 6-2009, f. & cert. ef. 7-1-09; DSL 2-2016, f. 5-13-16, cert. ef. 6-1-16

141-067-0300

Procedures for Resolving Claims to Formerly Submerged or Submersible Land (does not apply to lands described in OAR 141-067-0215)

(1) The Director may issue a quitclaim deed to resolve a cloud of title over formerly submerged and submersible land. Such land may be, but is not limited to, areas that once were submerged or submersible land but are no longer connected to or a part of a state-owned (navigable) body of water due to the dynamic forces of the waterway. Such lands may be disposed of after the Department has completed a review of the facts and determined the extent, if any, of the state's ownership interest in the land.

(2) Any person may submit an application to resolve a claim to formerly submerged and submersible land. The application must be submitted on a form provided by the Department and include the appropriate application fee. Upon receipt of the application, and in order to determine the extent, if any, of the state's ownership claim, the Department will conduct an initial review of the application, including but not limited to:

(a) A determination whether or not the parcel(s)/lot(s) described in the land sale application are legal lots of record as described in ORS Chapter 92;

(b) A determination, based, if necessary, on a preliminary title report conducted by the Department or its agent, of the Department's rights and interests in the land or interests in land described in the land sale application; and

(c) A Land Sale Evaluation of the lands involved in the application;

(d) The results of the DAS notice process, if applicable, as described in OAR 141-067-0190;

(e) The applicable elements of the public interest review process as described in OAR 141-067-0180.

(3) The Department will notify any lessees (by certified or registered mail) and the applicant of the receipt of the sale application within 90 calendar days. Based on the initial review of the application, the Director will take, but not be limited to, the following actions:

(a) Reject the application. A rejected application will be returned to the applicant with an explanation of the reasons for its rejection clearly stated. An additional non-refundable application fee will not be required for an application that is resubmitted within 120 calendar days of its rejection;

(b) Accept the application for further processing; or

(c) Request more information and later determine the merit of the application based on the information submitted.

(4) Upon acceptance of the application for further processing the Department and the applicant will meet to negotiate an agreement establishing the terms and conditions of the transaction, the responsibilities of each party and the transaction schedule. The Department may impose additional requirements or conditions on the issuance of the deed, including but not limited to indemnification of waiver of claims against the Department and the State of Oregon.

(5) The Department may, where feasible and deemed to be in the best interests of the public to do so, require the quitclaim grantee to issue a similar quitclaim to the Department for the existing submerged and submersible land fronting and abutting the grantee's land on the waterway as it exists at the time of the transaction.

Stat. Auth.: ORS 270.005 - 270.190, 273.045, 273.245 - 273.247, 273.251 - 273.311, 273.316 - 273.321, 273.413 - 273.456, 274.040, 274.905 - 274.940, 274.960 - 274.985
Stats. Implemented: ORS 270.005 - 270.190, 273.045, 273.245 - 273.247, 273.251 - 273.311, 273.316 - 273.321, 273.413 - 273.456, 274.040, 274.905 - 274.940, 274.960 - 274.985
Hist.: DSL 2-2002, f. 4-12-02, cert. ef. 7-1-02; DSL 6-2009, f. & cert. ef. 7-1-09; DSL 2-2016, f. 5-13-16, cert. ef. 6-1-16

141-068-0000

Purpose and Applicability

These rules:

(1) Govern the identification of State's interest in historically filled lands by the Department of State Lands (Department).

(2) Govern the notification process of State's interest in historically filled lands by the Department.

(3) Govern the process to clearing title to historically filled lands and new lands.

(4) Govern the sale, exchange and reservation of historically filled lands by the Department.

(5) Govern the creation, sale, exchange and reservation of new lands by the Department.

(6) Do not govern the land sale or exchange of state-owned trust lands, or mineral and geothermal resource rights as administered in OAR 141-067.

(7) Do not govern the issuance of state leases, easements or other local, state or federal permits for historically filled lands and new lands.

(8) Do not govern the placement of rip-rap; structures constructed by a drainage or diking district; tidesgates; wharves; or other uses of state-owned submerged and submersible lands as administered in OAR 141-082.

(9) Do not govern the placement of bridges or other crossings of state-owned submerged and submersible lands as administered in OAR 141-122.

(10) Do not govern the removal or fill of material in waters of the state as administered in OAR 141-085.

Stat. Auth.: ORS 183, 273 & 274

Stats. Implemented ORS 274.905-274.956

Hist.: DSL 2-2016, f. 5-13-16, cert. ef. 6-1-16

141-068-0010

Definitions

(1) "Abutting" means immediately adjacent to or facing.

(2) "Affected Property Owners" refers to those people listed in the records of the county assessor as owners of property fronting, abutting or underlying, or having a recorded easement allowing access to a waterway segment at the time that the Department undertakes a State's interest study of the subject waterway.

(3) "Applicant" is any person who submits a written request to the Department to create, purchase or exchange land or interests in land.

(4) "Appraisal" or "Appraisal Report" means a written statement setting forth an opinion as to the market value of the lands or interests in lands as of a specific date(s) prepared by a qualified appraiser in accordance with the Uniform Standards of Professional Appraisal Practices (USPAP) standards.

(5) "Deed" means a written, legal instrument that conveys an estate or interest in real property when it is properly executed and delivered.

(6) "Department" means the Department of State Lands.

(7) "Declaration" is a written statement by the Land Board concerning the nature and extent of the state's interest to historically filled lands in a waterway segment under study.

(8) "Director" means the Director of the Oregon Department of State Lands or designee.

(9) "Easement" is an authorization granted that gives a person the use of a specifically designated parcel of land for a specific purpose and length of time. An easement does not convey any proprietary or other rights of use to the holder other than those specifically granted in the easement authorization.

(10) "Fair Market Value" means the most probable price, as of a specified date, in cash, or in terms equivalent to cash for which the specified property rights should sell after reasonable exposure in a competitive market under all conditions requisite to a fair sale, with the buyer and seller acting prudently, knowledgeably, and assuming that neither is under undue duress.

(11) "Geothermal Resources" as defined in ORS 522.005 means the natural heat of the earth, the energy, in whatever form, below the surface of the earth present in, resulting from, or created by, or that may be extracted from, the natural heat, and all minerals in solution or other products obtained from naturally heated fluids, brines, associated gases, and steam in whatever form, found below the surface of the earth, exclusive of helium or of oil, hydrocarbon gas or other hydrocarbon substances, but including, specifically:

(a) All products of geothermal processes, including indigenous steam, hot water and hot brines;

(b) Steam and other gases, hot water and hot brines resulting from water, gas, or other fluids artificially introduced into geothermal formations;

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(c) Heat or other associated energy found in geothermal formations; and

(d) Any by-product derived from them.

(12) "Highest and Best Use of Filled Land" means to treat the land (not including improvements) as if it were a part of the adjacent, or larger upland parcel, rather than an isolated land-locked parcel, unless the parcel is solely created by filled land. Filled land must be appraised with this definition unless the Department has given specific instructions to the contrary.

(13) "Historically Filled Lands" as defined in ORS 274.905, means those lands protruding above the line of ordinary high water, whether or not connected with the adjoining or opposite upland or riparian lands on the same side of the body of water that were created upon submersible or submerged lands by artificial fill or deposit before May 28, 1963. Historically filled lands does not include bridges, wharves and similar structures constructed upon submersible or submerged lands by other than artificial fill or deposit.

(14) "Interest" means right, title, or legal share in something.

(15) "Interested persons" means any person that has requested to be notified of certain Department actions within an area, or who has previously provided comment on a similar agency action.

(16) "Line of Ordinary High Water" as defined in ORS 274.005, means the line on the bank or shore to which the high water ordinarily rises annually in season.

(17) "Line of Ordinary Low Water" as defined in ORS 274.005, means the line on the bank or shore to which the low water ordinarily recedes annually in season.

(18) "New Lands" as defined in ORS 274.905 means those lands protruding above the line of ordinary high water, whether or not connected with the adjoining or opposite upland or riparian land on the same side of the body of water, that were created upon submersible or submerged lands by artificial fill or deposit on or after May 28, 1963 and not including bridges, wharves and similar structures constructed upon submersible or submerged lands by other than artificial fill or deposit.

(19) "Person" includes individuals, corporations, associations, firms, partnerships, limited liability companies and joint stock companies as well as any state or other governmental or political subdivision or agency, public corporation, public authority, or Indian Tribe.

(20) "Public Interest" as used in ORS 274.940 includes the values, rights and interests that the public holds in historically filled lands for recreation, conservation of resources, or navigation."

(21) "Quitclaim Deed" is a form of deed in which any interest the grantor possesses in the property described in the deed is conveyed to the grantee without guaranteeing that interest or its title.

(22) "Real Market Value" or "RMV" means the current real market value of the property (not including improvements) assigned to the land or comparable tax lot by the county tax assessor.

(23) "Reserved Interest" means an interest in the land that is retained by the Department from a conveyance of the title to the state land.

(24) "State Land Board" or "Board" means the constitutionally created body consisting of the Governor, Secretary of State and the State Treasurer that is responsible for managing the assets of the Common School Fund as well as for additional functions placed under its jurisdiction by law.

(25) "Submerged Lands" as defined in ORS 274.005, means lands lying below the line of ordinary low water of all navigable waters within the boundaries of this state as heretofore or hereafter established, whether such waters are tidal or nontidal.

(26) "Submersible Lands" as defined in ORS 274.005, means lands lying between the line of ordinary high water and the line of ordinary low water of all navigable waters and all islands, shore lands or other such lands held by or granted to this state by virtue of her sovereignty, wherever applicable, within the boundaries of this state as heretofore or hereafter established, whether such waters or lands are tidal or nontidal.

Stat. Auth.: ORS 183, 273 & 274

Stats. Implemented ORS 274.905-274.956

Hist.: DSL 2-2016, f. 5-13-16, cert. ef. 6-1-16

141-068-0020

General Provisions

(1) Pursuant to Article VIII, Section 5(2) of the Oregon Constitution, the State Land Board has a constitutional responsibility to manage all land (Trust and Non-Trust) under its jurisdiction "with the object of obtaining the greatest benefit for the people of this state, consistent with the conservation of this resource under sound techniques of land management."

(2) Pursuant to Oregon law as defined in ORS 274, all tidally influenced and title navigable waterways (referred to as state-owned submerged

and submersible land) have been placed by the Oregon State Legislature under the jurisdiction of the State Land Board and the Department, as the administrative arm of the State Land Board.

(3) State-owned submerged and submersible lands are managed to ensure the collective rights of the public, including riparian owners, to fully use and enjoy this resource for commerce, navigation, fishing, recreation and other public trust values. These rights are collectively referred to as "public trust rights."

(4) All references in these rules to "state-owned submerged and submersible lands" include state-owned submerged lands or submersible lands or both.

(5) The Department recognizes that uncertainty exists as to the extent of the State's interest in historically filled lands. Actions to determine and assert the State's interest, if any, in historically filled lands should be done in a prompt and orderly manner and as funding allows. The State Land Board authorizes the Department to negotiate settlements in lieu of litigation, when and where appropriate, with regard to the ownership of historically filled lands.

(6) The State Land Board authorizes the Director to issue land sale contracts, deeds or conveyances as are necessary to carry out the land transactions approved by the State Land Board in conformance with these rules. Such instruments shall include, but not be limited to quitclaim deeds, and be drawn in a manner to transfer any and all rights and interests (excluding mineral and geothermal resource rights) to the buyer/exchange partner that the Department may hold or has agreed to convey.

(7) Administrative fees delineated in these rules shall be adjusted on January 1 of every year based on Portland-Salem, OR-WA Consumer Price Index for All Urban Consumers for All Items as published by Labor Statistics of the US Department of Labor. The calculated adjustment shall be rounded up to the nearest dollar.

(8) The real market valuations described in OAR 141-068-0070(9), (10), and (11) rules shall be adjusted on January 1 of every year based on Portland-Salem, OR-WA Consumer Price Index for All Urban Consumers for All Items as published by Labor Statistics of the US Department of Labor. The calculated adjustment shall be rounded up to the nearest \$10 dollars.

(9) The State Land Board authorizes the Director to (without further State Land Board approval) issue land sale contracts, deeds or conveyances as are necessary to carry out the land transactions, in conformance with these rules, for:

(a) Historically filled lands where no State interest is determined to exist; and

(b) Historically filled lands that are determined to be of low value and low public interest values are present per OAR 141-068-0080(5)(d).

(10) The State Land Board shall recognize and adhere to all terms and conditions of valid existing leases and easements as they affect proposed land sales or exchanges.

(11) The State Land Board shall retain all mineral and geothermal resource rights (as defined) except as allowed under OAR 141-067-0320.

(12) It is the policy of the State Land Board that public access to a waterway shall be preserved to the extent practicable. The Department may require a public easement to, or along the waterway, as a condition of a land sale.

(13) Pursuant to ORS 274.950, the State Land Board shall not assert title to historically filled lands after December 31, 2025 unless the Board had made a declaration of State's interests prior to the date.

(14) Excluded from OAR 141-068-0020(13) are:

(a) Historically filled lands over which the State Land Board asserted title prior to January 1, 2016;

(b) Historically filled lands fronting upon the Pacific Ocean; or

(c) Lands in the portion of the Lower Willamette River that includes the Portland Harbor Superfund Site as delineated by the United States Environmental Protection Agency.

Stat. Auth.: ORS 183, 273 & 274

Stats. Implemented ORS 274.905-274.956

Hist.: DSL 2-2016, f. 5-13-16, cert. ef. 6-1-16

141-068-0030

Identification of State's Interest in Historically Filled Lands

(1) Upon direction from the Board to determine whether any interest remains or is vested in the State of Oregon with respect to historically filled lands in a segment of a waterway, the Department shall take the following steps:

(a) Post a public notice on the Department's website;

(b) Submit a press release to media in the study area; and

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(c) Inform affected property owners, affected local, state and federal agencies, state legislators representing the district where the segment is located, any local port district, any local federally recognized tribes, any local watershed councils, national estuary programs and soil and water districts, and other interested persons.

(2) In conducting a study the Department shall take, at a minimum, the following steps:

(a) Analyze existing filled lands inventories, plat maps and deeds, historic low and high water lines as reported by the United States Army Corps of Engineers, aerial photography and tax lot information as compiled and digitized by the Department;

(b) Identify the purpose and date that the fill was placed, if possible;

(c) Identify the current site characteristics and use; and

(d) Evaluate any new information that can be collected by researching the local property records, or that may be provided by affected property owners or other stakeholders.

(3) Upon completion of a study the Department shall prepare and submit to the Board a draft report setting forth the Department's findings and conclusions as to whether any historically filled lands are located within the area under study.

(4) Upon completion of the draft report, the Department shall:

(a) Post a public notice on the Department's website;

(b) Submit a press release to media in the study area; and

(c) Provide appropriate public notice to affected property owners, affected local, state and federal agencies, any local port district, any local federally recognized tribes, any local watershed councils, national estuary programs and soil and water districts, and other interested persons concerning the draft report.

(5) The Department shall provide an opportunity for the public to submit written comments on the draft report and to submit other evidence concerning the presence of historically filled lands.

(6) The Department may post a notice of a draft report and opportunity to comment at a local government building, public library, or other appropriate locations in order to ensure that minority and low-income communities are included and aware of a study and draft report. The Department shall make paper copies of materials available to any person upon request.

(7) The Department shall hold public workshops and informational meetings in the study area as appropriate.

(8) The Department shall hold a public hearing in the area of affected lands if it receives a written request within thirty (30) days after the posting of notice of the draft report by the Department.

(9) Following the notification and opportunity for a public hearing, the Board may adopt the draft report as final, or the Board may refer the report to the Department for further action.

(10) Upon adoption of a final report, the Board shall declare the nature and extent of the State's claim to any interest that remains vested in the State of Oregon as identified in the final report.

(11) A declaration by the Board is not a final agency order.

Stat. Auth.: ORS 183, 273 & 274

Stats. Implemented ORS 274.905-274.956

Hist.: DSL 2-2016, f. 5-13-16, cert. ef. 6-1-16

141-068-0040

Notification of a State Land Board Declaration

(1) Following a Board declaration, the Department shall:

(a) Post a public notice on the Department's website;

(b) Submit a press release to media in the study area; and

(c) Provide notice to affected local, state and federal agencies, state legislators representing the district where the study area is located, any local port district, any local federally recognized tribes, any local watershed councils, national estuary programs and soil and water districts, and other interested persons.

(2) The Department shall give notice by registered mail or by certified mail, return receipt requested, to each owner of record of land identified as having a State interest in the property. This notice shall include a copy of the declaration made with respect to the land and a statement informing the owner of record of a point of contact at the Department and options available to the owner of record based on the notice.

(3) The notice shall use common description and maps shall be designed to identify the land or waterway in a manner intelligible to the layperson and useful in establishing the exact location of the state claim in relation to existing descriptions.

(4) The Department shall record the declaration with the county of record for parcels determined to have a State interest.

Stat. Auth.: ORS 183, 273 & 274

Stats. Implemented ORS 274.905-274.956

Hist.: DSL 2-2016, f. 5-13-16, cert. ef. 6-1-16

141-068-0050

Resolving Ownership of Historically Filled Lands prior to State Land Board declaration and New Lands

(1) Notwithstanding the provisions of OAR 141-068-0030 through 141-068-0040, any person with a potential interest in a property that wishes to resolve ownership of historically filled lands prior to declaration (including those lands excluded per OAR 141-068-0020(14)), or new lands may meet with the Department to discuss the facts concerning the creation and ownership of the lands in question.

(2) The Department shall charge an investigation fee of \$250 if requested to complete a Strength of Claim checklist. The director has the discretion to waive this fee. A waiver must be in writing and explain the rationale for the waiver.

(3) The Department shall take the steps listed in OAR 141-068-0030(2) when completing an investigation.

(4) The Department shall complete a Strength of Claim checklist that summarizes the findings of the Department's investigation.

(5) Based on the facts presented, as well as the Department's own investigation, the Department may do the following:

(a) Agree that the Department has no interest in the historically filled land and offer to provide a conveyance that clears title to the lands as allowed under these rules;

(b) Begin the process to sell or clear title to the historically filled lands as provided under these rules;

(c) Enter into litigation to resolve the ownership issue, including but not limited to a suit to quiet title;

(d) Enter into negotiation in lieu of litigation with the person to resolve the ownership question;

(e) Request more information from the landowner or person; or

(f) Pursue other actions aimed at resolving the ownership question.

(g) A conveyance issued under OAR 141-068-0050(5)(a) may be carried out by the Director, and does not require further State Land Board approval.

Stat. Auth.: ORS 183, 273 & 274

Stats. Implemented ORS 274.905-274.956

Hist.: DSL 2-2016, f. 5-13-16, cert. ef. 6-1-16

141-068-0060

Land Sale Application Requirements

(1) An application to clear title, buy or exchange land subject to these rules must be submitted on a form provided by the Department.

(2) Each land sale applicant must submit with the application a correct and concise description of the land(s) involved in the requested transaction.

(3) A single application may include multiple contiguous land parcels.

(4) The application fee for historically filled land, and existing new lands sales or land exchanges is \$500 per application.

(5) An application to create new lands under OAR 141-068-0100 shall serve as the application fee to purchase if approved by the State Land Board.

Stat. Auth.: ORS 183, 273 & 274

Stats. Implemented ORS 274.905-274.956

Hist.: DSL 2-2016, f. 5-13-16, cert. ef. 6-1-16

141-068-0070

Application Review Process

(1) Upon receipt of an application, the Department will determine whether it is complete. In order to be complete, an application must meet the requirements of OAR 141-068-0060 (all sections of the application must be correctly filled out), and must be signed and dated by the applicant. Applications determined to be incomplete will be returned to the applicant with a written explanation of the reason(s) for rejection.

(2) If a rejected application is resubmitted within 120 calendar days from the date the Department returned it to the applicant, no additional application fee will be assessed.

(3) The Department will prioritize the processing of complete applications based on the following factors:

(a) An impending transaction or financing of the property in question;

(b) Department resources available to process the application requests;

(c) Other factors as delineated by the Director.

(4) If determined by the Department to be complete, the application shall be circulated to affected local, state, and federal agencies; holders of valid authorizations granted by the Department in the requested area; any local port district, any local federally recognized tribes, any local watershed councils, national estuary programs and soil and water districts, and other

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interested persons. As a part of this review, the Department will specifically request comments concerning:

(a) The presence, type and location of state or federally listed species (including threatened, endangered, candidate and sensitive species), and archeological and historic resources within the lands;

(b) Current or historic use of the lands for fishing or recreation;

(c) Existing public access to the water from lands, road, or right of way across the lands;

(d) Importance of the lands to existing or future navigational needs.

(5) The Department may post a notice of an application and opportunity to comment at a local government building, public library, or other appropriate locations in order to ensure that minority and low-income communities are included and aware of a proposed action. The Department shall make paper copies of an application available to any person upon request.

(6) If the Department does not find evidence of significant public interests per ORS 274.940, then the Department may determine that there are “low” public interests in the lands.

(7) If the Department finds that there are recreational, navigational, or fish and wildlife interests (per ORS 274.940) in the property, the Department may determine that there are “moderate” to “high” public interests in the lands.

(8) The Department shall evaluate the value of the State’s interest in the lands under review. The valuation shall be based on the Real Market Value (RMV) of the property’s land, not including structures, as determined by the County Assessor. This process for valuation shall be applied to determine parcels eligible for settlement under OAR 141-068-0080(4).

(9) Land where the State’s interest in the property is determined to be less than \$20,000 shall be considered “low value”.

(10) Land where the State’s interest in the property is determined to be greater than \$20,000 and less than \$100,000 shall be considered “moderate value”.

(11) Land where the State’s interest in the property is determined to be greater than \$100,000 shall be considered “high value”.

(12) If the RMV is found to be artificially depressed for any extenuating circumstance, the Department may select another comparable tax lot(s) as the basis for establishing the valuation.

(13) The Department shall complete an Evaluation Form that provides:

(a) The results of the Department’s due diligence;

(b) The results from the valuation of the State’s interests in the lands;

(c) The applicable elements from the public review and comment period; and

(d) A determination of whether the proposal is consistent with the general provisions set forth in OAR 141-068-0020.

(14) The review requirements of this section do not apply for a person requesting a conveyance that clears title when the Department has determined that there is no State interest in the historically filled land.

Stat. Auth.: ORS 183, 273 & 274

Stats. Implemented ORS 274.905-274.956

Hist.: DSL 2-2016, f. 5-13-16, cert. ef. 6-1-16

141-068-0080

Land Sale Approval Process

(1) An applicant and the Department may enter into a negotiated sale at any time. A negotiated sale shall include:

(a) An appraisal or appraisal report must be completed on the land if the initial evaluation determines the value to be over \$100,000. If the initial Department evaluation determines the property to be under \$100,000 in value, the RMV is used to establish the value; and

(b) A schedule of the costs to be borne by the applicant and those administrative costs to be reimbursed to the Department by the applicant.

(2) A negotiated sale may include factors including, but not limited to:

(a) The relative strength of the state’s ownership claim;

(b) Access or lack of access;

(c) The potential loss of public interest values by extinguishing the State’s interest in the property;

(d) An evaluation of any existing authorizations or property rights either on, or adjacent to the land; and

(e) Any requirement to impose deed restrictions or issue easements in order to protect public interest values.

(3) The Department may participate in a negotiated sale for:

(a) A parcel determined to be of “high value” as described in OAR 141-068-0070(11); or

(b) Upon public review and findings, the Department determines that there are “moderate” to “high” public interests in the lands.

(4) All negotiated sales shall go to the State Land Board for final approval.

(5) The Department shall provide the following sale options for lands determined to have “low” public interest values, and to be of “low value” to “moderate value”:

(a) The Department shall offer to provide a conveyance that clears title to the lands as allowed under these rules.

(b) No compensation is required for the issuance of a conveyance that clears title for a parcel that is determined to be of “low value” as described in OAR 141-068-0070(9).

(c) The Department shall offer to issue a conveyance that clears title for compensation at 50% of real market value of the State’s interest in the property for a parcel that is determined to be of “moderate value” as described in OAR 141-068-0070(10).

(d) A conveyance issued under OAR 141-068-0080(5)(b) may be carried out by the Director and does not require further approval from the State Land Board.

Stat. Auth.: ORS 183, 273 & 274

Stats. Implemented ORS 274.905-274.956

Hist.: DSL 2-2016, f. 5-13-16, cert. ef. 6-1-16

141-068-0090

Land Sale Conditions

(1) The Department will offer the type of deed (for example: quitclaim deed or bargain and sale deed) it deems to be the most legally defensible and best represents the known rights and interests held by the State in the land or interest in land being conveyed in the transaction.

(2) The Department may enter into a land sale contract that allows the applicant to make annual installment payments over no more than five years when purchasing the property.

(3) The Department and an applicant may agree to enter into a land sale contract where payment to the Department is made through a lien against the property if:

(a) The applicant is over the age of 65; or

(b) The applicant has a level of income that is less than 80% of the median income in the county where the property is located.

(4) Any land sale contract negotiated under OAR 141-068-0090(2) or (3) shall include an interest rate as defined in ORS 82.010, set at the time of the agreement.

(5) As part of a negotiated sale, the Department may request additional requirements or conditions on the issuance of a deed, including but not limited to indemnification of and waiver of claims against the Department and State of Oregon.

(6) An offer by the Department to enter into a land sale or exchange is valid for 12 months. If the transaction is not completed within 12 months, the Department may:

(a) Revoke the offer and require a new application and fee in order to continue; or

(b) The Director may extend the deadline in writing to an agreed upon timeframe.

(7) When the land sale or land exchange process has been completed, including the payment of the purchase price and fulfillment of the terms of the land sale or land exchange agreement, the Director will execute and deliver to the purchaser a deed in a manner and form prescribed by these rules. The Department may choose to conduct closing through an escrow agent.

(8) All assignments of land sale contracts shall be executed and acknowledged in the same manner as a deed to land or real property. All requests for assignment of land sale contracts shall be in writing. Written consent of the Department is required for any assignment. The Department shall issue the deed to the assignee upon full payment of the purchase price or the remaining balance of the land sale contract.

(9) The Department shall record, in the appropriate county office, any and all deeds it receives as a result of a land exchange or purchase.

(10) The grantee shall record any conveyance issued by the Department it received as a result of a land exchange or purchase. A copy of the recorded document shall be submitted to the Department.

(11) The Department may, where feasible and deemed to be in the best interests of the public to do so, require the grantee to issue a similar deed to the Department for the existing submerged and submersible land fronting and abutting the grantee’s land on the waterway as it exists at the time of the transaction.

Stat. Auth.: ORS 183, 273 & 274

Stats. Implemented ORS 274.905-274.956

Hist.: DSL 2-2016, f. 5-13-16, cert. ef. 6-1-16

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141-068-0100

Permission to Create New Lands

(1) Pursuant to ORS 274.920, no one other than the United States, while engaged in the promotion of navigation, shall artificially create new lands by fill or deposit upon submersible or submerged lands without the approval of the owner of such lands and the owner of the adjoining or opposite upland on the same side of the body of water.

(2) Any person requesting to create new lands from state-owned submerged and submersible lands shall meet with Department staff to discuss the proposed project and use before submitting an application to the Department. This meeting may be in person or through other means acceptable to the Department. The Department may invite other government entities to take part in a pre-application meeting.

(3) Any person requesting to create new lands from state-owned submerged and submersible lands shall apply for permission to create the new lands.

(4) The application fee for requesting to create new lands is \$1,000 per application. A single application may include multiple contiguous land parcels.

(5) An application to create new lands shall be circulated to affected local, state, and federal agencies; holders of valid authorizations granted by the Department in the requested area; any local port district, any local federally recognized tribes, any local watershed councils, national estuary program and soil and water districts, and other interested persons. As a part of this review, the Department will specifically request comments concerning:

(a) The presence, type and location of state or federally listed threatened and endangered species (including threatened, endangered, candidate and sensitive species), and archeological and historic resources within the lands;

(b) Current or historic use of the lands for fishing or recreation;

(c) Existing public access to the water from lands, road, or right of way across the lands;

(d) Importance of the lands to existing or future navigational needs.

(6) The Department may waive the circulation requirement described in OAR 141-068-0100(5) if the action or development has been previously reviewed by the listed agencies and other interested persons, and the results are documented by the Department.

(7) The Department may post a notice of an application and opportunity to comment at a local government building, public library, or other appropriate locations in order to ensure that minority and low-income communities are included and aware of a proposed action. The Department shall make paper copies of an application available to any person upon request.

(8) A request to create new lands may be taken to the State Land Board for review and approval. If a request for approval is submitted to the State Land Board, then the Department shall provide findings and a recommendation for the Board's consideration.

Stat. Auth.: ORS 183, 273 & 274
Stats. Implemented ORS 274.905-274.956
Hist.: DSL 2-2016, f. 5-13-16, cert. ef. 6-1-16

141-068-0110

Sale or Exchange of New Lands

(1) The Department shall follow the provisions of ORS 274.925 to ORS 274.937 when offering an eligible person the right to purchase certain new lands.

(2) Notwithstanding the provisions of OAR 141-068-0110(1), any person may apply to purchase or exchange new lands per OAR 141-068-0060. The application shall be processed and reviewed per OAR 141-068-0070.

(3) Notwithstanding the provisions of OAR 141-068-0110(1), the sale or exchange of new lands shall be a negotiated sale subject to the provisions of OAR 141-068-0080 and OAR 141-068-0090.

Stat. Auth.: ORS 183, 273 & 274
Stats. Implemented ORS 274.905-274.956
Hist.: DSL 2-2016, f. 5-13-16, cert. ef. 6-1-16

141-068-0120

Reservation of New and Historically Filled Land

(1) Pursuant to ORS 274.940, the Department may reserve new and historically filled lands from sale, transfer or lease where upon notice and hearing the Department determines that the public interest requires the lands to be preserved for recreation, conservation of fish and wildlife or the development of navigation facilities. But in case of such reservation, the adjoining or opposite upland or riparian owner shall be allowed reasonable access across such reserved historically filled lands to navigable water.

(2) The Department shall use the comments received during public review and other findings when considering whether lands shall be reserved from sale.

(3) The Department shall hold a public hearing in the affected community prior to reserving the new or historically filled lands from sale.

(4) The Department will give 30 calendar days' notice of a public hearing to adjacent land owners, lessees, interested persons, agencies and local governments by mail or e-mail, and press release. The public hearing information will also be posted on the Department's website.

(5) A determination that the public interest requires new and historically filled lands to be reserved is not a final agency order.

Stat. Auth.: ORS 183, 273 & 274
Stats. Implemented ORS 274.905-274.956
Hist.: DSL 2-2016, f. 5-13-16, cert. ef. 6-1-16

141-068-0130

Compliance with the Department of Administrative Service (DAS) Rules for the Disposition and Acquisition of Real Property

(1) Before acquiring any land by purchase or exchange or selling or exchanging any land or interests in land, the Department will notify the Department of Administrative Services Facilities Division (DAS) on an approved form. DAS will notify all state agencies and political subdivisions of the anticipated transaction.

(2) The Department will seek certification of these rules (OAR 141-068) as permitted by 125-045-0210.

(3) DAS approval is not required for the sale of New Land, where ORS 274.905 to 274.940 gives a person or public body a right to purchase New Lands.

Stat. Auth.: ORS 183, 273 & 274
Stats. Implemented ORS 274.905-274.956
Hist.: DSL 2-2016, f. 5-13-16, cert. ef. 6-1-16

141-068-0140

General Requirements for Appraisals

(1) Appraisals conducted for land sales, purchases or exchanges shall comply with the following requirements:

(a) Be conducted by a State of Oregon-licensed appraiser familiar with the type of property to be appraised and in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP) standards.

(b) Unless directed otherwise by the Department, the appraisal shall estimate the fair market value of the property based on its Highest and Best use, taking into account the contributory value of all offered interests in the property such as water rights, minerals, or timber to the extent that such interests are consistent with the highest and best use of the property.

(c) The appraisal report must include sufficient description of the property, highest and best use analysis, valuation methodology and support materials to fully document and justify the appraiser's estimate of fair market value.

(d) The Department may, based on the particular use of the appraisal, impose additional requirements or conditions on the appraisal.

(2) For land sales, purchases or exchanges where the estimated fair market value of the lands or interest in lands is \$100,000 or less, the Department may utilize a "desk appraisal" or a "letter opinion of value" as the Appraisal required under these rules.

(3) For purposes of this section, a "desk appraisal" is a written statement setting forth an opinion as to the market value of the lands or interest in lands as of a specific date. A desk appraisal conducted for land sales, purchases or exchanges shall comply with the following requirements:

(a) The desk appraisal must be conducted by an employee of the Department. A desk appraisal need not be prepared in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP), as desk appraisals performed by an employee of the Department are not required to be performed by State of Oregon-licensed appraiser pursuant to ORS 674.100(2)(h).

(b) Unless directed otherwise by the Department, the desk appraisal shall estimate the fair market value of the property based on its highest and best use, taking into account the contributory value of all offered interests in the property such as water rights, minerals, or timber to the extent that such interests are consistent with the highest and best use of the property.

(c) The desk appraisal must include a sufficient description of the characteristics of the property, a highest and best use analysis, a description of the valuation methodology, and a description of the support materials utilized to fully document and justify the estimate of fair market value. The description of the characteristics of the property, and description of the characteristics of properties used as comparison to the property, may be based on aerial and topographic photographs and maps and on generally accepted property data resources, such as the United States Department of

ADMINISTRATIVE RULES

Agriculture — Natural Resources Conservation Service, county assessor tax lot information, multiple listing services, and similar resources. Field inspections of the property and of the properties used as comparison to the property are not required as part of the desk appraisal.

(4) For purposes of this section, a “letter opinion of value” is a written statement from a real estate professional licensed under ORS 696 setting forth an opinion as to the market value of the lands prepared in accordance with the requirements of OAR 863-015-0190(3).

Stat. Auth.: ORS 183, 273 & 274
Stats. Implemented ORS 274.905-274.956
Hist.: DSL 2-2016, f. 5-13-16, cert. ef. 6-1-16

Department of Transportation Chapter 731

Rule Caption: Prequalification of highway and bridge public improvement project bidders

Adm. Order No.: DOT 2-2016

Filed with Sec. of State: 4-29-2016

Certified to be Effective: 4-29-16

Notice Publication Date: 3-1-2016

Rules Adopted: 731-007-0500, 731-007-0510, 731-007-0520, 731-007-0530, 731-007-0540, 731-007-0550, 731-007-0560, 731-007-0570

Subject: The rules describing ODOT’s process requiring contractor prequalification for public improvement contracts have been co-located with Highway Division rules in OAR 734, Division 10. The process of prequalification, which these rules govern, is a function within the ODOT Procurement Office. This rulemaking adopts the prequalification provisions into the Procurement subject matter area in OAR 731, Division 7 and is accompanied by a rulemaking that repeals them from the Highway Division subject matter in OAR 734, Division 10. In addition, the rule changes lengthen the prequalification period from one to two years and make minor changes to clarify procedure requirements of the rule.

Rules Coordinator: Lauri Kunze—(503) 986-3171

731-007-0500

Application

OAR 731-007-0010 through OAR 731-007-0080 apply to public improvement projects procured for highways and bridges through ODOT’s Construction Contracts Unit in conjunction with the Office of Project Letting.

Stat. Auth.: ORS 184.616, 184.619, 279A.050, 279A.065
Stats. Implemented: ORS 279C.430
Hist.: DOT 2-2016, f. & cert. ef. 4-29-16

731-007-0510

Definitions

The following definitions apply to terms used in OAR 731-007-0010 to 731-007-0080:

(1) “Applicant” means the person submitting a contractor’s prequalification application to ODOT.

(2) “Disqualification” means an action taken by ODOT to prohibit an applicant from becoming prequalified or from bidding on ODOT contracts.

(3) “Notice to Proceed” means written notice authorizing the contractor to begin performance of the work.

(4) “ODOT” means the Oregon Department of Transportation.

(5) “OPO” means the ODOT Procurement Office.

(6) “Revocation” means an action taken by ODOT terminating a contractor’s prequalification and ability to bid.

(7) “Suspension” means an action taken by ODOT to suspend a contractor’s prequalification for a specified period of time as prescribed by ODOT procedure.

Stat. Auth.: ORS 184.616, 184.619, 279A.050, 279A.065, 279C.430
Stats. Implemented: ORS 279C.430
Hist.: DOT 2-2016, f. & cert. ef. 4-29-16

731-007-0520

Prequalification for Bidding

(1) As provided in ORS 279C.430, ODOT requires that all bidders be prequalified within the appropriate class(es) of work contained in the current prequalification application adopted by ODOT.

(2) Contractor special prequalification may be required in addition to the mandatory prequalification in subsection (1) when the elements of a particular public improvement project require specialized knowledge or

expertise. When contractor special prequalification is required, notice of the request for contractor special prequalification will be advertised through ODOT’s electronic procurement system, and in at least one trade newspaper of general statewide circulation.

(3) Subsection (1) of this rule does not apply to public improvement contracts with a value, estimated by ODOT, of less than \$100,000; however, ODOT may require a contractor special prequalification under subsection (2) even where there is no mandatory prequalification.

Stat. Auth.: ORS 184.616, 184.619, 279A.050, 279A.065, 279C.430
Stats. Implemented: ORS 279C.430
Hist.: DOT 2-2016, f. & cert. ef. 4-29-16

731-007-0530

Conditions of Prequalification

(1) Applicants must be prequalified in the class(es) of work designated in the special provisions for the specific project on which the applicant desires to bid.

(2) Prequalification applications must be received at ODOT’s address shown in the prequalification application at least 10 calendar days before the bid opening in which the applicant wishes to participate.

(3) If an applicant fails to complete the application as required or fails to submit the filing fee, ODOT will return the material submitted. Any changes or additional information required by ODOT must be submitted and signed by a person authorized to sign the original application. The changes and additional information must be attested to by a sworn affidavit. The applicant may send a new application that includes the changes or additional information required by ODOT.

(4) The date on which all required information has been received by OPO will be considered the receipt date of the prequalification application.

(5) Each member of a joint venture must be prequalified, with at least one of the joint venture members prequalified in each of the project’s designated class(es) of work as defined in section (1) of this rule. A joint venture may be required to submit a joint venture agreement prior to award of the contract.

(6) Subcontractors are not required to be, but may be prequalified.

(7) All applicants desiring to prequalify shall:

(a) Complete and submit the prequalification application, in accordance with the directions contained therein, setting forth their qualifications to satisfactorily carry out the work to be performed, and

(b) Submit a filing fee in accordance with ORS 200.055(7) and as described in ODOT’s prequalification application instructions. The filing fee must be submitted with the completed prequalification application to ODOT’s address shown in the prequalification application.

(8) Applicants must renew their prequalifications and pay the prescribed filing fee as directed by ODOT’s prequalification application procedures.

(9) Applicants shall update their prequalification application with ODOT when information changes. Any change to an applicant’s prequalification application must be received at ODOT’s address shown in the prequalification application at least 10 days prior to bid opening if that information affects the bid submitted. Any changes requested by the applicant must be submitted and signed by a person authorized to sign the original application. The changes must be attested to by sworn affidavit. There is no charge to update an existing prequalification for minor changes such as changing an address, company name, or adding or deleting class(es) of work. Major changes must be submitted by a new prequalification application.

(10) Sections (1) through (9) of this rule also apply to applicants who use ODOT’s prequalification system to prequalify for local agency projects.

Stat. Auth.: ORS 184.616, 184.619, 279A.050, 279A.065, 279C.430
Stats. Implemented: ORS 279C.430
Hist.: DOT 2-2016, f. & cert. ef. 4-29-16

731-007-0540

Effect of Prequalification on Bidding

(1) Applicants shall be considered prequalified on the date determined by ODOT.

(2) Bidders will be considered non-responsive and bids will be rejected under any of the following conditions:

(a) The bidder’s prequalification application is not received at ODOT’s address shown in the prequalification application at least 10 days prior to bid opening;

(b) The bidder is not prequalified in the class(es) of work designated in the special provisions; or

(c) The bidder’s prequalification is not approved by ODOT.

Stat. Auth.: ORS 184.616, 184.619, 279A.050, 279A.065, 279C.430
Stats. Implemented: ORS 279C.430
Hist.: DOT 2-2016, f. & cert. ef. 4-29-16

ADMINISTRATIVE RULES

731-007-0550

Waiving Prequalification Requirements

Prequalification requirements for contracts may be waived by the Highway Division Administrator or Chief Engineer under the following circumstances:

- (1) In the case of an emergency;
- (2) If finding that special circumstances exist so that prequalification is not necessary.

Stat. Auth.: ORS 184.616, 184.619, 279A.050, 279A.065, 279C.430
Stats. Implemented: ORS 279C.430
Hist.: DOT 2-2016, f. & cert. ef. 4-29-16

731-007-0560

Disqualification, Revocation or Suspension

(1) Applicants must sign a sworn affidavit that the information they provide in the prequalification application is true. Any applicant for prequalification who willfully makes, or causes to be made, any false, deceptive or fraudulent statements in any questionnaire or statement required to be submitted under this rule, shall be denied prequalification (or the applicant's current prequalification shall be revoked).

(2) If ODOT disqualifies an applicant or revokes a prequalification, the applicant or prospective bidder shall receive a written notice identifying the reasons for the disqualification or revocation as found in ORS 279C.440.

Stat. Auth.: ORS 184.616, 184.619, 279A.050, 279A.065, 279C.430
Stats. Implemented: ORS 279C.430
Hist.: DOT 2-2016, f. & cert. ef. 4-29-16

731-007-0570

Appeals Covering Prequalification Application

(1) If ODOT denies an applicant's prequalification or revokes an existing prequalification, the applicant may appeal the denial or revocation by requesting a hearing with DAS in accordance with ORS 279C.445 and 279C.450. If the applicant wishes to appeal disqualification to DAS, the applicant must, within three business days after receipt of notice of disqualification, notify the Construction Contracts Manager in writing.

(2) Upon receipt of such notice of appeal, the Construction Contracts Manager will immediately notify the Director of DAS.

Stat. Auth.: ORS 184.616, 184.619, 279A.050, 279A.065, 279C.430
Stats. Implemented: ORS 279C.430
Hist.: DOT 2-2016, f. & cert. ef. 4-29-16

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

Rule Caption: Pilot Program — Class C Third Party Testing, Drive Tests

Adm. Order No.: DMV 1-2016

Filed with Sec. of State: 4-29-2016

Certified to be Effective: 4-29-16

Notice Publication Date: 3-1-2016

Rules Amended: 735-061-0210

Subject: DMV has been conducting a pilot program for third-party administered drive tests for applicants of a Class C non-commercial driver license since November 2014. At the time administrative rules were promulgated to establish the pilot program, DMV believed that an 18 month pilot would be sufficient to determine the viability of the program. DMV has determined additional time is needed to evaluate this potential program and has therefore amended OAR 735-061-0210 to extend the length of the pilot program to October 31, 2016.

Rules Coordinator: Lauri Kunze—(503) 986-3171

735-061-0210

Purpose

(1) The purpose of these rules, OAR 735-061-0210 through 735-061-0390 is to establish criteria by which a third party testing business is authorized to have its examiners give a drive test to a Class C driver license applicant on behalf of DMV.

(2) The rules are written under the authority of ORS 802.600 allowing the department to enter into an agreement with a person who is not an employee of the department to transact a function on behalf of the department.

(3) These rules are adopted to establish a pilot program effective November 1, 2014. The pilot program terminates October 31, 2016.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 802.600

Stats. Implemented: ORS 802.600

Hist.: DMV 11-2014, f. 10-28-14, cert. ef. 11-1-14; DMV 1-2016, f. & cert. ef. 4-29-16

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Rule Caption: Definition of Mother and Father for Purpose of Signing Application for Driving Privileges for Child

Adm. Order No.: DMV 2-2016

Filed with Sec. of State: 4-29-2016

Certified to be Effective: 4-29-16

Notice Publication Date: 3-1-2016

Rules Amended: 735-062-0007

Subject: ORS 807.060 requires that an application for driving privileges for a person under 18 years of age, unless the applicant is an emancipated minor, must be signed by the applicant's mother, father or legal guardian. OAR 735-062-0007 defines mother, father and legal guardian for purposes of ORS 807.060. With this rulemaking DMV revised the definition of mother and father to specify that a mother or father does not include a person whose parental rights have been terminated.

Rules Coordinator: Lauri Kunze—(503) 986-3171

735-062-0007

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, whose parental rights have not been terminated;

(B) "Father" means the biological or adoptive father of the applicant, whose parental rights have not been terminated; 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) Provide a verifiable SSN or proof that the person is not eligible for a SSN as provided in OAR 735-062-0005;

(d) Provide proof of legal presence as provided in OAR 735-062-0015;

(e) Submit to the collection of biometric data for the purpose of establishing identity as provided in ORS 807.024 and OAR 735-062-0016;

(f) Provide proof of the person's identity and date of birth as provided in OAR 735-062-0020;

(g) Provide proof of the person's residence address as provided in OAR 735-062-0030;

(h) Provide proof, as provided in OAR 735-016-0070, that the person is domiciled in or a resident of Oregon;

(i) Surrender all driver permits and driver licenses in the person's possession issued outside of Oregon.

(j) In addition to all requirements in subsections (a) through (i) of this section, a person applying for a commercial driver license or commercial instruction permit must:

(A) Certify driving type; and

(B) Meet medical qualifications as described in OAR 735-063-0050.

(C) Satisfy all requirements set forth in ORS 807.045 and OAR 735-062-0200 if the person holds a commercial driver license from another jurisdiction.

(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;

(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

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rule will be allowed to establish or reestablish eligibility by passing DMV examinations under ORS 807.070, by getting a determination of eligibility from the Medical Determination Officer under 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 issued to a person 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.

(10) After determining that an applicant has met all requirements under this rule and has provided proof of legal presence in the United States on a temporary basis, as described in OAR 735-062-0015(5), DMV will issue a limited term driver license or limited term driver permit and mail it to the address provided by the applicant at the time of the application. The expiration date of a limited term driver license or limited term driver permit is as described in ORS 807.130(3).

(11) DMV will issue a person who is a citizen of a country with a Compact of Free Association with the United States and who provides proof of legal presence as set forth in OAR 735-062-0015(4)(a), a driver license with an expiration date as described in ORS 807.130(1) or (2).

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.021, 807.040, 807.050, 807.060, 807.120, 809.310 & 807.050

Stats. Implemented: ORS 807.021, 807.040, 807.060, 807.066 & 807.130

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; DMV 17-2007, f. 12-24-07, cert. ef. 1-1-08; DMV 1-2008(Temp), f. 1-18-08, cert. ef. 2-4-08 thru 8-1-08; Renumbered from 735-062-0000, DMV 16-2008, f. 6-23-08, cert. ef. 7-1-08; DMV 25-2009, f. 12-22-09, cert. ef. 1-1-10; DMV 1-2012, f. 1-27-12, cert. ef. 1-30-12; DMV 19-2013, f. 12-20-13, cert. ef. 1-1-14; DMV 14-2014, f. & cert. ef. 12-1-14; DMV 2-2016, f. & cert. ef. 4-29-16

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Department of Transportation, Highway Division Chapter 734

Rule Caption: Prequalification of highway and bridge public improvement project bidders

Adm. Order No.: HWD 1-2016

Filed with Sec. of State: 4-29-2016

Certified to be Effective: 4-29-16

Notice Publication Date: 3-1-2016

Rules Repealed: 734-010-0200, 734-010-0210, 734-010-0220, 734-010-0230, 734-010-0240, 734-010-0250, 734-010-0260, 734-010-0270, 734-010-0280

Subject: The rules describing ODOT's process requiring contractor prequalification for public improvement contracts have been co-located with Highway Division rules in OAR 734, division 10. The process of prequalification, which these rules govern, is a function within the ODOT Procurement Office. This rulemaking repeals the prequalification provisions from the Highway subject matter in OAR 734, division 10 and is accompanied by a rulemaking that adopts them into the Procurement subject matter area in OAR 731, division 7.

Rules Coordinator: Lauri Kunze—(503) 986-3171

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Higher Education Coordinating Commission, Office of Student Access and Completion Chapter 575

Rule Caption: Changes to Oregon Opportunity Grant Awarding Process

Adm. Order No.: OSAC 1-2016

Filed with Sec. of State: 4-21-2016

Certified to be Effective: 4-21-16

Notice Publication Date: 11-1-2015

Rules Adopted: 575-031-0060

Rules Amended: 575-030-0005, 575-031-0005, 575-031-0010, 575-031-0015, 575-031-0016, 575-031-0022, 575-031-0023, 575-031-0025, 575-031-0030, 575-031-0045, 575-031-0046

Subject: HB 2407 proposed changes to the existing structure of Oregon Opportunity Grant (OOG) that focus on improving access and completion for students with the greatest financial need and stimulating achievement of Oregon's 40-40-20 goals. SB 932 expands OOG eligibility to students who are exempt from paying nonresident tuition under ORS 351.641. This new legislation requires the HECC Office of Student Access and Completion (OSAC) to implement a number of changes through rulemaking. Residency now includes students who are exempted from paying nonresident tuition under ORS 351.641. Application requirements now include an alternative need analysis process for students who legally cannot file a FAFSA. Awards will be guaranteed for a second year of aid if students meet academic progress and other benchmarks. Rules now align OOG eligibility more closely with Federal Pell Grant eligibility. The agency will prioritize awards to students based on highest financial need or whose circumstances enhance promotion of the HECC's equity lens. The Student Information section has been expanded to include that OSAC must collect from schools in order to comply with legislative reporting requirements. A new section has been added to address OOG awarding priorities, as specified in HB 2407. Finally, several minor changes in wording have been added to improve clarity or to make phrasing consistent across all rules in Division 30 and Division 31.

Rules Coordinator: Kelly Dickinson—(503) 947-2379

575-030-0005

Definitions

(1) "Resident of Oregon". Residency is established by virtue of the student (in the case of independent students) or the student's parent (in the case of dependent students) having been in continuous residency in this state for the 12 months preceding enrollment. Residency is immediate in the case of a dependent student whose parents have moved to this state for a reason other than the student's enrollment. The residency period may be reduced to the preceding six months in the case of an independent student who moved to this state for a purpose other than education:

(a) A dependent resident student whose Oregon domiciled parent(s) move out-of-state shall retain resident classification as long as the student is continuously enrolled at an Oregon high school or Oregon postsecondary institution. Continuous enrollment is defined as completion of an academic year within any 12-month period;

(b) An independent resident student shall retain resident classification as long as the student is continuously enrolled at an Oregon postsecondary institution. Continuous enrollment is defined as completion of an academic year within any 12-month period;

(c) A dependent student whose parent(s) are serving on active duty in the U. S. Armed Forces outside the State of Oregon shall have residency

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status determined by the parents' declared "home of record". An independent student who is serving on active duty in the U. S. Armed Forces outside the State of Oregon shall have residency status determined by the student's declared "home of record";

(d) A student from a state other than Oregon, or from the Federated States of Micronesia, who is receiving or is eligible to receive financial assistance through the government of that state or the Federated States, shall not be considered a resident of Oregon;

(e) Eligibility for certain scholarships administered by the Commission does not necessarily qualify a student as an Oregon resident for the purposes of state-funded student financial aid programs administered by the Commission.

(f) Residence Classification of Members of Oregon Tribes

(A) Students who are enrolled members of federally recognized tribes of Oregon or who are enrolled members of a federally recognized Native American tribe which had traditional and customary tribal boundaries that included parts of the state of Oregon or which had ceded or reserved lands within the state of Oregon shall be deemed eligible for programs administered by the Higher Education Coordinating Commission that are limited to Oregon residents, regardless of their state of residence.

(B) For purposes of this rule, the federally recognized tribes of Oregon are those adopted by the Oregon public universities for purposes of assessing resident tuition:

- (i) Burns Paiute Tribe;
- (ii) Confederated Tribes of Coos, Lower Umpqua and Siuslaw;
- (iii) Confederated Tribes of Grand Ronde Community of Oregon;
- (iv) Confederated Tribes of Siletz Indians of Oregon;
- (v) Confederated Tribes of the Umatilla Indian Reservation;
- (vi) Confederated Tribes of the Warm Springs Indian Reservation;
- (vii) Coquille Indian Tribe;
- (viii) Cow Creek Band of Umpqua Indians;
- (ix) Klamath Tribes.

(C) For purposes of this rule, the federally recognized Native American tribes which had traditional and customary tribal boundaries that included parts of the state of Oregon or which had ceded or reserved lands within the state of Oregon are:

- (i) CALIFORNIA:
 - (I) Benton Paiute Tribe;
 - (II) Big Bend Rancheria;
 - (III) Big Lagoon Rancheria;
 - (IV) Blue Lake Rancheria;
 - (V) Bridgeport Indian Colony;
 - (VI) Cedarville Rancheria;
 - (VII) Fort Bidwell Indian Tribe;
 - (VIII) Hoopa Valley Tribe;
 - (IX) Karuk Tribe of California;
 - (X) Likely Rancheria;
 - (XI) Lookout Rancheria;
 - (XII) Lytton Rancheria;
 - (XIII) Melochundum Band of Tolowa Indians;
 - (XIV) Montgomery Creek Rancheria;
 - (XV) Pit River Tribe;
 - (XVI) Quartz Valley Indian Community;
 - (XVII) Redding Rancheria;
 - (XVIII) Roaring Creek Rancheria;
 - (XIX) Smith River Rancheria;
 - (XX) Susanville Rancheria;
 - (XXI) Tolowa-Tututni Tribe;
 - (XXII) Winnemucca Colony;
 - (XXIII) XL Ranch;
 - (XXIV) Yurok Tribe.

(ii) IDAHO:

- (I) Nez Perce Tribe of Idaho;
- (II) Shoshoni-Bannock Tribes.

(iii) NEVADA:

- (I) Duck Valley Shoshone-Paiute Tribes;
- (II) Fallon Paiute-Shoshone Tribe;
- (III) Fort McDermitt Paiute-Shoshone Tribe;
- (IV) Lovelock Paiute Tribe;
- (V) Pyramid Lake Paiute Tribe;
- (VI) Reno-Sparks Indian Colony;
- (VII) Summit Lake Paiute Tribe;
- (VIII) Walker River Paiute Tribe;
- (IX) Winnemucca Indian Colony;
- (X) Yerington Paiute Tribe.

(iv) OKLAHOMA: Modoc Tribe of Oklahoma.

(v) WASHINGTON:

- (I) Chehalis Community Council;
- (II) Colville Confederated Tribes;
- (III) Quinalt Indian Nation;
- (IV) Shoalwater Bay Tribe;
- (V) Yakama Indian Nation.

(D) A student seeking to be deemed eligible under the provisions of this rule shall submit, following procedures prescribed by the Oregon Student Assistance Commission, a photocopy of a tribal enrollment card or other acceptable documentation from a tribe which documents tribal membership.

(2) "Undergraduate Student" is a regularly enrolled student who:

(a) Has not obtained a baccalaureate or higher degree from any accredited institution; or

(b) Has not been classified as a "graduate student" by the institution disbursing funds.

(3) "Dependent/Independent Student". The definition of dependent/independent student shall be the definition used for the student aid programs under Title IV of the Higher Education Act of 1965 as amended.

(4) "Financial Need". The difference between the expected family contribution, derived from the federal system of need analysis or an alternate system of need analysis annually approved by the Commission or both, and the cost of education, as specified by program rules.

(5)(a) "Cost of Education". Generally, the sum of tuition for 15 credit-hours per academic term; standard fees charged to all students; room and board (where applicable); and estimates of books, supplies, modest personal expenses, transportation, and other allowable costs identified by the U.S. Department of Education.

(b) The standard cost of education is based upon full-time enrollment for an independent student or for a dependent student not living at home.

(6) "Full-Time Enrollment". Registration and payment of required fees as a full-time student, at an eligible institution or combination of eligible institutions, based on a minimum of 12 credit-hours per academic term. Students attending more than one eligible institution must meet the definition of concurrently enrolled as defined in OAR 575-030-0005(8) to be considered full-time.

(7) "Half-Time Enrollment". Registration and payment of required fees as a half-time student, at an eligible institution or combination of eligible institutions, based on 6 to 11 credit-hours per academic term.

(8) "Concurrently Enrolled". A student who attends more than one eligible institution under a written consortium agreement or concurrent enrollment program. The student's "home" institution determines the student's eligibility for federal and state financial aid, disburses funds to the student, and is responsible for reporting enrollment and disbursement information to the Commission.

(9) "Oregon-based". Having an educational institution that is both located and headquartered in Oregon.

Stat. Auth.: ORS 348

Stats. Implemented: ORS 348.230 - 348.260

Hist.: SSC 12, f. & ef. 12-15-76; SSC 18, f. & ef. 10-19-77; SSC 1-1978(Temp), f. & ef. 1-4-78; SSC 3-1978, f. & ef. 2-16-78; SSC 1-1979, f. & ef. 1-17-79; SSC 2-1980, f. 1-31-80, ef. 4-1-80; SSC 4-1980, f. & ef. 10-22-80; SSC 1-1981, f. & ef. 9-3-81; SSC 2-1986, f. & ef. 2-25-86; SSC 5-1987, f. & ef. 10-23-87; SSC 1-1998, f. & cert. ef. 3-18-98; OSAC 5-2002, f. & cert. ef. 3-12-02; OSAC 1-2004, f. & cert. ef. 2-12-04; OSAC 3-2005, f. 9-27-05, cert. ef. 10-1-05; OSAC 5-2007, f. & cert. ef. 11-7-07; OSAC 1-2015, f. & cert. ef. 12-18-15; OSAC 1-2016, f. & cert. ef. 4-21-16

575-031-0005

Residency

To be eligible for an Oregon Opportunity Grant a student must:

(1)(a) Be a U.S. Citizen or eligible non-citizen as defined by federal regulations under Title IV, Part B of the Higher Education Act of 1965 as amended, and

(b) Be a resident of the State of Oregon as defined in OAR 575-030-0005(1); or

(2) Be exempted from paying nonresident tuition under ORS 352.287 or meet the criteria to be exempted from paying nonresident tuition in ORS 352.287 and provide documents specified in ORS 352.287(1)(c)(A) and (B) or ORS 352.287(2)(c)(A) and (B).

Stat. Auth.: ORS 348

Stats. Implemented: ORS 348

Hist.: SSC 12, f. & ef. 12-15-76; OSAC 6-2002, f. & cert. ef. 3-12-02; OSAC 1-2015, f. & cert. ef. 12-18-15; OSAC 1-2016, f. & cert. ef. 4-21-16

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575-031-0010

Financial Need

(1) A student must have financial need as determined by the Commission as set forth in OAR 575-030-0005(4).

(2) A student's financial need for purposes of determining eligibility for an Oregon Opportunity Grant shall be based upon provisions of the Shared Responsibility Model as set forth in OAR 575-031-0022 and 0023.

Stat. Auth.: ORS 348
Stats. Implemented: ORS 348
Hist.: SSC 12, f. & ef. 12-15-76; SSC 18, f. & ef. 10-19-77; SSC 1-1978(Temp), f. & ef. 1-4-78; SSC 3-1978, f. & ef. 2-16-78; OSAC 6-2002, f. & cert. ef. 3-12-02; OSAC 1-2005(Temp), f. & cert. ef. 4-4-05 thru 10-1-05; OSAC 2-2005, f. 9-27-05, cert. ef. 10-1-05; OSAC 5-2007, f. & cert. ef. 11-7-07; OSAC 1-2015, f. & cert. ef. 12-18-15; OSAC 1-2016, f. & cert. ef. 4-21-16

575-031-0015

Institutional Eligibility

Eligible institutions are any Oregon community colleges, Oregon public universities listed in ORS 352.002, Oregon Health and Science University, and Oregon-based non-profit institutions of higher education which:

(1) Are recognized by the U.S. Department of Education as eligible institutions;

(2) Request participation in the program; and

(3) Sign an institutional participation agreement.

Stat. Auth.: ORS 348 & 378
Stats. Implemented: ORS 348.250 - 348.260
Hist.: SSC 12, f. & ef. 12-15-76; SSC 18, f. & ef. 10-19-77; SSC 1-1981, f. & ef. 9-3-81; SSC 2-1986, f. & ef. 2-25-86; SSC 5-1987, f. & ef. 10-23-87; SSC 3-1988, f. & cert. ef. 8-9-88; OSAC 1-2004, f. & cert. ef. 2-12-04; OSAC 1-2016, f. & cert. ef. 4-21-16

575-031-0016

Eligible Program

To receive an Oregon Opportunity Grant, a student must be enrolled in either:

(1) A program leading to a baccalaureate or associate degree; or

(2) A program at least one academic year in length approved by the U.S. Department of Education for Title IV programs.

Stat. Auth.: ORS 348
Stats. Implemented: ORS 348
Hist.: SSC 2-1986, f. & ef. 2-25-86; OSAC 6-2002, f. & cert. ef. 3-12-02; OSAC 1-2016, f. & cert. ef. 4-21-16

575-031-0022

Definitions for the Shared Responsibility Model

(1) Cost of Education. For purposes of calculating Oregon Opportunity Grant awards under the Shared Responsibility Model, the standard cost of education is based on the definition of cost of education in OAR 575-030-0005.

(a) The standard cost of education for each institutional segment is based on the average of the standard costs for all participating institutions within an institutional segment.

(b) For purposes of calculating Oregon Opportunity Grant awards under the Shared Responsibility Model, the standard cost of education for all public and private independent 4-year institutions is the average of the standard costs for public 4-year institutions. The standard cost of education for all public 2-year institutions is the average of the standard costs for all institutions in that segment.

(2) "Student Share". The student share is a fixed amount based upon a reasonable amount of paid work and, in some cases, a modest amount of borrowing, depending upon the type of institution the student attends. The Commission adjusts the student share annually according to changes in the Oregon minimum wage and what the Commission determines to be a manageable debt burden for a student. The student's share may consist of any combination of financial resources from the student's work, loans, scholarships, savings, assets, or gift aid.

(a) For a student attending a public 2-year Oregon-based postsecondary institution, the student share is based on income from work. The Commission will annually determine the income from work amount, based on a minimum number of hours per week at Oregon minimum wage.

(b) For a student attending a public or not-for-profit 4-year Oregon-based postsecondary institution, the student share is based on income from work plus a modest loan amount. The Commission will annually determine the work component, based on a minimum number of hours per week at Oregon minimum wage, and the loan amount.

(c) For a student enrolled for 6 to 11 credit-hours, the component of the student share represented by income from work may be higher than for students enrolled full time. The Commission will determine this amount annually.

(d) "Manageable debt burden". The Commission will annually determine a manageable debt burden based on average entry-level salaries for public service occupations in Oregon.

(3) "Family Share". The family share is equal to the student's federally calculated expected family contribution, which is based on the financial resources (income from work and other sources, savings, and/or assets) of the student's parents, if dependent, or the student and spouse, if independent, as reported in the Free Application for Federal Student Aid (FAFSA) or in an alternative need analysis form approved by the Commission.

(4) "Federal Share". The federal share is based on how much the student or the student's family is expected to receive from the federal government in the form of Federal Pell Grants and assumed federal higher education tax credits, as determined by the Commission. The federal share excludes Federal SEOG awards and other federal grant and scholarship programs.

(5) "State Share". The state share is equal to the standard cost of education minus the sum of the student share, the family share, and the federal share. The state share is the maximum amount that a student may receive as an Oregon Opportunity Grant. If the amount of the state share is less than the minimum award amount, as determined by the Commission, the student will receive no award. If total state funding is not sufficient to cover full awards for all eligible students, the state share may be reduced proportionally utilizing a method determined by the Commission.

Stat. Auth.: ORS 348
Stats. Implemented: ORS 348
Hist.: OSAC 5-2007, f. & cert. ef. 11-7-07; OSAC 2-2008, f. & cert. ef. 8-21-08; OSAC 1-2015, f. & cert. ef. 12-18-15; OSAC 1-2016, f. & cert. ef. 4-21-16

575-031-0023

Implementation of Shared Responsibility Model

Effective starting with the 2008-09 academic year, the Shared Responsibility Model shall be the method for determining a student's eligibility for the Oregon Opportunity Grant and the student's annual award amounts. Under this methodology, a qualified student's cost of education is shared with the student, the student's family, the federal government, and the state. The amount of a student's grant is equal to the state's share of the student's cost of education, as determined by the Commission, up to the maximum annual award amount for the academic year.

Stat. Auth.: ORS 348
Stats. Implemented: ORS 348
Hist.: OSAC 5-2007, f. & cert. ef. 11-7-07; OSAC 1-2015, f. & cert. ef. 12-18-15; OSAC 1-2016, f. & cert. ef. 4-21-16

575-031-0025

Opportunity Grant Amount

(1)(a) For students attending a public 2- or 4-year Oregon-based postsecondary institution, award amounts prior to the 2008-09 academic year are based upon a fixed percentage of the average tuition and standard fees plus the weighted average of nontuition costs across all institutional segments.

(b) For students attending a private nonprofit 4-year Oregon-based postsecondary institution, award amounts prior to the 2008-09 academic year are based upon a fixed percentage of the average tuition and standard fees at each institution plus the weighted average of nontuition costs across all institutional segments.

(c) An Oregon Opportunity Grant may vary in amount from \$100 to an annual maximum award amount, as determined by the Commission.

(d) Effective starting with the 2008-09 academic year, an Oregon Opportunity Grant is based upon the state share, as calculated under provisions of the Shared Responsibility Model.

(2) Within the funds available, an Oregon Opportunity Grant for a student who is taking from 6 to 11 credit hours in a term or semester shall be 50 percent of the award made to a full-time student enrolled at the same institution.

(3) For concurrently enrolled students, the amount of the Oregon Opportunity Grant will be based on the school disbursing funds, unless otherwise approved by the Commission.

(4) In the event that the Commission determines that the total amount available to award as the state share to all qualified students is not sufficient to cover the total state share amount scheduled to be awarded to all students, the Commission will implement one or more of the following strategies to limit awards. Examples of such strategies may include, but are not limited to, the following:

(a) The Commission may limit awards to only students who are enrolled full time;

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(b) The Commission may implement reductions of all awards using progressive prorata reductions based on a percentage of the student's expected family contribution;

(c) The Commission may prescribe a specific date by which a student must apply to the Commission to qualify for a grant and may prescribe an additional date by which the award must be disbursed by school officials to the student.

(d) The Commission may make per capita reductions to future student grants if appropriations are determined to be inadequate to the needs of all eligible students whose applications are received by the announced application deadline for a specific academic year. When future disbursements of student grants are reduced, the Commission will provide notification it deems adequate, to college and university financial aid offices and affected students.

(e) The Commission may base a recipient's maximum authorized award each term on the recipient's fall-term enrollment status if funds are not available to award grants to all qualified students whose applications are received by the announced application deadline for a specific academic year.

(f) The Commission may prioritize awards to qualified students with the greatest financial need or whose circumstances would enhance the promotion of equity guidelines published by the Commission.

(5) Awards for continuing students who first received an Oregon Opportunity Grant in 2015-16. Notwithstanding paragraph (1)(d) above, the Commission may authorize awards for qualified students who attended an eligible postsecondary institution at least half time during the 2015-16 academic year and remain continuously enrolled at least half time at an eligible Oregon postsecondary institution if the students continue to qualify for an Oregon Opportunity Grant according to awarding procedures used for the 2015-16 academic year.

Stat. Auth.: ORS 348

Stats. Implemented: ORS 348

Hist.: SSC 12, f. & ef. 12-15-76; SSC 18, f. & ef. 10-19-77; SSC 1-1978(Temp), f. & ef. 1-4-78; SSC 3-1978, f. & ef. 2-16-78; SSC 2-1979, f. 7-24-79, ef. 8-1-79; SSC 2-1985, f. & ef. 4-17-85; SSC 5-1987, f. & ef. 10-23-87; SSC 1-1993(Temp), f. & cert. ef. 9-20-93; SSC 3-1994, f. & cert. ef. 1-25-94; SSC 2-1995, f. & cert. ef. 12-6-95; SSC 1-1998, f. & cert. ef. 3-18-98; OSAC 6-2002, f. & cert. ef. 3-12-02; OSAC 4-2005, f. 9-27-05, cert. ef. 10-1-05; OSAC 5-2007, f. & cert. ef. 11-7-07; OSAC 1-2009(Temp), f. & cert. ef. 11-24-09 thru 5-17-10; Administrative correction 6-25-10; OSAC 1-2010, f. & cert. ef. 10-6-10; OSAC 1-2015, f. & cert. ef. 12-18-15; OSAC 1-2016, f. & cert. ef. 4-21-16

575-031-0030

Conditions of Award

(1) To apply for an Oregon Opportunity Grant, a student must complete and submit the Free Application for Federal Student Aid for each academic year, if eligible to file the application, or submit an alternate need analysis form approved by the Commission for this purpose.

(2) Except for subsection (2) below, the maximum period of Oregon Opportunity Grant eligibility shall not exceed the equivalent of 12 quarters or 8 semesters of full-time enrollment.

(3) Students whose statutory rights provide for a legitimate need to extend the maximum period beyond a period equal to 12 quarters or 8 semesters of full-time enrollment remain eligible to receive an Oregon Opportunity Grant until completion of their undergraduate program.

(4) The Commission may deny renewal of an award to any student failing to make satisfactory academic progress.

(5) No Oregon Opportunity Grant shall be made to any student enrolled in a course of study required for and leading to a degree in theology, divinity, or religious education.

(6) No Oregon Opportunity Grant shall be made to any student in default on any federal Title IV loan or owing a refund on federal Title IV funds previously disbursed, unless the institution disbursing funds determines that the student has made satisfactory arrangements to repay and has regained federal eligibility.

(7) An Oregon Opportunity Grant recipient shall sign a statement of Selective Service Registration Compliance in conformity with the requirements of Title IV student aid programs.

(8) An Oregon Opportunity Grant recipient must be enrolled in an eligible program as defined in 575-031-0016.

(9) An Oregon Opportunity Grant recipient must be an undergraduate student, as defined by the institution disbursing funds.

(10) An Oregon Opportunity Grant recipient may apply for renewal of the grant on an annual basis until the student has received grant funding for the maximum period noted in subsection (1) above. The Commission may not renew the grant if the recipient has not made timely application for renewal of the grant.

(11)(a) The Commission will renew an Oregon Opportunity Grant for a second year of attendance if the grant recipient makes a timely applica-

tion for renewal of the grant, meets academic standards and benchmarks established by the Commission, and continues to meet all other grant eligibility criteria.

(b) The Commission may continue to renew the grant after the second year if the grant recipient continues to apply timely and meet all academic and other grant eligibility requirements. Additional requirements may include applying by an established application deadline and meeting academic standards and benchmarks that exceed federal requirements for satisfactory academic progress.

Stat. Auth.: ORS 348

Stats. Implemented: ORS 348

Hist.: SSC 12, f. & ef. 12-15-76; SSC 18, f. & ef. 10-19-77; SSC 4-1980, f. & ef. 10-22-80; SSC 1-1981, f. & ef. 9-3-81; SSC 4-1983, f. & ef. 11-29-83; SSC 2-1985, f. & ef. 4-17-85; SSC 5-1986, f. & ef. 6-12-86; SSC 5-1987, f. & ef. 10-23-87; SSC 3-1988, f. & cert. ef. 8-9-88; OSAC 6-2002, f. & cert. ef. 3-12-02; OSAC 5-2007, f. & cert. ef. 11-7-07; OSAC 1-2016, f. & cert. ef. 4-21-16

575-031-0045

Disbursements

(1) Institutions shall disburse grants to students identified by the Commission from funds provided by the Commission on an academic term basis.

(2) Institutions shall not disburse grants to students who cease to meet conditions of award identified by the Commission.

(3) If, as a result of an institutional error, grants are disbursed to ineligible students, to students in ineligible programs, or to students for an inappropriate number of terms, the institution shall reimburse the State of Oregon the full amount of monies erroneously disbursed.

(4) Institutions shall disburse grants to eligible students within a time schedule established annually by the Commission.

(5) Institutions shall submit regular reports to the Commission regarding disbursements made to eligible students on a schedule determined by the Commission.

(6) Institutions shall refund unused grant funds to the Commission within a time schedule established annually by the Commission.

(7) Generally, a disbursement may not be made to a student who is no longer eligible. An otherwise eligible student becomes ineligible for an Oregon Opportunity Grant on the date that the student is no longer enrolled at the institution for the award year. With Commission approval, institutions may make late disbursements of retroactive awards for prior academic terms up to 60 days after the close of the year-end account reconciliation process or up to 60 days after the end of the student's period of enrollment, whichever is earlier.

Stat. Auth.: ORS 348

Stats. Implemented: ORS 348

Hist.: SSC 4-1980, f. & ef. 10-22-80; SSC 1-1981, f. & ef. 9-3-81; SSC 5-1986, f. & ef. 6-12-86; OSAC 6-2002, f. & cert. ef. 3-12-02; OSAC 5-2007, f. & cert. ef. 11-7-07; OSAC 1-2015, f. & cert. ef. 12-18-15; OSAC 1-2016, f. & cert. ef. 4-21-16

575-031-0046

Student Information

(1) The institution shall provide each student awarded at that institution with written notification on items specified by the Commission.

(2) The institution shall report to the Commission certain grant recipient data to include, at a minimum, the following:

(3) The enrollment status and amount of OOG funds disbursed each term to each grant recipient.

(4) Each grant recipient's self-reported race or ethnicity, according to federal guidelines.

(5) Each grant recipient's grade level and total credits earned to date at the start the academic year.

(6) Each grant recipient's progress toward completion of a course of study leading to a certificate, degree, or transfer.

(7) For each student who has applied for a renewal of the grant, the institution shall confirm the student's satisfactory academic progress, as defined by the postsecondary institution the student attends.

Stat. Auth.: ORS 348

Stats. Implemented: ORS 348

Hist.: SSC 1-1981, f. & ef. 9-3-81; SSC 2-1985, f. & ef. 4-17-85; SSC 5-1986, f. & ef. 6-12-86; SSC 5-1987, f. & ef. 10-23-87; SSC 3-1988, f. & cert. ef. 8-9-88; OSAC 6-2002, f. & cert. ef. 3-12-02; OSAC 1-2016, f. & cert. ef. 4-21-16

575-031-0060

Awarding Priorities

(1) In years when the Oregon Opportunity Grant program does not have sufficient funding to serve all eligible Oregon students, the Commission will prioritize awarding of grants to eligible current foster children and former foster children, as determined by the Department of Human Services. Under this rule, the Commission will consider eligible

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foster youth and former foster youth for prioritized awards throughout the academic year, providing they meet all other eligibility criteria.

(2) Effective starting with the 2016-17 academic year, in years when funds are not sufficient to serve all eligible students, the Commission will prioritize awarding of Oregon Opportunity Grants to qualified students with the greatest financial need or whose circumstances would enhance the promotion of the Commission's equity guidelines:

(a) The Commission will prioritize awards based upon a student's federally calculated expected family contribution, or equivalent until funds are exhausted.

(b) The Commission will accept and process applications for Oregon Opportunity Grants throughout the academic year. In years when the Opportunity Grant program does not have sufficient funding to serve all eligible Oregon students, the Commission may suspend awarding when it deems necessary.

Stat. Auth.: ORS 348
Stats. Implemented: ORS 348.250 - 348.260
Hist.: OSAC 1-2016, f. & cert. ef. 4-21-16

Rule Caption: Creation and implementation of the Oregon Promise Grant program.

Adm. Order No.: OSAC 2-2016

Filed with Sec. of State: 4-21-2016

Certified to be Effective: 4-21-16

Notice Publication Date: 3-1-2016

Rules Adopted: 575-039-0010, 575-039-0020, 575-039-0030, 575-039-0040, 575-039-0050, 575-039-0060, 575-039-0070, 575-039-0080, 575-039-0090, 575-039-0100, 575-039-0110, 575-039-0120, 575-039-0140, 575-039-0150

Subject: OAR 575-039-0010 through 575-039-0150 outline and implement the Oregon Promise Grant program created under Senate Bill 81 adopted by the 2015 Oregon Legislative Assembly. The proposed rules forth program definitions, eligibility, residency requirements, institutional eligibility, course eligibility, enrollment requirements, award amounts and co-pays, awarding conditions, fund disbursement, collection of student information and record keeping, appeal rights, the application process, and dual enrollment requirements.

Rules Coordinator: Kelly Dickinson—(503) 947-2379

575-039-0010

Definitions

(1) "Resident of Oregon." For purposes of the Oregon Promise Grant, residency is established by virtue of the student (in the case of independent students) or the student's parent (in the case of dependent students) having been in continuous residency in this state for the 12 months preceding enrollment in an eligible program at a community college in Oregon.

(a) A dependent resident student whose Oregon domiciled parent(s) move out-of-state shall retain resident classification as long as the student is continuously enrolled at an Oregon high school or Oregon postsecondary institution. Continuous enrollment is defined as completion of an academic year within any 12-month period;

(b) An independent resident student shall retain resident classification as long as the student is continuously enrolled at an Oregon postsecondary institution. Continuous enrollment is defined as completion of an academic year within any 12-month period;

(c) A dependent student whose parent(s) are serving on active duty in the U. S. Armed Forces outside the State of Oregon shall have residency status determined by the parents' declared "home of record".

(d) A student from a state other than Oregon, or from the Federated States of Micronesia, who is receiving or is eligible to receive financial assistance through the government of that state or the Federated States, shall not be considered a resident of Oregon;

(e) Eligibility for certain scholarships administered by the Commission does not necessarily qualify a student as an Oregon resident for the purposes of the Oregon Promise grant.

(f) Students who are enrolled members of federally recognized tribes of Oregon or who are enrolled members of a federally recognized Native American tribe which had traditional and customary tribal boundaries that included parts of the state of Oregon or which had ceded or reserved lands within the state of Oregon may be deemed eligible for this program, regardless of state of residence, if they meet all other eligibility criteria. For this purpose, federally recognized tribes are those listed in OAR 575-030-0005.

(2) "Dependent/Independent Student." The definition of dependent/independent student shall be the definition used for the student aid programs under Title IV of the Higher Education Act of 1965 as amended.

(3) "Tuition." Tuition is the amount charged to a student for a course and is based upon the number of credit hours for which the course is offered.

(4) "Fees." Fees are the standard fees charged to all students.

(5) "Full-Time Enrollment." Registration and payment of required fees as a full-time student, at an eligible institution or combination of eligible institutions, based on a minimum of 12 credit-hours per academic term. Students attending more than one eligible institution must meet the definition of concurrently enrolled as defined in OAR 575-031-0005(7) to be considered enrolled full time.

(6) "Half-Time Enrollment." Registration and payment of required fees as a half-time student, at an eligible institution or combination of eligible institutions, based on 6 to 11 credit-hours per academic term.

(7) "Concurrently Enrolled." A student who attends more than one eligible institution under a written consortium agreement or concurrent enrollment program. The student's "home" institution determines the student's eligibility for federal and state financial aid, disburses funds to the student, and is responsible for reporting enrollment and disbursement information to the Commission.

Stat. Auth.: ORS 341
Stats. Implemented: ORS 341
Hist.: OSAC 2-2016, f. & cert. ef. 4-21-16

575-039-0020

Student Eligibility for Oregon Promise Grant

To be eligible for an Oregon Promise Grant a student must:

(1) Be an Oregon resident for at least 12 months prior to enrolling in an Oregon community college;

(a) Have attained the highest level of education in this state prior to receiving a high school diploma under ORS 329.451, or earned a General Educational Development (GED) certificate at an Oregon testing center under ORS 351.768, or completed grade 12 while home schooled in Oregon under ORS 339.035;

(b) Have earned a cumulative high school grade point average of 2.5 or its equivalent or better;

(c) Within 6 months of high school (or equivalent GED or home-school) completion date, enroll in approved courses at an Oregon community college;

(d) Have completed a Free Application for Federal Student Aid (FAFSA), if eligible to file the application, and accepted all state and federal grant aid offered; and

(e) Have not completed more than 90 credit hours, or the equivalent, at a post-secondary institution of education or a curriculum, degree or program.

(2) The Commission will determine if a student who does not earn a cumulative grade point average of 2.5 or better in high school may otherwise demonstrate an equivalent academic ability.

Stat. Auth.: ORS 183 & 341
Stats Implemented: ORS 341
Hist.: OSAC 2-2016, f. & cert. ef. 4-21-16

575-039-0030

Institutional Eligibility

Eligible institutions are any Oregon community college operated under ORS chapter 341.

Stat. Auth.: ORS 341
Stats. Implemented: ORS 341
Hist.: OSAC 2-2016, f. & cert. ef. 4-21-16

575-039-0040

Eligible Courses and Programs

(1) Oregon Promise Grants may be awarded to students who are enrolled in courses at an Oregon community college that are required for completion of:

(a) An associate degree; or

(b) A program in career and technical education.

(2) Eligible courses include those developmental education courses that are required for an eligible certificate or degree program or that are prerequisites to required courses in an eligible program.

(3) To receive an Oregon Promise Grant, a student must be enrolled in an eligible program as identified by the Commission and determined by the institution the student attends.

Stat. Auth.: ORS 341
Stats. Implemented: ORS 341
Hist.: OSAC 2-2016, f. & cert. ef. 4-21-16

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575-039-0050

Enrollment

A student must be enrolled or accepted for enrollment as at least a half-time undergraduate student at an eligible institution to receive Oregon Promise grant funds.

Stat. Auth.: ORS 341
Stats. Implemented: ORS 341
Hist.: OSAC 2-2016, f. & cert. ef. 4-21-16

575-039-0060

Oregon Promise Grant Amount

(1) The total amount of an Oregon Promise Grant award will be based on the number of credit hours in approved courses that the student attempts each term. For each academic term, the student's grant award will be reduced by a copayment of \$50 and any amounts received in state and federal grants.

(2) The maximum grant award available to an eligible student for a full academic year will be an amount that equals:

(a) No less than \$1,000 or the actual cost of tuition, whichever is less; and

(b) No more than the average cost of tuition at a community college in this state, as determined by the office, or the actual cost of tuition, whichever is less.

(3) Grant award amounts will be prorated for a student who is enrolled in approved courses for a sufficient number of credit hours to be considered enrolled at least a half-time but less than full time.

(3) Cost calculations each academic term shall include only the amount of tuition charged to the student for credits attempted. Fees will not be included.

Stat. Auth.: ORS 341
Stats. Implemented: ORS 341
Hist.: OSAC 2-2016, f. & cert. ef. 4-21-16

575-039-0070

Conditions of Award

(1) In order to remain eligible for an Oregon Promise award, continuing students must:

(a) Maintain a cumulative grade point average of 2.5 or better each term for which the student receives the grant.

(b) Make satisfactory academic progress in an approved program, as defined by the institution in accordance with federal Title IV regulations and guidelines.

(c) Enroll for a sufficient number of credits to be considered at least a half-time student.

(2) A student continues to remain eligible to receive an Oregon Promise Grant until the student has completed more than 90 credit hours attempted at an eligible Oregon community college, or the equivalent at a postsecondary institution of education, including those postsecondary credit hours attempted while the student is enrolled in high school.

(3) The Commission may deny renewal of an award to any student failing to make satisfactory academic progress as defined by the institution.

(4) No Oregon Promise Grant shall be made to any student enrolled in a course of study required for and leading to a degree in theology, divinity, or religious education.

(5) An Oregon Promise Grant recipient shall sign a statement of Selective Service Registration Compliance in conformity with the requirements of Title IV student aid programs, if applicable.

(6) An Oregon Promise Grant recipient must be enrolled in an eligible program as defined by the Commission.

(7) A student who fails to maintain a cumulative grade point average of 2.5 or better during each term for which the student has received a grant may request that the requirement be waived by the office according to rules adopted by the Commission.

Stat. Auth.: ORS 341
Stats. Implemented: ORS 341
Hist.: OSAC 2-2016, f. & cert. ef. 4-21-16

575-039-0080

Prioritization of Grant Recipients

The Commission may prescribe the priority by which grants are awarded, which allows for preference to be given to persons enrolled in school districts or high schools that meet specified criteria as determined by the Commission.

Stat. Auth.: ORS 341
Stats. Implemented: ORS 341
Hist.: OSAC 2-2016, f. & cert. ef. 4-21-16

575-039-0090

Disbursement of Grant Funds to Students

(1) Institutions shall disburse grants to students identified by the Commission from funds provided by the Commission each academic term.

(2) Institutions shall not disburse grants to students who cease to meet conditions of award identified by the Commission.

(3) If, as a result of an institutional error, grants are disbursed to ineligible students, to students in ineligible programs, or to students for an inappropriate number of terms, the institution shall reimburse the State of Oregon the full amount of monies erroneously disbursed.

(4) Institutions shall disburse grants to eligible students within a time schedule established annually by the Commission.

(5) Institutions shall submit regular reports to the Commission regarding disbursements made to eligible students on a schedule determined by the Commission.

(6) Institutions shall refund unused grant funds to the Commission within a time schedule established annually by the Commission.

(7) A person who fails to maintain the cumulative grade point average of 2.5 becomes ineligible to receive a grant for the term after which the person fails to maintain the cumulative grade point average, unless the eligibility requirement is waived by the Office of Student Access and Completion according to rules established by the Commission. The institution the student attends will determine the student's eligibility for a waiver and will submit a waiver request to the Office for consideration and approval according to a process established by the Office. 8) Generally, a disbursement may not be made to a student who is no longer eligible. An otherwise eligible student becomes ineligible for an Oregon Promise Grant on the date that the student is no longer enrolled at the institution for the award year. With Commission approval, institutions may make late disbursements of retroactive awards for prior academic terms up to 60 days after the close of the year-end account reconciliation process or up to 60 days after the end of the student's period of enrollment, whichever is earlier.

Stat. Auth.: ORS 341
Stats. Implemented: ORS 341
Hist.: OSAC 2-2016, f. & cert. ef. 4-21-16

575-39-0100

Collection of Student Information

(1) The institution shall provide each student awarded at that institution with written notification on items specified by the Commission.

(2) The institution shall report to the Commission certain grant recipient data to include, at a minimum

(a) The enrollment status and amount of Oregon Promise funds disbursed each term to each grant recipient;

(b) Each grant recipient's self-reported race or ethnicity, according to federal guidelines;

(c) Each grant recipient's grade level and total credits earned to date at the start of the academic year;

(d) Each grant recipient's progress toward completion of a course of study leading to a certificate, degree, or transfer;

(e) The amount of federal aid grants received by each Oregon Promise recipient;

(f) Other data needed to comply with legislative reporting requirements.

(3) For each student who has applied for a renewal of the grant, the institution shall confirm the student's satisfactory academic progress.

Stat. Auth.: ORS 341
Stats. Implemented: ORS 341
Hist.: OSAC 2-2016, f. & cert. ef. 4-21-16

575-039-0110

Record Keeping

(1) Each institution shall maintain sufficient records to document its activities relating to the program.

(2) Each institution shall make its academic and financial records available to the Commission at reasonable times for the purpose of assuring that the institution is complying with the rules relating to the administration of the program.

(3) Institutions shall retain the academic and financial records relevant to a disbursement of state grant funds for not less than three years following the end of the fiscal year in which that disbursement occurs.

Stat. Auth.: ORS 341
Stats. Implemented: ORS 341
Hist.: OSAC 2-2016, f. & cert. ef. 4-21-16

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575-039-0120

Rights of Appeal

(1) An institution shall have the right to appeal to the Commission in the instance of a disagreement with a policy or procedure of the Commission or its staff. In such case, the decision of the Commission is final unless a court of competent jurisdiction orders to the contrary.

(2) A student who is denied participation in the Oregon Promise program may appeal the denial to the Commission. The appeal shall be submitted in writing a minimum of ten days before the meeting at which the appeal is to be considered.

Stat. Auth.: ORS 341
Stats. Implemented: ORS 341
Hist.: OSAC 2-2016, f. & cert. ef. 4-21-16

575-039-0140

Application Process

(1) Applicants must complete and submit the Free Application for Federal Student Aid, if eligible for federal student aid programs. Applicants who are not eligible for federal financial aid because of their citizenship status must complete the Oregon Student Aid Application, which is the alternate need analysis form that has been approved by the Commission.

(2) Applicants must submit the Oregon Promise application, which has been designated for this purpose by the Commission, and grade transcripts as specified in the Oregon Promise application.

(3) Applications must be filed during the timeframe established by the Commission.

Stat. Auth.: ORS 341
Stats. Implemented: ORS 341
Hist.: OSAC 2-2016, f. & cert. ef. 4-21-16

575-039-0150

Requirements for Dually Enrolled Students

The Commission will prescribe eligibility requirements and grant calculations for students dually enrolled in a community college and a public university.

(1) For the Oregon Promise Grant, a dually enrolled, or co-enrolled, student is a student who attends more than one eligible institution during the same academic term or year under a written consortium agreement or concurrent enrollment program. The student's "home" institution is the institution that grants a certificate or degree upon the student's completion of an eligible program of student. It is the institution that determines the student's eligibility for federal and state financial aid, disburses funds to the student, and is responsible for reporting enrollment and disbursement information to the Commission.

(2) For students who are dually enrolled in two or more community colleges, the Oregon Promise grant award will be based on the tuition charged by the student's "home" institution or the average tuition charged by all community colleges, whichever is lower.

(3) For students who are dually enrolled in a pathways program between an Oregon community college and an Oregon public university, the Oregon Promise grant award will be based on the enrollment status and tuition charged only for courses taken at the community college.

Stat. Auth.: ORS 341
Stats. Implemented: ORS 341
Hist.: OSAC 2-2016, f. & cert. ef. 4-21-16

Oregon Criminal Justice Commission Chapter 213

Rule Caption: Amends Oregon Sentencing Guidelines and rules to implement 2015 legislation

Adm. Order No.: CJC 1-2016

Filed with Sec. of State: 5-10-2016

Certified to be Effective: 5-10-16

Notice Publication Date: 4-1-2016

Rules Amended: 213-003-0001, 213-017-0002, 213-017-0003, 213-017-0005, 213-017-0006, 213-017-0007, 213-017-0008, 213-018-0035, 213-018-0050, 213-018-0068

Subject: These rules implement 2015 legislative enactments. Under ORS 137.667(1), the Commission is required to review legislation creating new crimes and modifying existing crimes, and adopt any necessary changes to the sentencing guidelines. The Commission also may classify offenses as person crimes.

The 2015 Oregon Legislature created new felony crimes including Endangering a Person Protected by a FAPA Order, Unlawful Dissemination of an Intimate Image, Invasion of Personal Privacy I and

Sexual Assault of an Animal. The 2015 Oregon Legislature also modified existing felony crimes including Computer Crime, Possession of a Firearm or Dangerous Weapon in Public Building or Court Facility, Disorderly Conduct I, Luring a Minor, Purchasing Sex With a Minor, Coercion, Strangulation, and Assault IV. The 2015 Oregon Legislature also created or modified misdemeanor crimes including Unlawful Dissemination of an Intimate Image and Invasion of Personal Privacy II.

With regard to these and other offenses, the Commission may decide whether to classify new and modified crimes as person crimes, and decide crime seriousness scale categorization (if any) for new and modified felony crimes for which it has not received an express legislative classification. These rule changes implement the Commission's categorizations and classifications with regard to 2015 legislation.

The rule changes also include correcting and updating statutory citations, re-ordering of rule provisions that are based on numerical order of statutory citations, and deletion of a duplicative provision.

Rules Coordinator: Julie Vaughn—(503) 378-4830

213-003-0001

Definitions

As used in these rules:

(1) "Bench probation" means a probationary sentence, which directs the probationer to remain under the supervision and control of the sentencing judge.

(2) "Board" means the State Board of Parole and Post-Prison Supervision.

(3) "Correctional supervision status" means any form of incarcerative or non-incarcerative supervision which is served by an offender as part of a sentence for a criminal conviction.

(4) "Department" means the Department of Corrections.

(5) "Departure" means a sentence, except an optional probationary sentence, which is inconsistent with the presumptive sentence for an offender.

(6) "Dispositional departure" means a sentence which imposes probation when the presumptive sentence is prison or prison when the presumptive sentence is probation. An optional probationary sentence is not a dispositional departure.

(7) "Dispositional line" means the solid black line on the Sentencing Guidelines Grid (Appendix 1) which separates the grid blocks in which the presumptive sentence is a term of imprisonment and post-prison supervision from the grid blocks in which the presumptive sentence is probation which may include local custodial sanctions. [Appendix not included. See ED. NOTE.]

(8) "Durational departure" means a sentence which is inconsistent with the presumptive sentence as to term of incarceration, term of supervised probation or number of sanction units which may be imposed as a condition of probation.

(9) "Grid" means the Sentencing Guidelines Grid set forth as Appendix 1. [Appendix not included. See ED. NOTE.]

(10) "Grid block" means a box on the grid formed by the intersection of the crime seriousness ranking of a current crime of conviction and an offender's criminal history classification.

(11) "Juvenile adjudication" means a formal adjudication or finding by a court that the juvenile has committed an act, which, if committed by an adult, would be punishable as a felony.

(12) "Non-person felonies" are any felonies not defined as a person felony in section (14) of this rule.

(13) "Optional probationary sentence" means any probationary sentence imposed pursuant to OAR 213-005-0006.

(14) "Person felonies" are in numerical statutory order: ORS 97.981 Purchase or Sale of a Body Part for Transplantation or Therapy; ORS 97.982 Alteration of a Document of Gift; ORS 162.165 Escape I; ORS 162.185 Supplying Contraband as defined in Crime Categories 6 and 7 (OAR 213-018-0070(1) and (2)); ORS 163.095 Aggravated Murder; ORS 163.115 Murder; ORS 163.115 Felony Murder; ORS 163.118 Manslaughter I; ORS 163.125 Manslaughter II; ORS 163.145 Negligent Homicide; ORS 163.149 Aggravated Vehicular Homicide; ORS 163.160(3) Felony Assault; ORS 163.165 Assault III; ORS 163.175 Assault II; ORS 163.185 Assault I; ORS 163.187(4) Felony Strangulation; ORS 163.192 Endangering Person Protected by FAPA Order; ORS 163.196 Aggravated Driving While Suspended or Revoked; ORS 163.205 Criminal Mistreatment I; ORS 163.207 Female Genital Mutilation; ORS 163.208

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Assaulting a Public Safety Officer; ORS 163.213 Use of Stun Gun, Tear Gas, Mace I; ORS 163.225 Kidnapping II; ORS 163.235 Kidnapping I; ORS 163.263 Subjecting Another Person to Involuntary Servitude II; ORS 163.264 Subjecting Another Person to Involuntary Servitude I; ORS 163.266 Trafficking in Persons; ORS 163.275 Coercion as defined in Crime Category 7 (OAR 213-018-0035(1)); ORS 163.355 Rape III; ORS 163.365 Rape II; ORS 163.375 Rape I; ORS 163.385 Sodomy III; ORS 163.395 Sodomy II; ORS 163.405 Sodomy I; ORS 163.408 Sexual Penetration II; ORS 163.411 Sexual Penetration I; ORS 163.413 Purchasing Sex With a Minor; ORS 163.425 Sexual Abuse II; ORS 163.427 Sexual Abuse I; ORS 163.432 Online Sexual Corruption of a Child II; ORS 163.433 Online Sexual Corruption of a Child I; ORS 163.452 Custodial Sexual Misconduct in the First Degree; ORS 163.465 Felony Public Indecency; ORS 163.472 Unlawful Dissemination of Intimate Image; ORS 163.479 Unlawful Contact with a Child; ORS 163.525 Incest; ORS 163.535 Abandon Child; ORS 163.537 Buying/Selling Custody of a Minor; ORS 163.547 Child Neglect I; ORS 163.670 Using Child In Display of Sexual Conduct; ORS 163.684 Encouraging Child Sex Abuse I; ORS 163.686 Encouraging Child Sex Abuse II; ORS 163.688, Possession of Material Depicting Sexually Explicit Conduct of Child I; ORS 163.689, Possession of Material Depicting Sexually Explicit Conduct of Child II; ORS 163.701 Invasion of Personal Privacy I; ORS 163.732 Stalking; ORS 163.750 Violation of Court's Stalking Order; ORS 164.075 Theft by Extortion as defined in Crime Category 7 (OAR 213-018-0075(1)); ORS 164.225 Burglary I as defined in Crime Categories 8 and 9 (OAR 213-018-0025(1) and (2)); ORS 164.325 Arson I; ORS 164.377(2)(c) Computer Crime—Theft of an Intimate Image; ORS 164.395 Robbery III; ORS 164.405 Robbery II; ORS 164.415 Robbery I; ORS 164.886(3) Tree Spiking (Injury); ORS 166.070 Aggravated Harassment; ORS 166.087 Abuse of Corpse I; ORS 166.165 Intimidation I; ORS 166.220 Unlawful Use of a Weapon; ORS 166.275 Inmate In Possession of Weapon; ORS 166.385(3) Felony Possession of a Hoax Destructive Device; ORS 166.643 Unlawful Possession of Soft Body Armor as defined in Crime Category 6 (OAR 213-018-0090(1)); ORS 167.012 Promoting Prostitution; ORS 167.017 Compelling Prostitution; ORS 167.057 Luring a Minor; ORS 167.320(4) Felony Animal Abuse I; ORS 167.322 Aggravated Animal Abuse I; ORS 468.951 Environmental Endangerment; ORS 475.752(6)(a) Manufacturing or Delivering a Schedule IV Controlled Substance Thereby Causing Death to a Person; ORS 475.908 Causing Another to Ingest a Controlled Substance as defined in Crime Categories 8 and 9 (OAR 213-019-0007 and 0008); ORS 475.910 Unlawful Administration of a Controlled Substance as defined in Crime Categories 5, 8, and 9 (OAR 213-019-0007, -0008, and -0011); ORS 609.990(3)(b) Maintaining Dangerous Dog; ORS 811.705 Hit and Run Vehicle (Injury); ORS 813.010(5) Felony Driving Under the Influence of Intoxicants (as provided in OAR 213-004-0009); ORS 830.475(2) Hit and Run Boat; and attempts or solicitations to commit any Class A or Class B person felonies as defined herein.

(15) "Person Class A misdemeanors" are in numerical statutory order: ORS 162.315 Resisting Arrest; ORS 163.160 Assault IV; ORS 163.187 Strangulation; ORS 163.190 Menacing; ORS 163.195 Recklessly Endanger Another; ORS 163.200 Criminal Mistreatment II; ORS 163.212 Use of Stun Gun, Tear Gas, Mace II; ORS 163.415 Sexual Abuse III; ORS 163.454 Custodial Sexual Misconduct in the Second Degree; ORS 163.465 Public Indecency; ORS 163.467 Private Indecency; ORS 163.472 Unlawful Dissemination of Intimate Image; ORS 163.476 Unlawfully Being in a Location Where Children Regularly Congregate; ORS 163.545 Child Neglect II; ORS 163.575 Endanger Welfare of Minor; ORS 163.687 Encouraging Child Sex Abuse III; ORS 163.700 Invasion of Personal Privacy II; ORS 163.709 Unlawfully Directing a Laser Pointer; ORS 163.732(1) Stalking; ORS 163.750(1) Violating Court's Stalking Order; ORS 165.572 Interfering with Making a Police Report; ORS 166.065(4) Harassment/Offensive Sexual Contact; ORS 166.155 Intimidation II; ORS 166.385(2) Misdemeanor Possession of a Hoax Destructive Device; ORS 167.054 Furnishing Sexually Explicit Material to a Child; ORS 475.910(1)(d) Unlawful Administration of a Controlled Substance; ORS 609.990(3)(a) Maintaining Dangerous Dog; ORS 813.010, Driving Under the Influence of Intoxicants (as provided in OAR 213-004-0009); and attempts or solicitations to commit any Class C person felonies as defined in section (14) of this rule.

(16) "Presumptive sentence" means the sentence provided in a grid block for an offender classified in that grid block by the combined effect of the crime seriousness ranking of the current crime of conviction and the offender's criminal history or a sentence designated as a presumptive sentence by statute.

(17) "Primary offense" means the offense of conviction with the highest crime seriousness ranking. If more than one offense of conviction is classified in the same crime category, the sentencing judge shall designate which offense is the primary offense.

(18) "Supervisory agent" means the local community corrections agency responsible for supervising the offender.

(19) "Supervisory authority" means the state and local corrections agency or official designated in each county by that county's Board of County Commissioners or county court to operate corrections supervision services, custodial facilities or both.

(20) "Straight jail" means a sentence of jail imposed instead of a presumptive probationary sentence that is not followed by a term of post-prison supervision defined in OAR 213-005-0002.

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

Stat. Auth.: ORS 137.667, 475.986, 475.998 & 2003 OL Ch. 453

Stats. Implemented: ORS 137.667 - 137.669, 2001 OL Ch. 387, 510, 635, 828, 857, 884 & 2003 OL Ch. 453, 577 & 2007 OL Ch. 681, 811, 867, 869, 876 & 2009 OL Ch. 774, 783, 876, 898; 2011 OL Ch. 3 §1; 2011 OL Ch. 598; 2011 OL Ch. 666; SB 6 (2013); SB 482 (2013); SB 673 (2013); HB 2334 (2013); HB 3194 (2013)

Hist.: SSGB 2-1988, f. 12-30-88, cert. ef. 9-1-89; SSGB 1-1989, f. 5-25-89, cert. ef. 9-1-89; SSGB 2-1993, f. 10-28-93, cert. ef. 11-1-93; CJC 2-1995, f. & cert. ef. 11-2-95; CJC 1-1996, f. 3-6-96, cert. ef. 3-8-96, Renumbered from 253-003-0001; CJC 3-1997, f. 10-29-97, cert. ef. 11-1-97; CJC 1-1999, f. & cert. ef. 11-1-99; CJC 2-2001, f. 12-26-01, cert. ef. 1-1-02; CJC 2-2003, f. 12-31-03, cert. ef. 1-1-04; CJC 1-2006, f. & cert. ef. 4-12-06; CJC 3-2007, f. 12-31-07 & cert. ef. 1-1-08; CJC 1-2009(Temp), f. 3-24-09, cert. ef. 1-1-10 thru 6-29-10; CJC 2-2009(Temp), f. 3-24-09, cert. ef. 1-1-10 thru 6-29-10; CJC 7-2009, f. 12-31-09, cert. ef. 1-1-10; CJC 1-2011(Temp), f. & cert. ef. 11-1-11 thru 4-27-12; CJC 2-2011(Temp), f. 12-30-11, cert. ef. 1-1-12 thru 4-27-12; DMAP 27-2012(Temp), f. & cert. ef. 5-14-12 thru 10-15-12; CJC 2-2012, f. & cert. ef. 4-27-12; CJC 1-2014, f. 1-31-14, cert. ef. 2-3-14; CJC 1-2016, f. & cert. ef. 5-10-16

213-017-0002

Crime Category 10

The following offenses are classified at crime category 10 on the Crime Seriousness Scale:

(1) ORS 163.095 — AGGRAVATED MURDER — (U). (Attempt or Solicit)

(2) ORS 163.118 — MANSLAUGHTER I — (A).

(3) ORS 163.149 — AGGRAVATED VEHICULAR HOMICIDE — (A).

(4) ORS 163.185 — ASSAULT I — (A). (If victim did not substantially contribute to the commission of the offense by precipitating the attack; otherwise CC 9.)

(5) ORS 163.235 — KIDNAPPING I — (A).

(6) ORS 163.375 — RAPE I* — (A). (If aggravated by factors listed below; otherwise CC 9.)

(7) ORS 163.405 — SODOMY I* — (A). (If aggravated by factors listed below; otherwise CC 9.)

(8) ORS 163.411 — SEXUAL PENETRATION I* — (A). (If aggravated by factors listed below; otherwise CC 9.)

(9) ORS 164.325 — ARSON I — (A). (If offense represented threat of serious physical injury; otherwise CC 9, 8 or 7.)

* Rape I, Sodomy I and Sexual Penetration with Foreign Object I shall be ranked at Crime Category 10 if one or more of the following factors were included in the commission of the offense:

(a) The offender used or threatened to use a weapon;

(b) The offender caused or threatened to cause serious physical injury;

(c) The victim was under the age of twelve; or

(d) The victim was incapable of consent by reason of mental defect, mental incapacitation or physical helplessness.

Stat. Auth.: ORS 137.667 & 2003 OL Ch. 453

Stats. Implemented: ORS 137.667 - 137.669, 2007 OL Ch. 867

Hist.: CJC 1-1999, f. & cert. ef. 11-1-99; CJC 2-2003, f. 12-31-03, cert. ef. 1-1-04; CJC 3-2007, f. 12-31-0 & cert. ef. 1-1-08; CJC 1-2016, f. & cert. ef. 5-10-16

213-017-0003

Crime Category 9

The following offenses are classified at crime category 9 on the Crime Seriousness Scale:

(1) AGGRAVATED DRUG OFFENSES See division 19.

(2) ORS 163.175 — ASSAULT II — (B).

(3) ORS 163.185 — ASSAULT I — (A).

If victim(s) substantially contributed to the commission of the offense by precipitating attack; otherwise CC 10.

(4) ORS 163.225 — KIDNAPPING II — (B).

(5) ORS 163.264 — SUBJECTING ANOTHER PERSON TO INVOLUNTARY SERVITUDE I — (B).

If offender caused or threatened to cause death or serious physical injury to a person; otherwise CC 6.

(6) ORS 163.375 — RAPE I — (A). If not categorized at CC 10.

(7) ORS 163.405 — SODOMY I — (A). If not categorized at CC 10.

(8) ORS 163.411 — SEXUAL PENETRATION I — (A). If not categorized at CC 10.

ADMINISTRATIVE RULES

(9) ORS 164.225 — BURGLARY I — (A).
If offender was armed with a deadly weapon, or caused, threatened or attempted physical injury; otherwise CC 8 or 7.
(10) ORS 164.325 — ARSON I — (A).
If offense did not represent a threat of serious physical injury (CC 10) and the economic loss is greater than \$50,000; otherwise CC 8 or 7.
(11) ORS 164.405 ROBBERY II — (B).
(12) ORS 164.415 ROBBERY I — (A).
Stat. Auth.: ORS 137.667, 475.986, 475.998 & 2003 OL Ch. 453, 815
Stats. Implemented: ORS 137.667 - 137.669, 475.986, 475.998 & 2003 OL Ch. 815, 2007 OL Ch. 811
Hist.: CJC 1-1999, f. & cert. ef. 11-1-99; CJC 2-2001, f. 12-26-01, cert. ef. 1-1-02; CJC 2-2003, f. 12-31-03, cert. ef. 1-1-04, CJC 3-2007, f. 12-31-07 & , cert. ef. 1-1-08; CJC 1-2016, f. & cert. ef. 5-10-16

213-017-0005

Crime Category 7

The following offenses are classified at crime category 7 on the Crime Seriousness Scale:

- (1) ORS 162.165 — ESCAPE I — (B).
- (2) ORS 162.185 — SUPPLYING CONTRABAND — (C).
(If the contraband includes one or more firearms; otherwise CC 4, 5 or 6.)
- (3) ORS 163.196 — AGGRAVATED DRIVING WHILE SUSPENDED OR REVOKED — (C).
- (4) ORS 163.205 — CRIMINAL MISTREATMENT I — (C).
- (5) ORS 163.275 — COERCION — (C).
(If threat of physical injury; otherwise CC 6.)
- (6) ORS 163.425 — SEXUAL ABUSE II — (C). (If not CC 8.)
- (7) ORS 163.452 — CUSTODIAL SEXUAL MISCONDUCT I — (C).
- (8) ORS 163.479 — UNLAWFUL CONTACT WITH A CHILD — (C).
- (9) ORS 163.535 — ABANDON CHILD — (C).
(If child is placed in immediate physical danger; otherwise CC 3.)
- (10) ORS 164.075 — THEFT BY EXTORTION — (B).
(If threat of physical injury; otherwise CC 2, 3, 4, 5 or 6.)
- (11) ORS 164.225 — BURGLARY I — (A).
(If the offense cannot be ranked at CC 8 or 9.)
- (12) ORS 164.325 — ARSON I — (A).
(If the offense cannot be ranked at CC 8, 9 or 10.)
- (13) ORS 166.275 — INMATE IN POSSESSION OF WEAPON — (A).
(If firearm CC 8)
- (14) ORS 166.429 — FURNISHING FIREARM IN FURTHERANCE OF FELONY — (B).
- (15) ORS 167.325 — ANIMAL NEGLECT II (FELONY) — (C).
(If more than 40 animals were the subject of the neglect or if the offense is a felony because of circumstances described in ORS 167.325(3)(a) or (3)(c).)
- (16) ORS 167.330 — ANIMAL NEGLECT I (FELONY) — (C).
(If more than 40 animals were the subject of the neglect or if the offense is a felony because of circumstances described in ORS 167.330(3)(a) or (3)(c).)
- (17) ORS 323.482 — UNLAWFUL DISTRIB. CIGARETTES — (B) < 120,000.
- (18) ORS 323.632 — UNLAWFUL DISTRIB. TOBACCO PRODUCTS — (B) < \$10,000.
Stat. Auth.: ORS 137.667, 2003 OL Ch. 453 & 804, Sec. 30 & 58
Stats. Implemented: ORS 137.667 - 137.669, 2003 OL Ch. 453 & 804, 2009 OL Ch. 783, 876; SB 6 (2013)
Hist.: CJC 1-1999, f. & cert. ef. 11-1-99; CJC 2-2003, f. 12-31-03, cert. ef. 1-1-04; CJC 1-2006, f. & cert. ef. 4-12-06; CJC 7-2009, f. 12-31-09, cert. ef. 1-1-10; CJC 1-2013(Temp), f. & cert. ef. 8-7-13 thru 2-2-14; CJC 1-2014, f. 1-31-14, cert. ef. 2-3-14; CJC 1-2016, f. & cert. ef. 5-10-16

213-017-0006

Crime Category 6

The following offenses are classified at crime category 6 on the Crime Seriousness Scale:

- (1) Chapter 59 — BLUE SKY LAWS & SECURITIES LAWS* — (C).
- (2) MAJOR DRUG OFFENSES (See division 19.)
- (3) ORS 162.015 — BRIBERY — (B).
- (4) ORS 162.025 — BRIBE RECEIVING — (B).
- (5) ORS 162.065 — PERJURY — (C).
- (6) ORS 162.117 — PUBLIC INVESTMENT FRAUD — (B).
- (7) ORS 162.155 — ESCAPE II — (C).
- (8) ORS 162.185 — SUPPLYING CONTRABAND — (C).
(The contraband involves a dangerous weapon not a firearm CC 7; Otherwise CC 4 or 5.)
- (9) ORS 162.265 — BRIBING A WITNESS — (C).
- (10) ORS 162.275 — BRIBE RECEIVING BY WITNESS — (C).
- (11) ORS 162.285 — TAMPERING W/ WITNESS — (C).
- (12) ORS 162.325 — HINDERING PROSECUTION — (C).

- (13) ORS 163.160(3) — ASSAULT IV (FELONY) — (C).
- (14) ORS 163.165 — ASSAULT III — (C).
(If the offense cannot be ranked at CC 8.)
- (15) ORS 163.187(4) — STRANGULATION (FELONY) — (C).
- (16) ORS 163.208 — ASSAULT OF A PUBLIC SAFETY OFFICER — (C).
- (17) ORS 163.213 — USE OF A STUN GUN, TEAR GAS, MACE I — (C).
- (18) ORS 163.257 — CUSTODIAL INTERFERENCE I — (C).
- (19) ORS 163.264 — SUBJECTING ANOTHER PERSON TO INVOLUNTARY SERVITUDE I — (B).
(If offender physically restrained or threatened to physically restrain a person; otherwise CC 9.)
- (20) ORS 163.275 — COERCION — (C). (No threat of physical injury; otherwise CC 7.)
- (21) ORS 163.355 — RAPE III — (C).
- (22) ORS 163.385 — SODOMY III — (C).
- (23) ORS 163.432 — ONLINE SEXUAL CORRUPTION OF A CHILD II — (C).
- (24) ORS 163.465 — PUBLIC INDECENCY (FELONY) — (C).
- (25) ORS 163.472 — UNLAWFUL DISSEMINATION OF INTIMATE IMAGE — (C).
- (26) ORS 163.525 — INCEST — (C).
(If one of the participants is under the age of 18; otherwise CC 1.)
- (27) ORS 163.547 — CHILD NEGLECT IN THE FIRST DEGREE — (B).
- (28) ORS 163.688 — POSSESSION OF MATERIAL DEPICTING SEX. EXPLICIT CONDUCT OF A CHILD I — (B).
- (29) ORS 163.701 — INVASION OF PERSONAL PRIVACY I — (C).
- (30) ORS 164.055 — THEFT I* — (C).
- (31) ORS 164.057 — AGGRAVATED THEFT — (B).
(Economic loss was greater than \$50,000; otherwise CC 5.)
- (32) ORS 164.065 — THEFT OF LOST/MISLAID PROPERTY * — (C).
- (33) ORS 164.075 — THEFT BY EXTORTION* — (B).
- (34) ORS 164.085 — THEFT BY DECEPTION* — (C).
- (35) ORS 164.125 — THEFT OF SERVICES* — (C).
- (36) ORS 164.135 — UNAUTHORIZED USE OF VEHICLE* — (C).
- (37) ORS 164.138 — CRIMINAL POSSESSION OF A RENTED OR LEASED MOTOR VEHICLE* — (C).
- (38) ORS 164.140(4) — POSSESSION OF RENTED PROPERTY* — (C).
- (39) ORS 164.162 — MAIL THEFT OR RECEIPT OF STOLEN MAIL — (C).
(For sentences imposed prior to February 15, 2010, and for sentences imposed for crimes committed on or after January 1, 2012; otherwise a Class A misdemeanor.)
- (40) ORS 164.215 — BURGLARY II* — (C).
- (41) ORS 164.315 — ARSON II* — (C).
- (42) ORS 164.365 — CRIMINAL MISCHIEF I* — (C).
- (43) ORS 164.377 — COMPUTER FRAUD (LOTTERY)* — (C).
- (44) ORS 164.377(3) — COMPUTER CRIME* — (C).
- (45) ORS 164.868 — UNLAWFUL LABEL SOUND RECORDING* — (C).
- (46) ORS 164.869 — UNLAWFUL RECORD LIVE PERFORMANCE* — (C).
- (47) ORS 164.872 — UNLAWFUL LABEL VIDEOTAPE* — (C).
- (48) ORS 164.877(1) — TREE-SPIKING — (C).
- (49) ORS 164.889 — INTERFERE W/ AGRICULTURAL RESEARCH* — (C).
- (50) ORS 165.013 — FORGERY I* — (C).
- (51) ORS 165.022 — CRIMINAL POSSESSION OF FORGED INSTRUMENT I* — (C).
- (52) ORS 165.055(3)(A) — CREDIT CARD FRAUD* — (C).
- (53) ORS 165.065 — NEGOTIATING BAD CHECKS* — (C).
- (54) ORS 165.074 — UNLAWFUL FACTORING PAYMENT CARD* v (C).
- (55) ORS 165.692 — FILING A FALSE CLAIM FOR HEALTH CARE PAYMENT — (C).
- (56) ORS 165.800 — IDENTITY THEFT* — (C).
- (57) ORS 166.015 — RIOT — (C).
- (58) ORS 166.070 — AGGRAVATED HARRASSMENT — (C).
- (59) ORS 166.165 — INTIMIDATION I — (C).
- (60) ORS 166.220 — UNLAWFUL USE OF WEAPON — (C).
- (61) ORS 166.270 — EX-CON IN POSSESSION OF FIREARM — (C).

ADMINISTRATIVE RULES

(62) ORS 166.272 — UNLAWFUL POSSESSION OF FIREARM — (B).

(63) ORS 166.370(1) — INTENT POSS. FIREARM OR DANG. WEAP. IN PUBLIC BUILDING; (2)(a)(C) — INTENT POSS. FIREARM IN LOCAL COURT FACILITY CONTRARY TO ORDER; and (5)(a) — DISCHARGE FIREARM IN SCHOOL — (C).

(64) ORS 166.382 — POSSESSION OF DESTRUCTIVE DEVICE — (C).

(65) ORS 166.384 — UNLAWFUL MANUFACTURE OF DESTRUCTIVE DEVICE — (C).

(66) ORS 166.410 — ILLEGAL MANUFACTURE, IMPORTATION OR TRANSFER OF FIREARMS — (B).

(67) ORS 166.643 — UNLAWFUL POSSESS SOFT BODY ARMOR — (B).

(If offender committed or was attempting to commit a person felony or misdemeanor involving violence, otherwise CC 4.)

(68) ORS 167.057 — LURING A MINOR — (C).

(69) ORS 167.320 — ANIMAL ABUSE I (FELONY) — (C).

(70) ORS 167.322 — AGGRAVATED ANIMAL ABUSE I — (C).

(71) ORS 167.325 — ANIMAL NEGLECT II (FELONY) — (C).

(If 11 to 40 animals were the subject of the neglect).

(72) ORS 167.330 — ANIMAL NEGLECT I (FELONY) — (C).

(If 10 to 40 animals were the subject of the neglect).

(73) ORS 167.333 — SEXUAL ASSAULT OF AN ANIMAL — (C).

(74) ORS 167.339 — ASSAULT OF A LAW ENFORCEMENT ANIMAL — (C).

(75) ORS 167.388 — INTERFERE LIVESTOCK PRODUCTION* — (C).

(76) ORS 647.145 — TRADEMARK COUNTERFEITING II* — (C).

(77) ORS 647.150 — TRADEMARK COUNTERFEITING I* — (B).

(78) ORS 811.182 — DRIVING WHILE SUSPENDED/REVOKED (FELONY) — (C).

(If the suspension or revocation resulted from (a) any degree of murder, manslaughter, criminally negligent homicide, or an assault that caused serious physical injury, resulting from the operation of a motor vehicle, or (b) aggravated vehicular homicide or aggravated driving while suspended or revoked).

(79) ORS 811.705 — HIT & RUN VEHICLE (INJURY) — (C).

(80) ORS 813.010(5) — DRIVING UNDER THE INFLUENCE (FELONY) — (C).

(81) ORS 819.300 — POSSESSION OF STOLEN VEHICLE* — (C).

(82) ORS 819.310 — TRAFFICKING IN STOLEN VEHICLES — (C).

(If part of an organized operation or if value of property taken from one or more victims was greater than \$50,000; otherwise CC 5.)

(83) ORS 830.475 — HIT AND RUN BOAT — (C).

* Property offenses marked with an asterisk shall be ranked at Crime Category 6 if the value of the property stolen or destroyed was \$50,000 or more, excluding the theft of a motor vehicle used primarily for personal rather than commercial transportation.

(80) ORS 830.475 — HIT AND RUN BOAT — (C).

* Property offenses marked with an asterisk shall be ranked at Crime Category 6 if the value of the property stolen or destroyed was \$50,000 or more, excluding the theft of a motor vehicle used primarily for personal rather than commercial transportation.

Stat. Auth.: ORS 137.667, 2003 OL Ch. 453, & 2009 OL Ch. 660
Stats. Implemented: ORS 137.667 - 137.669, 2001 OL Ch. 147, 635, 828 2003 2001 OL Ch. 383, 453, 543, 2005 OL Ch. 708, 2007 OL Ch. 684, 811, 869, 876, SB 1087 (2008), Ballot Measure 57 (2008), & 2009 OL Ch. 660 & HB 3508 (2009) & 2009 OL Ch. 783; 2011 OL Ch. 3 Sec. 1; 2011 OL Ch. 598; 2011 OL Ch. 666; SB 6 (2013); HB 3194 (2013)

Hist.: CJC 1-1999, f. & cert. ef. 11-1-99; CJC 2-2001, f. 12-26-01, cert. ef. 1-1-02; CJC 2-2003, f. 12-31-03, cert. ef. 1-1-04; CJC 1-2005(Temp), f. & cert. ef. 10-14-05 thru 4-12-06; CJC 1-2006, f. & cert. ef. 4-12-06; CJC 3-2007, f. 12-31-07 & cert. ef. 1-1-08; CJC 2-2008(Temp), f. 12-31-08, cert. ef. 1-1-09 thru 6-29-09; CJC 2-2009(Temp), f. 3-24-09, cert. ef. 1-1-10 thru 6-29-10; CJC 3-2009(Temp), f. & cert. ef. 6-17-09 thru 12-13-09; CJC 4-2009(Temp), f. & cert. ef. 9-16-09 thru 3-14-10; CJC 5-2009, f. 12-11-09, cert. ef. 12-13-09; CJC 7-2009, f. 12-31-09, cert. ef. 1-1-10; CJC 3-2010(Temp), f. & cert. ef. 6-30-10 thru 12-26-10; CJC 5-2010, f. 12-13-10, cert. ef. 12-26-10; CJC 1-2011(Temp), f. & cert. ef. 11-1-11 thru 4-27-12; CJC 2-2011(Temp), f. 12-30-11, cert. ef. 1-1-12 thru 4-27-12; CJC 2-2012, f. & cert. ef. 4-27-12; CJC 1-2013(Temp), f. & cert. ef. 8-7-13 thru 2-2-14; CJC 1-2014, f. 1-31-14, cert. ef. 2-3-14; CJC 1-2016, f. & cert. ef. 5-10-16

213-017-0007

Crime Category 5

The following offenses are classified at crime category 5 on the Crime Seriousness Scale:

(1) Chapter 59 — BLUE SKY LAWS & SECURITIES LAWS* — (C).

(2) DRUG-RELATED OFFENSES. (See division 19).

(3) ORS 97.981 — PURCHASE OR SALE OF A BODY PART FOR TRANSPLANTATION OR THERAPY — (C).

(4) ORS 162.185 — SUPPLYING CONTRABAND — (C).

(If contraband includes a controlled substance but no firearms (CC 7) or dangerous

weapons (CC 6); otherwise CC 4.)

(5) ORS 163.263 — SUBJECTING ANOTHER PERSON TO INVOLUNTARY SERVITUDE II — (C).

(6) ORS 163.537 — BUYING OR SELLING THE CUSTODY OF A MINOR — (B). (If cannot be ranked at CC 8.)

(7) ORS 163.686 — ENCOURAGING CHILD SEX ABUSE II — (C).

(8) ORS 164.055 — THEFT I* — (C).

(9) ORS 164.057 — AGGRAVATED THEFT — (B).

(If not categorized at CC 6.)

(10) ORS 164.065 — THEFT OF LOST/MISLAID PROPERTY* — (C).

(11) ORS 164.075 — THEFT BY EXTORTION* — (B).

(12) ORS 164.085 — THEFT BY DECEPTION* — (C).

(13) ORS 164.095 — THEFT BY RECEIVING — (C).

(If part of an organized operation; otherwise CC 3.)

(14) ORS 164.125 — THEFT OF SERVICES* — (C).

(15) ORS 164.135 — UNAUTHORIZED USE OF VEHICLE * — (C).

(16) ORS 164.138 — CRIMINAL POSSESSION OF A RENTED OR LEASED MOTOR VEHICLE* — (C).

(17) ORS 164.140(4) — POSSESSION OF RENTED PROPERTY * — (C).

(18) ORS 164.215 — BURGLARY II* — (C).

(19) ORS 164.315 — ARSON II* — (C).

(20) ORS 164.365 — CRIMINAL MISCHIEF I * — (C).

(21) ORS 164.377(2)(c) — COMPUTER CRIME — (C).

(If theft of an intimate image.)

(22) ORS 164.377(5) — COMPUTER FRAUD (LOTTERY) * — (C).

(23) ORS 164.377(5) — COMPUTER CRIME* — (C).

(If not theft of an intimate image under ORS 164.377(2)(c).)

(24) ORS 164.395 — ROBBERY III — (C).

(25) ORS 164.868 — UNLAWFUL LABEL SOUND RECORDING* — (C).

(26) ORS 164.869 — UNLAWFUL RECORD LIVE PERFORMANCE* — (C).

(27) ORS 164.872 — UNLAWFUL LABEL VIDEOTAPE* — (C).

(28) ORS 164.889 — INTERFERE W/ AGRICULTURAL RESEARCH* — (C).

(29) ORS 165.013 — FORGERY I* — (C).

(30) ORS 165.022 — CRIMINAL POSSESSION OF FORGED INSTRUMENT I* — (C).

(31) ORS 165.055(3)(A) — CREDIT CARD FRAUD* — (C).

(32) ORS 165.065 — NEGOTIATING BAD CHECKS* — (C).

(33) ORS 165.074 — UNLAWFUL FACTORING PAYMENT CARD * — (C).

(34) ORS 165.800 — IDENTITY THEFT* — (C).

(35) ORS 165.803 — AGGRAVATED IDENTITY THEFT — (B).

(36) ORS 166.087 — ABUSE OF CORPSE I — (B).

(37) ORS 166.385(3) — FELONY POSSESSION OF A HOAX DESTRUCTIVE DEVICE — (C).

(38) ORS 167.388 — INTERFERE LIVESTOCK PRODUCTION* — (C).

(39) ORS 323.482 — UNLAWFUL DISTRIB. CIGARETTES — (C) <120,000.

(40) ORS 323.632 — UNLAWFUL DISTRIB. TOBACCO PRODUCTS — (C).

(41) ORS 609.990(3)(b) — MAINTAINING A DANGEROUS DOG — (C).

(42) ORS 647.145 — TRADEMARK COUNTERFEITING II* — (C).

(43) ORS 647.150 — TRADEMARK COUNTERFEITING I* — (B).

(44) ORS 819.300 — POSSESSION OF STOLEN VEHICLE* — (C).

(45) ORS 819.310 — TRAFFICKING IN STOLEN VEHICLES — (C). (If not categorized at CC 6.)

* Property offenses marked with an asterisk shall be ranked at Crime Category 5 if the value of the property stolen was \$10,000 but less than \$50,000, excluding the theft of a motor vehicle used primarily for personal rather than commercial transportation.

Stat. Auth.: ORS 137.667

Stats. Implemented: ORS 137.667 - 137.669, 164.889, 166.643 & 2003 OL Ch. 383, 453, 543, 632, 2005 OL Ch. 708, 2007 OL Ch. 584, 681, 684, & 811

Hist.: CJC 1-1999, f. & cert. ef. 11-1-99; CJC 2-2001, f. 12-26-01, cert. ef. 1-1-02; CJC 2-2003, f. 12-31-03, cert. ef. 1-1-04; CJC 1-2006, f. & cert. ef. 4-12-06; CJC 3-2007, f. 12-31-07 & cert. ef. 1-1-08; CJC 1-2008, f. & cert. ef. 10-9-08; CJC 1-2012(Temp), f. & cert. ef. 1-27-12 thru 7-24-12; CJC 2-2012, f. & cert. ef. 4-27-12; CJC 1-2016, f. & cert. ef. 5-10-16

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213-017-0008

Crime Category 4

The following offenses are classified at crime category 4 on the Crime Seriousness Scale:

- (1) Chapter 59 — BLUE SKY LAWS & SECURITIES LAWS* — (C).
- (2) DRUG OFFENSES (See division 19).
- (3) ORS 97.982 — ALTERATION OF A DOCUMENT OF GIFT — (C).
- (4) ORS 162.185 — SUPPLYING CONTRABAND — (C).
(If offense cannot be ranked at CC 5, 6 or 7.)
- (5) ORS 162.205 — FAILURE TO APPEAR I — (C).
- (6) ORS 163.192 — ENDANGERING PERSON PROTECTED BY FAPA RESTRAINING ORDER — (C).
- (7) ORS 163.245 — CUSTODIAL INTERFERENCE II — (C).
- (8) ORS 163.689 — POSSESSION OF MATERIAL DEPICTING SEX. EXPLICIT CONDUCT OF CHILD II — (C).
- (9) ORS 164.055 — THEFT I* — (C).
- (10) ORS 164.065 — THEFT OF LOST/MISLAID PROPERTY* — (C).
- (11) ORS 164.075 — THEFT BY EXTORTION* — (B).
- (12) ORS 164.085 — THEFT BY DECEPTION* — (C).
- (13) ORS 164.098 — ORGANIZED RETAIL THEFT — (B).
- (14) ORS 164.125 — THEFT OF SERVICES* — (C).
- (15) ORS 164.135 — UNAUTHORIZED USE OF VEHICLE* — (C).
- (16) ORS 164.138 — CRIMINAL POSSESSION OF A RENTED OR LEASED MOTOR VEHICLE* — (C).
- (17) ORS 164.140(4) — POSSESSION OF RENTED PROPERTY* — (C).
- (18) ORS 164.215 — BURGLARY II* — (C).
- (19) ORS 164.315 — ARSON II* — (C).
- (20) ORS 164.365 — CRIMINAL MISCHIEF I* — (C). (Except ORS 164.365(1)(e).)
- (21) ORS 164.377(5) — COMPUTER FRAUD (LOTTERY)* — (C).
- (22) ORS 164.377(5) — COMPUTER CRIME* — (C).
- (23) ORS 164.868 — UNLAWFUL LABEL SOUND RECORDING* — (C).
- (24) ORS 164.869 — UNLAWFUL RECORD LIVE PERFORMANCE* — (C).
- (25) ORS 164.872 — UNLAWFUL LABEL VIDEOTAPE* — (C).
- (26) ORS 165.013 — FORGERY I* — (C).
- (27) ORS 165.022 — CRIMINAL POSSESSION OF FORGED INSTRUMENT I* — (C).
- (28) ORS 165.032 — CRIMINAL POSSESSION OF FORGERY DEVICE — (C).
- (29) ORS 165.055(3)(A) — CREDIT CARD FRAUD* — (C).
- (30) ORS 165.065 — NEGOTIATING BAD CHECKS* — (C).
- (31) ORS 165.074 — UNLAWFUL FACTORING PAYMENT CARD* — (C).
- (32) ORS 165.581 — CELLULAR COUNTERFEITING I — (B).
- (33) ORS 165.800 — IDENTITY THEFT* — (C).
- (34) ORS 165.810 — UNLAWFUL POSSESSION PERSONAL ID DEVICE. — (C).
- (35) ORS 166.023 — DISORDERLY CONDUCT I — (C).
- (36) ORS 166.643 — UNLAWFUL POSSESS SOFT BODY ARMOR — (B). (If not categorized at CC 6)
- (37) ORS 167.262 — USING A MINOR IN CONTROLLED SUBSTANCE OFFENSE — (A).
(CC 8 if minor 3 or more yrs. Younger than offender.)
- (38) ORS 167.388 — INTERFERE LIVESTOCK PRODUCTION* — (C).
- (39) ORS 181.599 — FAIL/REPORT SEX OFFENDER — (C).
- (40) ORS 647.145 — TRADEMARK COUNTERFEITING II* — (C).
- (41) ORS 647.150 — TRADEMARK COUNTERFEITING I* — (B).
- (42) ORS 811.182 — DRIVING WHILE SUSPENDED/REVOKED (FELONY) — (C).
(If the offense cannot be ranked at CC 6.)
- (43) ORS 813.011 — DRIVING UNDER THE INFLUENCE (FELONY) — (C).
- (44) ORS 819.300 — POSSESSION OF STOLEN VEHICLE* — (C).

* Property offenses marked with an asterisk shall be ranked at Crime Category 4 if

either of the following factors was included in the commission of the offense:

- (a) The value of the property stolen or destroyed was \$5,000 or more but less than \$10,000; or
 - (b) The property stolen was a vehicle valued at \$10,000 or more and used primarily for personal rather than commercial transportation.
- Stat. Auth.: ORS 137.667 & 2003 OL Ch. 453
Stats. Implemented: ORS 137.667 - 137.669, 164.889, 166.643 & 2003 OL Ch. 383, 453, 543, 632, 2005 OL Ch. 708, 2007 OL Ch. 498, 681 & 684; 2011 OL Ch. 3 ;1; 2011 OL Ch. 598; HB 3194 (2013)
Hist.: CJC 1-1999, f. & cert. ef. 11-1-99; CJC 2-2001, f. 12-26-01, cert. ef. 1-1-02; CJC 2-2003, f. 12-31-03, cert. ef. 1-1-04; CJC 1-2005(Temp), f. & cert. ef. 10-14-05 thru 4-12-06; CJC 1-2006, f. & cert. ef. 4-12-06; CJC 3-2007, f. 12-31-07 & cert. ef. 1-1-08; CJC 1-2011(Temp), f. & cert. ef. 11-1-11 thru 4-27-12; CJC 2-2012, f. & cert. ef. 4-27-12; CJC 1-2013(Temp), f. & cert. ef. 8-7-13 thru 2-2-14; CJC 1-2014, f. 1-31-14, cert. ef. 2-3-14; CJC 1-2016, f. & cert. ef. 5-10-16

213-018-0035

Coercion (ORS 163.275)

- (1) **CRIME CATEGORY 7:** Coercion shall be ranked at Crime Category 7 if the offender threatened to cause physical injury (ORS 163.275(1)(a) or (b)).
- (2) **CRIME CATEGORY 6:** Coercion shall be ranked at Crime Category 6 if it cannot be ranked at Crime Category 7.
- (3) **DRUG-RELATED OFFENSES.** (See Division 19)
Stat. Auth.: ORS 137.667
Stats. Implemented: ORS 137.667 – ORS 137.669; 2015 OL Ch. 751
Hist.: CJC 1-1999, f. & cert. ef. 11-1-99; CJC 1-2016, f. & cert. ef. 5-10-16

213-018-0050

Property Offenses

- (1) The same offense seriousness subcategories shall be used for the following offenses ("property offenses"):
 - (a) Arson II (ORS 164.315);
 - (b) Blue Sky Laws and Securities Laws (ORS Chapter 59);
 - (c) Burglary II (ORS 164.215);
 - (d) Computer Crime (ORS 164.377(5)), except for Theft of an Intimate Image under ORS 164.377(2)(c);
 - (e) Computer Fraud (Lottery) (ORS 164.377(5));
 - (f) Credit Card Fraud (ORS 165.055(3)(b));
 - (g) Criminal Mischief I (ORS 164.365);
 - (h) Criminal Possession of Forged Instrument I (ORS 165.022);
 - (i) Criminal Possession of a Rented or Leased Motor Vehicle (2007 Oregon Laws Ch 684);
 - (j) Forgery I (ORS 165.013);
 - (k) Identity Theft, (ORS 165.800);
 - (l) Interference with Agricultural Research, (ORS 164.889);
 - (m) Interference with Livestock Production (ORS 167.388);
 - (n) Negotiating Bad Checks (ORS 165.065);
 - (o) Possession of Rented Property (ORS 164.140(4));
 - (p) Possession of Stolen Vehicle (ORS 819.300);
 - (q) Theft by Deception (ORS 164.085);
 - (r) Theft by Extortion (ORS 164.075)(except if threat of physical injury (CC 7));
 - (s) Theft I (ORS 164.055);
 - (t) Theft of Lost/Mislaid Property (ORS 164.065);
 - (u) Theft of Services (ORS 164.125);
 - (v) Trademark Counterfeiting I and II, (ORS 647.150; 647.145);
 - (w) Unauthorized Use of Vehicle (ORS 164.135);
 - (x) Unlawful Factoring Payment Card (ORS 165.074);
 - (y) Unlawful Label Sound Recording (ORS 164.868);
 - (z) Unlawful Label Videotape (ORS 164.872);
 - (aa) Unlawful Record Live Performance (ORS 164.869).
- (2) **CRIME CATEGORY 6:**
 - (a) Property offenses shall be ranked at Crime Category 6 if the value of the property stolen or destroyed, or if the face value of the instrument forged, possessed or negotiated was \$50,000 or more, excluding the theft of a motor vehicle used primarily for personal rather than commercial transportation.
 - (b) ORS 165.055(4)(b) Credit Card Fraud shall be ranked at Crime Category 6 if the property stolen or attempted to be stolen was \$50,000 or more.
- (3) **CRIME CATEGORY 5:**
 - (a) Property offenses shall be ranked at Crime Category 5 if the value of the property stolen or destroyed, or if the face value of the instrument forged, possessed or negotiated was \$10,000 or more but less than \$50,000, excluding the theft of a motor vehicle used primarily for personal rather than commercial transportation.
 - (b) ORS 164.377(2)(c) Computer Crime shall be ranked at Crime Category 5 if theft of an intimate image.

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(c) ORS 165.055(4)(b) Credit Card Fraud shall be ranked at Crime Category 5 if the property stolen or attempted to be stolen was \$10,000 or more but less than \$50,000.

(4) **CRIME CATEGORY 4:** Property offenses shall be ranked at Crime Category 4 if either of the following factors was included in the commission of the offense:

(a) The value of the property stolen or destroyed, or the face value of the instrument forged, possessed or negotiated was \$5,000 or more but less than \$10,000; or

(b) For offenses charged under ORS 165.055(4)(b), the value of the property stolen or destroyed was \$5,000 or more but less than \$10,000; or

(c) The property stolen was a vehicle valued at \$10,000 or more and used primarily for personal rather than commercial transportation.

(5) **CRIME CATEGORY 3:** Property offenses shall be ranked at Crime Category 3 if either of the following factors was included in the commission of the offense:

(a) The value of the property stolen or destroyed, or the face value of the instrument forged, possessed or negotiated was \$1,000 or more but less than \$5,000; or

(b) For offenses charged under ORS 165.055(4)(b), the value of the property stolen or destroyed was \$1,000 or more but less than \$5,000; or

(c) The property stolen was a vehicle valued at more than \$1,000 but less than \$10,000 and used primarily for personal rather than commercial transportation.

(6) **CRIME CATEGORY 2:** Property offenses shall be ranked at Crime Category 2 if they cannot be ranked at Crime Category 3, 4, 5, or 6.

Stat. Auth.: ORS 137.667, 2003 OL Ch. 453

Stats. Implemented: ORS 137.667 - 137.669, 164.889 & 2003 OL Ch. 383, 2007 OL Ch. 684, 2015 OL Ch. 350

Hist.: CJC 1-1999, f. & cert. ef. 11-1-99; CJC 2-2001, f. 12-26-01, cert. ef. 1-1-02; CJC 2-2003, f. 12-31-03, cert. ef. 1-1-04; CJC 3-2007, f. 12-31-07 & cert. ef. 1-1-08; CJC 1-2016, f. & cert. ef. 5-10-16

213-018-0068

Subjecting Another Person to Involuntary Servitude I (2007 Oregon Laws Ch 811)

(1) **CRIME CATEGORY 9:** Subjecting Another Person to Involuntary Servitude I shall be ranked at Crime Category 9 if the offender caused or threatened to cause death or serious physical injury to a person.

(2) **CRIME CATEGORY 6:** Subjecting Another Person to Involuntary Servitude I shall be ranked at Crime Category 6 if the offender restrained or threatened to physically restrain a person.

Stat. Auth.: ORS 137.667

Stats. Implemented: ORS 137.667-137.669; 2007 OL Ch. 811

Hist.: CJC 3-2007, f. 12-31-07 & cert. ef. 1-1-08; CJC 1-2016, f. & cert. ef. 5-10-16

Oregon Department of Aviation Chapter 738

Rule Caption: Procedures for grants associated with OL 2015 c.700 Section 7

Adm. Order No.: AVIA 1-2016(Temp)

Filed with Sec. of State: 5-11-2016

Certified to be Effective: 5-11-16 thru 11-4-16

Notice Publication Date:

Rules Adopted: 738-124-0010, 738-124-0015, 738-124-0020, 738-124-0025, 738-124-0030, 738-124-0035, 738-124-0040, 738-124-0045

Subject: During the 2015 legislative session, HB 2075 was passed which increased aviation gas and jet fuels tax by two cents for a period of six years, allowing for an increased stream of revenue to the Oregon Department of Aviation (ODA). Five percent of the total revenues are appropriated to the Department for the costs of administering its programs. The remaining ninety-five percent is allocated to the Airport System Action Program (ASAP) Fund and the revenue will be further distributed among three newly established financial assistance programs.

This rulemaking adopts temporary administrative rules to guide the program until permanent administrative rules can be adopted.

Rules Coordinator: Lauri Kunze—(503) 986-3171

738-124-0010

Purpose

OL 2015 c.700 Section 7 creates the Aviation System Action Program Fund, allowing for the distribution of fuel tax revenues for the purpose of financing grants to fund Aviation and Airport Projects that involve:

(1) Providing assistance for federal grant match support, airport safety and emergency preparedness enhancements, services critical and essential to aviation, aviation-related business development, and airport development for local economic benefit;

(2) Rural commercial air service development; and

(3) Safety improvements and infrastructure projects at State owned airports. The purpose of division 124 rules is to establish the Aviation System Action Program Fund.

Stat. Auth.: ORS 835.035, 835.040, 835.112, OL 2015 c.700 Section 7

Stats. Implemented: ORS 835.015, 835.025, 836.015, 836.070, 319.020

Hist.: AVIA 1-2016(Temp), f. & cert. ef. 5-11-16 thru 11-4-16

738-124-0015

Definitions

For the purposes of division 124 rules, the following terms have the following definitions, unless the context clearly indicates otherwise:

(1) "Agreement" means a legally binding contract between the Department and Recipient that contains the terms and conditions under which the Department is providing funds from the Aviation System Action Program Fund for an Approved Project.

(2) "Applicant" means a Person or Public Body that applies for funds from the Aviation System Action Program Fund.

(3) "Approved Project" means a Project that the Board has selected to receive funding through a grant or Selection Process from the Aviation System Action Program Fund.

(4) "ARC" means the Aviation Review Committee established in accordance with OL 2015 c.700 Section 7 (3).

(5) "Area Commissions on Transportation" means advisory bodies chartered by the Oregon Transportation Commission (OTC) through the Policy on Formation and Operation of Area Commissions on Transportation (ACTs) approved by the OTC on June 18, 2003.

(6) "Aviation" is defined in ORS 836.005(5).

(7) "Aviation Project" or "project" includes but is not limited to airport safety and emergency preparedness, enhancements, rural air service development, capital improvement and maintenance projects critical and essential to airports statewide connectivity.

(8) "Board" means the State Aviation Board created in ORS 835.102.

(9) "COAR" or Critical Oregon Aviation Relief Program grants means grant funding described in OL 2015 c.700 Section 7 (5).

(10) "Department" or "Department of Aviation" means the Oregon Department of Aviation or ODA.

(11) "Director" means the Director of the Oregon Department of Aviation.

(12) "FAM" or Financial Aid to Municipalities Grant Program means the grant funding program described in OAR Chapter 738, Division 125.

(13) "Freight Advisory Committee" means the committee created in ORS 366.212.

(14) "Municipality" as defined by ORS 836.005, refers to the applicant or airport sponsor.

(15) "Oregon Business Development Department" means the department defined in ORS 285A.070.

(16) "Person" has the meaning given in ORS 174.100(6), limited to those Persons that are registered with the Oregon Secretary of State to conduct business within the State of Oregon.

(17) "Program" means the Aviation System Action Program established by division 124 rules to administer the Aviation System Action Program Fund.

(18) "Public Body" is defined in ORS 174.109.

(19) "Receive Federal Grants" means execution of a grant agreement with any agency of the United States.

(20) "Recipient" means an Applicant that enters into Agreement with the Department to receive funds from the Aviation System Action Program Fund.

(21) "Recipient's Total Project Costs" means the funds received from the Aviation System Action Program Fund program plus the Recipient's matching funds, and any additional funds, if applicable.

(22) "ROAR" or Rural Oregon Aviation Relief Program grants means grant funding for the sole purpose of assisting commercial air service to rural Oregon as described in OL 2015 c.700 Section 7 (6).

(23) "Rural Airport" means an airport that principally serves a city or metropolitan statistical area with a population of 500,000 or fewer.

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(24) "SOAR" or State Owned Airport Reserve Program means funding described in OL 2015 c.700 Section 7 (7).

Stat. Auth.: ORS 835.035, 835.040, 835.112, OL 2015 c.700 Section 7
Stats. Implemented: ORS 835.015, 835.025, 836.015, 836.070, 319.020
Hist.: AVIA 1-2016(Temp), f. & cert. ef. 5-11-16 thru 11-4-16

738-124-0020

Application Submission Periods

(1) The Department will announce periods for submitting applications for funding from the Aviation System Action Program Fund.

(2) Project applications will be reviewed for compliance with the requirements as prescribed in division 124 rules.

(3) Applications not funded may be resubmitted during subsequent application submission periods announced by the Department.

Stat. Auth.: ORS 835.035, 835.040, 835.112, OL 2015 c.700 Section 7
Stats. Implemented: ORS 835.015, 835.025, 836.015, 836.070, 319.020
Hist.: AVIA 1-2016(Temp), f. & cert. ef. 5-11-16 thru 11-4-16

738-124-0025

Application Requirements

(1) Applicants interested in receiving funds from the Aviation System Action Program Fund must submit an application to the Department per the Department's current program Policy as established for the COAR Grant Program and the ROAR Program.

(2) Applications may not be submitted for projects already completed by the application deadline.

(3) Applications for funding must be in a format prescribed by the Department and contain or be accompanied by such information as the Department may require, including:

(a) The expected results from the proposed Project for each of the considerations as prescribed in OAR 738-125-0035;

(b) Documented desire for and support of the Project from the businesses and entities to be served by the Project; and

(c) Documentation to validate the Project schedule and costs.

(4) Applications submitted for the purpose of receiving funding to assist commercial air service to rural Oregon will follow the ROAR Program guidelines set forth in the Department's current program Policy.

(5) Only state-owned airports are eligible to receive funding from the SOAR Program following the SOAR Program guidelines set forth in the Board's policy.

Stat. Auth.: ORS 835.035, 835.040, 835.112, OL 2015 c.700 Section 7
Stats. Implemented: ORS 835.015, 835.025, 836.015, 836.070, 319.020
Hist.: AVIA 1-2016(Temp), f. & cert. ef. 5-11-16 thru 11-4-16

738-124-0030

Eligibility and Application Review

(1) The Department will review applications received to determine whether the application is complete and the Applicant and the Project are eligible for Program Funds.

(a) COAR Grant Applications shall be reviewed using Department Policy guidelines as established by OAR 738-125-0035, in accordance with OL 2015 c.700 Section 7 (3) and ORS 836.015.

(b) ROAR Applications shall be reviewed using Department Policy guidelines and submitted directly to the Board for final review and approval per OL 2015 c.700 Section 7 (6).

(c) SOAR Projects submitted by the Oregon Department of Aviation for state airport improvements shall be reviewed and approved by the Board independently in accordance with ORS 835.060.

(2) Applicant Eligibility. Applicants that meet of the following criteria are eligible:

(a) The Applicant is a Public Body or Person within the State of Oregon.

(b) The Applicant has sufficient management and financial capacity to complete the Project including without constraint the ability to contribute match in accordance with OAR 738-125-0030.

(3) Project Eligibility. Projects that meet all of the following criteria are eligible:

(a) For the COAR Grant Program, the project is an Aviation Project described in 738-124-0035 (8).

(b) For the ROAR Program, applications will be reviewed in accordance with adopted policy for the purpose of assisting commercial air service to rural Oregon.

(c) The Project will not require or rely upon continuing subsidies from the Department for ongoing operations.

(d) The Project is not a public road or other project that is eligible for funding from revenues described in section 3a, Article IX of the Oregon Constitution, i.e. the State Highway Trust Fund.

(e) The Project is feasible, including the estimated cost of the Project, the expected results from the proposed Project for each of the considerations as prescribed by OAR 738-125-0035(2), the Project schedule, and all applicable and required permits that shall be obtained within the Project schedule.

(4) If an Applicant or Application for funding is incomplete and/or not eligible for Program Funds, the Department will, within 15 business days of making such determination:

(a) Specify the additional information the Applicant must provide to establish eligibility; or

(b) Notify the Applicant that the application request is ineligible.

(5) The Department may deem an application ineligible if the Applicant fails to meet eligibility requirements of subsections (2) and (3) of this rule, or fails to provide requested information in writing by the date required by the Department, or if the application contains false or misleading information.

(6) The Director will consider protests of the eligibility determination for the Program. Only the Applicant may protest. Protests must be submitted in writing to the Director within 15 business days of the event or action that is being protested. The Director's written decision is final.

(7) The Department will make all eligible applications available for review, as applicable under OL 2015 c.700 Section 7 to the designated Review committee and to the Board for final review and approval. If applicable, the Freight Advisory Committee, and the Oregon Business Development Department will provide additional comments to the Board.

Stat. Auth.: ORS 835.035, 835.040, 835.112, OL 2015 c.700 Section 7
Stats. Implemented: ORS 835.015, 835.025, 836.015, 836.070, 319.020
Hist.: AVIA 1-2016(Temp), f. & cert. ef. 5-11-16 thru 11-4-16

738-124-0035

Project Selection

(1) The Board will select Projects to be funded through a grant with monies in the Aviation System Action Program Fund.

(2) Prior to selecting Projects to be funded with monies in the Aviation System Action Program Fund, the Board shall solicit recommendations when applicable from:

(a) The Aviation Review Committee (ARC).

(b) The Freight Advisory Committee for freight Transportation Projects when applicable.

(c) The Oregon Business Development Department for aviation transportation projects when applicable.

(3) Prior to selecting Projects to be funded with monies in the Aviation System Action Program Fund, the Board may solicit recommendations from transportation stakeholder and advocate entities not otherwise specified in section (2) of this rule including the Area Commissions on Transportation. Business Oregon and Regional Solutions Teams will provide comments to the designated aviation representative of the Area Commissions on Transportation.

(4) On behalf of the Board, the Department shall solicit recommendations from the committees and entities in section (2) of this rule before soliciting recommendations from entities in section (3) of this rule. The Department shall provide the recommendations from the committees and entities in section (2) of this rule to the entities in section (3) of this rule.

(5) The Director, in consultation with Department staff, shall provide the Board a list of recommendations from the review committees and entities in section (2) and section (3) of this rule. The list shall include the evaluation results and recommendations from each of the committees and entities in sections (2) and (3) of this rule. The Board shall provide its final recommendations in a report of projects to be funded with monies in the Aviation System Action Program Fund listing in priority order eligible Projects together with a reasonable number of alternate Projects in priority order.

(6) The Department shall determine the organizational guidance for the committees' and entities' processes and protocols.

(7) The committees and entities in sections (2), (3) and (5) of this rule shall follow the organizational guidance determined by the Department under section (6) of this rule.

(8) The Board will consider all of the following in its determination of eligible Projects to approve for receipt of funds from the Aviation System Action Program Fund through the COAR Grant Program. The ARC committee shall recommend applications to the State Aviation Board, which shall select applications with priority in accordance with OAR 738-125-0035 (3):

(a) Fifty percent of the Aviation System Action Program Fund amounts described in subsection OL 2015 c.700 Section 7 (4)(b) shall be

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prioritized in the following manner and distributed for the following purposes under the COAR Grant Program:

(A) First priority is to assist airports in Oregon with match requirements for Federal Aviation Administration Airport Improvement Program grants;

(B) Second priority is to make grants for emergency preparedness and infrastructure projects, in accordance with the Oregon Resilience Plan, including grants for emergency management plan development, seismic studies and emergency generators and similar equipment;

(C) Third priority is to make grants for:

(i) Services critical or essential to aviation, including, but not limited to, fuel, sewer, water and weather equipment.

(ii) Aviation-related business development, including, but not limited to, hangars, parking for business aircraft and related facilities.

(iii) Airport development for local economic benefit, including, but not limited to, signs and marketing.

(b) Priority in distributing grants shall be given to projects for which applicants demonstrate a commitment to contribute the greatest amounts toward the costs of the projects to which the applications relate. Priorities will be in accordance with the corresponding OAR as they relate to COAR Grants and ROAR.

Stat. Auth.: ORS 835.035, 835.040, 835.112, OL 2015 c.700 Section 7
Stats. Implemented: ORS 835.015, 835.025, 836.015, 836.070, 319.020
Hist.: AVIA 1-2016(Temp), f. & cert. ef. 5-11-16 thru 11-4-16

738-124-0040

Grant Awards and Match

(1) Once a project is selected by the Board under this rule the amount of monies identified by the Board is considered allocated from the Fund to a Recipient. If an Agreement with a Recipient has not been executed within 180 days from the date of selection, the grant is deemed terminated, and the funds may be reassigned by the Board.

(2) Grants will be awarded only when there are sufficient funds available in the Aviation System Action Program Fund to cover the costs of the grants.

(a) Recipient matching funds must be provided by the Recipient in the form of monetary outlay for elements necessary for implementation of the Project, including land, excavation, permits, engineering, payroll, special equipment purchase or rental, and cover a percentage of the eligible Project costs required by OAR 738-125-0030 and/or Board approval. The match requirement is not applicable to the SOAR Program.

(b) Board has the sole authority to amend required match responsibility of the Recipient if Recipient cannot meet OAR 738-125-0030(4) match requirement. These requirements are not applicable to the SOAR Program. Board at its sole discretion may determine no match is required if the Recipient can demonstrate economic distress by submitting supporting documentation, including but not limited to:

(A) Copies of current budget;

(B) Letters of support.

Stat. Auth.: ORS 835.035, 835.040, 835.112, OL 2015 c.700 Section 7
Stats. Implemented: ORS 835.015, 835.025, 836.015, 836.070, 319.020
Hist.: AVIA 1-2016(Temp), f. & cert. ef. 5-11-16 thru 11-4-16

738-124-0045

Project Administration

(1) The Department will administer all Grants.

(2) The Department and Recipient will execute an Agreement prior to the disbursement of Program Funds for an Approved Project. The Agreement is effective on the date all required signatures are obtained or at such later date as specified in the Agreement. Agreements shall follow Board approved Department Policy and Procedures document and manual.

(3) The Agreement will contain provisions and requirements, including but not limited to:

(a) Documentation of the projected costs for an Approved Project must be submitted to the Department prior to the disbursement of Program Funds.

(b) Only Project costs incurred on or after the effective date of the Agreement are eligible for grant funds.

(c) Disbursement of Program Funds for grants will be paid on a reimbursement basis and will not exceed one disbursement per month; this is not applicable to the SOAR Program. The Director or the Board may make exceptions to the reimbursement basis if the Department finds that the Recipient would have difficulty meeting requirements.

(d) Except under the SOAR Program, five percent of funds received from the Aviation System Action Program Fund will be withheld from each reimbursement request and shall be released to Recipient as the conditions established by the Department are met. The Department will determine

retainage limits in accordance with ORS 835.112. Funds withheld shall be released to Recipient upon final project acceptance by the Department.

(e) Upon request, a Recipient must provide the Department with a copy of documents, studies, reports and materials developed during the Project, including a written report on the activities or results of the Project and any other information that may be reasonably requested by the Department.

(f) Recipients must separately account for all monies received from the Aviation System Action Program Fund in Project accounts in accordance with Generally Accepted Accounting Principles.

(g) Any Program Funds disbursed but not used for an Approved Project must be returned to the Department.

(h) Amendments to Agreements are required to change an Approved Project's cost, scope, objectives or timeframe.

(i) Recipients must covenant, represent and agree to use Project funds in a manner that will not adversely affect the tax-exempt status of any bonds issued under the Program.

(j) Recipients, if applicable, must covenant, represent and agree to remain current on all state and local taxes, fees and assessments for the useful life of the Project as prescribed in the Agreement.

(4) The Department may invoke sanctions against a Recipient that fails to comply with the requirements governing the Program. The Department will not impose sanctions until the Recipient has been notified in writing of such failure to comply with the Program requirements as specified in this Rule and has been given a reasonable time to respond and correct the deficiencies noted. The following circumstances may warrant sanctions:

(a) Work on the Approved Project has not been substantially initiated within six months of the effective date of the Agreement;

(b) State statutory requirements have not been met;

(c) There is a significant deviation from the terms and conditions of the Agreement; or

(d) The Department finds that significant corrective actions are necessary to protect the integrity of the Program Funds for the Approved Project and those corrective actions are not, or will not be, made within a reasonable time.

(5) The Department may impose one or more of the following sanctions:

(a) Revoke an existing award.

(b) Withhold unexpended Program Funds.

(c) Require return of unexpended Program Funds or repayment of expended Program Funds.

(d) Bar the Recipient from applying for future assistance.

(e) Other remedies that may be incorporated into grant Agreements.

(6) The remedies set forth in this rule are cumulative, are not exclusive, and are in addition to any other rights and remedies provided by law or under the agreement.

(7) The Director will consider protests of the funding and Project administration decisions for the Program. Only the Recipient may protest. Protests must be submitted in writing to the Director within 15 days of the event or action that is being protested. The Director's decision is final. Jurisdiction for review of the Director's decision is in the circuit court for Marion County pursuant to ORS 183.484.

(8) The Director may waive non-statutory requirements of this Program if it is demonstrated such a waiver would serve to further the goals and objectives of the Program.

Stat. Auth.: ORS 835.035, 835.040, 835.112, OL 2015 c.700 Section 7
Stats. Implemented: ORS 835.015, 835.025, 836.015, 836.070, 319.020
Hist.: AVIA 1-2016(Temp), f. & cert. ef. 5-11-16 thru 11-4-16

Oregon Department of Education Chapter 581

Rule Caption: Oregon State Seal of Biliteracy for K-12 public school students

Adm. Order No.: ODE 28-2016

Filed with Sec. of State: 4-28-2016

Certified to be Effective: 4-28-16

Notice Publication Date: 3-1-2016

Rules Adopted: 581-021-0580, 581-021-0582, 581-021-0584

Subject: Establishes requirements for Superintendent of Public Instruction to award Oregon State Seal of Biliteracy to graduating public school students.

Rules Coordinator: Cindy Hunt—(503) 947-5651

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581-021-0580

Definitions

The following definitions apply to OAR 581-021-0580 to 581-0021-0584:

(1) "Assessment" means any of the measurements identified by the Department of Education and used to determine target language proficiency.

(2) "Biliteracy" means the ability to demonstrate a high level of proficiency in reading, writing, listening, and speaking in English and one or more world languages.

(3) "Oregon State Seal of Biliteracy" means a seal issued by the Superintendent of Public Instruction that certifies a student is biliterate in English and one or more world languages.

(4) "Portfolio of evidence" means the body of work collected to demonstrate a high level of Biliteracy proficiency

(5) "World language" means American Sign Language and languages other than English.

Stat. Auth.: ORS 326.051

Stat. Implemented: ORS 326.051

Hist.: ODE 28-2016, f. & cert. ef. 4-28-16

581-021-0582

Establishment

(1) The State Seal of Biliteracy is established to recognize high school graduates who have attained a high level of proficiency in reading, writing, listening, and speaking in one or more World languages in addition to English. The State Seal of Biliteracy shall be awarded by the Superintendent of Public Instruction. School district participation in this program is voluntary.

(2) The purposes of the State Seal of Biliteracy are as follows:

(a) To encourage students to study languages.

(b) To certify attainment of biliteracy.

(c) To provide employers with a method of identifying people with language and biliteracy skills.

(d) To provide post-secondary institutions with a method to recognize and give academic credit to applicants seeking admission.

(e) To prepare students to be college and career ready.

(f) To recognize and promote world language instruction in public schools.

(g) To strengthen intergroup relationships, affirm the value of diversity, and honor the multiple cultures and languages of a community.

Stat. Auth.: ORS 326.051

Stat. Implemented: ORS 326.051

Hist.: ODE 28-2016, f. & cert. ef. 4-28-16

581-021-0584

Oregon State Seal of Biliteracy

(1) The Department of Education shall develop a process by which school districts shall submit to the Department information on each student who is a candidate for a State Seal of Biliteracy.

(2) The Superintendent of Public Instruction shall award a State Seal of Biliteracy to a student who meets all of the following criteria:

(a) Completed all state and district graduation requirements;

(b) Met the Essential Skills for reading and writing in English;

(c) Demonstrated proficiency in one or more world languages other than English in reading, writing listening and speaking through:

(A) One or more examinations and passing scores for each that are identified by the Department of Education; or

(B) Work sample, body of evidence or portfolio.

Stat. Auth.: ORS 326.051

Stat. Implemented: ORS 326.051

Hist.: ODE 28-2016, f. & cert. ef. 4-28-16

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Rule Caption: Modifies Extended Diploma requirements for high school graduation

Adm. Order No.: ODE 29-2016

Filed with Sec. of State: 4-28-2016

Certified to be Effective: 4-28-16

Notice Publication Date: 11-1-2014

Rules Amended: 581-022-1133

Subject: Under current law, a student may earn an extended diploma if they have demonstrated an inability to maintain grade level achievement due to significant learning, instructional, or medical barrier. Additionally, a student must have participated in an alternative assessment beginning no later than grade six and lasting for two or more assessment cycles, or have an illness or injury that occurs after

grade eight that changes the student's ability to achieve at grade level and that results in the student participating in alternative assessments. Some students have Individual Education Programs that exempt them from assessments because their team has determined that it is no longer useful for the student to take them. Others that have attended private schools or were homeschooled in their early school years did not have access to the alternative assessment and so could not meet the requirements in the statute. Finally, students who move to Oregon from out of state face the same issues meeting the requirements of the law. The result has been that many students who would otherwise have been eligible for an extended diploma have instead been prevented from taking advantage of the extended diploma option due to their unique circumstances. Instead many of these students accept an alternative certificate and because there are no standards for earning an Alternative Certificate, students are counted as non-completers.

HB 2913 and ORS 329.451 eliminates the requirement that students must have completed multiple alternate assessments in order to be eligible for an extended diploma. These changes also eliminate confusing language in the eligibility requirements. Specifically, the changes enable a student to qualify for an extended diploma if they have a documented history of inability to maintain grade level achievement due to significant learning and instructional barriers, a medical condition that creates a barrier to achievement, or a change in ability to participate in grade level activities due to a serious illness or injury that occurred after grade eight and eliminates the requirements related to the alternative assessment. Further, the new rules require school districts or public charter schools to provide information about extended diplomas to parents on an annual basis.

Rules Coordinator: Cindy Hunt—(503) 947-5651

581-022-1133

Extended Diploma

(1) Definitions.

(a) "Other services" for the purposes of this rule means:

(A) Those services paid for or provided by another agency, such as Vocational Rehabilitation or Brokerages, which may be considered in the calculation of the total number of hours that equals at least the total number of instructional hours that is required to be provided to students who are attending public high school. These "other services" are not to be considered educational services and are not provided by or through the school district or public charter school.

(B) Those services identified in OAR 581-022-1620(4), such as school assemblies, student orientations, testing, etc, which may be considered in the calculation of the total number of hours that equals at least the total number of instructional hours that is required to be provided to students who are attending public high school. These services are provided by the school district or public charter school.

(2) A school district or public charter school shall award an extended diploma to a student who satisfies the requirements of this rule.

(3) A school district or public charter school shall award an extended diploma only to students who have demonstrated the inability to meet the full set of academic content standards for a high school diploma with reasonable modifications and accommodations.

(4) A school district or public charter school may award an extended diploma to a student only upon the consent of the parent or guardian of the student, or upon the consent of the adult student or emancipated minor student. A district or school must receive the consent in writing and during the school year in which the extended diploma is awarded.

(a) If student is under 18, consent must be received from the parent or guardian.

(b) If the student is under age 18 and emancipated, consent must be received from the student.

(c) If the adult student is 18 or older, consent must be received from the student.

(d) If the student is under guardianship from the courts, consent must come from the court-appointed authority.

(5) To be eligible for an extended diploma, a student must:

(a) While in grade nine through completion of high school, complete 12 credits, which may not include more than six credits earned in a self-contained special education classroom and shall include:

(A) Two credits of mathematics;

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- (B) Two credits of English;
- (C) Two credits of Science;
- (D) Three credits of history, geography, economics, or civics;
- (E) One credit of health;
- (F) One Credit of physical education; and
- (G) One credit of arts or a second language; and;
- (b) Have a documented history of:
 - (A) An inability to maintain grade level achievement due to significant learning and instructional barriers;
 - (B) A medical condition that creates a barrier to achievement; or
 - (C) A change in the student's ability to participate in grade level activities as a result of a serious illness or injury that occurred after grade eight.
- (6)(a) A student shall have the opportunity to meet the requirements of an extended diploma by the later of:
 - (A) Four years after starting grade nine; or
 - (B) The student reaching the age of 21 years, if the student is entitled to a public education until the age of 21 years under state or federal law.
- (b) A student may complete the requirements for an extended diploma in less than four years if the parent/guardian or adult student gives consent.
 - (A) The consent must be written and must clearly state that the parent/guardian or adult student is waiving the 4 years to complete the requirements for an extended diploma.
 - (B) A copy of all consents must be sent to the district superintendent.
 - (C) Each school district must annually provide the number of consents obtained to the State Superintendent of Public Instruction
 - (D) The consent may not be used to allow a student to satisfy the requirements for an extended diploma in less than three years.
 - (7) A school district or public charter school shall:
 - (a) Ensure that students have on-site access to the appropriate resources to achieve an extended diploma at each high school in the school district or at the public charter school.
 - (b) Beginning in grade five or beginning after a documented history described in section (5)(b) above has been established, annually provide to the parents or guardians of a student who has the documented history, described above, information about the availability of an extended diploma and the requirements for the extended diploma.
 - (c) A school district or public charter school may not deny a student who has the documented history described in subsection (1)(a) of this section the opportunity to pursue a diploma with more stringent requirements than a modified diploma or an extended diploma for the sole reason that the student has the documented history.
 - (8)(a) A student who receives an extended diploma shall have access to instructional hours, hours of transition services and hours of other services that are designed to meet the unique needs of the student.
 - (b) When added together, the school district or public charter school will provide a total number of hours of instruction and services to the student that equals at least the total number of instructional hours that is required to be provided to students who are attending a public high school; or,
 - (c) The total number of hours that are appropriate for a student shall be determined by the individualized education program (IEP) team if the student is eligible for special education;
 - (d) Based on the student's needs and performance level, the student's IEP team may decide that the student will not access the total number of hours of instruction and services required to be provided to students who are attending a public high school.
 - (e) The school district or public charter school may not unilaterally decrease the total number of hours of instruction and services to which the student has access regardless of the age of the student.
 - (f) If a student's IEP team decides that the student will not access the total number of hours of instruction and services to which the student has access, the school district or public charter school shall annually:
 - (A) Provide the following information in writing to the adult student, parent, or guardian of the student:
 - (i) The school district's or public charter school's duty to comply with the requirements to provide the total number of hours of instruction and services to the student; and
 - (ii) The prohibition against a school district's or public charter school's unilaterally decreasing the total number of hours of instruction and services to which the student has access.
 - (B) Obtain a signed acknowledgment from the adult student, parent or guardian of the student that the adult student, parent or guardian received the information.

(C) Include in the IEP for the student a written statement that explains the reasons the student is not accessing the total number of hours of instruction and services to which the student has access.

(g) Transition services and other services designed to meet the unique needs of the student may be provided to the student through an interagency agreement entered into by the school district if the individualized education program developed for the student indicates that the services may be provided by another agency. The school district or public charter school retains the responsibility for ensuring that the student has access to the number of service hours required to be provided to the student.

(h) An agency is not required to change any eligibility criteria or enrollment standards prior to entering into an interagency agreement with the school district.

(9) School districts and public charter schools shall make extended diplomas as required by ORS 329.451 and this rule first available to students during the 2009-2010 school year.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 329.451

Hist.: ODE 21-2009, f. & cert. ef. 12-10-09; ODE 3-2012, f. 2-1-12, cert. ef. 2-3-12; ODE 44-2014, f. & cert. ef. 12-17-14; ODE 45-2014, f. & cert. ef. 12-17-14; ODE 29-2016, f. & cert. ef. 4-28-16

Rule Caption: School Construction Matching Program

Adm. Order No.: ODE 30-2016

Filed with Sec. of State: 4-28-2016

Certified to be Effective: 4-28-16

Notice Publication Date: 3-1-2016

Rules Adopted: 581-027-0005, 581-027-0010, 581-027-0015, 581-027-0020, 581-027-0025

Subject: Establishes funding formula, priority list and first in time application method to award grants from the Oregon School Capital Improvement Matching Account.

Rules Coordinator: Cindy Hunt—(503) 947-5651

581-027-0005

Definitions

The following definitions and abbreviations apply to rules within OAR 581, Div 27:

(1) "Adjusted Assessed Property Value Per ADM" means the value calculated per OAR 581-027-0010 to determine the ranking of Districts on the Priority List for Funding.

(2) "ADM" means Average Daily Membership.

(3) "Assessed Value" means the total assessed value of all tangible property within the boundaries of the District as published by the Oregon Department of Revenue.

(4) "Average Daily Membership" means the number of students in a District as calculated under ORS 327.061 and includes all weights, and extended Average Daily Membership weighted, as calculated under ORS 327.013(1)(c).

(5) "Closing" means the date on which a District receives some or all of the proceeds of its Local GO Bonds.

(6) "Date Stamp" means electronic or mechanical means of imprinting documents with date and time the document is received by the Department.

(7) "Department" means the Oregon Department of Education.

(8) "District" or "Districts" means school districts, as defined in ORS 328.001(3), that are eligible to apply for a State Matching Grant.

(9) "First in Time" means that portion of the Oregon School Capital Improvement Matching Account that is to be awarded to Districts based on the order in which the Department receives the applications.

(10) "Funding Cycle" means the period of time, as determined by the Department under OAR 581-027-0020(2)(b), before and after a May or a November general election during which the Department will accept applications and issue commitments for State Matching Grants under the OSCIM Program.

(11) "Guaranteed Tax Base Amount" or "GTBA" means a theoretical tax base of \$1,000,000 per ADM.

(12) "Guaranteed Tax Rate Amount" means \$1,000 which is the GTBA multiplied by .001 for \$1 of tax per \$1,000 of Assessed Value.

(13) "Local GO Bonds" means general obligation bonds approved by voters for the benefit of a District during the Funding Cycle for which the District applied for a State Matching Grant.

(14) "Oregon School Capital Improvement Matching Account" means an interest bearing account established in the State Treasury, separate and distinct from the General Fund, that consists of net proceeds from

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Article XI-P bonds issued under Article XI-P (School District Capital Costs) of the Oregon Constitution.

(15) "Oregon School Capital Improvement Matching Program" or "OSCIM Program" means the program created by Article XI-P of the Oregon Constitution and ORS 286A.769 to 286A.806.

(16) "Priority List" means the list created by the Department each biennium pursuant to ORS 286A.801 and the formula outlined in OAR 581-027-0010.

(17) "State Matching Grant" means the grant funds provided by the State through the OSCIM Program to match the proceeds of a District's Local GO Bonds.

(18) "Students in Poverty" means the number of children, age 5 to 17, in families in poverty as described by the Small Area Income Poverty Estimate published by the U.S. Census Bureau.

(19) "Waiting List" means the list of Districts not initially awarded a State Matching Grant, based on either the District's position on the Priority List or the District's First in Time status, during any Funding Cycle.

Stat. Auth.: Sec. 2 & 5, Ch.783, OL 2015 (Enrolled SB 447).

Stats. Implemented: Sec. 2, 4 & 5, Ch. 783, OL 2015 (Enrolled SB 447).

Hist.: ODE 30-2016, f. & cert. ef. 4-28-16

581-027-0010

Calculations for Oregon School Capital Improvement Matching Program Priority List

(1) For each Funding Cycle, the Department shall provide State Matching Grants to Districts from designated resources in the Oregon School Capital Improvement Matching Account. The Department shall determine and apportion the amount of available resources among the Funding Cycles in each biennium. The total amount of State Matching Grant funds available and awarded by the Department may vary during each Funding Cycle.

(2) Sixty percent (60%) of designated grant resources in the Oregon School Capital Improvement Matching Account shall be awarded based on the Priority List.

(3) The Priority List shall be based on a District's Assessed Value, percentage of Students in Poverty, and Average Daily Membership.

(4) The Department shall update the Priority List at the beginning of each biennium. To update the list, the Department will use the data from the most recent year for which all three sources have reported actual data.

(5) The Priority List shall be calculated as follows:

(a) The District's Students in Poverty shall be multiplied by 20 to determine the Weighted Number of Students in Poverty.

(b) The District's Weighted Number of Students in Poverty shall be divided by the District's ADM to arrive at the District's Percentage of Students in Poverty.

(c) The District's Assessed Value shall be divided by the District's ADM to determine the District's Assessed Property Value per ADM.

(d) The District's Assessed Property Value per ADM shall then be divided by 1 plus the Percentage of Students in Poverty to determine the District's Adjusted Assessed Value per ADM.

(e) The Districts will be ranked from the smallest Adjusted Assessed Property Value per ADM to the highest. This ranking will ensure Districts with the highest rate of students in poverty and lowest assessed property wealth per ADM are provided the greatest chance for a State Matching Grant.

Stat. Auth.: Sec. 2 & 5, Ch.783, OL 2015 (Enrolled SB 447).

Stats. Implemented: Sec. 2, 4 & 5, Ch. 783, OL 2015 (Enrolled SB 447).

Hist.: ODE 30-2016, f. & cert. ef. 4-28-16

581-027-0015

Calculations for Oregon School Capital Improvement Matching Program Funding Formula

(1) The Department shall provide State Matching Grants to Districts from available resources in the Oregon School Capital Improvement Matching Account.

(2) Sixty percent (60%) of the available resources in the Oregon School Capital Improvement Matching Account for a biennium shall be awarded based on the Priority List.

(3) Forty percent (40%) of the available resources in the Oregon School Capital Improvement Matching Account for a biennium shall be awarded based on the order in which applications are received during the application period established by the Department for the Funding Cycle.

(4) The Department shall use a funding formula to determine the amount of State Matching Grant funds each District is eligible to receive from the Oregon School Capital Improvement Matching Account. This funding formula will be used to determine eligibility for State Matching

Grants awarded through both the Priority List and First in Time application process.

(5) Districts whose voters pass \$4,000,000 or less in Local GO Bonds for District facility projects shall be eligible for a one-to-one match from State Matching Grant funds.

(6) Districts whose voters pass more than \$4,000,000 in Local GO Bonds for District facility projects, shall be eligible for at least \$4,000,000 and no more than \$8,000,000 based on the following formula:

(a) The District's Adjusted Assessed Property Value per ADM as determined by OAR 581-027-0010 shall be multiplied by the assumed tax rate of .001 (\$1 per \$1000 of assessed property value) to calculate the District's Estimated Local Bond Revenue per ADM.

(b) The Estimated Local Bond Revenue per ADM shall be subtracted from the Guaranteed Tax Rate Amount to determine the amount of eligible State Matching Grant funds per ADM.

(c) The eligible State Matching Grant funds per ADM shall be multiplied by the District's ADM to determine the maximum amount of State Matching Grant funds for which a District is eligible.

(7) In no case will the amount of a State Matching Grant exceed the lesser of the proceeds of the District's Local GO Bonds or the principal amount of the District's Local GO Bonds.

(8) Local GO Bonds used by a District to qualify for the OSCIM Program must be Closed within six months of the date of the election at which the Local GO Bonds were approved.

Stat. Auth.: Sec. 2 & 5, Ch.783, OL 2015 (Enrolled SB 447).

Stats. Implemented: Sec. 2, 4 & 5, Ch. 783, OL 2015 (Enrolled SB 447).

Hist.: ODE 30-2016, f. & cert. ef. 4-28-16

581-027-0020

Oregon School Capital Improvement Matching Program Application

(1) The Department shall create one application for Districts to apply for State Matching Grants from the Oregon School Capital Improvement Matching Account.

(2) The Department shall post the following on the Department's web page:

(a) The application prior to when each Funding Cycle begins;

(b) The beginning and end dates of each Funding Cycle for the next two Funding Cycles;

(c) The first date of the Funding Cycle on which the Department shall accept applications. No applications will be accepted prior to this date for a Funding Cycle; and

(d) The last date of the Funding Cycle on which the Department will accept applications.

(3) Applicants may either submit their application to the Department electronically through secure file transfer protocol or by delivering in person. Districts may submit applications only for an open and current Funding Cycle. The Department will not accept applications for later Funding Cycles.

(4) The Department shall:

(a) Date stamp all applications based on the time they are received by the Department; and

(b) Reject all incomplete applications.

(c) A District may not re-submit in the same Funding Cycle a revised or corrected application after the District has determined the original application was incomplete or otherwise not accepted for a funding commitment.

(5) The Department shall:

(a) Rank complete applications from Districts for each Funding Cycle according to the Priority List formula;

(b) Make funding commitments to Districts with the highest ranking on the priority list until sixty percent of the available resources for that Funding Cycle are used.

(c) Make funding commitments to the remaining Districts in accordance to the First in Time process for that Funding Cycle and based on the order in which the Department receives applications.

(6) In order to promote equity across the state, the Department shall deem all applications received within a specified period of time for each Funding Cycle as being received at the same time. The Department shall establish multiple periods as necessary for the reception of applications as follows:

(A) Those applications received within the first time period shall be deemed to be the first in time for purposes of award commitments.

(B) Those applications received in subsequent time periods will be deemed to be received in order of the established time periods.

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(b) The Department shall commit First in Time funding to Districts based on which time period the District is deemed to have submitted their application.

(c) If the First in Time funding is insufficient to provide a commitment to all Districts within a given time period for that Funding Cycle, the Department shall randomly select the Districts by a lottery process to determine which Districts will receive an award commitment.

(d) The lottery process shall be determined by the Department.

(e) All lottery results are final.

(7) The Department shall notify Districts that receive a funding commitment from the Oregon School Capital Improvement Matching Account within two weeks of the close of the application period for a Funding Cycle.

(8) The Department shall post the eligibility and ranking of all Districts that applied during that Funding Cycle on the Department's website. Districts that applied but did not receive a commitment will be notified of where they fall on the Waiting List.

(9) All funding commitments are contingent upon the District subsequently Closing the required Local GO Bonds within 6 months of that Funding Cycle's bond election.

(10) Any Districts on the Waiting List may choose to move forward seeking voter approval for Local GO Bonds in that Funding Cycle with the understanding that State Matching Grant funds may become available for that Funding Cycle if a District that has received a commitment is unsuccessful in passing their Local GO Bonds.

(11) All funding commitments to Districts that successfully pass their Local GO Bonds in the Funding Cycle will be officially awarded a State Matching Grant upon the execution of a grant agreement prescribed by the Department.

(12) All funding commitments to Districts that are not successful in passing their Local GO Bonds may be recommitted to Districts that have successfully passed Local GO Bonds and are on the Waiting List for that Funding Cycle.

(13) Funding commitments will not carry over from one Funding Cycle to the next. Funding commitments for future Funding Cycles will only be made to Districts that reapply during the designated application period for that Funding Cycle.

(14) All decisions of the Department regarding the completeness of the application or ranking under either the Priority List or First in Time process are final.

(15) Any funding remaining after all awards have been made for a Funding Cycle shall be moved forward to the next Cycle.

Stat. Auth.: Sec. 2 & 5, Ch. 783, OL 2015 (Enrolled SB 447).

Stats. Implemented: Sec. 2, 4 & 5, Ch. 783, OL 2015 (Enrolled SB 447).

Hist.: ODE 30-2016, f. & cert. ef. 4-28-16

581-027-0025

Oregon School Capital Improvement Matching Program Grant Restrictions

(1) A District that receives a State Matching Grant will be ineligible for additional State Matching Grant funds for the next three Funding Cycles after the Funding Cycle in which the District was awarded the State Matching Grant.

(2) A District may not use State Matching Grant funds to refinance general obligation bonds issued by the District.

(3) A District must use State Matching Grant funds for capital costs as defined in ORS 286A.796(3).

(4) A District may use State Matching Grant funds to reimburse the District for capital costs incurred by the District prior to the Funding Cycle in which the District was awarded a grant only if:

(a) the Department approves the use of State Matching Grant funds for such purpose; and

(b) The District complies with all requirements of the OSCIM Program.

(c) The Department's approval or disapproval of the use of State Matching Grant funds is final. A District may not submit a revised request for use of funds.

(5) State Matching Grant funds shall be used only to match the proceeds of Local GO Bonds authorized by an election in the same Funding Cycle in which the District applied for State Matching Grant funds.

(6) If there are State Matching Grant funds available for disbursement after all the awards for all the Funding Cycles in a biennium have been made, the Department may award those uncommitted funds by lottery to Districts that have applied for State Matching Grant funds during the biennium and have Local GO Bond proceeds available to use as a basis for a match so long as the Local GO Bonds from which the proceeds are derived were approved by the voters during the biennium.

Stat. Auth.: Sec. 2 & 5, Ch. 783, OL 2015 (Enrolled SB 447).

Stats. Implemented: Sec. 2, 4 & 5, Ch. 783, OL 2015 (Enrolled SB 447).

Hist.: ODE 30-2016, f. & cert. ef. 4-28-16

Rule Caption: Clarifies school district role when requested by tribe to display tribal flag.

Adm. Order No.: ODE 31-2016

Filed with Sec. of State: 4-28-2016

Certified to be Effective: 4-28-16

Notice Publication Date: 11-1-2015

Rules Amended: 581-021-0043

Subject: Clarifies school district role when requested by tribe to display tribal flag. Prohibits district from charging tribe to display tribal flag.

Rules Coordinator: Cindy Hunt—(503) 947-5651

581-021-0043

Displaying Sovereign Tribal Government's Flags in Public Schools

(1) As used in this section, "Oregon Sovereign tribal governments" means a federally recognized tribal government located in the state of Oregon.

(2) Upon request from an Oregon sovereign tribal government, a flag representing the sovereign tribal government must be displayed on, near, or within a school building, under the control of the school district board during school hours.

(3) The location of the flag will be determined by school district in consultation with the requesting sovereign tribal government.

(4) A school district may not charge for displaying the flag.

Stat. Auth.: ORS 326.051

Stat. Implemented: ORS 326.051

Hist.: ODE 13-2016, f. & cert. ef. 2-5-16; ODE 31-2016, f. & cert. ef. 4-28-16

Rule Caption: Permanent Rules for the Preschool Promise Program

Adm. Order No.: ODE 32-2016

Filed with Sec. of State: 5-3-2016

Certified to be Effective: 5-3-16

Notice Publication Date: 3-1-2016

Rules Adopted: 581-019-0036, 581-019-0037, 581-019-0038, 581-019-0039, 581-019-0040, 581-019-0041, 581-019-0042, 581-019-0043, 581-019-0044, 581-019-0045, 581-019-0046, 581-019-0047, 581-019-0048, 581-019-0049

Subject: The purpose of the rules is to define key terms, describe eligibility criteria, and to assist Hubs and preschool providers in the implementation and operation of Preschool Promise program services. The rules describe the requirements for the establishment and operation of preschool services under the Preschool Promise program.

Rules Coordinator: Cindy Hunt—(503) 947-5651

581-019-0036

Purpose

The purpose of these rules is to define key terms, describe eligibility criteria, and to assist Early Learning Hubs and preschool providers in the implementation and operation of Preschool Promise program services. These rules describe the standards for the establishment and operation of preschool services under the Preschool Promise program.

Stat. Auth.: ORS 326.425(7)

Stats. Implemented: ORS 329.172

Hist.: ODE 32-2016, f. & cert. ef. 5-3-16

581-019-0037

Definitions

The following definitions apply to Oregon Administrative Rules 581-019-0036 through 581-019-0049.

(1) "Child Care provider" means a person or entity that provides care, supervision, and guidance on a regular basis of a child, unaccompanied by a parent, guardian, or custodian, during a part of the 24 hours of the day.

(2) "Division" means the Early Learning Division of the Department of Education.

(3) "Early Learning Hub" or "Hub" means an entity designated under ORS 417.827 and contracted by the Early Learning Council to coordinate, fund and monitor early learning services in a specific region within the state.

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(4) "Quality Rating and Improvement System" means the system established through ORS 329A.261 which establishes a set of progressive higher standards used to evaluate the quality of an early learning and development program and to support program improvement.

(5) "Preschool" means those programs which provide health, education, social and other comprehensive services in order to maximize the potential of three- and four-year-old children.

(6) "Preschool Promise" means the preschool program administered by the Early Learning Division as directed under ORS 329.172.

(7) "Preschool Provider" means an eligible participant contracted by the Early Learning Hub to provide preschool services under the Preschool Promise program.

Stat. Auth.: ORS 326.425(7)
Stats. Implemented: ORS 329.172
Hist.: ODE 32-2016, f. & cert. ef. 5-3-16

581-019-0038

Child and Family Eligibility Criteria

(1) Early Learning Hubs are responsible for ensuring that child eligibility has been verified using an eligibility determination form provided by the Division.

Family income is at or below 200 percent of the Federal Poverty Level in effect at the time eligibility is determined.

(2) Children must be at least three years of age on or before September 1 of their entrance year and not eligible for kindergarten as determined by the State Board of Education by rule.

Stat. Auth.: ORS 326.425(7)
Stats. Implemented: ORS 329.172
Hist.: ODE 32-2016, f. & cert. ef. 5-3-16

581-019-0039

Hub Selection Process; Fund disbursement

(1) Hubs will be selected through the public procurement process as provided in ORS Chapter 279A and 279B.

(2) Funding for Preschool Promise Program will be directed through Early Learning Hubs and allocated through a process determined by the Early Learning Council.

Stat. Auth.: ORS 326.425(7)
Stats. Implemented: ORS 329.172
Hist.: ODE 32-2016, f. & cert. ef. 5-3-16

581-019-0040

Use of Funds by Hubs

(1) Funds received by the Hub for the Preschool Promise Program may be used only in support of the program and provide funding to preschool providers for the purposes of administering the Preschool Promise program.

(2) Of the funds distributed, the Early Learning Division may establish a maximum percentage allowable for coordination and administration and a maximum percentage allowable for building provider capacity to meet Preschool Promise program standards.

(3) Hubs must have established appropriate internal fiscal controls and generally accepted accounting procedures to ensure the proper disbursement, separation of funding source, as appropriate, and accounting for all funds provided.

Stat. Auth.: ORS 326.425(7)
Stats. Implemented: ORS 329.172
Hist.: ODE 32-2016, f. & cert. ef. 5-3-16

581-019-0041

Eligibility Criteria for Preschool Promise Program Providers

The following entities shall be eligible for funding:

- (1) A Head Start program;
- (2) An Oregon Prekindergarten program;
- (3) A child care provider;
- (4) A relief nursery;
- (5) A private preschool;
- (6) A public school;
- (7) A public charter school;
- (8) An education service district, or;
- (9) A community-based organization.

Stat. Auth.: ORS 326.425(7)
Stats. Implemented: ORS 329.172
Hist.: ODE 32-2016, f. & cert. ef. 5-3-16

581-019-0042

Provider/Hub Contracts

Prior to enrolling a child under the program, a preschool provider shall enter into a contract with the Hub. The contract shall meet public pro-

urement standards and be reviewed for legal sufficiency when required by law.

Stat. Auth.: ORS 326.425(7)
Stats. Implemented: ORS 329.172
Hist.: ODE 32-2016, f. & cert. ef. 5-3-16

581-019-0043

Minimum Requirements

To be eligible to provide preschool services under the Preschool Promise Program, a preschool provider must:

(1) Provide the annual number of instructional hours required for full day kindergarten as determined by the State Board of Education by rule.

(2) Meet quality standards, including:

(a) Attaining one of the top two ratings of the quality rating and improvement system for early childhood programs.

(b) Adopting culturally responsive teaching methods and practices.

(c) Providing highly trained lead preschool teachers who have at least a bachelor's degree in early childhood education or a field related to early childhood education. The requirements of this subparagraph may be satisfied by lead preschool teachers who do not have a bachelor's degree but who have submitted a plan to attain a bachelor's degree and are demonstrating progress on that plan. The educational plan provided for in this paragraph shall be submitted on a form and in a manner provided by the Division.

(d) Providing lead preschool teachers with a salary that meets the minimum salary requirements established by the Early Learning Council.

(e) Providing at least one assistant teacher in each classroom who provides support for academic instruction and who meets the state's personnel qualification requirements of one of the top two tiers for the quality rating and improvement system.

(f) Participates in an ongoing monitoring and program evaluation system that is used for continuous program improvement as established by the Division.

Stat. Auth.: ORS 326.425(7)
Stats. Implemented: ORS 329.172
Hist.: ODE 32-2016, f. & cert. ef. 5-3-16

581-019-0044

Minimum Salary requirements for Lead Preschool Teacher

The Early Learning Council shall establish a methodology to determine a target and minimum salary for Lead Preschool Teachers.

Stat. Auth.: ORS 326.425(7)
Stats. Implemented: ORS 329.172
Hist.: ODE 32-2016, f. & cert. ef. 5-3-16

581-019-0045

Use of funds by Preschool Provider

(1) Approved providers shall use funds to supplement, not to supplant, public funds from any other source that are used to serve otherwise eligible students, including, but not limited to federal, state or local public funds.

(2) Funds may not be used to pay for expenses incurred for children who:

(a) Pay tuition for the preschool program and whose family income at the time of enrollment exceeds 200 percent of federal poverty guidelines in effect at the time of enrollment.

(b) Are funded by the Oregon prekindergarten program, a Head Start program or another source of funding.

Stat. Auth.: ORS 326.425(7)
Stats. Implemented: ORS 329.172
Hist.: ODE 32-2016, f. & cert. ef. 5-3-16

581-019-0046

Program Monitoring and Evaluation

Programs will be monitored and evaluated on program improvement using a process established by the Division.

Stat. Auth.: ORS 326.425(7)
Stats. Implemented: ORS 329.172
Hist.: ODE 32-2016, f. & cert. ef. 5-3-16

581-019-0047

Waiver Application Process

(1) A preschool provider may request a waiver of the requirements of ORS 329.172(4) and 581-019-0043 during the first years of the provider's participation in the Preschool Promise program.

(2) The Division administers the waiver application and approval process under the direction of the Early Learning Council.

(3) Waiver requests must be accompanied by a quality improvement plan for approval by the Early Learning Council. The quality improvement

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plan will provide information including, but not limited to, how the program will meet the requirement for which a waiver is requested and a timeline for completing that plan.

(4) The Early Learning Council may withdraw approval of a waiver at any time, if deemed necessary to ensure the health, safety and well-being of children in the program.

(5) A waiver granted for any of the requirements does not negate the need for a waiver for other requirements.

(6) The granting of a waiver shall not set a precedent.

(7) Each request shall be evaluated on its own merits.

Stat. Auth.: ORS 326.425(7)

Stats. Implemented: ORS 329.172

Hist.: ODE 32-2016, f. & cert. ef. 5-3-16

581-019-0048

Reporting

Hubs shall ensure that all information and data that demonstrates that providers are meeting the program requirements are made available to the Division upon request, and in a manner as provided by the Division.

Stat. Auth.: ORS 326.425(7)

Stats. Implemented: ORS 329.172

Hist.: ODE 32-2016, f. & cert. ef. 5-3-16

581-019-0049

Suspected Abuse

Any provider or program staff subject to ORS 419B.005 to 419B.016 having reasonable cause to believe that any child with whom the provider or program staff comes into contact has suffered or is suffering from abuse or neglect, shall report or cause a report to be made in the manner required in ORS 419B.005 to 419B.015.

Stat. Auth.: ORS 326.425(7)

Stats. Implemented: ORS 329.172

Hist.: ODE 32-2016, f. & cert. ef. 5-3-16

Rule Caption: Educator Evaluation System

Adm. Order No.: ODE 33-2016

Filed with Sec. of State: 5-5-2016

Certified to be Effective: 5-5-16

Notice Publication Date: 6-1-2015

Rules Amended: 581-022-1723

Subject: The rule was amended to reference the Oregon Framework for Teacher and Administrator Evaluation and Support Systems and the Oregon Matrix for educator evaluations.

Rules Coordinator: Cindy Hunt—(503) 947-5651

581-022-1723

Teacher and Administrator Evaluation and Support

(1) A school district board shall include the core teaching standards and administrator standards adopted by the State Board for all evaluations of teachers and administrators of the school district occurring on or after July 1, 2013. The standards shall be customized based on the collaborative efforts of the teachers and administrators of the school district and the exclusive bargaining representative of the employees of the school district.

(2) The core teaching standards and administrator standards must:

(a) Take into consideration multiple measures of teacher and administrator effectiveness that encompass a range of appropriate teaching and administrator behaviors based on the adopted standards of professional practice to evaluate teacher and administrator performance which may include, but are not limited to:

(A) Classroom-based assessments including observations, lesson plans and assignments;

(B) Portfolios of evidence;

(C) Supervisor reports; and

(D) Self-reflections and assessments.

(b) Take into consideration evidence of student academic growth and learning based on multiple measures of student progress, including performance data of students, schools, and school districts;

(c) Be research-based;

(d) Be separately developed for teachers and administrators; and

(e) Be customized for each school district, which may include individualized weighting and application of standards.

(3) Evaluations using the core teaching and administrator standards must attempt to:

(a) Strengthen the knowledge, skills, disposition and classroom and administrative practices of teachers and administrators in public schools;

(b) Refine the support, assistance and professional growth opportunities offered to a teacher or an administrator, based on the individual needs of the teacher and administrator and the needs of the students, the school and the school district;

(c) Allow each teacher or administrator to establish a set of classroom or administrative practices and student learning objectives that are based on the individual circumstances of the teacher or administrator, including the classroom or other assignments of the teacher or administrator;

(d) Establish a formative growth process for each teacher and administrator that supports professional learning and collaboration with other teachers and administrators; and

(e) Use evaluation methods and professional development, support and other activities that are based on curricular standards and that are targeted to the needs of each teacher and administrator.

(4) Local evaluation and support systems established by school districts for teachers and administrators must be designed to meet or exceed the requirements defined in the Oregon Framework for Teacher and Administrator Evaluation and Support Systems, including:

(a) Four performance level ratings of effectiveness;

(b) Using the Oregon Matrix as the summative evaluation method for combining multiple measures of professional practice, professional responsibilities, and student learning and growth to determine the educator's professional growth plan and overall performance level beginning in the 2014-2015 school year.

(c) Based on significant consideration of student learning and growth which must include but is not limited to:

(A) Academic performance, as determined by the statewide assessment system implemented by the Department of Education under ORS 329.485;

(B) Formative and summative assessments; and

(C) For teachers, classroom-level student learning and growth goals set collaboratively between teachers and evaluators.

(5) Local evaluation and support systems established by school districts must evaluate teachers and administrators on a regular cycle.

(6) District superintendents shall regularly report to their governing boards on implementation of their local evaluation and support systems and educator effectiveness.

Stat. Auth.: ORS 342.805 - 342.937

Stats. Implemented: 2011 OL Ch. 729 Sec. 2 (Enrolled SB 290)

Hist.: ODE 21-2011, f. & cert. ef. 12-15-11; ODE 23-2012, f. & cert. ef. 8-1-12; ODE 11-2015(Temp), f. & cert. ef. 7-15-15 thru 1-10-16; Administrative correction, 1-22-16; ODE 33-2016, f. & cert. ef. 5-5-16

Oregon Health Authority, Health Policy and Analytics Chapter 409

Rule Caption: Amendment to Health Evidence Review Commission Rule

Adm. Order No.: OHP 5-2016

Filed with Sec. of State: 4-19-2016

Certified to be Effective: 4-19-16

Notice Publication Date: 4-1-2016

Rules Amended: 409-060-0110, 409-060-0120, 409-060-0150

Subject: The Oregon Health Authority is updating the rule to align with the current organizational structure, from the Office for Oregon Health Policy and Research to the Oregon Health Authority. Other minor grammatical adjustments are also being addressed.

Rules Coordinator: Zarie Haverkate—(503) 931-6420

409-060-0110

Definitions

The following definitions apply to OAR 409-060-0100 to 409-060-0150:

(1) "Ad hoc expert" means an individual identified by the Commission as having particular expertise in a technology or its application.

(2) "Authority" means the Oregon Health Authority.

(3) "Commission" means the Health Evidence Review Commission.

(4) "Coverage guidance" means a report approved by the Commission on a health service or technology which makes coverage recommendations for insurers and health care purchasers in furthering the use of evidence-based healthcare.

(5) "Evidence-based guideline" means an evidence-based report on a health service or technology, for use by health care providers in encouraging the use of the safest and most effective care possible.

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(6) "Evidence-based report" means a medical technology assessment, evidence-based guideline or coverage guidance which includes conclusions and recommendations based on the information in the source documents, and which incorporates the clinical context necessary for the information to be properly interpreted by policymakers.

(7) "EBGS" means the Evidence-based Guidelines Subcommittee.

(8) "HTAS" means the Health Technology Assessment Subcommittee

(9) "Medical technology" or "technology" means medical equipment and devices, medical or surgical procedures and other techniques used or prescribed by health care providers in delivering health care to individuals, and the organizational or supportive systems within which health care is delivered.

(10) "Medical technology assessment" means an evidence-based report on the use, clinical effectiveness and risks, and cost of a technology in comparison with its alternatives.

(11) "Subcommittee" means a subcommittee established by the Commission.

(12) "Trusted source" means a source designated by the Commission for use in developing an evidence-based report.

Stat. Auth.: ORS 414.695 & 413.042

Stats. Implemented: 414.695 & 414.698

Hist.: OHP 4-2013, f. & cert. ef. 2-1-13; OHP 5-2016, f. & cert. ef. 4-19-16

409-060-0120

Health Evidence Review Commission Process for Evidence-based Reports

(1) The Commission shall develop evidence-based reports or may direct a Subcommittee to prepare these reports. The Commission shall identify reports from trusted sources to serve as the basis for these reports. Meetings shall be public and conducted in a manner consistent with the Commission's policies and procedures.

(2) Topics for review shall be publicly identified at least 30 days prior to the initial Subcommittee meeting at which a draft evidence-based report is reviewed. In this notice, the Subcommittee shall make publicly available the primary evidence source documents to be used in creating the initial draft report, except when source documents are proprietary. If additional sources are added to the initial draft report after this notice, the Subcommittee shall publicly identify them no later than 14 days prior to the Subcommittee meeting where they will be discussed. In lieu of proprietary source documents, the Subcommittee shall make publicly available a citation of the evidence source. In the case of a proprietary evidence source, a full listing of citations from the proprietary source shall be made available when allowed by the source. If providing the citations is not allowed or not otherwise feasible, a summary of the evidence findings will be provided at least 14 days in advance of the meeting at which the initial draft report will be discussed.

(3) When developing an evidence-based report, the Commission or its designated Subcommittee shall consult with two or more ad hoc experts on the subject matter of the evidence-based report. Subcommittee shall publicly solicit ad hoc experts at least 30 days prior to the meeting at which it reviews the initial draft evidence-based report. One of the ad hoc experts must be a provider who manages patients who would potentially receive the treatment, service or device in question. Candidates wishing to serve as ad hoc experts shall disclose conflicts of interest according to HERC bylaws. The Authority shall appoint ad hoc experts that best meet the needs of the state, considering any conflicts of interest, and shall not be limited to those who have volunteered to serve.

(4) After the Subcommittee reviews the initial draft report, the subcommittee may revise the initial draft report. The Subcommittee shall then solicit public comment on this version of the draft report over a 30-day period. Draft reports posted for comment shall include citations for all sources used in developing the report and a summary of evidence findings. The Subcommittee shall publicly disclose written comments received during the 30-day period, draft responses and additional revisions (if any) to the draft report at least seven days before the Subcommittee meeting at which the Subcommittee reviews public comments. After discussing the available evidence and considering public comment, including additional verbal testimony, the Subcommittee shall make conclusions as to the overall importance of beneficial effects versus potential harms and approve its final draft evidence-based report reflecting these conclusions.

(5) Before an evidence-based report is reviewed at a Commission meeting, a final draft report approved by the Subcommittee, along with all written public comments received during the public comment period and the Subcommittee's responses to these public comments shall be made publicly available for a period of at least 14 days. At the meeting, the

Commission shall consider the Subcommittee's approved draft report and accept further public comment.

(6) After evaluating the report and public comments the Commission may take one of three actions:

(a) Accept the report as written.

(b) Make edits to the report and accept as modified.

(c) Return the report to the Subcommittee with recommendations for further work.

(7) The Commission or its Subcommittees may revise evidence-based reports when additional information relevant to the report becomes available or if the findings of one or more of the source reports change. The Commission or its Subcommittees may initiate a review at the request of interested parties who provide information or interpretations not considered in developing an existing evidence-based report. At a minimum, the HERC or one of its Subcommittees shall review the need to update each report within two years after its adoption or most recent revision.

Stat. Auth.: ORS 414.695 & 413.042

Stats. Implemented: 414.695 & 414.698

Hist.: OHP 4-2013, f. & cert. ef. 2-1-13; OHP 5-2016, f. & cert. ef. 4-19-16

409-060-0150

Coverage Guidances

(1) A Subcommittee shall develop coverage guidances which shall be based on reports developed by trusted sources, and may cite supplemental evidence which is more recent or beyond the scope of the report. Coverage guidances shall be developed according to the process described in OAR 409-060-0120 except as described in this section.

(2) OAR 409-060-0120(3) does not apply to this section. Instead, if the Subcommittee responsible for development of the report determines that it lacks sufficient expertise in the relevant field, or a request is received from an interested outside party, the Subcommittee shall solicit an ad hoc expert to provide additional information. Requests from interested parties to appoint ad hoc experts must be submitted within fourteen days after the public notice announcing the subcommittee's first review of the initial draft coverage guidance. The subcommittee may solicit ad hoc experts at any time thereafter if the committee determines such expertise is necessary. Candidates wishing to serve as ad hoc experts shall disclose conflicts of interest according to HERC bylaws. Ad hoc experts, if needed, shall be appointed by the Authority. The Authority shall select experts that best meet the needs of the state, considering any conflicts of interest, and shall not be limited to those who have volunteered to serve. Ad hoc experts shall answer technical questions and provide clinical context during the review of the evidence.

Stat. Auth.: ORS 414.695 & 413.042

Stats. Implemented: 414.695 & 414.698

Hist.: OHP 4-2013, f. & cert. ef. 2-1-13; OHP 5-2016, f. & cert. ef. 4-19-16

Rule Caption: Proposed changes to qualify for the Physician Visa Waiver Program by a health care facility.

Adm. Order No.: OHP 6-2016

Filed with Sec. of State: 4-22-2016

Certified to be Effective: 4-22-16

Notice Publication Date: 4-1-2016

Rules Amended: 409-035-0020

Subject: The Oregon Health Authority is amending the criteria for providers recommending candidates to the Physician Visa Waiver Program.

Rules Coordinator: Zarie Haverkate—(503) 931-6420

409-035-0020

Health Care Facility Participation Requirements

(1) Federally Qualified Health Centers with a:

(a) HPSA score at or above the requirements of 22 CFR 41.63 shall apply for a J-1 Waiver either through the Authority or through the United States Department of Health and Human Services (see: <http://www.global-health.gov/global-programs-and-initiatives/exchange-visitor-program>);

(b) HPSA score below the requirements of 22 CFR 41.63 shall apply for a J-1 Waiver through the Authority.

(2) If a health care facility is located in a Medically Underserved Area (MUA) or Medically Underserved Population (MUP) that is not a Health Professional Shortage Area (HPSA) or if the request is for a flex option, then the facility must obtain prior approval from the Authority and provide documentation substantiating the area's need for a physician.

(3) In order to qualify for the Oregon Physician Visa Waiver Program the health care facility must:

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(a) Identify the nature of the business entity seeking to employ the physician, including but not limited to domestic or foreign professional corporation, domestic or foreign private corporation, LLC, or partnership, and provide a certificate of existence or proof of authorization to do business in Oregon;

(b) Have provided care for a minimum of six months in Oregon, or supply evidence of stability such as HRSA funding, prior to submitting an application;

(c) Currently serve Medicare, Medicaid, and low income uninsured patients that are members of the population of the local HRSA designation.

(A) At least 40 percent of patients must be Medicaid, Medicare or other low income patients.

(B) Medicaid patients must represent a share of the overall facility's patient population equal to or greater than the statewide percentage of the population eligible for Medicaid at the beginning of each program year as determined by the Authority. If the facility does not serve that percentage, it must provide a plan to achieve that level of service for review and approval by the Authority. Plans that do not outline a strategy to achieve the required level of service within the provider's first year will not typically be approved, but the Authority will consider additional information provided by the facility when making a final decision.

(d) Post a sliding fee schedule in the primary languages of the population being served;

(e) Document attempts to actively recruit an American doctor for at least six months prior to submission of the application;

(f) Execute an employment contract with the physician that includes the following provisions:

(A) Duration of at least three years;

(B) Wages and working conditions comparable to those for a graduate from an American medical school;

(C) A signed U.S. Department of Labor Prevailing Wage Form (ETA-9035);

(D) May not include a non-compete clause or restrictive covenant that prevents or discourages the physician from continuing to practice in any designated area after the term of the contract expires;

(E) Specifies the geographic shortage area within Oregon in which the physician will practice or, if requesting a flex option, the shortage area or areas where prospective patients live;

(F) The physician shall treat all patients regardless of their ability to pay; and

(G) The physician shall provide patient care on a full-time basis a minimum of 40 hours per week.

(4) The health care facility shall submit to the Authority a fee of \$2,000 and two original copies of the application packet for each waiver requested.

Stat. Auth.: ORS 413.248

Stats. Implemented: ORS 413.248

Hist.: PH 14-2003(Temp), f. 9-25-03 cert. ef. 10-1-03 thru 3-29-04; PH 11-2004, f. 3-25-04, cert. ef. 3-29-04; Renumbered from 333-005-0020 by OHP 7-2010, f. 12-29-10, cert. ef. 1-1-11; OHP 3-2013, f. 1-24-13, cert. ef. 2-1-13; OHP 1-2015, f. 1-15-15, cert. ef. 2-1-15; OHP 6-2015(Temp), f. & cert. ef. 9-22-15 thru 3-1-16; OHP 9-2015, f. & cert. ef. 11-24-15; OHP 6-2016, f. & cert. ef. 4-22-16

Rule Caption: Adoption of Certified Community Behavioral Health Clinic Program rules.

Adm. Order No.: OHP 7-2016(Temp)

Filed with Sec. of State: 4-22-2016

Certified to be Effective: 4-22-16 thru 10-18-16

Notice Publication Date:

Rules Adopted: 409-062-0000, 409-062-0010, 409-062-0020, 409-062-0030, 409-062-0040, 409-062-0050, 409-062-0060

Subject: Congress passed the Protecting Access to Medicare Act (H.R. 4302) in March 2014. This legislation includes provisions of the Excellence in Mental Health Act - an eight-state demonstration program and the single largest investment in community behavioral health in more than 50 years. The Oregon Health Authority was awarded a federal planning grant from October 2015 to October 2016. The Oregon Health Authority is adopting temporary administrative rules to establish the Certified Community Behavioral Health Clinic (CCBHC) Program. The rules implement CCBHC standards and process for certifying CCBHCs for purposes of qualifying for a CCBHC Demonstration Grant. These rules allow CCBHC Planning Grant activities to move forward by permitting the launch of the CCBHC application and certification process; activi-

ties which are necessary to accomplish CCBHC Planning Grant activities and meet CCBHC Demonstration Grant criteria.

These temporary rules are available at: <http://www.oregon.gov/OHA/OHPR/rulemaking/index.shtml>.

For hardcopy requests, call: (503) 931-6420. Additional information regarding the CCBHC grant and program is available on the CCBHC Website: <http://www.oregon.gov/oha/bhp/Pages/Community-BH-Clinics.aspx>.

Rules Coordinator: Zarie Haverkate—(503) 931-6420

409-062-0000

Purpose and Scope

These rules establish the Certified Community Behavioral Health Clinic (CCBHC) program and define the criteria and process that the Authority shall use to recognize and verify status as CCBHCs. These rules specify the standards for the CCBHC application and certification process. In addition to meeting all state and federal criteria, only organizations certified under OAR 309-019-0100 to 309-019-0220 (Outpatient Addictions and Mental Health Services) and OAR 309-008-0100 to 309-008-1600 (Standards for Certification of Behavioral Health Treatment Services) may become certified.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 413.042

Hist.: OHP 7-2016(Temp), f. & cert. ef. 4-22-16 thru 10-18-16

409-062-0010

Definitions

The following definitions apply to OAR 409-062-0000 to 409-062-0060:

(1) "Authority" means the Oregon Health Authority.

(2) "CCBHC" means the Certified Community Behavioral Health Clinic.

(3) "CCBHC application" means the survey link that is posted on the CCBHC program website.

(4) "Certification" means the process which the Authority uses to determine if a practice has met the criteria in the document titled "Criteria for the Demonstration Program to Improve Community mental Health Centers and to Established Certified Community Behavioral Health Clinics" as well as the Oregon state CCBHC standards.

(5) "Certified" means that the Authority has affirmed that a practice substantially meets the federal and Oregon CCBHC standards

(6) "Practice" means an individual, facility, institution, corporate entity, or other organization which provides direct health care services or bills, obligates and receives reimbursement on behalf of a performing provider of services, also termed a billing provider (BP). The term provider refers to both performing providers and BPs unless otherwise specified.

(7) "Program" means activities associated with the CCBHC planning grant.

(8) "Program website" means <http://www.oregon.gov/oha/bhp/Pages/Community-BH-Clinics.aspx>.

(9) "Verification" means the process that the Authority shall conduct to ensure that a practice has submitted accurate information to the Authority for purposes of CCBHC certification.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 413.042

Hist.: OHP 7-2016(Temp), f. & cert. ef. 4-22-16 thru 10-18-16

409-062-0020

Program Administration

(1) The Program shall develop and implement a uniform application and process for certifying CCBHCs throughout the state of Oregon.

(2) The Authority shall recognize practices as certified CCBHCs upon meeting criteria set forth in OAR 409-062-0040.

(3) The Authority shall administer the Program, including data collection and analysis, recognition, and verification that a practice meets the defined CCBHC criteria.

(4) The Authority may also provide technical assistance.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 413.042

Hist.: OHP 7-2016(Temp), f. & cert. ef. 4-22-16 thru 10-18-16

409-062-0030

Application and Certification Process

(1) To be certified as a CCBHC, practices or their designee shall submit a CCBHC application electronically to the Authority using the Program's online application system found on the program website or by mail to the address posted on the program website which shall be open for

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30 days. The Authority may choose to extend the application period beyond 30 days.

(2) The Authority shall review the application within 30 days of its submission to determine whether it is accurate, complete, and meets the certified requirements. If the application is incomplete the Authority shall notify the applicant in writing of the information that is missing and when it must be submitted.

(3) The Authority shall review a complete application within 45 days of submission. If the Authority determines that the applicant has met the requirements of these rules the Authority shall:

(a) Inform the applicant in writing that the application has been approved as a potential CCBHC;

(b) Assign a preliminary level of readiness for certification; and

(c) Include information regarding site visit planning, including, but not limited to, needs assessment requests, an anticipated agenda, schedule, and materials required for site visit.

(4) The Program shall post instructions and criteria for submitting a CCBHC application on the Program website.

(5) The Authority may deny CCBHC certification if an applicant does not meet the requirements of these rules.

(6) A practice may request that the Authority reconsider the denial of CCBHC recognition or reconsider the assigned level of readiness.

(a) A request for reconsideration must be submitted in writing to the Authority within 30 days of the date of the denial or approval letter and must include a detailed explanation of why the practice believes the Authority's decision is in error along with any supporting documentation.

(b) The Authority shall inform the practice in writing whether it has reconsidered its decision.

Stat. Auth: ORS 413.042

Stats. Implemented: ORS 413.042

Hist.: OHP 7-2016(Temp), f. & cert. ef. 4-22-16 thru 10-18-16

409-062-0040

Certification Criteria

A practice seeking CCBHC certification must meet the following criteria:

(1) Complete CCBHC application process, meeting the "ready to certify" or "mostly ready to certify" designation;

(2) Meet all federal criteria stated in the document titled "Criteria for the Demonstration program to Improve Community mental health Centers and to Establish Certified Community Behavioral Health Clinics";

(3) Meet all Oregon criteria stated in the Oregon CCBHC standards;

(4) Agree to a verification site visit and follow up activities with the CCBHC site review team; and

(5) Agree to contributing to and participating in the statewide needs assessment process.

Stat. Auth: ORS 413.042

Stats. Implemented: ORS 413.042

Hist.: OHP 7-2016(Temp), f. & cert. ef. 4-22-16 thru 10-18-16

409-062-0050

Level of Readiness Designation

(1) The Authority shall award three levels of readiness designations to practices implementing multiple advanced CCBHC measures, including:

(a) Ready to certify: Currently meets the required criteria.

(b) Mostly ready to certify: Currently meets the majority of required criteria and has plans and a timeline in place to meet remaining required criteria.

(c) Mostly ready to certify with assistance: Currently meets the majority of required criteria with needs for significant technical assistance to meet required criteria and develop a plan and timeline to meet remaining required criteria.

(2) Not ready to certify: Does not meet all certification criteria.

Stat. Auth: ORS 413.042

Stats. Implemented: ORS 413.042

Hist.: OHP 7-2016(Temp), f. & cert. ef. 4-22-16 thru 10-18-16

409-062-0060

Variations

(1) The Authority may grant a variance to a CCBHC applicant or provider if:

(a) There is a lack of resources to meet the criteria required in these rules; or

(b) Implementation of the proposed alternative services, methods, concepts or procedures would result of improved outcomes for the individual.

(2) CCBHC applicants must submit the variance request directly to the CCBHC project team.

(3) The request must be in writing and must contain the following:

(a) Criteria from which the variance is sought;

(a) The reason for the proposed variance;

(c) The alternative practice, service, method, concept, or procedure proposed, and;

(d) A plan and timetable for compliance with the section of criteria for which the variance applies.

(4) The CCBHC principal investigator must approve or deny the request for a variance and must notify the provider in writing of the decision to approve or deny the requested variance, within 30 days of receipt of the variance. The written notification must include the specific alternative practice, service, method, concept, or procedure that is approved and the duration of the approval.

(5) Granting a variance for one request does not set a precedent that must be followed by the Authority when evaluating subsequent requests for variance.

Stat. Auth: ORS 413.042

Stats. Implemented: ORS 413.042

Hist.: OHP 7-2016(Temp), f. & cert. ef. 4-22-16 thru 10-18-16

Rule Caption: Establishes Criteria for Awarding Grants under Safety Net Capacity Grant Program

Adm. Order No.: OHP 8-2016(Temp)

Filed with Sec. of State: 5-9-2016

Certified to be Effective: 5-9-16 thru 11-4-16

Notice Publication Date:

Rules Adopted: 409-110-0025, 409-110-0030, 409-110-0035, 409-110-0040, 409-110-0045

Subject: The Oregon Health Authority needs to adopt temporary administrative rules to govern the operation of the Safety Net Capacity Grant Program (SNCGP). Senate Bill 5507, passed during the 2015 legislative session, appropriated resources to fund the SNCGP effective July 1, 2015. The grant ensures that safety net providers have the capacity to serve vulnerable and underserved children in Oregon with needed health care services to include physical, oral, mental, behavioral, and vision health services.

These temporary rules are available at: <http://www.oregon.gov/oha/OHPR/pages/rulemaking/index.aspx>. Additional information regarding the program is available at: <http://www.oregon.gov/oha/OHPR/PCO/Pages/Safety-Net-Capacity-Grant.aspx>.

For hardcopy requests, call: 503-931-6420.

Rules Coordinator: Zarie Haverkate—(503) 931-6420

409-110-0025

Scope

These rules establish criteria for awarding grants under the Safety Net Capacity Grant Program, which was established to ensure that safety net providers have capacity to serve vulnerable and underserved children in Oregon.

Stat. Auth: ORS 413.225

Stats. Implemented: ORS 413.225

Hist.: OHP 8-2016(Temp), f. & cert. ef. 5-9-16 thru 11-4-16

409-110-0030

Definitions

The following definitions apply to OAR 409-110-0025 to 409-110-0045:

(1) "Authority" means the Oregon Health Authority.

(2) "Community-sponsored Clinic" means a non-profit, community-based clinic that does not receive state or federal funding and is sponsored by the local community in the form of grants and donations, including in-kind donations of goods and services.

(3) "Culturally and Linguistically Appropriate Services" means health care services that are respectful of and responsive to cultural and linguistic needs. Please refer to the "National Standards on Culturally and Linguistically Appropriate Services" (CLAS), United States Department of Health and Human Services, Office of Minority Health.

(4) "Primary Healthcare Service" means physical, oral, mental, behavioral, and vision health services that are delivered in a manner that reflects the state's emphasis on patient-centered care.

(5) "Program" means the Safety Net Capacity Grant Program

(6) "Safety Net Provider" means a public or non-profit federally qualified health center, school-based health center, tribal health clinic, rural health clinic, or community-sponsored clinic that provides primary care

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and preventive physical, oral, mental, behavioral and vision health services to low-income patients without charge or using a sliding scale.

(7) "Target Population" refers to children who are not eligible for any current state program.

[ED.NOTE: Publications referenced are available from the agency]
Stat. Auth: ORS 413.225
Stats. Implemented: ORS 413.225
Hist.: OHP 8-2016(Temp), f. & cert. ef. 5-9-16 thru 11-4-16

409-110-0035

Program Administration

(1) The Program is intended to ensure that the target population has access to primary physical, oral, mental, behavioral, and vision health services.

(2) The Authority shall award grants to safety net providers through the Program.

(3) Services covered through the Program are limited to primary and preventive physical, oral, mental, behavioral, and vision health services.

(4) Children in the target population through the age of 18 are eligible to receive services through the Program.

(5) The grant amount awarded shall take into consideration the distribution and concentration of the target population in the proposed service area.

(6) The Program is competitive and proposals that include collaboration with community partners may be given preference.

(7) The Authority shall administer the Program including soliciting, reviewing, evaluating, and selecting successful grant proposals. The Authority shall also provide project monitoring, technical assistance and submit periodic status reports to interested parties.

(8) Grant funding shall be awarded for the remainder of the 2015-2017 biennium, with the possibility of extensions.

(9) The Authority shall distribute safety net grant funds to successful applicants on an incremental basis.

Stat. Auth: ORS 413.225
Stats. Implemented: ORS 413.225
Hist.: OHP 8-2016(Temp), f. & cert. ef. 5-9-16 thru 11-4-16

409-110-0040

Grant Award Process

(1) The Authority shall advertise grant proposals through publication on its website and through communication to eligible entities.

(2) All proposals must be submitted in a form specified by the Program and by the date specified in the solicitation document.

(3) The Authority shall document receipt of all proposals.

(4) To qualify for a grant through the Program, applicants must be able to credibly estimate the number of new and existing children in the target population they will serve, as well as the number of estimated visits for the target population.

(5) The Authority shall evaluate all proposals based upon but not limited to the following evaluation elements:

(a) Demonstrated capacity to provide primary health care services.

(b) Demonstrated capacity or description of a credible plan to serve the target population.

(c) Demonstrated capacity or description of a credible plan to assure that services are culturally and linguistically competent.

(d) Demonstrated capacity or description of a credible plan to identify, contact, and provide primary care services to the target population.

(e) Demonstrated readiness to be operational within 60 days of grant award.

(f) Maintenance of operating hours and locations to ensure accessibility.

(g) Demonstrated ability to partner with community-based and other community organizations and to leverage funds, where possible.

(h) Submission of a proposed work plan, including timeline, discrete programs and products, evaluation outcomes, and budget.

(i) Demonstrated capacity or description of a credible plan for implementing data systems that can report on delivery of services and health outcomes, preferably through the utilization of electronic health records that are Certification Commission for Health Information Technology certified.

(6) The Authority shall form a committee to consider and make recommendations on the submitted proposals.

(7) The Authority shall notify applicants, in writing, whether their proposal was selected for funding. The Authority shall provide a question and answer opportunity through electronic or telephone communication both before and after the selection of proposals.

Stat. Auth: ORS 413.225
Stats. Implemented: ORS 413.225
Hist.: OHP 8-2016(Temp), f. & cert. ef. 5-9-16 thru 11-4-16

409-110-0045

Monitoring and Reporting Requirements

(1) A grantee shall:

(a) Submit grant reports to the Authority on a periodic basis. Grant reports will indicate progress to achieve grant benchmarks and goals and report on the expenditure of grant dollars. Failure to comply with reporting requirements may result in grant suspension or termination; and

(b) Report specific data or information, to be determined by the Authority.

(2) Grant disbursements are contingent on grantee achieving proposed service delivery levels. Failure to achieve proposed service levels or benchmarks may result in grant reduction or termination.

(3) Periodically grantee and the Authority shall jointly review progress.

Stat. Auth: ORS 413.225
Stats. Implemented: ORS 413.225
Hist.: OHP 8-2016(Temp), f. & cert. ef. 5-9-16 thru 11-4-16

Rule Caption: Amending the Patient-Centered Primary Care Home (PCPCH) Program rules.

Adm. Order No.: OHP 9-2016

Filed with Sec. of State: 5-13-2016

Certified to be Effective: 5-13-16

Notice Publication Date: 4-1-2016

Rules Amended: 409-055-0000, 409-055-0010, 409-055-0020, 409-055-0030, 409-055-0040, 409-055-0045, 409-055-0050, 409-055-0060, 409-055-0070, 409-055-0080, 409-055-0090

Rules Repealed: 409-055-0010(T), 409-055-0030(T), 409-055-0040(T), 409-055-0060(T), 409-055-0070(T)

Subject: The Oregon Health Authority is amending the rule to incrementally adapt the PCPCH model to the changing health care needs of the state, align the model with the best evidence where it is available, and also to improve the effectiveness of the standards and measures overall. These rules are also being updated to reflect the new organizational structure and statutory references from the 2015 legislative session.

Rules Coordinator: Zarie Haverkate—(503) 931-6420

409-055-0000

Purpose and Scope

These rules(OAR 409-055-0000 to 409-055-0090) establish the Patient-Centered Primary Care Home(PCPCH) Program and define criteria and process that the Authority shall use to recognize and verify status as PCPCHs. The PCPCH is a model of primary care that has received attention in Oregon and across the country for its potential to advance the "triple aim" goals of health reform: a healthy population, extraordinary patient care for everyone, and reasonable costs, shared by all. PCPCHs achieve these goals through a focus on wellness and prevention, coordination of care, active management and support of individuals with special health care needs, and a patient and family-centered approach to all aspects of care. PCPCHs emphasize whole-person care in order to address a patient and family's physical and behavioral health care needs.

Stat. Auth: ORS 413.042, 413.259 & 414.655
Stats. Implemented: ORS 413.259, 413.260 & 414.655
Hist.: OHP 6-2011(Temp), f. 9-29-11, cert. ef. 10-1-11 thru 3-15-12; OHP 2-2012, f. 2-29-12, cert. ef. 3-1-12; OHP 9-2016, f. & cert. ef. 5-13-16

409-055-0010

Definitions

The following definitions apply to OAR 409-055-0000 to 409-055-0090:

(1) "Authority" means the Oregon Health Authority.

(2) "CHIPRA Core Measure Set" means the initial core set of children's health care quality measures released by the Centers for Medicare and Medicaid Services in 2009 for voluntary use by Medicaid and CHIP programs.

(3) "NCQA" means National Committee for Quality Assurance.

(4) "Patient Centered Medical Home(PCMH)" means a practice or provider who has been recognized as such by the National Committee for Quality Assurance.

(5) "Patient-Centered Primary Care Home(PCPCH)" means a health care team or clinic as defined in ORS 414.655, meets the standards pursuant to OAR 409-055-0040, and has been recognized through the process pursuant to OAR 409-055-0040.

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(6) “Personal Health Information” means demographic information, medical history, test and laboratory results, insurance information and other data that is collected by a health care professional to identify an individual and determine appropriate care.

(7) “Practice” means an individual, facility, institution, corporate entity, or other organization which provides direct health care services or items, also termed a performing provider, or bills, obligates and receives reimbursement on behalf of a performing provider of services, also termed a billing provider(BP). The term provider refers to both performing providers and BP(s) unless otherwise specified.

(8) “Program” means Patient-Centered Primary Care Home Program.

(9) “Program website” means www.primarycarehome.oregon.gov.

(10) “Provider” means an individual, facility, institution, corporate entity, or other organization which provides direct health care services or items, also termed a performing provider, or bills, obligates and receives reimbursement on behalf of a performing provider of services, also termed a billing provider(BP). The term provider refers to both performing providers and BP(s) unless otherwise specified.

(11) “Recognition” means the process through which the Authority determines if a practice has met the Oregon Patient-Centered Primary Care Home Standards.

(12) “Recognized” means that the Authority has affirmed that a practice meets the Oregon Patient-Centered Primary Care Home Standards.

(13) “Tier” means the level of Patient-Centered Primary Care Home at which the Authority has scored a practice.

(14) “Verification” means the process that the Authority shall conduct to ensure that a practice has submitted accurate information to the Authority for purposes of Patient-Centered Primary Care Home recognition.

(15) “5 STAR” means a designation assigned to Patient-Centered Primary Care Homes meeting advanced PCPCH criteria.

Stat. Auth: ORS 413.042, 413.259 & 414.655

Stats. Implemented: ORS 413.259, 413.260 & 414.655

Hist.: OHP 6-2011(Temp), f. 9-29-11, cert. ef. 10-1-11 thru 3-15-12; OHP 2-2012, f. 2-29-12, cert. ef. 3-1-12; OHP 2-2015, f. 1-16-15, cert. ef. 2-1-15; OHP 10-2015(Temp), f. 12-29-15, cert. ef. 1-1-16 thru 6-24-16; OHP 9-2016, f. & cert. ef. 5-13-16

409-055-0020

Program Administration

(1) The Program is intended to ensure that there is a uniform process for recognizing PCPCHs throughout the State of Oregon in order to support primary care transformation.

(2) The Authority shall recognize practices as PCPCHs upon meeting defined criteria through the Program.

(3) The Authority shall administer the Program, including data collection and analysis, recognition, and verification that a practice meets the defined PCPCH criteria. The Authority may also provide technical assistance as is feasible.

(4) The Authority may contract for any of the work it deems necessary for efficient and effective administration of the Program.

Stat. Auth: ORS 413.042, 413.259 & 414.655

Stats. Implemented: ORS 413.259, 413.260 & 414.655

Hist.: OHP 6-2011(Temp), f. 9-29-11, cert. ef. 10-1-11 thru 3-15-12; OHP 2-2012, f. 2-29-12, cert. ef. 3-1-12; OHP 9-2016, f. & cert. ef. 5-13-16

409-055-0030

Practice Application and Recognition Process

(1) Practices, or other entities on behalf of the practice, that wish to be recognized as a PCPCH shall submit a PCPCH Recognition Application electronically to the Authority via the Program’s online application system found on the Program website or by mail to the address posted on the Program website. The application shall include the quantitative data described in OAR 409-055-0040.

(2) The Authority shall review the application within 60 days of its submission to determine whether it is accurate, complete, and meets the recognition requirements. If the application is incomplete the the Authority shall notify the applicant in writing of the information that is missing and when it must be submitted.

(3) The Authority shall review a complete application within 60 days of submission. If the Authority determines that the applicant has met the requirements of these rules the Authority shall:

(a) Inform the applicant in writing that the application has been approved as a recognized PCPCH,

(b) Assign a Tier level, and

(c) Include the effective recognition date.

(4) The Authority shall maintain instructions and criteria for submitting a PCPCH Recognition Application posted on the Program website.

(5) The Authority may deny PCPCH recognition if an applicant does not meet the requirements of these rules.

(6) A practice may request that the Authority reconsider the denial of PCPCH recognition or reconsider the assigned tier level. A request for reconsideration must be submitted in writing to the Authority within 90 days of the date of the denial or approval letter and must include a detailed explanation of why the practice believes the Authority’s decision is in error along with any supporting documentation. The Authority shall inform the practice in writing whether it has reconsidered its decision.

(7) Practices submitting applications on or after September 3, 2013 must apply to renew their recognition once every two years. Recognition shall expire two years from the recognition effective date issued by the Authority.

(a) At the Authority’s discretion a 30-day grace period may be allowed for PCPCHs to submit a renewal application without having a lapse in recognition status.

(b) If a PCPCH believes that it meets the criteria to be recognized at a higher tier or increase it’s point threshold by at least 15 points, it may request to have its tier status reassessed by re-submitting an application not more than once every six months. The Authority may grant exceptions to the six month time period for good cause shown.

(c) Currently recognized PCPCHs that are due to reapply between January 1, 2016 and December 31, 2016 shall be granted an extension of their PCPCH recognition until January 1, 2017.

(d) Currently recognized PCPCHs that choose to reapply for recognition between January 1, 2016 and December 31, 2016 shall be recognized until January 1, 2017.

(e) Practices applying for PCPCH recognition for the first time between January 1, 2016 and December 31, 2016 shall be recognized until January 1, 2017.

Stat. Auth: ORS 413.042, 413.259 & 414.655

Stats. Implemented: ORS 413.259, 413.260 & 414.655

Hist.: OHP 6-2011(Temp), f. 9-29-11, cert. ef. 10-1-11 thru 3-15-12; OHP 2-2012, f. 2-29-12, cert. ef. 3-1-12; OHP 7-2012(Temp), f. & cert. ef. 10-4-12 thru 4-1-13; OHP 5-2013, f. 3-22-13, cert. ef. 4-1-13; OHP 6-2013, f. 8-23-13, cert. ef. 9-3-13; OHP 9-2013, f. 10-1-13, cert. ef. 1-1-14; OHP 2-2015, f. 1-16-15, cert. ef. 2-1-15; OHP 10-2015(Temp), f. 12-29-15, cert. ef. 1-1-16 thru 6-24-16; OHP 9-2016, f. & cert. ef. 5-13-16

409-055-0040

Recognition Criteria

(1) The PCPCH recognition criteria are divided into “Must-Pass” measures and other measures that place the practice on a scale of maturity or ‘tier’ that reflect basic to more advanced PCPCH functions.

(2) Must-Pass and 5 point measures focus on foundational PCPCH elements that should be achievable by most practices in Oregon with significant effort, but without significant financial outlay.

(3) 10 and 15 point measures reflect intermediate and advanced functions.

(4) Except for the 11 Must-Pass measures, each measure is assigned a point value. A practice must meet the following point allocation criteria to be recognized as a PCPCH:

(a) Tier 1: 30–60 points and all 11 Must-Pass Measures

(b) Tier 2: 65–125 points and all 11 Must-Pass Measures

(c) Tier 3: 130 points–250 points and all 11 Must-Pass Measures

(d) Tier 4: 255–390 points and all 11 Must-Pass Measures

(5) The Authority may designate a practice as a Tier 5 STAR Patient-Centered Primary Care Home for implementing multiple advanced PCPCH criteria as described in OAR 409-055-0045.

(6) The Authority shall calculate a practice’s point score through the recognition process described in OAR 409-055-0030.

(7) Table 1, incorporated by reference, contains the detailed list of Measures and corresponding point assignments.

(8) Table 2, incorporated by reference, contains a detailed list of the PCPCH Quality Measures.

(9) Measure specifications, thresholds for demonstrating improvement, and benchmarks for quantitative data elements are available on the Program website.

(10) National Committee for Quality Assurance (NCQA) recognition shall be acknowledged in the Authority’s PCPCH recognition process; however, a practice is not required to use its NCQA recognition to meet the Oregon PCPCH standards. A practice that does not wish to use its NCQA recognition to meet the Oregon PCPCH standards must indicate so during the PCPCH application process and submit a complete PCPCH application.

(11) A practice seeking Oregon PCPCH Tier 1, 2 or 3 recognition based on its NCQA recognition must:

(a) Submit a PCPCH application and evidence of its NCQA recognition along with its application;

(b) Comply with Table 3, incorporated by reference, for NCQA PCMH practices using 2011 and 2014 NCQA criteria.

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(12) A practice seeking Oregon PCPCH Tier 4 or 5 STAR recognition based on its NCQA recognition must submit a complete PCPCH application.

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

Stat. Auth: ORS 413.042, 413.259 & 414.655

Stats. Implemented: ORS 413.259, 413.260 & 414.655

Hist.: OHP 6-2011(Temp), f. 9-29-11, cert. ef. 10-1-11 thru 3-15-12; OHP 2-2012, f. 2-29-12, cert. ef. 3-1-12; OHP 9-2013, f. 10-1-13, cert. ef. 1-1-14; OHP 2-2015, f. 1-16-15, cert. ef. 2-1-15; OHP 10-2015(Temp), f. 12-29-15, cert. ef. 1-1-16 thru 6-24-16; OHP 9-2016, f. & cert. ef. 5-13-16

409-055-0045

3 STAR Designation

(1) The Authority shall award 5 STAR designations to practices implementing multiple advanced PCPCH measures.

(2) A practice seeking 5 STAR designation, must meet the following criteria:

(a) Be recognized as a Tier 4 PCPCH under the Measures in Table 1, adopted and incorporated by reference;

(b) Attest to 255 points or more on the PCPCH application; and

(c) Attest to 11 or more of the 13 PCPCH Measures in Table 4, adopted and incorporated by reference.

(3) The Authority shall review PCPCH applications of practices attesting to the Measures in Table 1, to determine which practices meet the criteria in section (2) of this rule

(4) The Authority shall notify a practice meeting 5 STAR designation criteria in writing of their eligibility.

(5) The Authority shall contact the eligible practice to schedule an on-site verification visit as described in OAR 409-055-0060.

(6) A practice seeking 5 STAR designation must comply with an on-site verification site visit.

(7) The Authority shall award 5 STAR designation to a practice after verifying the practice meets all 5 STAR designation criteria.

(8) 5 STAR designation is valid for the duration of the practice's current PCPCH recognition as described in OAR 409-055-0030(7).

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

Stat. Auth: ORS 413.042, 413.259 & 414.655

Stats. Implemented: ORS 413.259, 413.260 & 414.655

Hist.: OHP 2-2015, f. 1-16-15, cert. ef. 2-1-15; OHP 9-2016, f. & cert. ef. 5-13-16

409-055-0050

Data Reporting Requirements for Recognized PCPCHs

(1) To be recognized as a PCPCH, a practice must attest to meeting the criteria and submit quantitative data elements to support its attestation in accordance with Tables 1 & 2, incorporated by reference.

(2) Quantitative data shall be aggregated at the practice level, not the individual patient level, and a practice may not transfer any personal health information to the Authority during the PCPCH application process.

(3) PCPCHs must submit new quantitative and attestation data as a part of the recognition renewal process and must use the specifications found on the Program website for calculating application data.

(4) If approved by the practice, other entities may submit information on behalf of a practice, as long as appropriate practice staff has reviewed all application information and data prior to submission.

(5) A practice may request an exception to any of the quantitative data reporting requirements in Table 2 or the Must-Pass criteria by submitting a form prescribed by the program. The Authority may grant exceptions for good cause shown.

(6) Practices are required to submit 12 months of quantitative data in order to meet standards 2.A., 4.A., and 4.B. A practice may request an exception to the 12 month data reporting period by submitting a form prescribed by the program. The Authority may grant exceptions for good cause shown.

(7) The Authority shall notify the practice within 60 days of complete application and exception submission whether or not the requested exception has been granted.

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

Stat. Auth: ORS 413.042, 413.259 & 414.655

Stats. Implemented: ORS 413.259, 413.260 & 414.655

Hist.: OHP 6-2011(Temp), f. 9-29-11, cert. ef. 10-1-11 thru 3-15-12; OHP 2-2012, f. 2-29-12, cert. ef. 3-1-12; OHP 9-2013, f. 10-1-13, cert. ef. 1-1-14; OHP 9-2016, f. & cert. ef. 5-13-16

409-055-0060

Verification

(1) The Authority shall conduct at least one on-site verification review of each recognized PCPCH to determine compliance with PCPCH criteria every five years and at such other times as the Authority deems necessary or at the request of the Health Systems Division (Division), or any other

applicable program within the Authority. The purpose of the review is to verify reported attestation and quantitative data elements for the purposes of confirming recognition and Tier level.

(2) PCPCHs selected for verification shall be notified no less than 30 days prior to the scheduled review.

(3) PCPCHs shall permit Authority staff access to the practice's place of business during the review.

(4) A verification review may include but is not limited to:

(a) Review of documents and records.

(b) Review of patient medical records.

(c) Review of electronic medical record systems, electronic health record systems, and practice management systems.

(d) Review of data reports from electronic systems or other patient registry and tracking systems.

(e) Interviews with practice management, clinical and administrative staff.

(f) On-site observation of practice staff.

(g) On-site observation of patient environment and physical environment.

(5) Following a review, Authority staff may conduct an exit conference with the PCPCH representatives. During the exit conference Authority staff shall:

(a) Inform the PCPCH representative of the preliminary findings of the review; and

(b) Give the PCPCH a reasonable opportunity to submit additional facts or other information to the Authority staff in response to those findings.

(6) Following the review, Authority staff shall prepare and provide the PCPCH specific and timely written notice of the findings.

(7) If the findings result in a referral to the Division pursuant to OAR 409-055-0070, Authority staff shall submit the applicable information to the Division for its review and determination of appropriate action.

(8) If no deficiencies are found during a review, the Authority shall issue written findings to the PCPCH indicating that fact.

(9) If deficiencies are found, the Authority shall take informal or formal enforcement action pursuant to OAR 409-055-0070.

(10) The Authority may share application information and content submitted by practices and verification findings with managed or coordinated care plans, and insurance carriers.

Stat. Auth: ORS 413.042, 413.259 & 414.655

Stats. Implemented: ORS 413.259, 413.260 & 414.655

Hist.: OHP 6-2011(Temp), f. 9-29-11, cert. ef. 10-1-11 thru 3-15-12; OHP 2-2012, f. 2-29-12, cert. ef. 3-1-12; OHP 9-2013, f. 10-1-13, cert. ef. 1-1-14; OHP 10-2015(Temp), f. 12-29-15, cert. ef. 1-1-16 thru 6-24-16; OHP 9-2016, f. & cert. ef. 5-13-16

409-055-0070

Compliance

(1) If the Authority finds that the practice is not in compliance with processes as attested to, the Authority shall issue a written warning requiring the practice to submit an improvement plan within 90 days of the date of the written warning. The improvement plan must include a description of the practice's plan and timeline to correct the deficiency and proposed documentation or other demonstration that would verify the practice is in compliance.

(2) The Authority shall review the improvement plan and any documentation the practice submits in accordance with the deficiency, and if remedied, no further action shall be taken.

(3) If a practice fails to submit the improvement plan or move into compliance within 90 days of the date of the written warning, the Authority may issue a letter of non-compliance and amend the practice's PCPCH recognition to reflect the appropriate Tier level or revoke its PCPCH status.

(4) If the Authority amends a practice's tier level or revokes PCPCH status this information shall be made available to the Health Systems Division(Division), the coordinated care or managed care plans, and insurance carriers.

(5) A practice that has had its PCPCH status revoked may have it reissued after reapplying for recognition and when the Authority determines that compliance with PCPCH sStandards has been achieved satisfactorily.

(6) In order for the Authority to receive federal funding for Medicaid clients receiving services through a PCPCH, documentation of certain processes are required by the Centers for Medicare and Medicaid Services. Documentation requirements can be found in OAR 410-141-0860. If non-compliance is due to lack of service documentation required pursuant to OAR 410-141-0860, a referral may be made to the Division.

(7) If the Authority finds a lack of documentation pursuant to OAR 410-141-0860 to support the authorized tier level, the Authority may make

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a referral to the Division and may conduct an audit pursuant to OAR 943-120-1505.

Stat. Auth: ORS 413.042, 413.259 & 414.655
Stats. Implemented: ORS 413.259, 413.260 & 414.655
Hist.: OHP 6-2011(Temp), f. 9-29-11, cert. ef. 10-1-11 thru 3-15-12; OHP 2-2012, f. 2-29-12, cert. ef. 3-1-12; OHP 9-2013, f. 10-1-13, cert. ef. 1-1-14; OHP 10-2015(Temp), f. 12-29-15, cert. ef. 1-1-16 thru 6-24-16; OHP 9-2016, f. & cert. ef. 5-13-16

409-055-0080

Insurance Carrier, Managed Care Plan, and Public Stakeholder Communication

(1) The Authority shall develop a system for making recognized PCPCH Tier status recognition information available to insurance carriers and managed care organizations.

(2) The Authority shall maintain and update monthly the recognized PCPCH Tier status lists.

(3) The Authority shall develop a system for making recognized PCPCH practice names available to the general public through the Program website.

(4) Practices that do not wish to have their name listed on the publicly available list must send an e-mail to PCPCH@state.or.us with the title "opt-out" in the subject line within 10 business days of receiving confirmation of Tier status pursuant to OAR 409-055-0040.

Stat. Auth: ORS 413.042, 413.259 & 414.655
Stats. Implemented: ORS 413.259, 413.260 & 414.655
Hist.: OHP 6-2011(Temp), f. 9-29-11, cert. ef. 10-1-11 thru 3-15-12; OHP 2-2012, f. 2-29-12, cert. ef. 3-1-12; OHP 9-2016, f. & cert. ef. 5-13-16

409-055-0090

Reimbursement Objectives

(1) One objective of these standards is to facilitate appropriate reimbursement for PCPCHs consistent with their recognized Tier levels. The standards and Tier recognition process established in this rule are consistent with statutory objectives to align financial incentives to support utilization of PCPCHs, in recognition of the standards that are required to be met at different Tiers.

(2) Managed care plans and insurance carriers may obtain from the Authority the Tier level recognition of any practice.

(3) Within applicable programs, the Authority shall develop and implement reimbursement methodologies that reimburse practices based on recognition of Tier level, taking into consideration incurred practice costs for meeting the Tier criteria.

Stat. Auth: ORS 413.042, 413.259 & 414.655
Stats. Implemented: ORS 413.259, 413.260 & 414.655
Hist.: OHP 2-2012, f. 2-29-12, cert. ef. 3-1-12; OHP 9-2016, f. & cert. ef. 5-13-16

Oregon Health Authority,

Health Systems Division: Medical Assistance Programs

Chapter 410

Rule Caption: Incorporate Code Set and HERC Changes into List of Billing Codes Not Covered by OHP

Adm. Order No.: DMAP 17-2016

Filed with Sec. of State: 4-28-2016

Certified to be Effective: 5-1-16

Notice Publication Date: 4-1-2016

Rules Amended: 410-130-0220

Rules Repealed: 410-130-0220(T)

Subject: This rule lists billing codes for which the OHP FFS will not make payment. Codes are included in this rule for three reasons: (1) They are for services that are not covered under any OHP benefit plan; (2) They are codes for which payment is bundled under another billing code; and (3) They are services for which OHP requires a different but equivalent code for payment. For example, the billing codes for cosmetic procedures are included in this rule because they are not covered services. The billing code for surgical trays are also included because payment for trays is bundled under the surgery code.

The changes to this rule are to incorporate changes in the national code sets and changes from HERC. Codes that have been terminated from the national code set are being removed. Codes that HERC newly recommended for non-coverage are being added. Codes that will newly be bundled for payment under our adopted payment methodology are being added. Added codes will not be eligible for payment under the FFS program.

Rules Coordinator: Sandy Cafourek—(503) 945-6430

410-130-0220

Not Covered/Bundled Services/Not Valid

(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 in this rule for additional information regarding not covered services, for services that the Division considers to be bundled in other services, and for codes the Division considers not valid for claims processing.

(2) For additional information, see General Rules OAR 410-120-1200, Medical Assistance Benefits: Excluded Services and Limitations.

(3) Table 130-0220-1.

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

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 414.025 & 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), 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; DMAP 20-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 18-2009, f. 6-12-09, cert. ef. 7-1-09; DMAP 15-2010, f. 6-10-10, cert. ef. 7-1-10; DMAP 43-2011, f. 12-21-11, cert. ef. 1-1-12; DMAP 55-2014(Temp), f. 9-26-14, cert. ef. 10-1-14 thru 3-30-15; DMAP 84-2014(Temp), f. & cert. ef. 12-24-14 thru 3-30-15; DMAP 13-2015, f. & cert. ef. 3-10-15; DMAP 30-2015(Temp), f. & cert. ef. 5-29-15 thru 11-24-15; DMAP 63-2015, f. 10-29-15, cert. ef. 11-1-15; DMAP 13-2016(Temp), f. & cert. ef. 3-4-16 thru 8-30-16; DMAP 17-2016, f. 4-28-16, cert. ef. 5-1-16

Rule Caption: Amending PDL November 19, 2015, January 28, 2016 DUR/P&T Action

Adm. Order No.: DMAP 18-2016(Temp)

Filed with Sec. of State: 4-28-2016

Certified to be Effective: 5-1-16 thru 6-28-16

Notice Publication Date:

Rules Amended: 410-121-0030

Subject: The Pharmaceutical Services Program administrative rules (Division 121) govern Division payments for services provided to certain clients. The Division needs to amend rules as follows:

410-121-0030:

Preferred:

Budesonide.

Exenatide Pen Injector.

Guaifenesin (Mucinex™).

Daclatasvir Dihydrochloride .

Elviteg/ Cobi/ Emtric/ Tenofo Ala (Genvoya™).

Rivaroxaban (Xarelto™).

Insulin Lispro Protamin / Lispro.

Non-Preferred:

Ciclesonide Nasal Spray/ Pump.

Ombita/ Paritap/ Riton/ Dasabuvir (Viekira Pak™).

Amantadine HCL.

Rimantadine HCL.

Bupropion HCL.

Amphetamine Sulfate.

Tobramycin.

TOBI.

Due to changes in supplemental rebate contracts, the following changes were made:

Removed Pegasys™ .

Added Sovaldi™ .

Added Evotaz™ .

Added Eliquis™ .

Added Pradaxa™ .

Removed AndrogeI™ .

Added Janumet™ .

Removed Humalog™ .

Removed Humalog Mix 50/50™ .

Removed Humalog Mix 75/25™ .

Removed Humulin R™ .

Removed Humulin N™ .

Removed Humulin 70/30™ .

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Removed Makena™ .
Removed Apriso™ .
Removed Exelon™ .
Removed Capaxone™ .
Removed Avonex™ .
Removed Betaseron™ .
Removed Stalevo™ .
Removed Zubsolv™ .
Removed Bethkis™ .
Added Renagel™ .

Clerical — Various clerical changes were made to system class, drug and form names.

Rules Coordinator: Sandy Cafourek—(503) 945-6430

410-121-0030

Practitioner-Managed Prescription Drug Plan

(1) The Practitioner-Managed Prescription Drug Plan (PMPDP) is a plan that ensures that OHP fee-for-service clients have access to the most effective prescription drugs appropriate for their clinical conditions at the best possible price:

(a) Licensed health care practitioners who are informed by the latest peer reviewed research make decisions concerning the clinical effectiveness of the prescription drugs;

(b) Licensed health care practitioners also consider the client's health condition, personal characteristics, and the client's gender, race, or ethnicity.

(2) PMPDP Preferred Drug List (PDL):

(a) The PDL is the primary tool the Division uses to inform licensed health care practitioners about the results of the latest peer-reviewed research and cost effectiveness of prescription drugs;

(b) The PDL contains a list of prescription drugs that the Division, in consultation with the Drug Use Review (DUR)/Pharmacy & Therapeutics Committee (P&T), has determined represent the most effective drugs available at the best possible price;

(c) The PDL shall include drugs that are Medicaid reimbursable and the Food and Drug Administration (FDA) has determined to be safe and effective.

(3) PMPDP PDL Selection Process:

(a) The Division shall utilize the recommendations made by the P&T that result from an evidence-based evaluation process as the basis for selecting the most effective drugs;

(b) The Division shall ensure the drugs selected in section (3)(a) that are available for the best possible price and shall consider any input from the P&T about other FDA-approved drugs in the same class that are available for a lesser relative price. The Division shall determine relative price using the methodology described in section (4);

(c) The Division shall evaluate selected drugs for the drug classes periodically:

(A) The Division may evaluate more frequently if new safety information or the release of new drugs in a class or other information makes an evaluation advisable;

(B) New drugs in classes already evaluated for the PDL shall be non-preferred until the new drug has been reviewed by the P&T;

(C) The Division shall make all revisions to the PDL using the rule-making process and shall publish the changes on the Division's Pharmaceutical Services provider rules website.

(4) Relative cost and best possible price determination:

(a) The Division shall 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) The Division may also consider dosing issues, patterns of use, and compliance issues. The Division shall weigh these factors with any advice provided by the P&T in reaching a final decision.

(5) Pharmacy providers shall dispense prescriptions in the generic form unless:

(a) The practitioner requests otherwise pursuant to OAR 410-121-0155;

(b) The Division notifies the pharmacy that the cost of the brand name particular drug, after receiving discounted prices and rebates, is equal to or less than the cost of the generic version of the drug.

(6) The exception process for obtaining non-preferred physical health drugs that are not on the PDL drugs shall be as follows:

(a) If the prescribing practitioner in their professional judgment wishes to prescribe a physical health drug not on the PDL, they may request an exception subject to the requirements of OAR 410-121-0040;

(b) The prescribing practitioner must request an exception for physical health drugs not listed in the PDL subject to the requirements of OAR 410-121-0060;

(c) Exceptions shall be granted when:

(A) The prescriber in their professional judgment determines the non-preferred drug is medically appropriate after consulting with the Division or the Oregon Pharmacy Call Center; or

(B) Where the prescriber requests an exception subject to the requirement of section (6)(b) and fails to receive a report of PA status within 24 hours, subject to OAR 410-121-0060.

(7) Table 121-0030-1, PMPDP PDL dated May 1, 2016, is adopted and incorporated by reference and is found at: www.orpd.org.

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

Stat. Auth.: ORS 413.032, 413.042, 414.065, 414.325, 414.330 to 414.414, 414.312 & 414.316

Stats. Implemented: ORS 414.065; 414.325, 414.334, 414.361, 414.369, 414.371, 414.353 & 414.354

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. 4-1-04; 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 8-2005, 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; DMAP 16-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 36-2008, f. 12-11-08, cert. ef. 1-1-09; DMAP 39-2009, f. 12-15-09, cert. ef. 1-1-10; DMAP 17-2010, f. 6-15-10, cert. ef. 7-1-10; DMAP 40-2010, f. 12-28-10, cert. ef. 1-1-11; DMAP 2-2011(Temp), f. & cert. ef. 3-1-11 thru 8-20-11; DMAP 19-2011, f. 7-15-11, cert. ef. 7-17-11; DMAP 44-2011, f. 12-21-11, cert. ef. 1-1-12; DMAP 12-2012(Temp), f. & cert. ef. 3-16-12 thru 9-11-12; DMAP 18-2012, f. 3-30-12, cert. ef. 4-9-12; DMAP 26-2012, f. & cert. ef. 5-14-12; DMAP 29-2012, f. & cert. ef. 6-21-12; DMAP 33-2012(Temp), f. 7-18-12, cert. ef. 7-23-12 thru 1-18-13; DMAP 40-2012(Temp), f. & cert. ef. 8-20-12 thru 1-18-13; DMAP 44-2012(Temp), f. & cert. ef. 9-26-12 thru 1-18-13; DMAP 61-2012, f. 12-27-12, cert. ef. 1-1-13; DMAP 6-2013(Temp), f. & cert. ef. 2-21-13 thru 8-19-13; DMAP 23-2013(Temp), f. 4-30-13, cert. ef. 5-1-13 thru 8-19-13; Administrative correction, 7-18-13; DMAP 43-2013, f. & cert. ef. 8-16-13; DMAP 76-2013(Temp), f. 12-31-13, cert. ef. 1-1-14 thru 6-30-14; DMAP 1-2014(Temp), f. & cert. ef. 1-10-14 thru 7-9-14; DMAP 15-2014, f. & cert. ef. 3-21-14 thru 9-17-14; DMAP 28-2014(Temp), f. & cert. ef. 5-2-14 thru 6-30-14; DMAP 37-2014, f. & cert. ef. 6-30-14; DMAP 47-2014(Temp), f. & cert. ef. 7-15-14 thru 1-11-15; DMAP 52-2014(Temp), f. & cert. ef. 9-16-14 thru 1-11-15; DMAP 64-2014(Temp), f. 10-24-14, cert. ef. 10-29-14 thru 12-30-14; DMAP 77-2014, f. & cert. ef. 12-12-14; DMAP 78-2014(Temp), f. & cert. ef. 12-12-14 thru 6-9-15; DMAP 88-2014(Temp), f. 12-31-14, cert. ef. 1-1-15 thru 6-29-15; DMAP 10-2015(Temp), f. & cert. ef. 3-3-15 thru 8-29-15; DMAP 26-2015(Temp), f. 4-17-15, cert. ef. 4-18-15 thru 6-26-15; DMAP 35-2015, f. 6-25-15, cert. ef. 6-26-15; DMAP 37-2015(Temp), f. & cert. ef. 7-1-15 thru 12-27-15; DMAP 57-2015(Temp), f. 9-30-15, cert. ef. 10-1-15 thru 12-27-15; DMAP 64-2015(Temp), f. & cert. ef. 11-3-15 thru 12-27-15; DMAP 66-2015(Temp), f. & cert. ef. 11-6-15 thru 12-27-15; DMAP 79-2015, f. 12-22-15, cert. ef. 12-27-15; DMAP 84-2015(Temp), f. 12-23-15, cert. ef. 1-1-16 thru 6-28-16; DMAP 18-2016(Temp), f. 4-28-16, cert. ef. 5-1-16 thru 6-28-16

Rule Caption: Amending Prior Authorization Approval Criteria Guide

Adm. Order No.: DMAP 19-2016(Temp)

Filed with Sec. of State: 4-28-2016

Certified to be Effective: 5-1-16 thru 6-28-16

Notice Publication Date:

Rules Amended: 410-121-0040

Subject: The Pharmaceutical Services Program administrative rules (Division 121) govern Division payments for services provided to certain clients. The Division needs to amend rules as follows: The Authority is amending this rule to update the Oregon Medicaid Fee for Service Prior Authorization Criteria Guide found at <http://www.oregon.gov/oha/healthplan/Pages/pharmacy-policy.aspx> based on the P&T (Pharmacy and Therapeutic) Committee recommendations.

Rules Coordinator: Sandy Cafourek—(503) 945-6430

410-121-0040

Prior Authorization Required for Drugs and Products

(1) Prescribing practitioners shall obtain prior authorization (PA) for the drugs and categories of drugs requiring PA in this rule, using the procedures set forth 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 shall meet the following requirements for coverage:

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(a) Each drug shall be prescribed for conditions funded by the Oregon Health Plan (OHP) in a manner consistent with the Health Evidence Review Commission (HERC) Prioritized List of Health Services (OAR 410-141-0480 through 410-141-0520). If the medication is for a non-covered diagnosis, the medication may not be covered unless there is a comorbid condition for which coverage would be allowed. The use of the medication shall meet corresponding treatment guidelines and be included within the client's benefit package of covered services and not otherwise excluded or limited;

(b) Each drug shall 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 Authority 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 that the Authority requires PA for this purpose are found in the Oregon Medicaid Fee-for-Service Prior Authorization Approval Criteria (PA Criteria guide) dated May 1, 2016, adopted and incorporated by reference and found at: <http://www.oregon.gov/OHA/healthplan/pages/pharmacy-policy.aspx>.

(4) The Authority 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 Pharmacy & Therapeutics Committee (P&T) and adopted by the Authority in this rule. The drugs and categories of drugs for which the Authority requires PA for this purpose are found in the Pharmacy PA Criteria Guide.

(5) New drugs shall be evaluated when added to the weekly upload of the First Databank drug file:

(a) If the new drug is in a class where current PA criteria apply, all associated PA criteria shall be required at the time of the drug file load;

(b) If the new drug is indicated for a condition below the funding line on the Prioritized List of Health Services, PA shall be required to ensure that the drug is prescribed for a condition funded by OHP;

(c) PA criteria for all new drugs shall be reviewed by the DUR/P&T Committee.

(6) PA shall be obtained for brand name drugs that have two or more generically equivalent products available and that are not determined Narrow Therapeutic Index drugs by the DUR/P&T Committee:

(a) Immunosuppressant drugs used in connection with an organ transplant shall be evaluated for narrow therapeutic index within 180 days after United States patent expiration;

(b) Manufacturers of immunosuppressant drugs used in connection with an organ transplant shall notify the Authority of patent expiration within 30 days of patent expiration for section (5)(a) to apply;

(c) Criteria for approval are:

(A) If criteria established in section (3) or (4) of this rule applies, follow that criteria;

(B) If section (6)(A) does not apply, the prescribing practitioner shall 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.

(7) PA shall be obtained for non-preferred Preferred Drug List (PDL) products in a class evaluated for the PDL except in the following cases:

(a) The drug is a mental health drug as defined in OAR 410-121-0000;

(b) The original prescription is written prior to 1/1/10;

(c) The prescription is a refill for the treatment of seizures, cancer, HIV, or AIDS; or

(d) The prescription is a refill of an immunosuppressant.

(8) PA may not be required:

(a) When the prescription ingredient cost plus the dispensing fee is less than the PA processing fees as determined by the Authority;

(b) For over-the-counter (OTC) covered drugs when prescribed for conditions covered under OHP; or

(c) If a drug is in a class not evaluated from the Practitioner-Managed Prescription Drug Plan under ORS 414.334.

Stat. Auth.: ORS 413.032, 413.042, 414.065, 414.330 to 414.414, 414.312 & 414.316

Stats. Implemented: 414.065, 414.334, 414.361, 414.371, 414.353 & 414.354

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. 10-1-02; 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; DMAP 26-2007, f. 12-11-07, cert. ef. 1-1-08; DMAP 9-2008, f. 3-31-08, cert. ef. 4-1-08; DMAP 16-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 34-2008, f. 11-26-08, cert. ef. 12-1-08; DMAP 14-2009, f. 6-12-09, cert. ef. 7-1-09; DMAP 39-2009, f. 12-15-09, cert. ef. 1-1-10; DMAP 17-2010, f. 6-15-10, cert. ef. 7-1-10; DMAP 40-2010, f. 12-28-10, cert. ef. 1-1-11; DMAP 27-2011(Temp), f. & cert. ef. 9-30-11 thru 3-15-12; DMAP 44-2011, f. 12-21-11, cert. ef. 1-1-12; DMAP 12-2012(Temp), f. & cert. ef. 3-16-12 thru 9-11-12; DMAP 18-2012, f. 3-30-12, cert. ef. 4-9-12; DMAP 23-2012(Temp), f. & cert. ef. 4-20-12 thru 10-15-12; DMAP 27-2012(Temp), f. & cert. ef. 5-14-12 thru 10-15-12; DMAP 29-2012, f. & cert. ef. 6-21-12; DMAP 33-2012(Temp), f. 7-18-12, cert. ef. 7-23-12 thru 1-18-13; DMAP 40-2012(Temp), f. & cert. ef. 8-20-12 thru 1-18-13; DMAP 44-2012(Temp), f. & cert. ef. 9-26-12 thru 1-18-13; DMAP 61-2012, f. 12-27-12, cert. ef. 1-1-13; DMAP 6-2013(Temp), f. & cert. ef. 2-21-13 thru 8-19-13; DMAP 23-2013(Temp), f. 4-30-13, cert. ef. 5-1-13 thru 8-19-13; Administrative correction, 7-18-13; DMAP 43-2013, f. & cert. ef. 8-16-13; DMAP 76-2013(Temp), f. 12-31-13, cert. ef. 1-1-14 thru 6-30-14; DMAP 14-2014(Temp), f. & cert. ef. 3-21-14 thru 9-17-14; DMAP 27-2014(Temp), f. & cert. ef. 5-2-14 thru 6-30-14; DMAP 38-2014, f. & cert. ef. 6-30-14; DMAP 46-2014(Temp), f. & cert. ef. 7-15-14 thru 1-11-15; DMAP 49-2014(Temp), f. & cert. ef. 8-13-14 thru 1-11-15; DMAP 62-2014(Temp), f. 10-13-14, cert. ef. 10-14-14 thru 1-11-15; DMAP 75-2014, f. & cert. ef. 12-12-14; DMAP 76-2014(Temp), f. & cert. ef. 12-12-14 thru 6-7-15; DMAP 89-2014(Temp), f. 12-31-14, cert. ef. 1-1-15 thru 6-26-15; DMAP 4-2015(Temp), f. & cert. ef. 2-3-15 thru 6-26-15; DMAP 25-2015(Temp), f. 4-17-15, cert. ef. 4-18-15 thru 6-26-15; DMAP 34-2015, f. 6-25-15, cert. ef. 6-26-15; DMAP 36-2015(Temp), f. 6-26-15, cert. ef. 7-1-15 thru 12-27-15; DMAP 41-2015(Temp), f. & cert. ef. 8-7-15 thru 2-2-16; DMAP 44-2015(Temp), f. 8-21-15, cert. ef. 8-25-15 thru 12-27-15; DMAP 58-2015(Temp), f. & cert. ef. 10-9-15 thru 12-27-15; DMAP 80-2015, f. 12-23-15, cert. ef. 12-27-15; DMAP 83-2015(Temp), f. 12-23-15, cert. ef. 1-1-16 thru 6-28-16; DMAP 6-2016(Temp), f. 2-11-16, cert. ef. 2-12-16 thru 6-28-16; DMAP 19-2016(Temp), f. 4-28-16, cert. ef. 5-1-16 thru 6-28-16

Rule Caption: Change of Coverage Date for Prioritized List of Health Services

Adm. Order No.: DMAP 20-2016(Temp)

Filed with Sec. of State: 5-6-2016

Certified to be Effective: 5-10-16 thru 11-5-16

Notice Publication Date:

Rules Amended: 410-123-1220

Subject: The Authority needs to update this rule to reference a newer version, changing from October 1, 2015, to January 1, 2016.

Rules Coordinator: Sandy Cafourek—(503) 945-6430

410-123-1220

Coverage According to the Prioritized List of Health Services

(1) This rule incorporates by reference the "Covered and Non-Covered Dental Services" document dated January 1, 2016, and located on the Health System Division, Medical Assistance Programs (Division) website at: <http://www.oregon.gov/oha/healthplan/Pages/dental.aspx>.

(a) The "Covered and Non-Covered Dental Services" document lists coverage of Current Dental Terminology (CDT) procedure codes according to the Oregon Health Evidence Review Commission (HERC) Prioritized List of Health Services (Prioritized List) and the client's specific Oregon Health Plan benefit package;

(b) This document is subject to change if there are funding changes to the Prioritized List.

(2) Changes to services funded on the Prioritized List are effective on the date of the Prioritized List change:

(a) The Division administrative rules (chapter 410, division 123) will not reflect the most current Prioritized List changes until they have gone through the Division rule filing process;

(b) For the most current Prioritized List, refer to the HERC website at www.oregon.gov/oha/herc/Pages/PrioritizedList.aspx;

(c) In the event of an alleged variation between a Division-listed code and a national code, the Division shall apply the national code in effect on the date of request or date of service.

(3) Refer to OAR 410-123-1260 for information about limitations on procedures funded according to the Prioritized List. Examples of limitations include frequency and client's age.

(4) The Prioritized List does not include or fund the following general categories of dental services, and the Division does not cover them for any client. Several of these services are considered elective or "cosmetic" in nature (i.e., done for the sake of appearance):

(a) Desensitization;

(b) Implant and implant services;

(c) Mastique or veneer procedure;

(d) Orthodontia (except when it is treatment for cleft palate);

(e) Overhang removal;

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(f) Procedures, appliances, or restorations solely for aesthetic or cosmetic purposes;

(g) Temporomandibular joint dysfunction treatment; and

(h) Tooth bleaching.

Stat. Auth.: ORS 413.042 & 414.065

Stats. Implemented: ORS 414.065

Hist.: HR 3-1994, f. & cert. ef. 2-1-94; HR 21-1994(Temp), f. 4-29-94, cert. ef. 5-1-94; HR 32-1994, f. & cert. ef. 11-1-94; HR 20-1995, f. 9-29-95, cert. ef. 10-1-95; HR 9-1996, f. 5-31-96, cert. ef. 6-1-96; OMAP 13-1998(Temp), f. & cert. ef. 5-1-98 thru 9-1-98; OMAP 28-1998, f. & cert. ef. 9-1-98; OMAP 23-1999, f. & cert. ef. 4-30-99; OMAP 8-2000, f. 3-31-00, cert. ef. 4-1-00; OMAP 17-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 48-2002, f. & cert. ef. 10-1-02; OMAP 3-2003, f. 1-31-03, cert. ef. 2-1-03; OMAP 65-2003, f. 9-10-03 cert. ef. 10-1-03; DMAP 25-2007, f. 12-11-07, cert. ef. 1-1-08; DMAP 38-2008, f. 12-11-08, cert. ef. 1-1-09; DMAP 16-2009 f. 6-12-09, cert. ef. 7-1-09; DMAP 41-2009, f. 12-15-09, cert. ef. 1-1-10; DMAP 14-2010, f. 6-10-10, cert. ef. 7-1-10; DMAP 31-2010, f. 12-15-10, cert. ef. 1-1-11; DMAP 17-2011, f. & cert. ef. 7-12-11; DMAP 41-2011, f. 12-21-11, cert. ef. 1-1-12; DMAP 46-2011, f. 12-23-11, cert. ef. 1-1-12; DMAP 13-2013, f. 3-27-13, cert. ef. 4-1-13; DMAP 7-2015(Temp), f. & cert. ef. 2-17-15 thru 8-15-15; DMAP 28-2015, f. & cert. ef. 5-1-15; DMAP 46-2015(Temp), f. 8-26-15, cert. ef. 10-1-15 thru 3-28-16; DMAP 65-2015, f. 11-3-15, cert. ef. 12-1-15; DMAP 20-2016(Temp), f. 5-6-16, cert. ef. 5-10-16 thru 11-5-16

Rule Caption: EHR IP Rule Updates Following Federal Rule Update

Adm. Order No.: DMAP 21-2016(Temp)

Filed with Sec. of State: 5-11-2016

Certified to be Effective: 5-13-16 thru 11-8-16

Notice Publication Date:

Rules Amended: 410-165-0000, 410-165-0020, 410-165-0040, 410-165-0060, 410-165-0080, 410-165-0100, 410-165-0120, 410-165-0140

Subject: The Division needs to amend these rules because the Centers for Medicare and Medicaid Services (CMS) released a final rule that specifies criteria that eligible professionals (EPs) and eligible hospitals must meet in order to participate in the Medicaid Electronic Health Record (EHR) Incentive Programs. Updates to the Oregon Administrative Rules align with these changes. The CMS final rule became effective on December 15, 2015, and impacts providers for program years 2015 and later. There are also minor clarifications to wording throughout the rule. The temporary rule is due to the effective date of the CMS rule. A permanent rule is being filed as well.

Rules Coordinator: Sandy Cafourek—(503) 945-6430

410-165-0000

Basis and Purpose

(1) These rules (OAR chapter 410, division 165) govern the Oregon Health Authority (Authority), Health Systems Division, Medical Assistance Programs (Division), Medicaid Electronic Health Record (EHR) Incentive Program. The Medicaid EHR Incentive Program provides incentive payments consistent with federal law concerning such payments to eligible providers participating in the Medicaid program who adopt, implement, upgrade, or successfully demonstrate meaningful use of certified EHR technology and who are qualified by the program.

(2) The Medicaid EHR Incentive Program is implemented pursuant to:

(a) The American Reinvestment and Recovery Act of 2009, Pub. L. No. 111-5, section 4201;

(b) The Centers for Medicare and Medicaid Services (CMS) federal regulation 42 CFR Part 495 (2010, 2012, 2014, and 2015) pursuant to the Social Security Act sections 1903(a)(3)(F) and 1903(t);

(c) The Division's General Rules program, OAR chapter 410, division 120;

(d) The Authority's Provider Rules, OAR chapter 943, division 120.

(3) The following retroactive effective dates apply to these rules:

(a) For all sections in these rules that refer to CMS federal regulation 42 CFR Part 495 (2015), the effective date is December 15, 2015;

(b) For all sections and references in these rules that refer to CMS federal regulation 42 CFR Part 495 (2014), the effective date is October 1, 2014;

(c) For eligible hospitals, except for sections and references in these rules applicable under section (3)(a) or (b) above, the effective date is October 1, 2013, which is also the start date for program year 2014;

(d) For eligible professionals, except for sections and references in these rules applicable under section (3)(a) or (b) above, the effective date is January 1, 2014, which is also the start date for program year 2014.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 413.042 & 414.033

Hist.: DMAP 13-2011, f. 6-29-11, cert. ef. 7-1-11; DMAP 20-2013(Temp), f. & cert. ef. 4-26-13 thru 10-23-13; DMAP 56-2013, f. & cert. ef. 10-22-13; DMAP 2-2015(Temp), f. 1-30-

15, cert. ef. 2-3-15 thru 8-1-15; DMAP 20-2015, f. & cert. ef. 4-8-15; DMAP 21-2016(Temp), f. 5-11-16, cert. ef. 5-13-16 thru 11-8-16

410-165-0020

Definitions

The following definitions apply to OAR 410-165-0010 through 410-165-0140:

(1) "Acceptance documents" means written evidence supplied by a provider demonstrating that the provider met Medicaid EHR Incentive Program eligibility criteria or participation requirements according to standards specified by the Division.

(2) "Acute care hospital" means a healthcare facility including, but not limited to, a critical access hospital with a Centers for Medicare and Medicaid Services' (CMS) certification number (CCN) that ends in 0001-0879 or 1300-1399 and where the average length of patient stay is 25 days or fewer.

(3) "Adopt, implement, or upgrade" means:

(a) Acquire, purchase, or secure access to certified EHR technology capable of meeting meaningful use requirements;

(b) Install or commence utilization of certified EHR technology capable of meeting meaningful use requirements; or

(c) Expand the available functionality of certified EHR technology capable of meeting meaningful use requirements at the practice site, including staffing, maintenance, and training or upgrade from existing EHR technology to certified EHR technology.

(4) "Attestation" means a statement that:

(a) Is made by an eligible provider or preparer during the application process;

(b) Represents that the eligible provider met the thresholds and requirements of the Medicaid EHR Incentive Program; and

(c) Is made under penalty of prosecution for falsification or concealment of a material fact.

(5) "Certified EHR technology" has the meaning given that term in 42 CFR 495.302 (2010, 2012, and 2014), 42 CFR 495.4 (2010, 2012, and 2015), 42 CFR 495.6 (2014), 42 CFR 495.20 (2015), and 45 CFR 170.102 (2010, 2011, 2012, 2014, and 2015).

(6) "Children's hospital" means a separately certified hospital, either freestanding or a hospital within a hospital that predominantly treats individuals under 21 years of age and that:

(a) Has a CCN that ends in 3300-3399; or

(b) Does not have a CCN but has been provided an alternative number by CMS for purposes of enrollment in the Medicaid EHR Incentive Program as a children's hospital.

(7) "Dentist" has the meaning given that term in OAR 410-120-0000 and 42 CFR 440.100.

(8) "Eligible hospital" means an acute care hospital with at least 10 percent Medicaid patient volume or a children's hospital.

(9) "Eligible professional" means a professional who:

(a) Is a physician, dentist, nurse practitioner, nurse-midwife nurse practitioner, or physician assistant practicing in a Federally Qualified Health Center (FQHC) or a Rural Health Clinic (RHC) that is so led by a physician assistant;

(b) Meets patient volume requirements described in OAR 410-165-0060; and

(c) Is not a hospital-based professional.

(10) "Eligible provider" means an eligible hospital or eligible professional.

(11) "Encounter" means:

(a) For an eligible hospital:

(A) Services provided to an individual for inpatient discharge; or

(B) Services provided to an individual in an emergency department on any one day;

(b) For an eligible professional, services provided to an individual on any one day.

(12) "Enrolled provider" means a hospital or health care practitioner who is actively registered with the Authority pursuant to OAR 943-120-0320.

(13) "Entity promoting the adoption of certified EHR technology" means an entity designated by the Authority that promotes the adoption of certified EHR technology by enabling:

(a) Oversight of the business and operational and legal issues involved in the adoption and implementation of certified EHR technology; or

(b) The exchange and use of electronic clinical and administrative data between participating providers in a secure manner including, but not

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limited to, maintaining the physical and organizational relationship integral to the adoption of certified EHR technology by eligible providers.

(14) "Federal fiscal year (FFY)" means October 1 to September 30.

(15) "Federally Qualified Health Center (FQHC)" has the meaning given that term in OAR 410-120-0000.

(16) "Grace period" means a period of time or specified date following the end of a program year when an eligible provider may submit an application to the Medicaid EHR Incentive Program for that program year.

(17) "Hospital-based professional" means a professional who furnishes 90 percent or more of Medicaid-covered services in a hospital emergency room (place of service code 23) or inpatient hospital (place of service code 21) in the calendar year (CY) preceding the program year, but does not include a professional practicing predominantly at a FQHC or RHC.

(18) "Individuals receiving Medicaid" means individuals served by an eligible provider where the services provided would qualify under the Medicaid encounter definition.

(19) "Meaningful EHR user" means an eligible provider that meets the criteria set forth in OAR 410-165-0080.

(20) "Medicaid encounter" means:

(a) For an eligible hospital applying for program year 2011 or 2012:

(A) Services provided to an individual per inpatient discharge where Medicaid (or a Medicaid demonstration project approved under the Social Security Act section 1115) paid for part or all of the service; or Medicaid (or a Medicaid demonstration project approved under the Social Security Act section 1115) paid all or part of the individual's premiums, copayments, or cost-sharing; or

(B) Services provided in an emergency department on any one day where Medicaid (or a Medicaid demonstration project approved under the Social Security Act section 1115) paid for part or all of the service; or Medicaid (or a Medicaid demonstration project approved under the Social Security Act section 1115) paid all or part of the individual's premiums, copayments, and cost-sharing;

(b) For an eligible hospital applying for program year 2013 or later, either:

(A) Services provided to an individual per inpatient discharge where the individual was enrolled in Medicaid (or a Medicaid demonstration project approved under the Social Security Act section 1115) or Children's Health Insurance Program (CHIP) if part of a state's Medicaid expansion (does not apply to Oregon's as it is designated as a separate CHIP state) at the time the billable service was provided; or

(B) Services provided in an emergency department on any one day where the individual was enrolled in Medicaid (or a Medicaid demonstration project approved under the Social Security Act section 1115) or Children's Health Insurance Program (CHIP) if part of a state's Medicaid expansion (does not apply to Oregon's as it is designated as a separate CHIP state) at the time the billable service was provided;

(c) For an eligible professional applying for program year 2011 or 2012, either:

(A) Services provided to an individual on any one day where Medicaid (or a Medicaid demonstration project approved under the Social Security Act section 1115) paid for part or all of the service; or

(B) Medicaid (or a Medicaid demonstration project approved under the Social Security Act section 1115) paid all or part of the individual's premiums, copayments, and cost-sharing;

(d) For an eligible professional applying for program year 2013 or later, services provided to an individual on any one day where the individual was enrolled in a Medicaid program (or a Medicaid demonstration project approved under the Social Security Act section 1115) or Children's Health Insurance Program (CHIP) if part of a state's Medicaid expansion (does not apply to Oregon's as it is designated as a separate CHIP state) at the time the billable service was provided.

(21) "National Provider Identifier" has the meaning given that term in 45 CFR Part 160 and OAR 410-120-0000.

(22) "Needy individual" means individuals served by an eligible professional where the services provided qualify under the needy individual encounter definition.

(23) "Needy individual encounter" means:

(a) For an eligible professional applying for program year 2011 or 2012, services provided to an individual on any one day where:

(A) Medicaid or CHIP or a Medicaid or CHIP demonstration project approved under the Social Security Act section 1115 paid for part or all of the service;

(B) Medicaid or CHIP or a Medicaid or CHIP demonstration project approved under the Social Security Act section 1115 paid all or part of the individual's premiums, copayments, or cost-sharing;

(C) The services were furnished at no cost and calculated consistent with 42 CFR 495.310(h) (2010); or

(D) The services were paid for at a reduced cost based on a sliding scale determined by the individual's ability to pay;

(b) For an eligible professional applying for program year 2013 or later, services provided to an individual on any one day where:

(A) The services were provided to an individual enrolled in a Medicaid program or a Medicaid demonstration project approved under the Social Security Act section 1115 or CHIP at the time the billable service was provided;

(B) The services were furnished at no cost and calculated consistently with 42 CFR 495.310(h) (2010); or

(C) The services were paid for at a reduced cost based on a sliding scale determined by the individual's ability to pay.

(24) "Nurse practitioner" has the meaning given that term in OAR 410-120-0000 and 42 CFR 440.166.

(25) "Panel" means a managed care panel, medical or health home program panel, or similar provider structure with capitation or case assignment that assigns patients to providers.

(26) "Patient volume" means:

(a) For eligible hospitals, the proportion of Medicaid encounters to total encounters expressed as a percentage;

(b) For eligible professionals who do not meet the definition of "practices predominantly," the proportion of Medicaid encounters to total encounters expressed as a percentage;

(c) For eligible professionals who meet the definition of "practices predominantly," the proportion of needy individual encounters to total encounters expressed as a percentage.

(27) "Pediatrician" means a physician who predominantly treats individuals under the age of 21.

(28) "Physician" has the meaning given that term in OAR 410-120-0000 and 42 CFR 440.50.

(29) "Physician assistant" has the meaning given that term in OAR 410-120-0000 and 42 CFR 440.60.

(30) "Practices predominantly" means an eligibility criterion to permit use of needy individual patient volume. An eligible professional practices predominantly if:

(a) For program year 2011 or 2012, more than 50 percent of an eligible professional's total patient encounters over a period of six months in the calendar year preceding the program year occur at an FQHC or RHC;

(b) For program year 2013 and later, more than 50 percent of an eligible professional's total patient encounters occur at an FQHC or RHC;

(A) During a six-month period in the calendar year preceding the program year; or

(B) During a six-month period in the most recent 12 months prior to attestation.

(31) "Preparer" means an individual authorized by an eligible provider to act on behalf of the provider to complete an application for a Medicaid EHR incentive via an electronic media connection with the Authority.

(32) "Program" means the Medicaid EHR Incentive Program.

(33) "Program year" means:

(a) The CY for an eligible professional;

(b) For an eligible hospital:

(A) The federal fiscal year for program years 2011 through 2014 and for program 2015 if the attestation date is before December 15, 2015;

(B) The CY for program year 2015 and later if the attestation date is on or after December 15, 2015.

(34) "Provider Web Portal" means the Authority's website that provides a secure gateway for eligible providers or preparers to apply for the Program.

(35) "Qualify" means to meet the eligibility criteria and participation requirements to receive a payment for the program year. The Program makes the determination as to whether an eligible provider qualifies.

(36) "Rural Health Clinic (RHC)" means a clinic located in a rural and medically underserved community designated as an RHC by CMS. Payment by Medicare and Medicaid to an RHC is on a cost-related basis for outpatient physician and certain non-physician services.

(37) "So led" means when an FQHC or RHC has a physician assistant who is:

(a) The primary provider in the clinic;

(b) A clinical or medical director at the clinical site of practice; or

(c) An owner of the RHC.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 413.042 & 414.033

ADMINISTRATIVE RULES

Hist.: DMAP 13-2011, f. 6-29-11, cert. ef. 7-1-11; DMAP 20-2013(Temp), f. & cert. ef. 4-26-13 thru 10-23-13; DMAP 56-2013, f. & cert. ef. 10-22-13; DMAP 2-2015(Temp), f. 1-30-15, cert. ef. 2-3-15 thru 8-1-15; DMAP 20-2015, f. & cert. ef. 4-8-15; DMAP 21-2016(Temp), f. 5-11-16, cert. ef. 5-13-16 thru 11-8-16

Hist.: DMAP 13-2011, f. 6-29-11, cert. ef. 7-1-11; DMAP 20-2013(Temp), f. & cert. ef. 4-26-13 thru 10-23-13; Administrative correction, 11-22-13; DMAP 2-2015(Temp), f. 1-30-15, cert. ef. 2-3-15 thru 8-1-15; DMAP 20-2015, f. & cert. ef. 4-8-15; DMAP 21-2016(Temp), f. 5-11-16, cert. ef. 5-13-16 thru 11-8-16

410-165-0040

Application

(1) An eligible provider shall apply to the Program each program year that the eligible provider seeks an incentive payment. To apply, an eligible provider or preparer shall:

(a) Register with CMS;

(b) After registering with CMS, apply to the Program within the grace period for each program year:

(A) For program years 2011 and 2012, the following applies:

(i) For a first year application, the grace period is 60 days;

(ii) For all subsequent years, the grace period is 90 days;

(B) For program year 2013, the grace period is 90 days;

(C) For program year 2014, the following applies:

(i) For eligible hospitals, the grace period ends on January 31, 2015;

(ii) For eligible professionals, the grace period ends on May 31, 2015;

(D) For program year 2015 and later, the following applies:

(i) For eligible providers who are attesting for adopt, implement, or upgrade defined in section (3), the grace period ends on March 31, 2016;

(ii) For eligible hospitals that are attesting for meaningful use through CMS for the Medicare EHR Incentive Program and for the Medicaid EHR Incentive Program, the grace period ends on March 31, 2016;

(iii) For eligible professionals who are attesting for meaningful use described in OAR 410-165-0080, the grace period ends on August 31, 2016;

(iv) For eligible hospitals that are children's hospitals defined in OAR 410-165-0020 that are attesting for meaningful use described in OAR 410-165-0080 through the Medicaid EHR Program, the grace period ends on December 31, 2016;

(E) For program year 2016 and later, the grace period is 90 days;

(c) Attest that:

(A) The information submitted is true, accurate, and complete; and

(B) They understand that any falsification or concealment of a material fact may be prosecuted under federal and state laws;

(d) Maintain for a minimum of seven years from the date of completed application complete, accurate, and unaltered copies of all acceptance documents associated with all data transmissions and attestations. The information maintained shall include at a minimum documentation to support:

(A) The financial or legal obligation for the adoption, implementation, or upgrade of certified EHR technology including, but not limited to, the purchase agreement or contract;

(B) Demonstration of meaningful use for the year corresponding to the program year;

(C) Patient volume for the year corresponding to the program year; and

(D) The eligible hospital's payment calculation data including, but not limited to, Medicare cost reports.

(2) An eligible provider shall submit the acceptance documents referred to in section (1)(d)(A) when the eligible provider is attesting for a payment for the adoption, implementation, or upgrade to certified EHR technology or when new certified EHR technology is acquired. If the eligible provider is an eligible hospital seeking its first year payment, it shall submit the acceptance documents referred to in section (1)(d)(D).

(3) The Program reviews the completed application and the acceptance documents to determine if the eligible provider qualifies for an incentive payment:

(a) The Program shall verify the information in the application;

(b) The Program shall determine if the eligible provider's information complies with the eligibility criteria and participation requirements;

(c) The Program shall notify the eligible provider about the incentive payment determination;

(d) The Authority may reduce the incentive payment to pay off debt if an eligible provider or incentive payment recipient owes a debt under a collection mandate to the State of Oregon. The incentive payment is considered paid to the eligible provider even when part or all of the incentive may offset the debt. The Authority may not reduce the incentive payment amount for any other purpose unless permitted or required by federal or state law; and

(e) The Authority shall distribute 1099 forms to the tax identification number designated to receive the Medicaid EHR incentive payment.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS, 413.042 & 414.033

410-165-0060

Eligibility

(1) There are three categories of eligibility criteria:

(a) Eligible professionals;

(b) Eligible professionals practicing predominately in a FQHC or RHC; and

(c) Eligible hospitals.

(2) To be eligible for a Medicaid EHR incentive payment for the program year, an eligible professional as listed in Table 165-0060-1 shall meet the Program criteria each year:

(a) To be eligible for an incentive payment, an eligible professional shall at a minimum:

(A) Meet and follow the scope of practice regulations as applicable for each profession as defined in 42 CFR Part 440;

(B) Meet the following certified EHR technology and meaningful use requirements for the corresponding year of participation:

(i) First year of participation:

(I) Adopt, implement, or upgrade certified EHR technology; or

(II) Meet the definition of a Meaningful EHR user described in OAR 410-165-0020;

(ii) Subsequent years of participation, meet the definition of a Meaningful EHR user described in OAR 410-165-0020;

(C) Either not be a hospital-based professional or for program year 2013 or later meet the requirements that allow a reversal of a hospital-based determination. To be considered non-hospital-based in future program years after an initial reversal determination, the professional shall attest in each subsequent program year that the professional continues to meet the requirements. To meet the requirements, the professional shall do all of the following:

(i) Fund the acquisition, implementation, and maintenance of certified EHR technology, including supporting hardware and interfaces needed for meaningful use without reimbursement from an eligible hospital and use such certified EHR technology in the inpatient or emergency department of a hospital;

(ii) Provide documentation to the Program for review and approval for the program year and in accordance with OAR 410-165-0040;

(iii) Meet all applicable requirements to receive an incentive payment; and

(iv) If attesting to meaningful use, demonstrate using all encounters at all locations equipped with certified EHR technology, including those in the inpatient and emergency departments of the hospital;

(D) Meet one of the following criteria:

(i) Have a minimum of 30 percent patient volume attributable to individuals receiving Medicaid; or

(ii) Be a pediatrician who has a minimum of 20 percent patient volume attributable to individuals receiving Medicaid;

(b) An eligible professional shall calculate patient volume as listed in Table 165-0060-2 by using the patient volume calculation method either of patient encounter or of patient panel. The patient panel volume calculation method may be used only when all of the following apply:

(A) The patient panel is appropriate as a patient volume calculation method for the eligible professional; and

(B) There is an auditable data source to support the patient panel data;

(c) An eligible professional shall calculate patient volume as listed in Table 165-0060-2 by using either the patient volume of the eligible professional or the patient volume of the group. The patient volume of the group may be used only when all of the following apply:

(A) The group's patient volume is appropriate as a patient volume methodology calculation for the eligible professional;

(B) There is an auditable data source to support the group's patient volume determination;

(C) All eligible professionals in the group must use the same patient volume calculation method for the program year;

(D) The group uses the entire practice or clinic's patient volume and does not limit patient volume in any way; and

(E) If an eligible professional works inside and outside of the group, then the patient volume calculation includes only those encounters associated with the group and not the eligible professional's outside encounters;

(d) An eligible professional's patient volume must be calculated using one of the following methods:

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(A) The patient encounter calculation method based on the patient volume of the eligible professional requires that:

(i) For program year 2011 or 2012, the eligible professional shall divide the total Medicaid encounters by the total patient encounters that were provided by the eligible professional in any representative, continuous 90-day period in the preceding calendar year; or

(ii) For program year 2013 and later, the eligible professional shall divide the total Medicaid encounters by the total patient encounters that were provided by the eligible professional in any representative, continuous 90-day period either in the preceding calendar year or in the twelve-month timeframe preceding the date of attestation. The eligible professional may not use the same 90-day timeframe to calculate patient volume in different program years;

(B) The patient encounter calculation method based on the patient volume of the group requires that:

(i) For program year 2011 or 2012, the eligible professional shall divide the group's total Medicaid encounters by the group's total patient encounters in any representative, continuous 90-day period in the preceding calendar year;

(ii) For program year 2013 and later, the eligible professional shall divide the group's total Medicaid encounters by the group's total patient encounters in any representative, continuous 90-day period either in the preceding calendar year or in the twelve-month timeframe preceding the date of attestation. The eligible professional may not use the same 90-day timeframe to calculate patient volume in different program years;

(C) The patient panel calculation method based on the patient volume of the eligible professional requires that:

(i) For program year 2011 or 2012, the eligible professional shall:

(I) Add the total Medicaid patients assigned to the eligible professional's panel in any representative, 90-day period in the prior calendar year, provided at least one Medicaid encounter took place with the patient in the preceding calendar year, to the eligible professional's unduplicated Medicaid encounters provided in the same 90-day period; and

(II) Divide the result calculated above in section (1)(d)(C)(i)(I) by the sum of the total patients assigned to the eligible professional's panel in the same 90-day period, provided at least one encounter took place with the patient during the preceding calendar year, plus all of the unduplicated patient encounters in the same 90-day period;

(ii) For program year 2013 and later, the eligible professional shall:

(I) Add the total Medicaid patients assigned to the eligible professional's panel in any representative, 90-day period in either the preceding calendar year or during the 12-month timeframe preceding the attestation date, provided at least one Medicaid encounter took place with the individual during the 24 months before the beginning of the 90-day period, to the eligible professional's unduplicated Medicaid encounters provided in the same 90-day period; and

(II) Divide the result calculated above in section (2)(d)(C)(ii)(I) by the sum of the total patients assigned to the eligible professional's panel in the same 90-day period, provided at least one encounter took place with the patient during the 24 months before the beginning of the 90-day period, plus all of the unduplicated patient encounters in the same 90-day period; and

(III) Not use the same 90-day timeframe to calculate patient volume in different program years;

(D) The patient panel calculation method based on the patient volume of the group requires that:

(i) For program year 2011 or 2012, the eligible professional shall:

(I) Add the total Medicaid patients assigned to the group's panel in any representative, 90-day period in the prior calendar year, provided at least one Medicaid encounter took place with the patient in the preceding calendar year, to the group's unduplicated Medicaid encounters in the same 90-day period; and

(II) Divide the result calculated above in section (1)(d)(D)(i)(I) by the sum of the total patients assigned to the group's panel in the same 90-day period, provided at least one encounter took place with the patient during the preceding calendar year, plus all of the unduplicated patient encounters in the same 90-day period;

(ii) For program year 2013 and later, the eligible professional shall:

(I) Add the total Medicaid patients assigned to the group's panel in any representative, 90-day period in either the preceding calendar year or during the 12-month timeframe preceding the attestation date, provided at least one Medicaid encounter took place with the individual during the 24 months before the beginning of the 90-day period, to the group's unduplicated Medicaid encounters that same 90-day period;

(II) Divide the result calculated above in section (1)(d)(D)(ii)(I) by the sum of the total patients assigned to the group's panel in the same 90-day period, provided at least one encounter took place with the patient during the 24 months before the beginning of the 90-day period, plus all of the unduplicated patient encounters in the same 90-day period; and

(III) Not use the same 90-day timeframe to calculate patient volume in different program years.

(3) To be eligible for a Medicaid EHR incentive payment for the program year, an eligible professional practicing predominantly in an FQHC or an RHC, as listed in Table 165-0060-1, must meet the Program eligibility criteria each year by meeting either section (2) of this rule or by meeting the following FQHC and RHC specific criteria:

(a) At a minimum, the eligible professional shall:

(A) Meet and follow the scope of practice regulations as applicable for each professional as prescribed by 42 CFR Part 440;

(B) Meet the following certified EHR technology and meaningful use requirements for the corresponding year of participation:

(i) First year of participation:

(I) Adopt, implement, or upgrade certified EHR technology; or

(II) Meet the definition of a meaningful EHR user described in OAR 410-165-0020;

(ii) Subsequent years of participation, meet the definition of a meaningful EHR user described in OAR 410-165-0020;

(C) Have a minimum of 30 percent patient volume attributable to needy individuals;

(b) An eligible professional shall calculate patient volume as listed in Table 165-0060-3 by using the patient volume calculation method either of patient encounter or of patient panel. The patient panel volume calculation method may be used only when all of the following apply:

(A) The patient panel is appropriate as a patient volume calculation method for the eligible professional; and

(B) There is an auditable data source to support the patient panel data;

(c) An eligible professional must calculate patient volume as listed in Table 165-0060-3 by using either the patient volume of the eligible professional or the patient volume of the group. The group's patient volume may be used only when all of the following apply:

(A) The group's patient volume is appropriate as a patient volume methodology calculation for the eligible professional;

(B) There is an auditable data source to support the group's patient volume determination;

(C) All eligible professionals in the group shall use the same patient volume calculation method for the program year;

(D) The group uses the entire practice or clinic's patient volume and does not limit patient volume in any way; and

(E) If an eligible professional works inside and outside of the group, the patient volume calculation includes only those encounters associated with the group and not the outside encounters;

(d) An eligible professional's needy individual patient volume shall be calculated using one of the following methods:

(A) The patient encounter calculation method based on the eligible professional's patient volume:

(i) For program year 2011 or 2012, the eligible professional shall divide the total needy individual encounters by the total patient encounters that were provided by the eligible professional in any representative, continuous 90-day period in the preceding calendar year;

(ii) For program year 2013 and later, the eligible professional shall divide the total needy individual encounters by the total patient encounters that were provided by the eligible professional in any representative, continuous 90-day period either in the preceding calendar year or in the 12-month timeframe preceding the date of attestation. The eligible professional may not use the same 90-day timeframe to calculate patient volume in different program years;

(B) The patient encounter calculation method based on the patient volume of the group requires that:

(i) For program year 2011 or 2012, the eligible professional shall divide the group's total needy individual encounters by the group's total patient encounters in any representative, continuous 90-day period in the preceding calendar year;

(ii) For program year 2013 and later, divide the group's total needy individual encounters by the group's total patient encounters in any representative, continuous 90-day period either in the preceding calendar year or in the 12-month timeframe preceding the date of attestation. The eligible professional may not use the same 90-day timeframe to calculate patient volume in different program years;

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(C) The patient panel calculation method based on the patient volume of the eligible professional requires that:

(i) For program year 2011 or 2012, the eligible professional shall:

(I) Add the total needy individual patients assigned to the eligible professional's panel in any representative, 90-day period in the prior calendar year, provided at least one Medicaid encounter took place with the patient in the preceding calendar year, to the eligible professional's unduplicated needy individual encounters provided in the same 90-day period; and

(II) Divide the result calculated above in section (2)(d)(C)(i)(I) by the sum of the total patients assigned to the eligible professional's panel in the same 90-day period, provided at least one encounter took place with the patient during the preceding calendar year, plus all of the unduplicated patient encounters in the same 90-day period;

(ii) For program year 2013 and later, the eligible professional shall:

(I) Add the total needy individual patients assigned to the eligible professional's panel in any representative, 90-day period either in the preceding calendar year or during the 12-month timeframe preceding the attestation date, provided at least one Medicaid encounter took place with the individual during the 24 months before the beginning of the 90-day period, to the eligible professional's unduplicated needy individual encounters provided the same 90-day period;

(II) Divide the result calculated above in section (2)(d)(C)(ii)(I) by the sum of the total patients assigned to the eligible professional's panel in the same 90-day period, provided at least one encounter took place with the patient during the 24 months before the beginning of the 90-day period, plus all of the unduplicated patient encounters in the same 90-day period; and

(III) Not use the same 90-day timeframe to calculate patient volume in different program years;

(D) The patient panel calculation method based on the patient volume of the group requires that:

(i) For program year 2011 or 2012, the eligible professional shall:

(I) Add the total needy individual patients assigned to the group's panel in any representative, 90-day period in the prior calendar year, provided at least one needy individual encounter took place with the patient in the preceding calendar year, to the group's unduplicated Medicaid encounters in the same 90-day period; and

(II) Divide the result calculated above in section (2)(d)(D)(i)(I) by the sum of the total patients assigned to the group's panel in the same 90-day period, provided at least one encounter took place with the patient during the preceding calendar year, plus all of the unduplicated patient encounters in the same 90-day period;

(ii) For program year 2013 and later, the eligible professional shall:

(I) Add the total needy individual patients assigned to the group's panel in any representative, 90-day period either in the preceding calendar year or during the 12-month timeframe preceding the attestation date, provided at least one needy individual encounter took place with the individual during the 24 months before the beginning of the 90-day period, to the group's unduplicated Medicaid encounters that same 90-day period;

(II) Divide the result calculated above in section (2)(d)(D)(ii)(I) by the sum of the total patients assigned to the group's panel in the same 90-day period, provided at least one encounter took place with the patient during the 24 months before the beginning of the 90-day period, plus all of the unduplicated patient encounters in the same 90-day period; and

(III) Not use the same 90-day timeframe to calculate patient volume in different program years.

(4) To be eligible for a Medicaid EHR incentive payment for the program year, an eligible hospital shall meet the Program criteria each year:

(a) To be eligible for an incentive payment, an eligible hospital shall meet the certified EHR technology and meaningful use requirements for the corresponding year of participation:

(A) First year of participation:

(i) Adopt, implement, or upgrade certified EHR technology;

(ii) Eligible hospitals that are children's hospitals shall meet the definition of a meaningful EHR user; or

(iii) Eligible hospitals that participate in both the Medicare and Medicaid EHR Incentive Programs shall demonstrate meaningful use under the Medicare EHR Incentive Program to CMS and be deemed a meaningful EHR user for the program year;

(B) Subsequent years of participation:

(i) Eligible hospitals that participate in both the Medicare and Medicaid EHR Incentive Programs shall demonstrate meaningful use under the Medicare EHR Incentive Program to CMS and be deemed a meaningful EHR user for the program year; or

(ii) Eligible hospitals that are children's hospitals shall meet the definition of a meaningful EHR user;

(b) If an eligible hospital is an acute care hospital, it shall calculate patient volume by dividing the total eligible hospital Medicaid encounters by the total encounters in any representative, continuous 90-day period:

(A) For program year 2011 and 2012, in the preceding federal fiscal year;

(B) For program year 2013 and later, either in the preceding federal fiscal year or in the 12-month timeframe preceding the attestation date. The eligible hospital may not use the same 90-day timeframe to calculate patient volume in different program years.

(5) Table 165-0060-1. [Table not included. See ED. NOTE.]

(6) Table 165-0060-2. [Table not included. See ED. NOTE.]

(7) Table 165-0060-3. [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 413.042 & 414.033

Hist.: DMAP 20-2011, f. 7-21-11, cert. ef. 7-22-11; DMAP 20-2013(Temp), f. & cert. ef. 4-26-13 thru 10-23-13; DMAP 56-2013, f. & cert. ef. 10-22-13; DMAP 2-2015(Temp), f. 1-30-15, cert. ef. 2-3-15 thru 8-1-15; DMAP 20-2015, f. & cert. ef. 4-8-15; DMAP 21-2016(Temp), f. 5-11-16, cert. ef. 5-13-16 thru 11-8-16

410-165-0080

Meaningful Use

(1) An eligible provider shall demonstrate being a meaningful EHR user as prescribed by 42 CFR 495.4 (2010, 2012, and 2015), 42 CFR 495.6 (2010, 2012, and 2014), 42 CFR 495.8 (2010, 2012, and 2014), 42 CFR 495.20 (2015), 42 CFR 495.22 (2015), 42 CFR 495.24 (2015), and 42 CFR 495.40 (2015):

(a) For eligible providers demonstrating meaningful use under the Program in Stage 1 prior to December 15, 2015 to comply with 42 CFR 495.8, the State of Oregon requires the eligible provider to satisfy the objective "Capability to submit electronic data to immunization registries or immunization information systems and actual submission in accordance with applicable law and practice;"

(b) For eligible hospitals:

(A) If CMS deems an eligible hospital to be a meaningful EHR user for the Medicare EHR Incentive Program for a program year, the eligible hospital is automatically deemed to be a meaningful EHR user for the Program for the same program year;

(B) An eligible hospital deemed to be a meaningful EHR user by CMS for a program year does not have to meet the requirements specified in section (1)(a) for the Program for the same program year.

(2) As prescribed by 42 CFR 495.4 (2010, 2012, and 2015), the following meaningful use EHR reporting periods shall be used by eligible providers that are demonstrating meaningful use to the Program:

(a) Program years 2011, 2012, and 2013:

(A) Eligible professionals:

(i) For the first time, either:

(I) Any continuous 90-day period in the calendar year; or

(II) The calendar year;

(ii) For a subsequent time: the calendar year;

(B) Eligible hospitals:

(i) For the first time, either:

(I) Any continuous 90-day period in the federal fiscal year; or

(II) The federal fiscal year;

(ii) For a subsequent time, the federal fiscal year;

(b) Program year 2014:

(A) Eligible professionals, either:

(i) Any continuous 90-day period in calendar year 2014; or

(ii) Any of the following 3-month periods:

(I) January 1, 2014 through March 31, 2014;

(II) April 1, 2014 through June 30, 2014;

(III) July 1, 2014 through September 30, 2014; or

(IV) October 1, 2014 through December 31, 2014;

(B) Eligible hospitals, either:

(i) Any continuous 90-day period in federal fiscal year 2014; or

(ii) Any of the following 3-month periods:

(I) October 1, 2013 through December 31, 2013;

(II) January 1, 2014 through March 31, 2014;

(III) April 1, 2014 through June 30, 2014; or

(IV) July 1, 2014 through September 30, 2014;

(c) Program year 2015, prior to December 15, 2015:

(A) Eligible professionals attesting for the first year, either:

(i) Any continuous 90-day period in the calendar year; or

(ii) The calendar year;

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(B) Eligible professionals attesting for a subsequent year, the calendar year;

(C) Eligible hospitals attesting for the first year, either:

- (i) Any continuous 90-day period in the federal fiscal year; or
- (ii) The federal fiscal year;

(D) Eligible hospitals attesting for a subsequent year, the federal fiscal year;

(d) On or after December 15, 2015, for program year 2015, any continuous 90-day period in the calendar year;

(e) For program year 2016 and subsequent years, the following applies to eligible providers attesting for:

(A) The first year, either:

- (i) Any continuous 90-day period in the calendar year; or
- (ii) The calendar year;

(B) A subsequent year, the calendar year.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 413.042 & 414.033

Hist.: DMAP 13-2011, f. 6-29-11, cert. ef. 7-1-11; DMAP 20-2013(Temp), f. & cert. ef. 4-26-13 thru 10-23-13; DMAP 56-2013, f. & cert. ef. 10-22-13; DMAP 2-2015(Temp), f. 1-30-15, cert. ef. 2-3-15 thru 8-1-15; DMAP 20-2015, f. & cert. ef. 4-8-15; DMAP 21-2016(Temp), f. 5-11-16, cert. ef. 5-13-16 thru 11-8-16

410-165-0100

Participation and Incentive Payments

(1) To qualify for an incentive payment, an eligible provider shall meet the Program eligibility criteria and participation requirements for each year the eligible provider applies:

(a) An eligible provider shall meet the eligibility criteria for each program year of:

- (A) Type of eligible provider;
- (B) Patient volume minimum; and

(C) Certified EHR technology adoption, implementation, or upgrade requirements in the first year of participation and meaningful use requirements in subsequent years, or meaningful use requirements in all years of participation;

(b) An eligible provider must meet the participation requirements for each program year including:

- (A) Be an enrolled Medicaid provider with the Division;
- (B) Maintain current provider information with the Division;
- (C) Possess an active professional license and comply with all licensure statutes and regulations within the state where the eligible provider practices;
- (D) Have an active Provider Web Portal account;
- (E) Ensure the designated payee is able to receive electronic funds transfer from the Authority; and

(F) Comply with all applicable Oregon Administrative Rules, including chapter 410, division 120, and chapter 943, division 120;

(c) An eligible professional may reassign the entire amount of the incentive payment to:

(A) The eligible professional's employer with whom the eligible professional has a contractual arrangement allowing the employer to bill and receive payments for the eligible professional's covered professional services;

(B) An entity with which the eligible professional has a contractual arrangement allowing the entity to bill and receive payments for the eligible professional's covered professional services; or

(C) An entity promoting the adoption of certified EHR technology.

(2) An eligible professional shall follow the Program participation conditions and requirements. The eligible professional shall:

(a) Receive an incentive payment from only one state for a program year;

(b) Only receive an incentive payment from either Medicare or Medicaid for a program year, but not both;

(c) Not receive more than the maximum incentive amount of \$63,750 over a six-year period or the maximum incentive of \$42,500 over a six-year period if the eligible professional qualifies as a pediatrician who meets the 20 percent patient volume minimum and less than the 30 percent patient volume;

(d) Participate in the Program:

(A) Starting as early as calendar year (CY) 2011, but no later than CY 2016;

(B) Ending no later than CY 2021;

(C) For a maximum of six years; and

(D) On a consecutive or non-consecutive annual basis,

(e) Be allowed to switch between the Medicare and Medicaid Programs only one time after receiving at least one incentive payment and only for a program year before 2015.

(3) The Authority shall disburse payments to the eligible professional following verification of eligibility for the program year:

(a) An eligible professional is paid an incentive amount for the corresponding program year for each year of qualified participation in the Program;

(b) The payment structure is as follows for:

(A) An eligible professional qualifying with 30 percent minimum patient volume:

(i) The first payment incentive amount is \$21,250; and

(ii) The second, third, fourth, fifth, or sixth payment incentive amount is \$8,500; or

(B) An eligible pediatrician qualifying with 20 percent but less than 30 percent minimum patient volume:

(i) The first payment incentive amount is \$14,167; and

(ii) The second, third, fourth, fifth, or sixth payment incentive amount is \$5,667.

(4) An eligible hospital shall follow the Medicaid EHR Incentive Program participation conditions including requirements that the eligible hospital:

(a) Receives a Medicaid EHR incentive payment from only one state for a program year;

(b) May participate in both the Medicare and Medicaid EHR Incentive Programs only if the eligible hospital meets all eligibility criteria for the program year for both programs;

(c) Participates in the Program:

(A) Starting as early as program year 2011 but no later than program year 2016;

(B) Ending no later than program year 2021;

(C) For a maximum of three years;

(D) On a consecutive or non-consecutive annual basis for program years prior to program year 2016; and

(E) On a consecutive annual basis for program years starting in program year 2016;

(d) A multi-site hospital with one CMS CCN is considered one hospital for purposes of calculating payment.

(5) The Authority shall disburse payments to the eligible hospital following verification of eligibility for the program year. An eligible hospital is paid the aggregate incentive amount over three years of qualified participation in the Program:

(a) The payment structure as listed in Table 165-0100-1 is as follows:

(A) The first payment incentive amount is equal to 50 percent of the aggregate EHR amount;

(B) The second payment incentive amount is equal to 40 percent of the aggregate EHR amount; and

(C) The third payment incentive amount is equal to 10 percent of the aggregate EHR amount;

(b) The aggregate EHR amount is calculated as the product of the "overall EHR amount" times the "Medicaid Share" as listed in Table 165-00100-2. The aggregate EHR amount is calculated once for the first year participation and then paid over three years according to the payment schedule:

(A) The overall EHR amount for an eligible hospital is based upon a theoretical four years of payment the hospital would receive and is the sum of the following calculation performed for each of such four years. For each year, the overall EHR amount is the product of the initial amount, the Medicare share, and the transition factor:

(i) The initial amount as listed in Table 165-0100-3 is equal to the sum of the base amount, which is set at \$2,000,000 for each of the theoretical four years plus the discharge-related amount that is calculated for each of the theoretical four years:

(I) For initial amounts calculated in program years 2011 or 2012, the discharge-related amount is \$200 per discharge for the 1,150th through the 23,000th discharge, based upon the total discharges for the eligible hospital (regardless of source of payment) from the hospital fiscal year that ends during the federal fiscal year (FFY) prior to the FFY year that serves as the first payment year. No discharge-related amount is added for discharges prior to the 1,150th or any discharges after the 23,000th;

(II) For initial amounts calculated in program year 2013 or later, the discharge-related amount is \$200 per discharge for the 1,150th through the 23,000th discharge, based upon the total discharges for the eligible hospital (regardless of source of payment) from the hospital fiscal year that ends before the FFY that serves as the first payment year. No discharge-related amount is added for discharges prior to the 1,150th or any discharges after the 23,000th;

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(III) For purposes of calculating the discharge-related amount for the last three of the theoretical four years of payment, discharges are assumed to increase each year by the hospital's average annual rate of growth; negative rates of growth shall also be applied. Average annual rate of growth is calculated as the average of the annual rate of growth in total discharges for the most recent three years for which data are available per year;

(ii) The Medicare share that equals 1;

(iii) The transition factor that equals:

(I) 1 for the first of the theoretical four years;

(II) 0.75 for the second of the theoretical four years;

(III) 0.5 for the third of the theoretical four years; and

(IV) 0.25 for the fourth of the theoretical four years;

(B) The Medicaid share for an eligible hospital is equal to a fraction:

(i) The numerator for the FFY and with respect to the eligible hospital is the sum of:

(I) The estimated number of inpatient-bed-days that are attributable to Medicaid individuals; and

(II) The estimated number of inpatient-bed-days that are attributable to individuals who are enrolled in a managed or coordinated care organization, a pre-paid inpatient health plan, or a pre-paid ambulatory health plan administered under 42 CFR Part 438;

(ii) The denominator is the product of:

(I) The estimated total number of inpatient-bed-days with respect to the eligible hospital during such period; and

(II) The estimated total amount of the eligible hospital's charges during such period, not including any charges that are attributable to charity care, divided by the estimated total amount of the hospital's charges during such period;

(iii) In computing inpatient-bed-days for the Medicaid share, an eligible hospital may not include either of the following:

(I) Estimated inpatient-bed-days attributable to individuals that may be made under Medicare Part A; or

(II) Inpatient-bed-days attributable to individuals who are enrolled with a Medicare Advantage organization under Medicare Part C;

(iv) If an eligible hospital's charity care data necessary to calculate the portion of the formula for the Medicaid share are not available, the eligible hospital's data on uncompensated care may be used to determine an appropriate proxy for charity care, but shall include a downward adjustment to eliminate bad debt from uncompensated care data if bad debt is not otherwise differentiated from uncompensated care. Auditable data sources shall be used; and

(v) If an eligible hospital's data necessary to determine the inpatient bed-days attributable to Medicaid managed care patients are not available, that amount is deemed to equal 0. In the absence of an eligible hospital's data necessary to compute the percentage of inpatient bed days that are not charity care as described under subparagraph (B)(ii)(II) in this section, that amount is deemed to be 1.

(6) The aggregate EHR amount is determined by the state from which the eligible hospital receives its first incentive payment. If a hospital receives incentive payments from other states in subsequent years, total incentive payments received over all payment years of the program can be no greater than the aggregate EHR amount calculated by the state from which the eligible hospital received its first incentive payment.

(7) Table 165-0100-1. [Table not included. See ED. NOTE.]

(8) Table 165-0100-2. [Table not included. See ED. NOTE.]

(9) Table 165-0100-3. [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 413.042 & 414.033

Hist.: DMAP 13-2011, f. 6-29-11, cert. ef. 7-1-11; DMAP 20-2013(Temp), f. & cert. ef. 4-26-13 thru 10-23-13; DMAP 56-2013, f. & cert. ef. 10-22-13; DMAP 2-2015(Temp), f. 1-30-15, cert. ef. 2-3-15 thru 8-1-15; DMAP 20-2015, f. & cert. ef. 4-8-15; DMAP 21-2016(Temp), f. 5-11-16, cert. ef. 5-13-16 thru 11-8-16

410-165-0120

Appeals

(1) The appeals process for the Program is governed by 42 CFR 495.370 and the Authority's Provider Appeals Rules in chapter 410, division 120.

(2) Pursuant to 42 CFR 495.312 and 42 CFR 495.370, the Authority may have CMS conduct the audits and handle any subsequent appeals of whether eligible hospitals are meaningful EHR users.

(3) A provider who applies for a Medicaid EHR incentive payment may appeal the Program's decision. Appeals are governed by the Division's Provider Appeal Rules OAR chapter 410, division 120. The provider's appeal shall note the specific reason for the appeal, due to one or more of the following issues:

(a) An incentive payment;

(b) An incentive payment amount;

(c) A provider eligibility determination;

(d) The demonstration of adopting, implementing, or upgrading; or

(e) Meaningful use eligibility other than a meaningful use eligibility issue where CMS handles the appeal, as provided in section (2) of this rule.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 413.042 & 414.033

Hist.: DMAP 13-2011, f. 6-29-11, cert. ef. 7-1-11; DMAP 20-2013(Temp), f. & cert. ef. 4-26-13 thru 10-23-13; DMAP 56-2013, f. & cert. ef. 10-22-13; DMAP 21-2016(Temp), f. 5-11-16, cert. ef. 5-13-16 thru 11-8-16

410-165-0140

Oversight and Audits

(1) A provider who qualifies for a Medicaid Electronic Health Record (EHR) incentive payment under the Program is subject to audit or other post-payment review procedures pursuant to OAR 943-120-1505.

(2) The Authority and the Department of Human Services may recover overpayments from the person or entity who received an incentive payment from the Program.

(3) As authorized in 42 CFR 495.312, the Authority and the Department of Human Services may designate CMS to conduct audits on hospitals' meaningful use attestations.

(4) The person or entity who received a Medicaid EHR incentive overpayment must repay the amount specified within 30 calendar days from the mailing date of written notification of the overpayment as prescribed by OAR 943-120-1505.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 413.042 & 414.033

Hist.: DMAP 13-2011, f. 6-29-11, cert. ef. 7-1-11; DMAP 20-2013(Temp), f. & cert. ef. 4-26-13 thru 10-23-13; DMAP 56-2013, f. & cert. ef. 10-22-13; DMAP 21-2016(Temp), f. 5-11-16, cert. ef. 5-13-16 thru 11-8-16

Oregon Health Authority,

Health Systems Division: Mental Health Services

Chapter 309

Rule Caption: Permanent amendments to OAR 309-112 regarding use of restraints on patients in state hospitals.

Adm. Order No.: MHS 2-2016

Filed with Sec. of State: 4-21-2016

Certified to be Effective: 4-21-16

Notice Publication Date: 3-1-2016

Rules Amended: 309-112-0000, 309-112-0005, 309-112-0010, 309-112-0015, 309-112-0017, 309-112-0020, 309-112-0025, 309-112-0030, 309-112-0035

Subject: These rules prescribe policies and procedures concerning the use of restraints in the treatment and behavior management of patients in state institutions operated by the Division. In addition to these general rules, other more specific requirements established by federal regulations must be followed where applicable.

Rules Coordinator: Nola Russell—(503) 945-7652

309-112-0000

Purpose and Statutory Authority

(1) Purpose. These rules prescribe policies and procedures concerning the use of restraint in the treatment, and behavior management of patients in state institutions operated by the Division. In addition to these general rules, other more specific requirements established by federal regulations must be followed where applicable.

(2) Statutory Authority. These rules are authorized by ORS 179.040 and 413.042 and carry out the provisions of 426.385 and 427.031.

Stat. Auth.: ORS 179.040 & 413.042

Stats. Implemented: ORS 426.385 & 427.031

Hist.: MHD 1-1982(Temp), f. & ef. 1-14-82; MHD 7-1982, f. & ef. 3-29-82; MHD 22-1982(Temp), f. & ef. 9-24-82; MHD 1-1984, f. 1-20-84, ef. 2-1-84; MHS 2-2013(Temp), f. & cert. ef. 1-23-13 thru 7-19-13; Administrative correction, 8-21-13; MHS 6-2015(Temp), f. 10-20-15, cert. ef. 10-21-15 thru 4-15-16; MHS 2-2016, f. & cert. ef. 4-21-16

309-112-0005

Definitions

As used in these rules:

(1) "Chief Medical Officer" means the physician designated by the superintendent of each state institution pursuant to ORS 179.360(1)(f) who is responsible for the administration of medical treatment at each state institution, or his or her designee.

(2) "Division" means the Division of State Hospitals of the Oregon Health Authority.

ADMINISTRATIVE RULES

(3) "Interdisciplinary Team (IDT)" means a group of professional and direct care staff which has primary responsibility for the development of a plan for the care and treatment of an individual patient.

(4) "Patient" means a person who is receiving care and treatment in a state institution for the mentally ill.

(5) "Restraint" means one or more of the following procedures:

(a) "Personal Restraint" means a procedure in which a patient or resident is placed in a prone or supine position or held in a chair by another person in order to restrict the physical movement of the patient or resident;

(b) "Physical Restraint" means a device which restricts the physical movement of a patient and which cannot be removed by the person and is not a normal article of clothing, a therapy device, or a simple safety device; or

(c) "Seclusion" means the placement of a patient alone in a locked room.

(6) "Restraint Review Committee" means the committee appointed by the superintendent of each state institution as provided in OAR 309-112-0030.

(7) "Security Area" means a cottage or unit in which a program is conducted for dangerous patients, including those judged guilty except for insanity, those court ordered into a secure program prior to trial, and those court committed patients not manageable in less secure programs.

(8) "Security Transportation" means using physical restraint while a patient is being transported outside a security area.

(9) "State Institution" means Oregon State Hospital in Salem and Junction City.

(10) "Superintendent" means the executive head of the state institution as listed in section (11) of this rule, or his or her designee.

Stat. Auth.: ORS 179.040 & 413.042

Stats. Implemented: ORS 426.385 & 427.031

Hist.: MHD 1-1982(Temp), f. & ef. 1-14-82; MHD 7-1982, f. & ef. 3-29-82; MHD 11-1982(Temp), f. & ef. 6-10-82; MHD 21-1982, f. & ef. 9-24-82; MHD 1-1984, f. 1-20-84, ef. 2-1-84; MHD 2-1986, f. & ef. 3-31-86; MHS 2-2013(Temp), f. & cert. ef. 1-23-13 thru 7-19-13; Administrative correction, 8-21-13; MHS 6-2015(Temp), f. 10-20-15, cert. ef. 10-21-15 thru 4-15-16; MHS 2-2016, f. & cert. ef. 4-21-16

309-112-0010

General Policies Concerning Use of Restraint

(1) State institutions shall not use restraint except in emergencies, as provided in OAR 309-112-0015, or as part of planned treatment programs as provided in 309-112-0017, and only then subject to the conditions and limitations of these rules. An order for physical restraint may not be in effect longer than 12 hours. No form of restraint shall be used as punishment, for the convenience of staff, or as a substitute for activities, treatment, or training.

(2) State institutions shall provide training in the appropriate use of restraint to all employees having direct care responsibilities.

(3) Medication will not be used as a restraint, but will be prescribed and administered according to acceptable medical, nursing, and pharmaceutical practices.

(4) Patients shall not be permitted to use restraint on other patients.

(5) Physical restraint must be used in accordance with sound medical practice to assure the least risk of physical injury and discomfort. Any patient placed in physical restraint shall be protected from self-injury and from injury by others.

(7) Checking a patient in restraint:

(a) A patient in restraint must be checked at least every 15 minutes;

(b) Attention shall be paid to the patient's basic personal needs (such as regular meals, personal hygiene, and sleep) as well as the patient's need for good body alignment and circulation;

(c) Staff shall document that the patient was checked and appropriate attention paid to the person's needs.

(8) During waking hours the patient must be exercised for a period not less than 10 minutes during each two hours of physical restraint. Partial release of physical restraint shall be employed as necessary to permit motion and exercise without endangering other staff and patients.

(9) Unless the order authorizing use of restraint specifically provides otherwise, the patient shall be released as soon as it is reasonable to assume that the behavior causing use of restraint will not immediately resume if the patient is released.

(10) OAR 309-112-0015 and 309-112-0017 require staff of state institutions to apply the most appropriate form of restraint consistent with the patient's behavior requiring intervention, the need to protect the staff and other patients, the patient's treatment or training needs and preservation of the patient's sense of personal dignity and self-esteem. The determination of the most appropriate intervention requires consideration of the following factors:

(a) The individual patient involved; e.g., the present physical ability to engage in violent or destructive behavior, any preference the individual patient has for one method of behavior management versus another, and the patient's reaction to various methods of intervention;

(b) The risk or degree of physical or psychological harm and discomfort that accompany the various methods of intervention;

(c) The risk or degree of interference with the individual's ongoing treatment or training and other activities.

(11) A summary of all uses of restraint, other than personal restraint for 15 minutes or less, shall be sent to the chief medical officer at least monthly.

(12) The following types of procedures are part of ordinary and customary medical care for physical illnesses or conditions and are not subject to the provisions of these rules:

(a) Holding or restraining a patient during an examination, blood drawing, performance of a diagnostic test or during treatment for an acute medical condition;

(b) Restricting movement with orthopedic devices such as casts, wheel chairs, braces, and positioning devices;

(c) Isolating a patient with a known or suspected infectious disease;

(d) Protecting seizure-prone and self-abusive patients by the use of protective gear.

(13) A patient, guardian, or a duly authorized representative of the patient, or guardian has the right to contest any application of these rules as provided in OAR 309-118-0000 through 309-118-0050 (Grievance Procedures for Use in State Institutions).

(14) Violation of the rights, policies, and procedures set forth in these rules by an employee of the Division constitutes cause for disciplinary action.

Stat. Auth.: ORS 179.040 & 413.042

Stats. Implemented: ORS 426.385 & 427.031

Hist.: MHD 1-1982(Temp), f. & ef. 1-14-82; MHD 7-1982, f. & ef. 3-29-82; MHD 11-1982(Temp), f. & ef. 6-10-82; MHD 21-1982, f. & ef. 9-24-82; MHD 1-1984, f. 1-20-84, ef. 2-1-84; MHD 16-1985(Temp), f. & ef. 10-9-85; MHD 2-1986, f. & ef. 3-31-86; MHS 2-2013(Temp), f. & cert. ef. 1-23-13 thru 7-19-13; Administrative correction, 8-21-13; MHS 6-2015(Temp), f. 10-20-15, cert. ef. 10-21-15 thru 4-15-16; MHS 2-2016, f. & cert. ef. 4-21-16

309-112-0015

Use of Restraint in Emergencies

(1) Subject to the provisions of these rules, restraint may be used to manage the behavior of a patient in emergencies. An emergency exists, as determined by the chief medical officer or designee if, because of the behavior of a patient:

(a) There is a substantial likelihood of immediate physical harm to the patient or others in the institution; and

(b) There is a substantial likelihood of significant property damage; or

(c) The patient's behavior seriously disrupts the activities of other patients on the unit or cottage; and

(d) Measures other than the use of restraint are deemed ineffective to manage the behavior.

(2)(a) When an emergency exists, the staff of a state institution shall select the most appropriate intervention consistent with OAR 309-112-0010(9);

(b) Whenever the interdisciplinary team (IDT) has reason to believe that in the course of a patient's care, custody, or treatment at a state institution it may become necessary to use restraint in an emergency, a member of the IDT shall, if practicable, ask the patient for an expression of preference or aversion to the various forms of intervention. A member of the IDT shall also ask the parent or guardian for an expression of preference regarding forms of intervention. The patient's expression, if any, as well as that of the parent or guardian shall be relayed to the other IDT members and recorded in the patient's chart;

(c) The patient's wishes for or against particular forms of intervention shall be respected by the person authorizing the use of restraint, provided that primary consideration shall be given to the need to protect the patient and others in the institution.

(3) Authorization:

(a) Except as provided in subsections (3)(d) and (e) of this rule, restraint shall be administered only pursuant to the order of the chief medical officer or the chief medical officer's designee;

(b) For the purposes of this section, the chief medical officer may designate one or more of the following persons: A physician licensed to practice medicine in the State of Oregon, a psychologist, or a psychiatric/mental health nurse practitioner;

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(c) The chief medical officer or designee shall order the use of restraint only after adequately assessing the patient's condition and the environmental situation;

(d) If the chief medical officer or designee is not available immediately to assess the need for intervention, and an emergency exists as defined in section (1) of this rule:

(A) The person in charge of the unit or cottage at the time:

(i) May authorize temporary use of restraint for a period of time not to exceed 30 minutes; and

(ii) Shall immediately contact the chief medical officer or his or her designee.

(B) The chief medical officer or designee shall personally observe the patient as soon as practicable to assess the patient and assess the appropriateness of the temporary use of restraint. The observation shall be documented in the person's chart.

(e) Every incident of personal restraint must be ordered by the chief medical officer or his or her designee, or as provided in subsection (3)(d) of this rule. The order may be oral or written but shall be documented as provided in section (4) of this rule.

(4) Documentation:

(a) No later than the end of their work shifts, the persons who authorized and carried out the use of restraint shall document in the patient's chart including but not necessarily limited to:

(A) The specific behavior which required intervention;

(B) The method of intervention used and the patient's response to the intervention; and

(C) The reason this specific intervention was used.

(b) Within 24 hours after the incident resulting in the use of restraint, the chief medical officer or designee who ordered the intervention shall review and sign the documentation. In the case of patients detained in a psychiatric hospital pursuant to an emergency hold under ORS 426.180 through 426.225, the treating physician shall sign the documentation, if the treating physician is not the chief medical officer or designee who ordered the intervention.

(5) Time Limits: All orders authorizing use of restraint shall contain an expiration time, not to exceed 12 hours and consistent with OAR 309-112-0010(8). Upon personal re-examination of the patient, the chief medical officer or designee may extend the order for up to 12 hours at each review, provided that the behavior of the patient justifies extended intervention. After each 24 hours of continuous restraint, a second opinion from another designee of the chief medical officer shall be required for further extension of the restraint.

(6) Reporting: Under this rule all emergency uses of restraint in excess of 15 minutes shall be reported daily to the chief medical officer or designee.

(7) After the second use of emergency restraint on a particular patient during a one-month period, a treatment program designed to reduce the need for restraint must be developed.

Stat. Auth.: ORS 179.040 & 413.042

Stats. Implemented: ORS 426.385 & 427.031

Hist.: MHD 1-1982(Temp), f. & ef. 1-14-82; MHD 7-1982, f. & ef. 3-29-82; MHD 22-1982(Temp), f. & ef. 9-24-82; MHD 1-1984, f. 1-20-84, ef. 2-1-84; MHD 2-1986, f. & ef. 3-31-86; MHS 2-2013(Temp), f. & cert. ef. 1-23-13 thru 7-19-13; Administrative correction, 8-21-13; MHS 6-2015(Temp), f. 10-20-15, cert. ef. 10-21-15 thru 4-15-16; MHS 2-2016, f. & cert. ef. 4-21-16

309-112-0017

Use of Restraint as Part of Planned Treatment or Training Programs

Subject to the provisions of these rules, restraint may be used as part of planned treatment program provided the informed consent of the patient is obtained or, if informed consent cannot be obtained, authorization to proceed with necessary treatment is obtained as provided in OAR 309-114-0000 through 309-114-0025.

Stat. Auth.: ORS 179.040 & 413.042

Stats. Implemented: ORS 426.385 & 427.031

Hist.: MHD 11-1982(Temp), f. & ef. 6-10-82; MHD 21-1982, f. & ef. 9-24-82; MHD 1-1984, f. 1-20-84, ef. 2-1-84; MHS 2-2013(Temp), f. & cert. ef. 1-23-13 thru 7-19-13; Administrative correction, 8-21-13; MHS 6-2015(Temp), f. 10-20-15, cert. ef. 10-21-15 thru 4-15-16; MHS 2-2016, f. & cert. ef. 4-21-16

309-112-0020

Use of Security Transportation

The chief medical officer or designee may authorize the use of secure transportation for patients of a secure program when outside the security area.

Stat. Auth.: ORS 179.040 & 413.042

Stats. Implemented: ORS 426.385 & 427.031

Hist.: MHD 1-1982(Temp), f. & ef. 1-14-82; MHD 7-1982, f. & ef. 3-29-82; MHD 22-1982(Temp), f. & ef. 9-24-82; MHD 1-1984, f. 1-20-84, ef. 2-1-84; MHS 2-2013(Temp), f. & cert. ef. 1-23-13 thru 7-19-13; Administrative correction, 8-21-13; MHS 6-2015(Temp), f. 10-20-15, cert. ef. 10-21-15 thru 4-15-16; MHS 2-2016, f. & cert. ef. 4-21-16

& cert. ef. 1-23-13 thru 7-19-13; Administrative correction, 8-21-13; MHS 6-2015(Temp), f. 10-20-15, cert. ef. 10-21-15 thru 4-15-16; MHS 2-2016, f. & cert. ef. 4-21-16

309-112-0025

Use of Restraint for Acute Medical Conditions

(1) During medical treatment for acute physical conditions, personal and physical restraint may be used to prevent a patient from injuring himself or herself.

(2) Use of a restraint in the presence of a physician may be authorized verbally; ongoing or continuing use of personal or physical restraint must be ordered in writing by a physician.

(3) Treatment staff shall:

(a) Attend to the patient's basic personal needs and exercise needs in accordance with general medical practice; and

(b) To the extent practicable, accommodate the patient's mental disabilities treatment and training regimen.

Stat. Auth.: ORS 179.040 & 413.042

Stats. Implemented: ORS 426.385 & 427.031

Hist.: MHD 1-1982(Temp), f. & ef. 1-14-82; MHD 7-1982, f. & ef. 3-29-82; MHD 1-1984, f. 1-20-84, ef. 2-1-84; MHS 2-2013(Temp), f. & cert. ef. 1-23-13 thru 7-19-13; Administrative correction, 8-21-13; MHS 6-2015(Temp), f. 10-20-15, cert. ef. 10-21-15 thru 4-15-16; MHS 2-2016, f. & cert. ef. 4-21-16

309-112-0030

Restraint Review Committee

(1) Each state institution shall have a Restraint Review Committee. The members of the committee shall be appointed by the superintendent of each institution and shall consist of five members; two from institution staff and three community persons who are knowledgeable in the field of mental health. A quorum shall consist of three members. The committee may be one formed specifically for the purposes set forth in this rule, or the duties prescribed in this rule may be assigned to an existing committee.

(2) The purpose and duty of the Restraint Review Committee is to review and evaluate at least quarterly the appropriateness of all such interventions and report its findings to the superintendent.

Stat. Auth.: ORS 179.040 & 413.042

Stats. Implemented: ORS 426.385 & 427.031

Hist.: MHD 1-1982(Temp), f. & ef. 1-14-82; MHD 12-1982, f. & ef. 6-10-82; MHD 22-1982(Temp), f. & ef. 9-24-82; MHD 1-1984, f. 1-20-84, ef. 2-1-84; MHS 2-2013(Temp), f. & cert. ef. 1-23-13 thru 7-19-13; Administrative correction, 8-21-13; MHS 6-2015(Temp), f. 10-20-15, cert. ef. 10-21-15 thru 4-15-16; MHS 2-2016, f. & cert. ef. 4-21-16

309-112-0035

Notice to Patients and Employees

(1) Upon admission, state institutions shall inform patients orally and in writing, of the rights, policies, and procedures set forth in these rules. In addition, a clear and simple statement of the title and number of these rules, their general purpose, and instructions on how to obtain a copy of the rules and how to seek advice about their content shall be prominently displayed in areas frequented by patients in all state institutions.

(2) All employees of state institutions shall be notified in writing at the commencement of their employment, or, for present employees, within a reasonable time of the effective date of these rules, of the rights, policies, and procedures set forth in these rules.

Stat. Auth.: ORS 179.040 & 413.042

Stats. Implemented: ORS 426.385 & 427.031

Hist.: MHD 1-1982(Temp), f. & ef. 1-14-82; MHD 7-1982, f. & ef. 3-29-82; MHD 1-1984, f. 1-20-84, ef. 2-1-84; MHS 2-2013(Temp), f. & cert. ef. 1-23-13 thru 7-19-13; Administrative correction, 8-21-13; MHS 6-2015(Temp), f. 10-20-15, cert. ef. 10-21-15 thru 4-15-16; MHS 2-2016, f. & cert. ef. 4-21-16

Rule Caption: Permanent amendments to OAR 309-091 titled "State Hospital Admissions and Discharges".

Adm. Order No.: MHS 3-2016

Filed with Sec. of State: 4-28-2016

Certified to be Effective: 4-28-16

Notice Publication Date: 3-1-2016

Rules Amended: 309-091-0050

Subject: These rules establish and define the criteria which support the proper management and utilization of services provided by the Oregon state hospital system, by limiting admissions to those most severely symptomatic individuals whose treatment and recovery needs cannot be met in a community treatment setting.

These rules apply to all individuals admitted into any state hospital setting, and address differences which occur due to each individual's legal status.

Rules Coordinator: Nola Russell—(503) 945-7652

ADMINISTRATIVE RULES

309-091-0050

Other Forensic Discharges

(1) For the purposes of this rule, discharge occurs when the state hospital moves the individual from the state hospital's psychiatric care to either a community setting or other institutional setting – including but not limited to discharge to a jail.

(2) Individuals committed to the state hospital pursuant to ORS 161.370 shall be discharged from the state hospital upon the any of the following:

- (a) The court has ordered that the individual be discharged from the state hospital or that the underlying criminal charges be dismissed;
- (b) The state hospital both:
 - (A) Has sent notice to the court pursuant to ORS 161.370 subsection (5)(a), (5)(b)(A), (5)(b)(B), or subsection (8); and
 - (B) Has transported the individual to a jail;
- (c) A period of time has passed which is equal to the maximum sentence the court could have imposed if the individual had been convicted; or
- (d) A period of time has passed which is equal to 1,095 days from the individual's initial custody date at the hospital under ORS 161.370.

(3) In counting the maximum period of time under (2)(c) through (d) of this section, the state hospital shall count the days in which the defendant was admitted to the state hospital pursuant to ORS 161.370 on any charge alleged in the accusatory instrument and shall not count any days in which the individual had been discharged from the state hospital.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 179.321, 426.010, 426.020, 161.370, 179.360 & 2011 SB 432

Hist.: MHS 16-2011(Temp), f. 12-29-11, cert. ef. 1-1-12 thru 6-29-12; MHS 6-2012, f. 5-3-12, cert. ef. 5-4-12; MHS 7-2015(Temp), f. & cert. ef. 10-28-15 thru 4-22-16; MHS 3-2016, f. & cert. ef. 4-28-16

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Rule Caption: Permanent amendments to OAR 309-090, titled "Forensic Mental Health Evaluators and Evaluations."

Adm. Order No.: MHS 4-2016

Filed with Sec. of State: 5-3-2016

Certified to be Effective: 5-3-16

Notice Publication Date: 3-1-2016

Rules Amended: 309-090-0000, 309-090-0005, 309-090-0010, 309-090-0015, 309-090-0020, 309-090-0025, 309-090-0030, 309-090-0035, 309-090-0050, 309-090-0055, 309-090-0060, 309-090-0065, 309-090-0070

Subject: These rules establish minimum standards for the certification of psychiatrists, licensed psychologists, and regulated social workers, who are Licensed Clinical Social Workers (LCSW), related to performing forensic examinations and evaluations as described in ORS 161.309-161.370, 419C.150, 419C.378-419C.398 and 419C.524. The rules are intended to ensure that forensic evaluations meet consistent quality standards and are conducted by qualified and trained evaluators. The Oregon Health Authority (OHA) shall provide training, certify qualified applicants and maintain a list of certified forensic evaluators for statewide use.

Rules Coordinator: Nola Russell—(503) 945-7652

309-090-0000

Purpose and Scope

These rules establish minimum standards for the certification of psychiatrists, licensed psychologists, and regulated social workers, who are Licensed Clinical Social Workers (LCSW), related to performing forensic examinations and evaluations as described in ORS 161.309–161.370, 419C.150, 419C.378–419C.398 and 419C.524. The rules are intended to ensure that forensic evaluations meet consistent quality standards and are conducted by qualified and trained evaluators. The Oregon Health Authority shall provide training, certify qualified applicants and maintain a list of certified forensic evaluators for statewide use.

Stat. Auth.: ORS 413.042; OL 2011, HB 3100, 161.392, HB2836, 419C.382

Stats. Implemented: OL 2011, HB 3100, ORS 161.392, HB2836, 419C.382

Hist.: MHS 12-2011(Temp), f. 12-21-11, cert. ef. 1-1-12 thru 6-27-12; MHS 13-2012, f. & cert. ef. 6-25-12; MHS 14-2014, f. & cert. ef. 10-29-14; MHS 4-2016, f. & cert. ef. 5-3-16

309-090-0005

Definitions

- (1) "Authority" means the Oregon Health Authority.
- (2) "Competence" means the same as "fitness to proceed" and is defined according to ORS 161.360.
- (3) "Conditional Certification" means a psychologist, psychiatrist, or regulated social worker who is a Licensed Clinical Social Worker is tem-

porarily Court-designated as a certified evaluator as defined in OAR 309-090-0010(3).

(4) "Criminal Responsibility" is defined according to ORS 161.295.

(5) "Division" means the Health Systems Division of the Authority.

(6) "Evaluator" means a psychiatrist, licensed psychologist or a Licensed Clinical Social Worker certified by the Authority to perform forensic evaluations.

(7) "Forensic Psychiatric or Psychological Evaluation" means the assessment of a defendant or juvenile in which the certified forensic evaluator opines on a specific psycho-legal referral question related to ORS 161.360 or 161.295, or 419C.378-419C.398 and is ordered by the Court or requested by associated attorneys.

(8) "Full Certification" means a psychiatrist or licensed psychologist in the state of Oregon satisfying the requirements of this chapter as defined in OAR 309-090-0010(1).

(9) "Juvenile" means an individual under the age of 18.

(10) "Juvenile Certification" means an evaluator in the state of Oregon satisfies the requirements of this chapter as defined in OAR 309-090-0010(1) and has also completed the specialized juvenile segment of the Oregon Forensic Evaluator Training and has successfully passed the examination for juvenile certification.

(11) "Licensed Clinical Social Worker" means a regulated social worker licensed with the Oregon board of Licensed Social Workers pursuant to ORS 675.530.

(12) "Licensed Psychologist" means a psychologist licensed pursuant to ORS 675.010 through 675.150 by the Oregon Board of Psychologist Examiners.

(13) "Mental Defect" means intellectual disability, brain damage or other biological dysfunction that is associated with distress or disability causing symptoms or impairment in at least one important area of an individual's functioning, as defined in the current Diagnostic and Statistical Manual of Mental Disorders Fifth Edition (DSM-5); of the American Psychiatric Association.

(14) "Mental Disease" means any diagnosis of mental disorder which is a significant behavioral or psychological syndrome or pattern that is associated with distress or disability causing symptoms or impairment in at least one important area of an individual's functioning, as defined in the current Diagnostic and Statistical Manual of Mental Disorders Fifth Edition (DSM-5); of the American Psychiatric Association.

(a) The term "mental disease or defect" as defined in these rules does not include an abnormality manifested solely by repeated criminal or otherwise antisocial conduct, abnormalities manifested solely by substance induced disorders, or an abnormality consisting solely of paraphilias;

(b) For offenses committed on or after January 1, 1984, the term "mental disease or defect" does not include any abnormality constituting solely a personality disorder.

(15) "Oregon Forensic Evaluator Training Program" means a training program approved by the Authority to review with psychiatrists licensed psychologists, and Licensed Clinical Social Workers best practices for forensic evaluations and the standards required in these rules to perform forensic evaluations for courts in the state of Oregon.

(16) "Psychiatrist" means a physician licensed by the Oregon Medical Board pursuant to ORS 677.010 through 677.450 and who has completed an approved residency training program in psychiatry.

(17) "Redacted Forensic Evaluation" means a forensic evaluation report for which all identifying information of the client and evaluator has been removed. Specific information that should be redacted includes any information which may specifically identify the defendant or juvenile, name and discipline of the evaluator, address, phone, fax or logos that may identify the evaluator, qualifications of the evaluator that may identify the evaluator.

(18) "Regulated Social Worker" means a social worker registered pursuant to ORS 675.510.

(19) "Substantial Danger to Self or to Others" means the individual requires a hospital level of care due to a mental disease or defect.

(20) "Successful completion of training" means:

(a) Attendance at the entire training; and

(b) Passing the examination given at the conclusion of the training.

(21) "Temporary Certification" means the certification granted by the Authority under these rules after an applicant has satisfied the requirements of OAR 309-090-0010(2).

(22) "Youth" means an individual under 18 years of age who is alleged to have committed an act that is a violation, or, if done by an adult would constitute a violation, of a law or ordinance of the United States or a state, county, or city, pursuant to ORS 419A.004.

Stat. Auth.: ORS 161.398., 419C.524;419C.382, OL 2011, HB 3100, HB2836

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Stats. Implemented: OL 2011, HB 3100, HB2836, ORS 161.309-370, ORS 419C.378-398
Hist.: MHS 12-2011(Temp), f. 12-21-11, cert. ef. 1-1-12 thru 6-27-12; MHS 13-2012, f. &
cert. ef. 6-25-12; MHS 16-2012, f. & cert. ef. 12-26-12; MHS 14-2014, f. & cert. ef. 10-29-
14; MHS 4-2016, f. & cert. ef. 5-3-16

309-090-0010

Forensic Certification Types and Requirements

Psychiatrists licensed psychologists, and Licensed Clinical Social Workers must be certified by the Authority to submit evaluation reports to the court for the purpose of criminal responsibility or competency when ordered by the court as required in ORS 161.309, 161.365, 419C.524 through 419C.527 and 419C.378 through 419C.398.

(1) Applicants must meet the following requirements for full certification:

(a) A psychiatrist must submit a completed application form, psychiatrist supplement, and nonrefundable \$250 application fee and:

(A) Have a current license to practice in Oregon;

(B) Participate in and successfully complete the Oregon Forensic Evaluator Training; and

(C) Submit to the Authority for review three redacted forensic evaluation reports completed by the applicant within the previous 24 months.

(i) If an applicant desires to perform criminal responsibility evaluations, if available, at least one redacted forensic evaluation report should be an evaluation of criminal responsibility.

(ii) If an applicant desires to perform juvenile evaluations, the applicant shall participate in and successfully complete the specialized juvenile segment of the Oregon Forensic Evaluator Training, and, if available, at least one redacted forensic evaluation report should be an evaluation of a juvenile.

(b) A licensed psychologist must submit a completed application form, psychologist supplement and nonrefundable \$250 application fee and:

(A) Have a current license to practice in Oregon;

(B) Participate in and successfully complete the Oregon Forensic Evaluator Training; and

(C) Submit to the Authority for review three redacted forensic evaluation reports completed by the applicant within the previous 24 months.

(i) If an applicant desires to perform criminal responsibility evaluations, if available, at least one redacted forensic evaluation report should be an evaluation of criminal responsibility.

(ii) If an applicant desires to perform juvenile evaluations, the applicant shall participate in and successfully complete the specialized juvenile segment of the Oregon Forensic Evaluator training and, if available, at least one redacted forensic evaluation report should be an evaluation of a juvenile.

(c) A Licensed Clinical Social Worker must submit a completed application form, social worker supplement, and nonrefundable \$250 application fee and:

(A) Have a current Oregon license as a clinical social worker as defined in ORS 675.530;

(B) Participate in and successfully complete the Oregon Forensic Evaluator Training including the specialized juvenile segment; and

(C) Submit to the Authority for review three redacted forensic evaluation reports completed by the applicant specifically addressing juvenile competency completed within the previous 24 months.

(d) A Licensed Clinical Social Worker is restricted from providing forensic evaluations except for evaluations specifically addressing a youth's fitness to proceed in a proceeding initiated by a petition alleging jurisdiction under ORS 119C.005.

(e) Full Certification has a maximum duration of 24 months from certification date.

(2) Temporary Certification:

(a) Applicants who submit applications for Forensic Evaluator Certification shall be granted a Temporary Certification until participation in and successful completion of the Oregon Forensic Evaluator Training and submission of three redacted forensic evaluation reports. If the applicant desires to perform criminal responsibility evaluations, at least one redacted forensic evaluation report must be an evaluation of criminal responsibility. Applicants must attend the next regularly scheduled training date or request an extension which may be granted by the Authority.

(b) Evaluators with temporary certification who submit forensic evaluation reports for panel review are certified to perform forensic evaluations for individuals charged with crimes including:

(A) Aggravated murder;

(B) Murder; or

(C) Ballot Measure 11 Offenses.

(c) If no redacted forensic evaluation reports are available, evaluators may perform evaluations of those charged with crimes other than aggravated murder, murder or Ballot Measure 11 offenses for the purpose of generating evaluation reports to the Authority for review.

(d) For Certification purposes, psychiatrists enrolled in an ACGME-Accredited residency training program may participate in evaluations where certification is required under ORS 161.309, 161.365 and 419C.524 only under the direct supervision and review of a psychiatrist or psychologist that has been granted full certification under the provisions of OAR 309-090-0010.

(e) Temporary certification has a maximum duration of 12 months. An extension of an additional three months may be granted by the Authority for extenuating circumstances.

(3) Conditional Certification. An evaluator, who has not been certified by the Authority, may be granted conditional certification by the court, if exigent circumstances exist such as an out of state expert evaluation being sought, or an unusual expertise is required. The court will notify the Authority of the granting of a conditional certification. Conditional Certification ends at the disposition of the particular case for which the conditional certification was granted.

Stat. Auth.: ORS 161.392-413.042 419C.524,161.309 -370, , 419C.382

Stats. Implemented: 161.309 -370, ORS 161.392, 419C.382, 419C.380

Hist.: MHS 12-2011(Temp), f. 12-21-11, cert. ef. 1-1-12 thru 6-27-12; MHS 13-2012, f. &
cert. ef. 6-25-12; MHS 14-2014, f. & cert. ef. 10-29-14; MHS 4-2016, f. & cert. ef. 5-3-16

309-090-0015

Application Requirements and Process

(1) Applications must be submitted to the Authority using a form and in a manner prescribed by the Authority.

(2) The application must be accompanied by:

(a) Proof of the applicable license by the State of Oregon, as a Psychiatrist Psychologist, or Licensed Clinical Social Worker.

(b) A copy of a current resume or curriculum vitae providing documentation of forensic training and experience.

(c) Three redacted forensic evaluation reports of competency or criminal responsibility. If no redacted forensic evaluation reports are available, an applicant may be temporarily certified and may perform evaluations of those charged with crimes other than aggravated murder, murder, or Ballot Measure 11 offenses for the purpose of generating reports to the Authority for review; and;

(d) A non-refundable application fee of \$250.00.

(3) After a complete application packet is received the Authority shall:

(a) Evaluate the materials to determine whether the applicant is qualified for Full or Temporary Certification;

(b) Grant, deny or place conditions on a certification; and

(c) Issue a written statement to the applicant of its determination.

Stat. Auth.: ORS 161.392- 419C.524, 419C.392, 161.309 -370, 419C.378-384.

Stats. Implemented: 161.309 -370, 161.392419C.378-384

Hist.: MHS 12-2011(Temp), f. 12-21-11, cert. ef. 1-1-12 thru 6-27-12; MHS 13-2012, f. &
cert. ef. 6-25-12; MHS 14-2014, f. & cert. ef. 10-29-14; MHS 4-2016, f. & cert. ef. 5-3-16

309-090-0020

Recertification Requirements

(1) An evaluator must request recertification using a form, and in a manner prescribed by the Authority.

(2) The minimum requirements for recertification are:

(a) Proof of the applicable license by the State of Oregon;

(b) Within six months of expiration of certification, participation in recertification updates to the Oregon Forensic Evaluator Training Program approved by the Authority;

(c) Review and approval by the Division of a minimum of two redacted forensic evaluation reports completed by the applicant during the past 24 months. If the psychiatrist or licensed psychologist applicant desires to perform criminal responsibility evaluations, at least one redacted sample should be an evaluation of criminal responsibility. If performing Juvenile evaluations one of these should be a juvenile competency or criminal responsibility evaluation. Licensed Clinical Social Workers cannot perform any forensic evaluations other than fitness to proceed evaluations for youth in a proceeding initiated by a petition alleging jurisdiction under ORS 419C.005. All redacted evaluation reports submitted by Licensed Clinical Social Workers for panel review must specifically address the topic of juvenile competency for youth in a proceeding initiated by a petition alleging jurisdiction under 419C.005. These reports shall be subject to review and must meet or exceed standards identified by the Authority as listed in OAR 309-090-0025. The review panel may request to review an additional eval-

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uation report if necessary to make a determination that the reports meet or exceed standards as listed in 309-090-0025; and

- (d) A non-refundable application fee of \$250.00.
- (e) Continued compliance with all applicable laws and requirements.
- (3) Failure to satisfy the factors listed in section (2) above shall result in a non-recertification order from the Authority.

(4) Failure to reapply, attend recertification updates to the Oregon Forensic Evaluator Training or submit redacted evaluation reports for review and approval shall constitute a forfeiture of full certification which may be restored only upon written application approved by the Authority. Individuals who fail to reapply may receive a temporary certification for up to twelve months. Evaluators are responsible for monitoring their own expiration date and reapplying at the appropriate time.

(5) Individuals who receive non-recertification orders may reapply for certification and will be certified after they meet all of the requirements for certification. The Authority shall also provide notice of the applicant's right to a hearing pursuant to the provisions of ORS Chapter 183.

Stat. Auth.: ORS 161.309-161.370, 161.392, 413.042, 419C.524; 161.309 -370, 419C.378-384

Stats. Implemented: 161.309 -370, 419C.378-384

Hist.: MHS 12-2011(Temp), f. 12-21-11, cert. ef. 1-1-12 thru 6-27-12; MHS 13-2012, f. & cert. ef. 6-25-12; MHS 14-2014, f. & cert. ef. 10-29-14; MHS 4-2016, f. & cert. ef. 5-3-16

309-090-0025

Content of Written Evaluations Assessing Competency and Criminal Responsibility

(1) At minimum each forensic evaluation report shall include the following:

(a) Identifying information of the defendant, a description of the forensic examination, criminal charges, the referral source and the referral question;

(b) The evaluative procedure, techniques and tests used in the examination and the purpose for each, informed consent and limits of confidentiality;

(c) Background information, relevant history of mental and physical illnesses, substance use and treatment histories, medications, hospital or jail course, and current setting.

(d) Summary of a mental status examination;

(e) A substantiated diagnosis in the terminology of the American Psychiatric Association's current edition of the Diagnostic and Statistical Manual of Mental Disorders;

(f) A consideration of malingering must be present in every evaluation report; and

(g) A summary of relevant records reviewed for the evaluation.

(2) In addition to OAR 309-090-0025(1), when the defendant or juvenile's competency is in question, the evaluation report shall also include, at a minimum, opinions and explanations related to the defendant or juvenile:

(a) Understanding of his or her charges, the possible verdicts and the possible penalties;

(b) Understanding of the trial participants and the trial process;

(c) Ability to assist counsel in preparing and implementing a defense;

(d) Ability to make relevant decisions autonomously; and

(e) If determined incapacitated: A recommendation of treatment and other services necessary for the defendant to gain or restore capacity, including an opinion and explanation as to whether the person requires a hospital level of care.

(f) The evaluator may not provide the defendant or juvenile's statements about the alleged criminal conduct unless necessary to support the evaluator's finding of competence or incompetence.

(3) In addition to OAR 309-090-0025(1), related to the question of criminal responsibility, the evaluation report shall also include, at a minimum, opinions and explanations addressing:

(a) The defendant or juvenile's account of the alleged offense including thoughts, feelings and behavior;

(b) Summary of relevant records; including police reports,

(c) An expert opinion regarding the role of substance use in the alleged offense;

(d) The defendant or juvenile's mental state at the time of the alleged offense and

(e) An expert opinion regarding whether the defendant, as a result of mental disease or defect at the time of engaging in the alleged criminal conduct, lacked substantial capacity either to appreciate the criminality of the conduct or to conform the conduct to the requirements of law.

(f) An expert opinion regarding; if the individual is determined guilty except for insanity of a misdemeanor is the individual a substantial danger to others as defined in these rules.

Stat. Auth.: ORS 161.309-161.370, 161.392, 413.042, 419C.524, 419C.382; 161.309 -370

Stats. Implemented: ORS 161.309 -370

Hist.: MHS 12-2011(Temp), f. 12-21-11, cert. ef. 1-1-12 thru 6-27-12; MHS 13-2012, f. & cert. ef. 6-25-12; MHS 16-2012, f. & cert. ef. 12-26-12; MHS 14-2014, f. & cert. ef. 10-29-14; MHS 4-2016, f. & cert. ef. 5-3-16

309-090-0030

Forensic Evaluation Review Panel

(1) A multi-disciplinary review panel shall be appointed by the director of the Division and serve at the discretion of the Director to review forensic evaluation reports submitted in support of applications for certification.

(2) An individual interested in participating in the Forensic Evaluation Review Panel shall submit a letter of interest and resume to the Director of the Division.

(3) Members shall be experienced in the criminal justice system and have familiarity with the issues of competency and criminal responsibility.

(4) Members shall serve a two year term and are eligible for reappointment at the discretion of the Director. Vacancies occurring during a member's term shall be filled immediately for the remainder of the unexpired term.

(5) Members shall be reimbursed on a per diem basis for each day during which the member is engaged in the performance of official duties.

Stat. Auth.: ORS 161.309-161.370, 161.392, 413.042, 419C.524; 161.309 -370, 419C.378-384

Stats. Implemented: ORS 161.309 -370, 419C.378-384, 161.392, 419C.382

Hist.: MHS 12-2011(Temp), f. 12-21-11, cert. ef. 1-1-12 thru 6-27-12; MHS 13-2012, f. & cert. ef. 6-25-12; MHS 14-2014, f. & cert. ef. 10-29-14; MHS 4-2016, f. & cert. ef. 5-3-16

309-090-0035

Forensic Evaluation Review Panel Process

(1) Members of the Forensic Evaluation Review Panel shall meet at the discretion of the Authority to review all submitted redacted forensic evaluation reports as the need arises.

(2) Redacted forensic evaluation reports shall be reviewed by panel members with different professional backgrounds to determine whether the reports have met the requirements of form and content.

(3) Panel members shall issue a report to the Division with feedback for the certified forensic evaluator.

(4) The Review Panel shall I participate in the process for reviewing complaints and remediation plans under OAR 309-090-0060 through 309-090-0062 and make recommendations to the Authority if requested.

Stat. Auth.: ORS 161.309-161.370, 161.392, 419C.524; 161.309 -370, 419C.378-384

Stats. Implemented: ORS 161.392, 161.309 -370, 413.042, 419C.378-384

Hist.: MHS 12-2011(Temp), f. 12-21-11, cert. ef. 1-1-12 thru 6-27-12; MHS 13-2012, f. & cert. ef. 6-25-12; MHS 14-2014, f. & cert. ef. 10-29-14; MHS 4-2016, f. & cert. ef. 5-3-16

309-090-0050

Confidentiality

Except for the names of certified evaluators, all records provided to the Authority or the Division under these rules are confidential and privileged and may not be released or utilized for any purpose outside these rules. Any practitioner who in good faith complies with these rules, including providing sample evaluations for review in order to maintain certification, is not responsible for any failure by another individual or agency to maintain confidentiality, in regard to these rules.

Stat. Auth.: ORS 161.309-161.370, 161.392, 413.042, 419C.524, 419C.382; 161.309 -370, 419C.378-384

Stats. Implemented: ORS 161.309 -370, 419C.378-384

Hist.: MHS 13-2012, f. & cert. ef. 6-25-12; MHS 14-2014, f. & cert. ef. 10-29-14; MHS 4-2016, f. & cert. ef. 5-3-16

309-090-0055

Certification Denial, Suspension, Revocation, Non-Recertification and Complaints Regarding Content of Written Evaluation Reports

(1) An applicant may be denied certification, or an evaluator may be denied recertification for reasons including but not limited to:

(a) The applicant for initial or recertification attempted to procure a certification through fraud, misrepresentation or deceit;

(b) The applicant for initial or recertification submits to the Authority any notice, statement or other document required for certification which is false or untrue, or contains any material misstatement or omission of fact;

(c) The applicant for initial or recertification has been convicted of a felony; or

(d) The applicant for initial or recertification fails to meet the requirements for receiving certification or recertification.

(2) An applicant's certification may be revoked for any of the following reasons:

(a) The evaluator fails to meet any of the applicable requirements of these rules;

(b) The applicant loses his or her professional license for any reason;

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(c) The Authority accepts one or more complaints regarding the content of written reports; the forensic review panel reviews the complaints and determines that the deficiencies in the reports represent a substantial departure from the standards of practice established by these rules. Complaints regarding content are limited to standards set forth in OAR 309-090-0025.

(3) The Authority may immediately suspend an evaluator's certification in the event of a situation in which the Authority determines that immediate action is necessary, such as receipt of a serious complaint which has not yet been fully reviewed by the Authority.

Stat. Auth.: ORS 161.309-161.370, 161.392, 413.042, 419C.524, 419C.382; 161.309 -370, 419C.378-384
Stats. Implemented: ORS 161.309 -370, 419C.378 - 384
Hist.: MHS 14-2014, f. & cert. ef. 10-29-14; MHS 4-2016, f. & cert. ef. 5-3-16

309-090-0060

Complaints on Which the Authority Can Act

(1) Any complaint regarding the content of forensic evaluation reports must be submitted in a form and manner prescribed by the Authority and provide sufficient detail as to why the evaluation report is cause for a complaint.

(2) Complaints considered by the Authority must be limited to standards for content of written forensic evaluation reports as set forth in OAR 309-090-0025.

Stat. Auth.: ORS 161.309-161.370, 161.392, 413.042, 419C.524, 419C.382; , 161.309 -370, 419C.378-384
Stats. Implemented: ORS 161.309 -370, 419C.378 - 384
Hist.: MHS 14-2014, f. & cert. ef. 10-29-14; MHS 4-2016, f. & cert. ef. 5-3-16

309-090-0065

Complaint Processing and Investigation

(1) If a complaint is accepted, reviewed by the Authority, and found to warrant consideration by the forensic evaluation review panel, the evaluation report shall be forwarded to the panel for consideration and determination as to whether or not the deficiencies represent a substantial departure from the standards of practice established by these rules.

(2) If the Authority determines that there is substantial departure from the standards set forth in OAR 309-090-0025, the Authority in consultation with the forensic evaluation review panel shall provide written notice to the evaluator which may include recommended remediation steps provided by the review panel, denial of certification, or revocation of certification.

(3) If a remediation plan is recommended by the review panel, an evaluator shall have 30 days from the date of notice to respond with a written plan for remediation. If the Authority approves the plan y, the evaluator shall maintain temporary certification status for up to six months at which time the Authority shall determine whether the issues raised have been adequately addressed.

(a) If the issues raised have been adequately addressed, the Authority shall withdraw its notice and grant or restore full certification.

(b) If the issues have not been adequately addressed, the Authority may proceed with denial or revocation of certification and shall provide notice of the applicant's right to appeal, pursuant to the provisions of ORS Chapter 183.

(4) If certification is denied or revoked and evaluator may request reconsideration by the Director of the Authority by submitting a written request within 15 business days of receiving notice.

(5) Individuals making complaints on issues determined to be not covered by these rules may be referred to the appropriate licensing boards.

Stat. Auth.: ORS 161.309-161.370, 161.392, 413.042, 419C.524, 419C.382; 161.309 -370, 419C.378-384
Stats. Implemented: ORS 161.309 -370, 419C.378 - 384
Hist.: MHS 14-2014, f. & cert. ef. 10-29-14; MHS 4-2016, f. & cert. ef. 5-3-16

309-090-0070

Contested Case Hearing

If the Authority denies, revokes, non-renews, suspends, or imposes a condition on certification, the Authority shall provide notice of the applicant's right to a hearing pursuant to the provisions of ORS Chapter 183.

Stat. Auth.: ORS 161.309-161.370, 161.392, 413.042, 419C.524, 419C.382; 419C.378-384
Stats. Implemented: ORS 161.309 -370, 419C.378 - 384
Hist.: MHS 14-2014, f. & cert. ef. 10-29-14; MHS 4-2016, f. & cert. ef. 5-3-16

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**Oregon Health Authority,
Public Health Division
Chapter 333**

Rule Caption: Ambulance service agency providing secure transport
Adm. Order No.: PH 14-2016
Filed with Sec. of State: 4-28-2016

Certified to be Effective: 4-28-16

Notice Publication Date: 2-1-2016

Rules Adopted: 333-250-0085

Rules Amended: 333-250-0040, 333-250-0041

Subject: The Oregon Health Authority, Public Health Division, Emergency Medical Services and Trauma Systems Program is permanently amending and adopting Oregon Administrative Rules in chapter 333, division 250 relating to ambulance service agencies. Ambulance service agencies are often requested to provide transport to individuals suffering from a behavioral health crisis who are in custody or on diversion, often referred to as 'secure transport.' These rules address policy and education requirements that are necessary for an ambulance service agency to provide secure transport. Approval of secure transport providers are addressed in OAR 309-033-0432.

Rules Coordinator: Tracy Candela—(971) 673-0561

333-250-0040

Ambulance Service Operational Requirements

(1) The licensee must ensure that the service, employees, volunteers and agents:

(a) Comply with all of the requirements of ORS chapter 682, ORS 820.300 through 820.380 and other applicable federal, state and local laws and regulations governing the operation of a licensed ambulance service;

(b) Notify the Authority, upon making initial application or within 14-days of the date of registration, of any new "trading as", "division of", or "doing business as" names utilized by the licensee; and

(c) Transport only patients for which it has the resources to provide appropriate medical care and transportation unless in transfers between medical facilities, the sending or receiving facility has provided medically appropriate life support measures, personnel, and equipment to sustain the patient during the transfer.

(2) The licensee shall document that each employee or volunteer:

(a) Is provided an initial orientation program that addresses, at a minimum, the ambulance service standing orders, ambulance service policies and procedures, driving and operating requirements for ambulance vehicles, and operations of equipment. The initial orientation program must be completed prior to the employee or volunteer being allowed to staff an ambulance; and

(b) Has access to current copies of these rules, and the documents referred to within these rules that are incorporated by reference.

(3) The licensee must have written policies and procedures to carry out daily ambulance service operations including, but not limited to:

(a) Work practice controls for bloodborne pathogens in compliance with OAR chapter 437;

(b) Storage of medications including controlled substances if authorized by the EMS medical director and meeting the requirements of the Oregon Board of Pharmacy in OAR chapter 855 and the US Drug Enforcement Administration found in 21 CFR 1301.75(b);

(c) Destruction of outdated medications including controlled substances if authorized by the EMS medical director and meeting the requirements of the Oregon Board of Pharmacy in OAR chapter 855 and the US Drug Enforcement Administration found in 21 CFR 1307.21;

(d) Notifying the licensee when an employee is impaired by excessive fatigue, illness, injury or other factors that may reasonably be anticipated to constitute a threat to the health and safety of patients or the public;

(e) Reporting of suspected child abuse as required in ORS 419B.005 through 419B.050;

(f) Reporting of suspected elderly abuse as required in ORS 124.050 through 124.095;

(g) Patient rights in accordance with OAR 333-250-0085; and

(h) Providing secure transport for patients in custody in accordance with OAR 309-033-0435, if the licensee has been authorized to perform this service.

Stat. Auth.: ORS 682.017

Stats. Implemented: ORS 682.017 - 682.117, 682.991

Hist.: HD 18-1994, f. 6-30-94, cert. ef. 7-1-94; OHD 7-2001, f. & cert. ef. 4-24-01; PH 2-2007, f. & cert. ef. 2-1-07; PH 11-2010, f. 6-30-10, cert. ef. 7-1-10; PH 1-2013, f. & cert. ef. 1-25-13; PH 14-2016, f. & cert. ef. 4-28-16

333-250-0041

Ambulance Service Personnel Educational Requirements and Quality Improvement

(1) The licensee shall provide, coordinate, and document the following:

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(a) An orientation program for all new EMS providers, ambulance based clinicians and qualified drivers. The initial orientation program must include but is not limited to the subjects listed in OAR 333-250-0040(2)(a); and

(b) The training of all EMS providers and ambulance based clinicians on the:

(A) Proper use of any new equipment, procedure or medication prior to being placed into operation on an ambulance; and

(B) Secure transportation of patients in custody in accordance with OAR 309-033-0437, if the licensee has been authorized to perform this service.

(2) Before the licensee permits a person to staff an ambulance, the licensee shall ensure that the person has current training that includes but is not limited to:

(a) Bloodborne pathogen and infectious disease training that meets or exceeds standards found in OAR chapter 437;

(b) Hazardous materials awareness training that meets or exceeds the Oregon Occupational Safety and Health Division standards found in OAR chapter 437;

(c) Emergency ground ambulance operator's training that meets Authority standards when operating a ground ambulance;

(d) Air medical crew training that meets Authority standards when operating an air ambulance; and

(e) Marine crew training that meets Authority standards when operating a marine ambulance.

(3) The licensee shall ensure that there is verifiable written documentation placed in the employee's or volunteer's training file that the employee or volunteer has completed the training and the documentation shall include when and where the training was obtained.

(4) Any EMS related or required continuing education offered by the licensee or designee must be documented as follows:

(a) A class roster that contains:

(A) Name of the ambulance service;

(B) Full name of the instructor;

(C) Full name of the person attending the class;

(D) Class date;

(E) Class subject; and

(F) Class length; or

(b) A computer-generated printout history of an individual's continuing education record that contains:

(A) The full name of the person attending the class;

(B) Name of the ambulance service;

(C) Class dates;

(D) Class subjects; and

(E) Class lengths.

(5) Documentation required in section (4) of this rule must be maintained in a secure manner with limited access for a minimum of four years.

(6) The licensee must establish a procedure to release copies of all records of continuing education completed by an EMS provider or employee through the service in a verifiable format to the requesting party within five business days of being requested.

(7) The licensee must have a written quality improvement program that is approved by the EMS medical director.

(8) To assist the licensee and the EMS medical director in determining if appropriate and timely emergency medical care was rendered, the ambulance service designated official may request the following information from the hospital receiving the patient as authorized by ORS 682.056:

(a) Patient admit status and unit admitted to;

(b) Any procedure listed in section D04_04 of the National Highway Transportation Safety Administration dataset dictionary, version 2.2.1, and performed on the patient within the first hour of being admitted;

(c) Any medication administered to the patient within the first hour of being admitted; and

(d) Trauma system entry by emergency department staff.

(9) Information provided under section (8) of this rule is considered confidential pursuant to ORS 682.056. Any employee or volunteer participating in a quality improvement session must have a signed confidentiality statement in their personnel file.

(10) If the licensee accepts students for Paramedic internships from an accredited teaching institution, the licensee must:

(a) Have a signed and dated contract with each teaching institution providing internship students; and

(b) Use qualified preceptors, as defined by OAR 333-265-0000, who will be assigned to supervise, document and evaluate the Paramedic interns.

Stat. Auth.: ORS 682.017

Stats. Implemented: ORS 682.017 - 682.117, 682.991

Hist.: OH 7-2001, f. & cert. ef. 4-24-01; PH 2-2007, f. & cert. ef. 2-1-07; PH 11-2010, f. 6-30-10, cert. ef. 7-1-10; PH 1-2013, f. & cert. ef. 1-25-13; PH 14-2016, f. & cert. ef. 4-28-16

333-250-0085

Patient Rights for Emergency Medical Care and Transportation

(1) An ambulance service licensed by the Authority shall maintain written policies and procedures regarding patient rights.

(2) A statement of patient rights shall be distributed to each employee or volunteer and made available in the business office and in each satellite location.

(3) The statement of patient rights shall include, but is not limited to, the following:

(a) Access to appropriate emergency medical care and transportation without regard to race, ethnicity, religion, age, gender, sexual orientation, or disability;

(b) EMS providers will be considerate and respectful to all patients regardless of status;

(c) Opportunity to refuse any medical care or transportation to a medical facility when informed about the care to be provided and the risks associated with refusing medical care or transportation;

(d) Transportation to a clinically appropriate medical facility of the patient's choice without questioning ability to pay. The agency may elect to transport to a closer, appropriate medical facility if a patient's facility of choice:

(A) Is unreasonable due to unsafe conditions; or

(B) Requires an ambulance to be taken out of service for an unreasonable amount of time;

(e) When appropriate, opportunity to request private transport, for example from a friend or family member;

(f) Patient's health information will be protected in accordance with state and federal privacy laws;

(g) Opportunity to receive, upon request, medical information relating to the care or transport provided by EMS providers;

(h) Opportunity to receive, upon request, a reasonable explanation of any charges for emergency medical care provided by EMS providers or for ambulance services; and

(i) Information on how and where to file a complaint about the services performed is posted and available.

(4) Notwithstanding subsection (3)(d) of this rule, a licensed ambulance service may transport a patient against the patient's wishes if it is determined that the patient is incapacitated to make decisions based upon illness, injury or age.

Stat. Auth.: ORS 682.017

Stats. Implemented: ORS 682.017 - 682.117, 682.991

Hist.: PH 14-2016, f. & cert. ef. 4-28-16

Rule Caption: Specifies duties that can be delegated by a landlord to tenants at an organizational camp

Adm. Order No.: PH 15-2016

Filed with Sec. of State: 5-4-2016

Certified to be Effective: 5-9-16

Notice Publication Date: 4-1-2016

Rules Adopted: 333-030-0023

Rules Amended: 333-030-0015, 333-030-0020, 333-030-0100, 333-030-0110, 333-030-0120

Subject: The Oregon Health Authority (Authority), Public Health Division, Food, Pool, and Lodging Program is proposing to permanently amend and adopt rules in chapter 333, division 30 to implement House Bill (HB) 3292 (OL 2015, chapter 223), passed during the 2015 Oregon Legislative Session, relating to organizational camps. House Bill 3292 changed ORS chapter 446 to clarify that camp owners must obtain a license to operate but camp user groups are responsible for compliance with the rules. The bill authorized the Authority to adopt rules identifying duties that a landlord may delegate through a contract to tenants.

Rules Coordinator: Tracy Candela—(971) 673-0561

333-030-0015

Definitions

As used in these rules unless otherwise required by context:

(1) "Administrator" means the Public Health Director of the Oregon Health Authority or designee.

(2) "Ancillary Activity" means an individual or group using the camp facilities in a manner unrelated to the camp's mission or programs. An

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example might include a wedding party or a business group using a Boy Scout Camp for a reception or meeting. Such activities may require the camp to maintain a food service or traveler's accommodation license in addition to the organization camp license.

(3) "Approved" means approved in writing by the Oregon Health Authority, Public Health Division.

(4) "Aquatic Director" means a person over 18 years of age who is an employee or volunteer within the organizational camp and is a currently certified lifeguard, as defined by OAR 333-060-0015 (see "Program Director" and "Program Supervisor").

(5) "Cabin Cooking" means food preparation in a facility usually equipped with residential grade cooking and cooling equipment, and usually done by campers for themselves.

(6) "Camp" means an organizational camp as defined in section (26) of this rule.

(7) "Camp Commissary" means the central food storage and distribution facility when cabin or wilderness/primitive cooking are regularly practiced.

(8) "Camp Director" means the person on-site who has the overall responsibility for the programs and activities under the direction of the camp operator.

(9) "Camp Health Director" is an adult, 18 years of age or older, who is responsible for routine and emergency health care services at the camp (see "Program Director" and "Program Supervisor").

(10) "Camp Operator" means either the license holder or a contract or rental group the license holder has contracted with to use part or all of the camp facilities and, whichever has overall responsibility for the camp programs and activities.

(11) "Camp Staff" includes paid and unpaid staff and volunteer leaders working directly for the license holder or contract or rental group.

(12) "Contract groups" or "Rental groups" are organized groups that use the camp facilities under contracted arrangement with the license holder or camp owner.

(13) "Day Camp" means an organizational camp facility that campers attend for an established period of time, leaving at the end of the camping day that provides creative and recreational opportunities in the out-of-doors utilizing trained leadership and the resources of the natural surroundings to contribute to the camper's mental, physical and spiritual growth.

(14) "Delegated County" means a county delegated authority to administer the Organizational Camp Program under ORS 446.425. (See also "Local Public Health Authority").

(15) "Division" means the Public Health Division of the Oregon Health Authority.

(16) "Family Camp" means sessions operated or staffed by the license holder or contract group or rental group for parents and children as family groups. Parents and guardians are on-site and have frequent contact with and make decisions on behalf of their children.

(17) "Health Disclosure" means an up-to-date record of the camper's or staff's past and present health status.

(18) "Health Services" means the services provided to campers and staff including first aid, medication management, provision of prescribed medical treatment and health practices.

(19) "High Risk Program Facilities" means areas and equipment, developed by the license holder, that present a higher than normal opportunity for camper injuries. High Risk Program Facilities include but are not limited to rifle and archery ranges, ropes courses, climbing walls, trampolines, waterfront and swimming facilities, skiing and snowboarding.

(20) "Landlord" means a tourist facility owner holding a license issued under ORS 446.310 to 446.350.

(21) "License Holder" means the person to which the organizational camp license has been issued by the Division or local public health authority.

(22) "Lifeguard" means a currently certified lifeguard (with waterfront module where applicable), as determined by the Division.

(23) "Local Public Health Authority (LPHA)" has the meaning given that term in ORS 431.260.

(24) "Off-Site" means outside of the boundaries of the camp facility.

(25) "On-Site" means within the boundaries of the licensed camp facility.

(26) "Organizational Camp" has the meaning given that term in ORS 446.310.

(27) "Outdoor Youth Program" means a program that provides, in an outdoor living setting, treatment services to youth who are enrolled in the program because they have behavioral problems, mental health problems or problems with abuse of alcohol or drugs.

(28) "Permanent Sleeping Unit" means cabins, platform tents, huts and other shelters that are used for sleeping and remain stationary for more than six nights in an organizational camp.

(29) "Person" means individuals, corporations, associations, firms, partnerships and joint stock companies as well as public entities such as schools, colleges, public or private educational corporations.

(30) "Potentially Hazardous Food (Time/Temperature Control for Safety Food)" has the meaning given that term in OAR 333-150-0000 1-201.10(B).

(31) "Primitive Camping" means a type of camping, during which the campers use non-permanent sleeping structures such as tents, tarps and ground cloths.

(32) "Outdoor Cooking" means meals are prepared using primitive or outdoor cooking methods.

(33) "Program Assistants" means the staff required to operate a program area or activity, trained in their responsibilities and under the direct supervision of the program director or program supervisor.

(34) "Program Director" means an individual with appropriate training and experience in the program area or activity for which the individual has overall responsibility.

(35) "Program Supervisor" means an individual that supervises the operation of a program area or activity under the direction of a program director who has appropriate training and experience in the program area or activity he or she supervises.

(36) "Public Spa Pool" means any public swimming pool or wading pool designed primarily to direct water, or air-enriched water under pressure, onto the bather's body with the intent of producing a relaxing or therapeutic effect. A public spa pool includes, but is not limited to, spa pools owned or operated by organizational camps.

(37) "Public Swimming Pool" means an artificial structure, and its appurtenances, that contains water more than two feet deep that is used, or intended to be used, for swimming or recreational bathing and is for the use of any segment of the public. A public swimming pool includes, but is not limited to, swimming pools owned or operated by organizational camps.

(38) "Public Wading Pool" means an artificial structure, and its appurtenances, that contains water less than two feet deep that is expressly designated or used with the knowledge and consent of the owner or operator for wading or recreational bathing and is for the use of any segment of the public, whether limited to patrons of a companion facility or not. A public wading pool includes, but is not limited to, wading and spray pools owned or operated by an organizational camp.

(39) "Recreation Park" means any area designated by the person establishing, operating, managing or maintaining the same for picnicking or overnight camping by the general public or any segment of the public. Recreation park includes, but is not limited to, areas open to use free of charge or through payment of a tax or fee or by virtue of rental, lease, license, membership, association or common ownership and further includes, but is not limited to, those areas divided into two or more lots, parcels, units or other interests for purposes of such use.

(40) "Tenant" means a person or public body defined in ORS 174.109 that:

(a) Is not under the common ownership, management or control with the landlord;

(b) Rents or leases all or part of a tourist facility from a landlord for the purpose of operating an organizational camp, conference or other private gathering on one or more days during the term of the rental or lease; and

(c) For the term of the rental or lease enjoys exclusive occupancy of the rented or leased part of the tourist facility.

(41) "These Rules" means OAR 333-030-0005 through 333-030-0130.

(42) "Tourist Facility" means any travelers' accommodation, hostel, picnic park, recreation park and organizational camp.

(43) "Waterfront Activities" means those activities occurring in or on bodies of water other than a licensed public swimming, public wading or public spa pools.

(44) "Variance" means written permission from the Division for an organizational camp to be operated when it does not comply with all the applicable rules for Organizational Camps.

Stat. Auth.: ORS 446.330

Stats. Implemented: ORS 445.310 - 446.350

Hist.: HD 25-1981, f. & ef. 11-25-81; HD 7-1996, f. & cert. ef. 12-10-96; PH 1-2005, f. & cert. ef. 1-14-05; PH 9-2007, f. & cert. ef. 7-13-07; PH 5-2011(Temp), f. & cert. ef. 7-1-11 thru 12-27-11; PH 11-2011, f. & cert. ef. 10-27-11; PH 2-2013, f. & cert. ef. 1-25-13; PH 15-2016, f. 5-4-16, cert. ef. 5-9-16

ADMINISTRATIVE RULES

333-030-0020

Licensing Required

(1) No person shall establish, operate, manage or maintain an organizational camp without first securing a license from the Division or the local public health authority. Either the landlord or tenant may be issued a license for an organizational camp operated under contract, rental or leasehold arrangements. The license holder is responsible for compliance with these rules, with the exception of duties delegated to a tenant as specified in OAR 333-030-0023.

(2) All licenses issued under ORS 446.310 to 446.350 terminate and are renewable on December 31 of each year.

(3) Contract and rental groups may be required by the owner of the camp to obtain a license for the operating period.

(4) A contract or rental group that is the license holder is responsible for complying with these rules.

Stat. Auth.: ORS 446.330

Stats. Implemented: ORS 446.322

Hist.: HD 25-1981, f. & ef. 11-25-81; HD 18-1983(Temp), f. & ef. 10-18-83; HD 11-1984, f. & ef. 6-20-84; HD 7-1996, f. & cert. ef. 12-10-96; PH 9-2007, f. & cert. ef. 7-13-07; PH 2-2013, f. & cert. ef. 1-25-13; PH 15-2016, f. 5-4-16, cert. ef. 5-9-16

333-030-0023

Delegation of Duties

(1) A landlord may enter into a contract to delegate specific duties to a tenant for the term of the rental or lease of all or part of an organizational camp. The duties that may be delegated to a tenant through contract are:

- (a) OAR 333-030-0050(4) relating to bedding;
- (b) OAR 333-030-0055(2)(e) relating to toilet tissue;
- (c) OAR 333-030-0055(2)(f) relating to non-water-carried waste;
- (d) OAR 333-030-0055(3)(a)(C) and (D) relating to soap and paper towels;

(e) OAR 333-030-0060(2) through (4) relating to laundry facilities;

(f) OAR 333-030-0065 relating to solid waste;

(g) OAR 333-030-0070(1), (2), (5) and (6) relating to insect and rodent control;

(h) OAR 333-030-0090(1) and (5) relating to sewage collection and disposal;

- (i) OAR 333-030-0095(2) through (6) relating to food service;
- (j) OAR 333-030-0100(3) relating to an emergency plan;
- (k) OAR 333-030-0103 relating to camp administration;
- (l) OAR 333-030-0105 relating to health services;
- (m) OAR 333-030-0110(1)(b) and (c), (3) and (4) relating to programs and facilities;
- (n) OAR 333-030-0115 relating to transportation;
- (o) OAR 333-030-0120(3)(b), (5) and (6)(e) relating to fire safety;

and

(p) OAR 333-030-0125 relating to chemical and physical hazards.

(2) The landlord is responsible for compliance with duties specified in section (1) of this rule relating to cleanliness of the facility prior to contracting duties to a tenant. The tenant is responsible for compliance with delegated duties relating to facility cleanliness for the term of the contract.

Stat. Auth.: ORS 446.330

Stats. Implemented: ORS 446.310 - 446.350

Hist.: PH 15-2016, f. 5-4-16, cert. ef. 5-9-16

333-030-0100

Emergency Procedures

(1) Each organizational camp must retain on-site a written emergency plan outlining procedures to be followed in each of the following situations:

- (a) Natural disasters and other emergencies;
- (b) Lost camper or lost swimmer, if applicable;
- (c) Fires;
- (d) Transportation emergencies;
- (e) Severe illnesses, injuries or communicable diseases;
- (f) Stranger in camp; and
- (g) Transition of supervision and release of campers to a designated responsible party.

(2) The emergency plan must contain at least evacuation procedures, procedures for communication with emergency medical services and facilities and the nearest fire station, and procedures for the control of vehicular traffic through the camp.

(3) The camp operator of an organizational camp must:

(a) Designate individuals to be responsible for carrying out the emergency plan;

(b) Instruct all employees and volunteers in the emergency plan and their duties in the event of an emergency situation; and

(c) Retain written documentation that all employees are aware of their responsibilities under the emergency plan and their duties therein.

(4) The following emergency information must be posted conspicuously, near the phone or alternative communication system used by the camp for off-site emergency communication, accessible during all hours of operation and maintained in all organizational camps:

(a) When telephones are provided, the license holder must post by each telephone:

(A) The current telephone numbers for contacting hospitals, poison control, police, ambulances and fire departments in the immediate area;

(B) The telephone number of the organizational camp office; and

(C) The locations of the nearest medical facility and the organizational camp including highway number, street number, rural route and box number or other data (i.e. global positioning system (GPS) coordinates, life flight landing zone locations, etc.) to aid in assuring prompt emergency response.

(b) When an alternative communication system is provided, the license holder must post by each communication location:

(A) The current procedure to contact hospitals, poison control, police, ambulances and fire departments in the immediate area;

(B) The telephone number of the organizational camp office or alternate contact information; and

(C) The locations of the nearest medical facility and the organizational camp including highway number, street number, rural route and box number or other data (i.e. GPS coordinates, life flight landing zone locations, etc.) to aid in assuring prompt emergency response.

Stat. Auth.: ORS 446.330

Stats. Implemented: ORS 446.310 - 446.350

Hist.: HD 25-1981, f. & ef. 11-25-81; HD 7-1996, f. & cert. ef. 12-10-96; PH 9-2007, f. & cert. ef. 7-13-07; PH 2-2013, f. & cert. ef. 1-25-13; PH 15-2016, f. 5-4-16, cert. ef. 5-9-16

333-030-0110

Special Programs and Facilities

(1) HIGH RISK PROGRAM FACILITIES:

(a) A license holder is responsible for maintenance of a permanent high-risk program facility.

(b) The camp operator must ensure that the program director for each activity has training or experience in the high-risk program areas.

(c) Written procedures for the high risk activity must be communicated by the program supervisor to necessary camp staff and participants. Safety procedures must include:

- (A) Eligibility requirements for participation;
- (B) Camper/staff supervision ratios;
- (C) Safety regulations;
- (D) Emergency procedures;
- (E) Safety and protective equipment and usage; and
- (F) Activity area design or safety features, if applicable.

(2) AQUATIC FACILITIES:

(a) Public swimming pools and wading pools in organizational camps must comply with OAR chapter 333, division 60 (Public Swimming Pools).

(b) Public spa pools in organizational camps must comply with OAR chapter 333, division 62 (Public Spa Pools).

(3) AQUATIC PROGRAMS. The aquatic programs must be under the direction of an aquatic director or supervisor.

(4) WATERFRONT ACTIVITIES:

(a) An aquatic director must supervise any waterfront activity serving a total of 10 or more persons;

(b) There must be at least one lifeguard for each 25 persons in or on the water. An overall ratio of one observer or lifeguard for every 10 persons in or on the water must be maintained;

(c) Waterfront activities serving less than 10 persons in or on the water may operate with only the supervision of a lifeguard;

(d) If waterfront activities take place at more than one location, a lifeguard must be present at each location. Lifesaving, first aid, and safety equipment must be present at each location. Such equipment must be suitable for the users and conditions under which the equipment is expected to be used; and

(e) All watercraft must be equipped with a U.S. Coast Guard approved personal flotation device (PFD) in good, serviceable condition and of appropriate size for each person on board whenever the watercraft is in use.

(f) Subsections (4)(a) through (d) of this rule do not apply to groups comprised of only adults.

Stat. Auth.: ORS 446.330

Stats. Implemented: ORS 446.310 - 446.350

Hist.: HD 25-1981, f. & ef. 11-25-81; HD 7-1996, f. & cert. ef. 12-10-96; PH 9-2007, f. & cert. ef. 7-13-07; PH 2-2013, f. & cert. ef. 1-25-13; PH 15-2016, f. 5-4-16, cert. ef. 5-9-16

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333-030-0120

Fire Safety

(1) The camp licensee that is the camp owner must comply with the 2014 Oregon Fire Code.

(2) WRITTEN NOTIFICATION:

(a) At least once per year, written notification must be provided to the fire department or fire authority serving the camp, concerning the camp's operation period and including a copy of the camp's emergency plan. Any suggestions from the fire department or fire authority should be considered for addition to the emergency plan.

(b) For camps located outside of an established fire district, the camp must have an agreement or contract with a fire protection agency agreeing to provide fire protection services.

(3) EMERGENCY PLAN:

(a) The camp license holder must have a written plan for dealing with fire emergencies. The plan must ensure camper security, notifying emergency fire-fighting resources, and staff duties and responsibilities.

(b) The fire emergency plan must be communicated to campers prior to overnight occupancy.

(4) STAFF TRAINING:

(a) Staff employed by the landlord must be instructed and periodically drilled on the use of the emergency equipment and procedures to follow for notifying emergency personnel.

(b) The camp operator for contract and rental groups must be provided with and oriented to the fire emergency plan.

(5) NON-PERMANENT SLEEPING AREAS. A camp must have firefighting equipment available near sleeping areas that are non-permanent in nature, having no electricity, water, or wood stoves. Such non-permanent sleeping areas are areas using tents, provided camping spaces, and other temporary structures, including open-air structures.

(6) PERMANENT BUILDINGS. Permanent buildings within the organizational camp that are accessible to entry by the campers must meet the requirements of the 2014 Oregon Fire Code..

(a) Buildings with an occupancy of more than 10 persons must be provided with at least two separate and independent means of emergency exit, located as far apart as possible but in no case closer than 50 percent of the longest diagonal dimension of the building.

(b) Where wood burning stoves or other combustible fuel heating devices are used in sleeping quarters, a carbon monoxide detector that is listed by a nationally recognized testing organization as meeting the Underwriter's Laboratories, Inc., UL 2034 or UL 2075 standards for carbon monoxide alarms must be provided, properly located, and maintained in compliance with OAR 837-047-0100 through 837-047-0170.

(c) Smoke detectors in good working order must be provided, properly located, and maintained in compliance with OAR 837-045-0040 through 837-045-0065 in all buildings used for sleeping by camp participants or staff. Smoke detectors must be listed by a nationally recognized testing organization as meeting the Underwriter's Laboratories, Inc., UL 217 or UL 265 standards for smoke detectors and alarms.

(d) Fire extinguishers must be provided and located as required by the 2014 Oregon Fire Code.

(e) Fire escape plans and routes must be communicated to campers prior to overnight occupancy.

Stat. Auth.: ORS 446.330

Stats. Implemented: ORS 446.310 - 446.350

Hist.: HD 25-1981, f. & ef. 11-25-81; HD 7-1996, f. & cert. ef. 12-10-96; PH 1-2005, f. & cert. ef. 1-14-05; PH 9-2007, f. & cert. ef. 7-13-07; PH 2-2013, f. & cert. ef. 1-25-13; PH 15-2016, f. 5-4-16, cert. ef. 5-9-16

Oregon Housing and Community Services Department Chapter 813

Rule Caption: Adopts temporary rules for the Individual Development Account Tax Credit program, sets a maximum credit.

Adm. Order No.: OHCS 3-2016(Temp)

Filed with Sec. of State: 4-20-2016

Certified to be Effective: 4-20-16 thru 10-14-16

Notice Publication Date:

Rules Amended: 813-300-0150

Subject: The rules govern the Oregon Individual Development Account Tax Credit administered by Oregon Housing and Community Services. These temporary rules set a maximum tax credit allow-

able to a single taxpayer within a particular year. These rules are the result of changes made by the Legislature through SB 1507 (2016).
Rules Coordinator: Sandy McDonnell—(503) 986-2012

813-300-0150

Tax Credit Contributor

(1) Contributions to a fiduciary organization approved by the department may qualify for an Oregon IDA tax credit.

(2) The percentage of tax credit to be awarded to tax payers is determined upon recommendation by the fiduciary organization with approval of the department. In making such a determination, the department may consider factors including but not limited to:

(a) The availability of the Oregon IDA Tax Credit;

(b) The nature and value of the contribution; and

(c) The recommendation of the approved fiduciary organization.

(3) The percentage of allowable credit will be determined in advance of accepting contributions.

(4) The maximum percentage of tax credit allowable to a single taxpayer within a particular year is seventy percent.

(5) The maximum tax credit allowable to a single taxpayer within a particular year is \$500,000.

(6) Contributions from contributors not utilizing an Oregon IDA tax credit may be eligible for a charitable deduction against taxable income.

(7) The department makes no representation on whether or not specific contributions qualify for an Oregon IDA tax credit. In all cases, contributors are encouraged to seek professional advice to determine the actual tax ramifications of their contribution.

Stat. Auth.: ORS 456.555, 456.625 & 458.700

Stats. Implemented: ORS 315.271 & 458.670 - 458.700

Hist.: OHCS 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-5-03; OHCS 1-2003, f. & cert. ef. 4-4-03; OHCS 18-2015(Temp), f. & cert. ef. 10-5-15 thru 4-1-16; OHCS 2-2016, f. & cert. ef. 3-25-16; OHCS 3-2016(Temp), f. & cert. ef. 4-20-16 thru 10-14-16

Rule Caption: Clarifies definition and utilization of a rent pass through for Oregon Affordable Housing Tax Credits

Adm. Order No.: OHCS 4-2016(Temp)

Filed with Sec. of State: 5-5-2016

Certified to be Effective: 5-5-16 thru 10-31-16

Notice Publication Date:

Rules Amended: 813-110-0010, 813-110-0013, 813-110-0015

Subject: The purpose of Oregon affordable housing tax credits is to encourage the creation or preservation of safe, sanitary and affordable housing for lower-income Oregonians. The rules are amended to clarify the definition of rent pass through and the requirements for utilization of the pass through .

Rules Coordinator: Sandy McDonnell—(503) 986-2012

813-110-0010

Definitions

Certain terms used in this division are defined in ORS chapter 317, the Act, OAR 813-005-0005, and herein. Other terms may be identified in the text of this division (including by incorporation), otherwise in chapter 813, or applicable law.

(1) "Cap" means the maximum amount of tax credits as set by the Legislature in ORS 317.097(6). The department will calculate tax credit availability based on the actual number of tax credits allocated at any given time.

(2) "Certification" means the written verification by the department to a lender that a project is a qualified project for which the lending institution may claim a tax credit under the provisions of the Act.

(3) "Firm commitment of financing" means an agreement by a lending institution to make a loan to a specific borrower on a specific property and which will contain all of the terms and conditions that the borrower has to satisfy before said loan can be funded. Payment of a commitment charge by the borrower to the lending institution may be required as a condition precedent to issuance of such an agreement.

(4) "Lending institution" means any insured institution, as defined in ORS 706.008, any mortgage company that maintains an office in this state, or any community development corporation that is organized under the Oregon Nonprofit Corporation Law.

(5) "Preservation project" means housing that was previously developed as affordable housing with a contract for rental assistance from the United States Department of Housing and Urban Development or the United States Department of Agriculture and that is being acquired by a

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sponsoring entity. The contract for project-based rental assistance must cover at least 25 percent of all units in the project.

(6) "Project," except as defined under "manufactured dwelling park" or "preservation project," means one or more units of housing, that has been acquired, constructed, developed, or rehabilitated, including refinanced housing, which will be rented to or owned by households whose incomes are less than 80 percent of area median income. The use of a project for eligible occupants shall be maintained for the term of the credit, in accordance with the Act, unless terminated at the discretion of the department. If there is a foreclosure, deed-in-lieu, or an involuntary transfer where title transfers to the lending institution, that lending institution may dispose of the property at its sole discretion.

(7) "Rent reduction" means the amount rents are reduced from the rents charged at the market interest rate as a result of the Oregon Affordable Housing Tax Credit (OAHTC) subsidy.

(8) "Rent Pass through" means the value of the tax credits loan rate discount that is extended by the project owner to the tenants in the form of reduced rents.

Stat. Auth.: ORS 317.097 & 456.555

Stats. Implemented: ORS 317.097 & 456.620

Hist.: HSG 1-1990(Temp), f. & cert. ef. 1-5-90; HSG 3-1990(Temp), f. & cert. ef. 3-1-90; HSG 9-1990, f. & cert. ef. 5-11-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 6-1991(Temp), f. & cert. ef. 11-5-91; HSG 3-1992, f. & cert. ef. 2-4-92; HSG 2-1994(Temp), f. & cert. ef. 3-25-94; HSG 7-1994, f. & cert. ef. 9-9-94; HSG 2-1995, f. & cert. ef. 9-25-95; OHCS 7-2006, f. & cert. ef. 5-17-06; OHCS 11-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07; OHCS 9-2007, f. & cert. ef. 1-11-07; OHCS 14-2007(Temp), f. & cert. ef. 10-16-07 thru 4-12-08; OHCS 5-2008, f. & cert. ef. 4-11-08; OHCS 1-2009(Temp), f. & cert. ef. 2-9-09 thru 8-7-09; OHCS 2-2009, f. & cert. ef. 8-5-09; OHCS 9-2013(Temp), f. & cert. ef. 6-21-13 thru 12-18-13; OHCS 22-2013, f. & cert. ef. 12-18-13; OHCS 3-2015(Temp) f. & cert. ef. 3-18-15 thru 9-13-15; OHCS 6-2015, f. & cert. ef. 7-9-15; OHCS 4-2016(Temp), f. & cert. ef. 5-5-16 thru 10-31-16

813-110-0013

Loan Requirements

In order to be eligible for the tax credit, the loan shall be:

(1) Made to an individual or individuals who own the dwelling, who participate in an owner-occupied community rehabilitation program, and are certified by the local government or its designated agent as having an income level at the time the loan is made of less than 80 percent of the area median income.

(2) Made to a qualified borrower;

(a) Used to finance construction, development, acquisition, or rehabilitation of housing; and,

(b) Accompanied by a written certification by the department that the:

(A) Housing created by the loan is or will be occupied by households earning less than 80 percent of the area median income; and,

(B) The full amount of the savings, from the reduced interest rate provided by the lending institution, is or will be passed through to the qualified tenants in the form of a rent reduction, regardless of other subsidies provided directly to the housing project,

(C) In satisfying the foregoing pass-through requirement, project owners may only assign up to the maximum of the estimated annual average per-unit pass through to units whose qualified tenants are using a tenant based Section 8, or Housing Choice Voucher,

(D) The estimated annual average per-unit pass through for the projects is to be calculated by dividing the annual loan interest savings, divided by twelve months, and then by dividing the number of affordable units occupied or held vacant for occupancy by qualified tenants, or

(3) Made to a qualified borrower;

(a) Used to finance construction, development, acquisition, or acquisition and rehabilitation of housing consisting of a manufactured dwelling park;

(b) The housing created by the loan is or will be occupied by a significant number of households, defined as more than 30% of all households at initial tenant qualification, earning less than 80 percent of the area median income; and,

(c) Accompanied by a written certification by the department that the housing will continue to be operated as a manufactured dwelling park during the period for which the tax credit is allowed, or

(4) Made to a qualified borrower;

(a) Used to finance acquisition, or acquisition and rehabilitation, of housing consisting of a preservation project; and,

(b) Accompanied by a written certification by the department that the housing preserved by the loan:

(A) Is or will be occupied by households earning less than 80 percent of the area median income; and

(B) Has a rent assistance contract with the United States Department of Housing and Urban Development (HUD) or the United States

Department of Agriculture that will be maintained by the qualified borrower. The contract must provide rental assistance to households in at least 25% of the project units.

Stat. Auth.: ORS 317.097 & 456.515 - 456.720

Stats. Implemented: ORS 317.097

Hist.: OHCS 14-2007(Temp), f. & cert. ef. 10-16-07 thru 4-12-08; OHCS 5-2008, f. & cert. ef. 4-11-08; Suspended by OHCS 9-2013(Temp), f. & cert. ef. 6-21-13 thru 12-18-13; OHCS 22-2013, f. & cert. ef. 12-18-13; OHCS 4-2016(Temp), f. & cert. ef. 5-5-16 thru 10-31-16

813-110-0015

Application Requirements

(1) For the purpose of enabling a lending institution to obtain a reservation of OAHTC under ORS 317.097, a sponsoring entity may apply to the department for certification of a qualified loan for the allocation of OAHTC consistent with OAR chapter 813 pursuant to relevant solicitation documents issued by the department including, but not limited to a Notice of Funding Availability ("NOFA"), or as otherwise determined by the department. The application shall provide information satisfactory to the department including but not limited to:

(a) The name, address and telephone number of the sponsoring entity;

(b) Proof as required by the department that the sponsoring entity is a qualified borrower;

(c) The relevant background of the qualified borrower and its management agent and their expertise with housing for low-income persons, if applicable;

(d) A firm commitment of financing by the lending institution to the sponsoring entity for the property that is the subject of the tax credits claim containing all of the terms and conditions that the sponsoring entity has to satisfy before the loan will be funded and including an estimated comparable market interest rate for the proposed loan, the estimated reduced interest rate and the estimated amount of savings or a letter of intent for the purpose of a reservation under OAR 813-110-0021;

(e) The name, address and contact person of the lending institution making the loan;

(f) A description of the project, including the type of housing or program involved, the number and type of housing units to be provided, the number of bedrooms, the address where the project is or will be located, and the federal, state and local agencies or organizations involved in financing or managing the project;

(g) A certification that includes, at a minimum, the statement that all information in the application is true, complete and accurately describes the project;

(h) An agreement by the sponsoring entity to execute restrictive covenants satisfactory to the department to which covenants will be recorded at the time of loan closing;

(i) A demonstration relating to occupancy of the units in the project, as required by subsection (2) of this section;

(j) A demonstration that the project meets the minimum requirements of any other department program used by the project, as required by subsection (3) of this section;

(k) Any additional information or actions requested by the department; and

(1) A certification by the sponsoring entity that includes, at a minimum, the statement that all information in the application is true, complete and accurately describes the project.

(2) The following provisions apply to the demonstration relating to occupancy of units that is required in subsection (1) of this section:

(a) A demonstration for a project other than a manufactured dwelling park must show that units constructed or rehabilitated with OAHTC will be occupied by households earning less than 80 percent of adjusted area median income at the time of initial occupancy.

(b) In the case of a preservation project or a manufactured dwelling park awarded after September 27, 2007, pass-through is not required for a certification produced on or after September 27, 2007.

(c) For a project other than a project to which paragraph (b) of this subsection applies, the demonstration must show that at the time the project is initially rented or purchased, and thereafter for the term of the OAHTC or twenty years, whichever is longer, the sponsor will pass the benefits of the project's reduced loan interest rate to tenant or homeowner households whose earnings are less than 80 percent of area median income at the time of initial tenant or homeowner qualification.

(d) A demonstration for a manufactured dwelling park must show that the project meets the occupancy requirements applicable to manufactured dwelling parks in ORS 317.097.

(3) Because the OAHTC program is intended to lower rents below the level that would be obtained after all other subsidies have been applied, a

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project that uses one or more other department programs must demonstrate that the project meets or will meet the minimum requirements of those other programs before application of the OAHTC subsidy rent reduction. For example, if an applicant has applied for tax credits under the Low Income Housing Tax Credits (LIHTC) program and that application indicated a target of 60 percent of area median income rents, the application under this rule must show the project is feasible at the targeted 60 percent median rents without the OAHTC subsidy. The OAHTC subsidy must be applied to reduce rents below the 60 percent level and must be passed on directly to the OAHTC qualified tenants or homeowners in its entirety although the pass-through need not be distributed evenly among the units. Pass through is limited for units occupied by a tenant with a tenant based Section 8 or Housing Choice Voucher, under 813-110-0013(2)(C).

(4) Rental units covered by Section 8 project based assistance are not eligible to be used to demonstrate pass-through savings for the OAHTC program because the rent reductions related to the OAHTC subsidy typically would not be passed on to the tenants in the form of a rent reduction from what the tenants would otherwise pay, and therefore, would not achieve pass-through savings. Projects that are partially covered with project based assistance may qualify to use OAHTC on the remaining units by, inter alia, demonstrating pass-through interest savings that result in appropriate rent reductions to the OAHTC qualified tenants. To the degree this can be achieved in conjunction with tenant vouchers not targeted for pass through, it is encouraged to be targeted to non-voucher units in the Project.

(5) The department may require more extensive and enduring affordability covenants than provided in subsections (2) through (4) as may be reflected in relevant solicitation documents or otherwise.

(6) The department may require a non-refundable application charge and may assess such other charges as it deems reasonable to cover anticipated costs of processing the application, coordinating with other funding or project partners, negotiating and recording required documents or additional administration. Certain other charges are identified later in these rules.

Stat. Auth.: ORS 317.097
Stats. Implemented: ORS 317.097, 456.508, 456.510, 456.513, 456.559, 456.605, 456.722
Hist.: HSG 1-1990(Temp), f. & cert. ef. 1-5-90; HSG 3-1990(Temp), f. & cert. ef. 3-1-90; HSG 9-1990, f. & cert. ef. 5-11-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 6-1991(Temp), f. & cert. ef. 11-5-91; HSG 3-1992, f. & cert. ef. 2-4-92; HSG 2-1994(Temp), f. & cert. ef. 3-25-94; HSG 7-1994, f. & cert. ef. 9-9-94; HSG 2-1995, f. & cert. ef. 9-25-95; OHCS 7-2006, f. & cert. ef. 5-17-06; OHCS 11-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07; OHCS 9-2007, f. & cert. ef. 1-11-07; OHCS 14-2007(Temp), f. & cert. ef. 10-16-07 thru 4-12-08; OHCS 5-2008, f. & cert. ef. 4-11-08; OHCS 9-2013(Temp), f. & cert. ef. 6-21-13 thru 12-18-13; OHCS 22-2013, f. & cert. ef. 12-18-13; OHCS 36-2014, f. & cert. ef. 12-2-14; OHCS 4-2016(Temp), f. & cert. ef. 5-5-16 thru 10-31-16

Oregon Liquor Control Commission Chapter 845

Rule Caption: The amendments enable an agent to submit a control plan preventing minor access and theft.

Adm. Order No.: OLCC 5-2016

Filed with Sec. of State: 4-26-2016

Certified to be Effective: 5-2-16

Notice Publication Date: 3-1-2016

Rules Amended: 845-015-0148

Subject: OAR 845-015-0148 prohibits anyone under the age of 21 from being in a liquor store unless accompanied by a parent, guardian, spouse or domestic partner of legal age. The Commission is seeking to amend the rule so that a retail agent can submit a control plan showing how the applicant will prevent minor access and theft, in lieu of being required to comply with the complete prohibition on minors being present in a retail liquor store. Currently, some nonexclusive retail liquor stores are located within existing businesses that sell other products and services that minors may purchase. This amendment attempts to clarify requirements of these existing stores and ensure minors do not have access to distilled spirits. Additionally, this rule will provide greater flexibility for new liquor stores to explore alternative business models when locating within an existing business.

Rules Coordinator: Bryant Haley—(503) 872-5136

845-015-0148

Minors in Liquor Stores

(1) Except as provided in (2) below, only people 21 years of age or older may enter a retail liquor store, unless accompanied by a parent, spouse or Domestic Partner who is at least 21 years old. "Domestic Partner"

means an individual who, along with another individual of the same sex, has received a Certificate of Registered Domestic Partnership pursuant to the Oregon Family Fairness Act. Nevertheless, people 18 years or older may be employed in liquor stores to sell distilled spirits and people under the age of 18 may be employed but may not participate in the sale of distilled spirits.

(2) Non-exclusive retail sales agents may apply to the Commission for an exception to the requirements of (1) of this rule by submitting a control plan to the Commission. The Commission may approve such a control plan if it contains sufficient measures to ensure that minors will not have access to distilled spirits. The Commission may revoke the exception by providing written notice that the previously approved control plan is no longer sufficient.

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

Stats. Implemented: ORS 471.750(1)

Hist.: LCC 4-1985, f. 2-28-85, ef. 4-1-85; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0060; OLCC 9-2008, f. 6-12-08, cert. ef. 7-1-08; OLCC 5-2016, f. 4-26-16, cert. ef. 5-2-16

Oregon Racing Commission Chapter 462

Rule Caption: Amends annual tax rate percentage cap increase for Advance Deposit Wagering Company licensees.

Adm. Order No.: RC 2-2016

Filed with Sec. of State: 5-9-2016

Certified to be Effective: 5-9-16

Notice Publication Date: 4-1-2016

Rules Amended: 462-220-0040

Subject: Amends rule to reflect tax cap increase of 2.5% beginning fiscal year 2017-18 for Advance Deposit Wagering Companies licensed in Oregon.

Rules Coordinator: Karen Parkman—(971) 673-0208

462-220-0040

State of Oregon Share of the Pari-Mutuel Handle

In addition to the licensing fee set forth in OAR 462-220-0030(5), the hub operator shall pay to the Oregon Racing Commission the tax authorized by ORS 462.725(3)(b) on all gross mutuel wagering receipts recorded by the hub's totalizator system during the license period. The payments shall be made as follows:

(1) Payments shall be made each week based on the gross mutuel wagering receipts for that week.

(2) Payments shall be made in a timely manner as prescribed by the executive director of the commission.

(3) Payments shall be calculated according to one of the following formulas as elected by the hub operator in the manner specified in section (4):

(a) Payment of 0.125% of the first 60 million dollars in gross mutuel wagering receipts during the license period and 0.25% of the gross mutuel wagering receipts in excess of 60 million dollars during that period; or

(b) Payment of 0.25% of gross mutuel wagering receipts, except that, if the hub operator conducts business in a state where hubs are specifically authorized and the tax rate is less than 0.25%, the tax rate for wagers by the residents of such state would be that of the state in which they reside. This exception is limited to a single state designated by the hub operator in the manner specified in section (4).

(A) The base tax for fiscal year 2016-17 is \$671,034.00.

(B) The maximum payment set out in section (3), subsection (a), paragraph (A), will increase 7.5% on an annual basis for each fiscal year through 2016-17. Beginning with fiscal year 2017-18 the increase will be 2.5% on an annual basis for each fiscal year unless the commission changes that limit before the beginning of a fiscal year.

Fiscal Year — Tax Amount:

2015-16 — 624,217.00.

2016-17 — 671,034.00.

2017-18 — 687,810.00.

2018-19 — 705,005.00.

2019-20 — 722,630.00.

2020-21 — 740,695.00.

2021-22 — 759,212.00.

(4) The hub operator shall state in its election to pay tax calculated pursuant to section (3), subsections (a) or (b) for gross mutuel wagering on merged pools and shall designate a state that is subject to the exception in section (3), subsection (b), if that formula is elected, in its license application for each year or at such other time as is specified by the commission. Neither the payment formula nor the state subject to the exception may be

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changed during a license period without the prior approval of the commission.

Stat. Auth.: ORS 462.270(3) & 462.725
Stats. Implemented: ORS 462.725
Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 1-2001, f. & cert. ef. 3-19-01; RC 4-2002, f. & cert. ef. 6-28-02; RC 3-2003, f. 6-13-03, cert. ef. 7-1-03; RC 4-2003, f. 6-20-03, cert. ef. 7-1-03; RC 3-2004, f. 6-23-04, cert. ef. 7-1-04; RC 1-2005, f. 5-23-05, cert. ef. 7-1-05; RC 2-2012, f. 5-29-12, cert. ef. 6-1-12; RC 3-2012, f. 10-9-12, cert. ef. 10-15-12; RC 2-2016, f. & cert. ef. 5-9-16

Oregon State Marine Board Chapter 250

Rule Caption: Updates Steering and Sailing Rules to be compliant with Federal Regulations.

Adm. Order No.: OSMB 4-2016(Temp)

Filed with Sec. of State: 5-2-2016

Certified to be Effective: 5-2-16 thru 8-31-16

Notice Publication Date:

Rules Amended: 250-011-0050, 250-011-0060

Subject: These rules will modify the Steering and Sailing Rules to remove wording that is in conflict with 33 CFR 83 Subpart B. These rules require specific actions for vessels operating on specific bodies of water and do not apply to federally navigable waterways in Oregon. Removal of these provisions will ensure consistency between federally navigable waters and exclusive state waters.

Rules Coordinator: June LeTarte—(503) 378-2617

250-011-0050

Conduct of Vessels in Any Condition of Visibility

(1) Every vessel shall at all times maintain a proper lookout by sight and hearing as well as by all available means appropriate in the prevailing circumstances and conditions so as to make a full appraisal of the situation and of the risk of collision.

(2) Every vessel shall at all times proceed at a safe speed so that it can take proper and effective action to avoid collision and be stopped within a distance appropriate to the prevailing circumstances and conditions. In determining a safe speed the following factors shall be among those taken into account by all vessels:

- (a) The state of visibility;
- (b) The traffic density including concentration of fishing vessels or any other vessels;
- (c) The maneuverability of the vessel with special reference to stopping distance and turning ability in the prevailing conditions;
- (d) At night the presence of background light such as from shore lights or from back scatter of its own lights;
- (e) The state of wind, sea, and current, and the proximity of navigational hazards;
- (f) The draft in relation to the available depth of water;
- (g) The characteristics, efficiency and limitations of the radar equipment;
- (h) Any constraints imposed by the radar range scale in use;
- (i) The effect on radar detection of the sea state, weather, and other sources of interference;
- (j) The possibility that small vessels, ice and other floating objects may not be detected by radar at an adequate range;
- (k) The number, location, and movement of vessels detected by radar;

and

(l) The more exact assessment of the visibility that may be possible when radar is used to determine the range of vessels or other objects in the vicinity.

(3) Every vessel shall use all available means appropriate to the prevailing circumstances and conditions to determine if risk of collision exists. If there is any doubt such risk shall be deemed to exist. Proper use shall be made of radar equipment if fitted and operational, including long-range scanning to obtain early warning of risk of collision and radar plotting or equivalent systematic observation of detected objects. Assumptions shall not be made on the basis of scanty information, especially scanty radar information. In determining if risk of collision exists the following considerations shall be among those taken into account:

- (a) Such risk shall be deemed to exist if the compass bearing of an approaching vessel does not appreciably change; and
- (b) Such risk may sometimes exist even when an appreciable bearing change is evident, particularly when approaching a very large vessel or a tow or when approaching a vessel at close range.

(4) Any action taken to avoid collision shall be taken in accordance with OAR 250-011-0050, 250-011-0060, 250-011-0070 and shall, if the circumstances of the case admit, be positive, made in ample time and with due regard to the observance of good seamanship.

(a) Any alteration of course or speed to avoid collision shall, if the circumstances of the case admit, be large enough to be readily apparent to another vessel observing visually or by radar; a succession of small alterations of course or speed should be avoided.

(b) If there is sufficient sea room, alteration of course alone may be the most effective action to avoid a close-quarters situation provided that it is made in good time, is substantial and does not result in another close-quarters situation.

(c) Action taken to avoid collision with another vessel shall be such as to result in passing at a safe distance. The effectiveness of the action shall be carefully checked until the other vessel is finally past and clear.

(d) If necessary to avoid collision or allow more time to assess the situation, a vessel shall slacken its [speed or take all way off by stopping or reversing its means of propulsion.

(e) A vessel, which, by any of these rules is required not to impede the passage or safe passage of another vessel shall, when required by the circumstances of the case, take early action to allow sufficient sea room for the safe passage of the other vessel.

(A) A vessel required not to impede the passage or safe passage of another vessel is not relieved of this obligation if approaching the other vessel so as to involve risk of collision and shall, when taking action, have full regard to the action which may be required by OAR 250-011-0050, 250-011-0060, and 250-011-0070.

(B) A vessel the passage of which is not to be impeded remains fully obliged to comply with OAR 250-011-050, 250-011-0060, and 250-011-0070 when the two vessels are approaching one another so as to involve risk of collision.

(5) A vessel proceeding along the course of a narrow channel or fairway shall keep as near to the outer limit of the channel or fairway which lies on its starboard side as is safe and practicable:

(a) A vessel of less than 20 meters in length or a sailing vessel shall not impede the passage of a vessel that can safely navigate only within a narrow channel or fairway;

(b) A vessel engaged in fishing shall not impede the passage of any other vessel navigating within a narrow channel or fairway;

(c) A vessel shall not cross a narrow channel or fairway if such crossing impedes the passage of a vessel which can safely navigate only within that channel or fairway. The latter vessel shall use the danger signal prescribed in OAR 250-011-0200(4) if in doubt as to the intention of the crossing vessel;

(d) In a narrow channel or fairway when overtaking, the vessel intending to overtake shall indicate its intention by sounding the appropriate signal prescribed in OAR 250-011-0200(3)(a) and(b), and take steps to permit safe passing. The overtaken vessel, if in agreement, shall sound the same signal. If in doubt it shall sound the danger signal prescribed in OAR 250-011-0200(4). This does not relieve the overtaking vessel of its obligation under OAR 250-011-0060(2);

(e) A vessel nearing a bend or an area of a narrow channel or fairway where other vessel may be obscured by an intervening obstruction shall navigate with particular alertness and caution and shall sound the appropriate signal prescribed in OAR 250-011-0200(5);

(f) Every vessel shall, if the circumstances of the case admit, avoid anchoring in a narrow channel.

(6) Any vessel approaching, overtaking, being approached, or being overtaken by a moving law enforcement vessel operating with a siren or an illuminated flashing blue light, or any vessel approaching a stationary law enforcement vessel displaying an illuminated blue light, shall:

(a) Immediately slow to a speed sufficient to maintain steerage only, shall alter its course, within its ability, so as not to inhibit or interfere with the operation of the law enforcement vessel, and shall proceed, unless otherwise directed by the operator of the law enforcement vessel, at the reduced speed until beyond the area of operation of the law enforcement vessel;

(b) Notwithstanding the operational requirements of section 6 (a) of this rule, vessels shall not be required to operate in a manner that would endanger or be likely to endanger that craft, other nearby watercraft, or other persons or property.

Stat. Auth.: ORS 830.110 & 830.175
Stats. Implemented: ORS 830.335 & 830.340
Hist.: MB 14-1983, f. 11-29-83, ef. 12-1-83; MB 4-1993, f. & cert. ef. 3-16-93; Renumbered from 250-011-0005, OSMB 5-2015, f. 6-26-15, cert. ef. 7-1-15; OSMB 4-2016(Temp), f. & cert. ef. 5-2-16 thru 8-31-16

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250-011-0060

Conduct of Vessels in Sight of One Another

(1) When two sailing vessels are approaching one another, so as to involve risk of collision, one of them shall keep out of the way of the other as follows:

(a) When each has the wind on a different side, the vessel which has the wind on the port side shall keep out of the way of the other;

(b) When both have the wind on the same side, the vessel which is to windward shall keep out of the way of the vessel which is to leeward; and

(c) If a vessel with the wind on the port side sees a vessel to windward and cannot determine with certainty whether the other vessel has the wind on the port or on the starboard side, it shall keep out of the way of the other;

(d) For the purpose of this section the windward side shall be deemed to be the side opposite to that on which the mainsail is carried or, in the case of a square-rigged vessel, the side opposite to that on which the largest fore-and-aft sail is carried.

(2) Notwithstanding anything contained in OAR 250-011-0050 through 250-011-0060 any vessel overtaking any other shall keep out of the way of the vessel being overtaken. A vessel shall be deemed to be overtaking when coming up with another vessel from a direction more than 22.5 degrees abaft its beam; that is, in such a position with reference to the vessel it is overtaking, that at night it would be able to see only the sternlight of that vessel but neither of its sidelights. When a vessel is in any doubt as to whether it is overtaking another, it shall assume that this is the case and act accordingly. Any subsequent alteration of the bearing between the two vessels shall not make the overtaking vessel a crossing vessel within the meaning of these rules or relieve it of the duty of keeping clear of the overtaken vessel until it is finally past and clear.

(3) Unless otherwise agreed, when two power-driven vessels are meeting on reciprocal or nearly reciprocal courses so as to involve risk of collision each shall alter its course to starboard so that each shall pass on the port side of the other. Such a situation shall be deemed to exist when a vessel sees the other ahead or nearly ahead and by night it could see the masthead lights of the other in a line or nearly in a line or both sidelights and by day it observes the corresponding aspect of the other vessel. When a vessel is in any doubt as to whether such a situation exists it shall assume that it does exist and act accordingly.

(4) When two power-driven vessels are crossing so as to involve risk of collision, the vessel which has the other on its starboard side shall keep out of the way and shall, if the circumstances of the case admit, avoid crossing ahead of the other vessel.

(5) Every vessel which is directed to keep out of the way of another vessel shall, so far as possible, take early and substantial action to keep well clear.

(6) Where one of two vessels is to keep out of the way, the other shall keep its course and speed:

(a) The latter vessel may, however, take action to avoid collision by its maneuver alone, as soon as it becomes apparent to it that the vessel required to keep out of the way is not taking appropriate action in compliance with these rules;

(b) When, from any cause, the vessel required to keep its course and speed finds itself so close that collision cannot be avoided by the action of the give-way vessel alone, it shall take such action as will best aid to avoid collision. A power-driven vessel which takes action in a crossing situation in accordance with section (7)(a) of this rule to avoid collision with another power-driven vessel shall, if the circumstances of the case admit, not alter course to port for a vessel on its own port side. This rule does not relieve the give-way vessel of its obligation to keep out of the way.

(7) Except where OAR 250-011-0050(5) and section (2) of this rule otherwise require:

(a) A power-driven vessel underway shall keep out of the way of:

- (A) A vessel not under command;
- (B) A vessel restricted in its ability to maneuver;
- (C) A vessel engaged in fishing; and
- (D) A sailing vessel.

(b) A sailing vessel underway shall keep out of the way of:

- (A) A vessel not under command;
- (B) A vessel restricted in its ability to maneuver; and
- (C) A vessel engaged in fishing.

(c) A vessel engaged in fishing when underway shall, so far as possible, keep out of the way of:

- (A) A vessel not under command; and
- (B) A vessel restricted in its ability to maneuver.

Stat. Auth.: ORS 830
Stats. Implemented: ORS 830.110

Hist.: MB 14-1983, f. 11-29-83, ef. 12-1-83; MB 1-1985, f. & ef. 1-29-85; Renumbered from 250-011-0010, OSMB 5-2015, f. 6-26-15, cert. ef. 7-1-15; OSMB 4-2016(Temp), f. & cert. ef. 5-2-16 thru 8-31-16

Rule Caption: Authorization for agency representative to appear on behalf of agency at particular classes of hearings.

Adm. Order No.: OSMB 5-2016(Temp)

Filed with Sec. of State: 5-12-2016

Certified to be Effective: 5-12-16 thru 10-31-16

Notice Publication Date:

Rules Adopted: 250-001-0035

Subject: This rule confirms that a Marine Board employee may represent the agency in a particular class of contested case hearings: outfitter and guide registrations and civil penalties; charter/livery registrations and certificates; and registrations and certificates in accordance with ORS 183.452.

Rules Coordinator: June LeTarte—(503) 378-2617

250-001-0035

Agency Representation by Officer or Employee

(1) A Marine Board employee is authorized to appear on behalf of the Board in a hearing or in a class of contested hearings in which the Attorney General or the Deputy Attorney General has given written consent for such representation.

(2) The contested case hearings for which the Attorney General has given its consent for the Marine Board to act as a representative of the agency are outfitted/guide, charter/livery and boat registration.

(3) The agency representative may not make legal argument on behalf of the agency.

(4) "Legal argument" as used in ORS 183.450(8) and this rule shall include arguments on:

(a) The jurisdiction of the agency to hear the contested case;

(b) The constitutionality of a statute or rule or the application of a constitutional requirement to an agency;

(c) The application of court precedent to the facts of the particular contested case proceeding.

(5) "Legal argument" does not include presentation of evidence, examination and cross-examination of witnesses or presentation of factual arguments or arguments on:

(a) The application of the facts to the statutes or rules directly applicable to the issues in the contested case;

(b) Comparison of prior actions of the agency in handling similar situations;

(c) The literal meaning of the statutes or rules directly applicable to the issues in the contested case;

(d) The admissibility of evidence or the correctness of procedures being followed.

(6) When a Marine Board employee represents the agency, the presiding officer shall advise such representative of the manner in which objections may be made and matters preserved for appeal.

(a) Such advice is of a procedural nature and does not change applicable law on waiver or the duty to make timely objection.

(b) Where such objections involve legal argument, the presiding officer shall provide reasonable opportunity for the agency officer or employee to consult legal counsel and permit such legal counsel to file written legal argument within a reasonable time after conclusion of the hearing.

Stat. Auth.: ORS 830.110, 183.452

Stats. Implemented: ORS 704.040, 830.465, 830.420, 830.815

Hist.: OSMB 5-2016(Temp), f. & cert. ef. 5-12-16 thru 10-31-16

Oregon Youth Authority

Chapter 416

Rule Caption: OYA is adopting and incorporating by reference the July 1, 2015, BRS Rate Table.

Adm. Order No.: OYA 4-2016

Filed with Sec. of State: 5-2-2016

Certified to be Effective: 5-2-16

Notice Publication Date: 4-1-2016

Rules Amended: 416-335-0090

Subject: OYA is amending the date and content of the BRS Rate Table referenced in OAR 416-335-0090 to reflect current rates.

Rules Coordinator: Winifred Skinner—(503) 373-7570

ADMINISTRATIVE RULES

416-335-0090

Billing and Payment for Services and Placement Related Activities

- (1) Billable Care Days:
 - (a) The BRS Contractor is compensated for a Billable Care Day (Service and Placement Related Activities rates) on a fee-for-service basis in accordance with OAR 410-170-0110 and this rule.
 - (b) The BRS Contractor may include overnight Transitional Visits by the BRS Client to another placement in its Billable Care Days. The BRS Contractor must:
 - (A) Receive prior approval for the Transitional Visit from OYA;
 - (B) Ensure that the Transitional Visit is in support of the MSP, MSP-T, or MSP-S goals related to transition;
 - (C) Pay the hosting placement at the established Absent Rate for the sending BRS Provider; and
 - (D) Ensure that the hosting placement will not seek any reimbursement from OYA for the care of the visiting BRS Client.
 - (2) Absent Days:
 - (a) The BRS Contractor is compensated for an Absent Day at the Absent Day rate in order to hold a BRS Program placement for a BRS Client with the prior approval of the BRS Client's JPPO and the Community Resources Manager.
 - (b) Notwithstanding OAR 410-170-0110(4), the BRS Contractor may request prior approval from OYA to be reimbursed for more than eight calendar days of home visits in a month for a BRS Client. However, any additional days of home visits approved under this rule will be paid at the Absent Day rate.
 - (3) The BRS Contractor may be reimbursed only for the BRS Type of Care authorized in the contract with OYA.
 - (4) Invoice Form:
 - (a) The BRS Contractor must submit a monthly billing form to OYA in a format acceptable to the Agency, on or after the first day of the month following the month in which it provided Services and Placement Related Activities to the BRS Client. The billing form must specify the number of Billable Care Days and Absent Days for each BRS Client in that month.
 - (b) The BRS Contractor must provide upon request, in a format that meets OYA's approval, written documentation of each BRS Client's location for each day claimed as a Billable Care Day and an Absent Day.
 - (c) The BRS Contractor may only submit a claim for a Billable Care Day and an Absent Day consistent with the Agency's prior authorization or approval.
 - (5) Billable Care Day and Absent Day rates are provided in the "BRS Rates Table", dated July 1, 2015, which is adopted as Exhibit 1 and incorporated by reference into this rule. A printed copy may be obtained from OYA.

Stat. Auth.: ORS 420A.025
Stats. Implemented: ORS 420A.010, 420A.014
Hist.: OYA 3-2013, f. 11-15-13, cert. ef. 1-1-14; OYA 2-2016(Temp), f. & cert. ef. 3-10-16 thru 6-10-16; OYA 4-2016, f. & cert. ef. 5-2-16

***** Parks and Recreation Department Chapter 736

Rule Caption: Amend Recreation Trail Rules - Scenic Bikeway Designation

Adm. Order No.: PRD 2-2016

Filed with Sec. of State: 5-2-2016

Certified to be Effective: 5-2-16

Notice Publication Date: 3-1-2016

Rules Amended: 736-009-0025, 736-009-0030

Subject: The Oregon Parks and Recreation Commission adopted OAR 736-009-0025 and 736-009-0030 in 2009 that established a process for designating Scenic Bikeways in Oregon. Since that time a Scenic Bikeway Committee has been established and a program for rating and managing the bikeways has been developed.

The proposed revisions will align the rule with current procedures, change committee membership to include more diverse representation, and clarify the Oregon Recreation Trails Advisory Council's role in the designation process.

Rules Coordinator: Claudia Ciobanu—(503) 872-5295

736-009-0025

Oregon Scenic Bikeways Committee

- (1) The director shall appoint a Scenic Bikeways Advisory Committee composed of 11 members.

(a) The following committee members shall be nominated by their respective directors for appointment:

(A) A representative of the Oregon Tourism Commission (dba Travel Oregon);

(B) A representative from the Oregon Department of Transportation;

(C) A representative of a Federal lands management agency; and

(D) A member of the Bicycle and Pedestrian Advisory Committee established pursuant to ORS 366.112

(b) The following committee members shall be appointed by the director:

(A) A representative of Oregon Destination Marketing Organizations;

(B) A liaison from the Oregon Recreation Trails Advisory Council (ORTAC) established pursuant to ORS 390.977;

(C) A representative of counties who shall be selected in consultation with the Association of Oregon Counties;

(D) A representative of cities who shall be selected in consultation with the League of Oregon Cities; and

(E) Three at-large members

(2) Committee members appointed under subsection (1)(b) may serve two consecutive four-year terms on the committee.

(3) The director shall appoint the chair from the committee membership, considering the recommendations of the committee.

(4) The committee shall meet at times and places specified by the call of the director.

(5) A majority of the members of the committee constitutes a quorum for the transaction of business.

(6) Function and Duties of Scenic Bikeways Committee:

(a) The committee shall evaluate proposed Oregon Scenic Bikeways against the criteria provided in OAR 736-009-0030 and the Oregon Recreation Trails System Act, ORS 390.950 to 390.989 and 390.995(2). The committee shall make a recommendation to the director on each application for a proposed Oregon Scenic Bikeway.

(b) The committee shall evaluate each Oregon Scenic Bikeway route at least once every five years. The committee may recommend that the department improve, remove, or reroute portions of a route no longer meeting the criteria for an Oregon Scenic Bikeway.

Stat. Auth.: ORS 390.971(8)

Stats. Implemented: ORS 390.956, 390.959, 390.962, 390.968 & 390.971

Hist.: PRD 7-2008, f. & cert. ef. 9-15-08; PRD 21-2009, f. & cert. ef. 12-8-09; PRD 2-2016, f. & cert. ef. 5-2-16

736-009-0030

Establishing Oregon Scenic Bikeways

Pursuant to ORS 390.962(1), the department prescribes the criteria in this rule in addition to those provided in the Oregon Recreation Trails System Act, ORS 390.950 to 390.989 and 390.995(2), for the designation of Oregon Scenic Bikeways.

(1) Oregon Scenic Bikeways may be comprised of bicycle paths, designated transportation corridors or a combination thereof. Oregon Scenic Bikeways may include route sections located in or near existing rights-of-way for roads or highways.

(2) Oregon Scenic Bikeways may be linear, loop, or a combination of linear and loop routes that are routes of superior scenic quality that inspire people to experience Oregon's natural beauty and cultural heritage by bicycle.

(3) Pursuant to ORS 390.962(1), an Oregon Scenic Bikeway may be located:

(a) Over public land with the consent of each governmental entity having jurisdiction over the lands designated; or

(b) Over privately-owned lands in the manner and subject to the limitations provided in ORS 390.950 to 390.989 and 390.995(2).

(4) The Department will periodically call for Bikeway applications.

(5) Evaluation of Applications

(a) To be considered as an Oregon Scenic Bikeway, a proponent must submit to the department a completed Oregon Scenic Bikeway Application form in the format specified by the department.

(b) The department will review each Oregon Scenic Bikeway proposal for completeness, including whether the application adequately addresses the considerations provided in ORS 390.965(2). The department will provide all complete, eligible applications to the committee. Incomplete or ineligible applications will be returned to the proponents with an explanation of the deficiencies.

(c) The committee will consider routes for designation based on the criteria provided in sections (1)–(3) of this rule and the Oregon Recreation Trails System Act, ORS 390.950 to 390.989 and 390.995(2).

ADMINISTRATIVE RULES

(d) The committee shall conduct a field review of the proposed route, to include a review conducted on bicycles by no less than three (3) members of the committee.

(e) The committee shall score the route against criteria established in the Oregon Recreation Trails System Act, ORS 390.950 through 390.989 and 390.995, and this rule, including but not limited to:

- (A) Emphasis on use of public lands,
- (B) Minimizing adverse effects on adjacent landowners,
- (C) Harmony with and complement to established forest, agricultural, or other use plans, and
- (D) Any natural features, agriculture, forest, unusual or unique landforms, vegetation, water components, scenic beauty and interest, as well as amenities available to the route.

(f) Based on the application, field review and scoring the committee shall determine if the route qualifies to be recommended for designation as an Oregon Scenic Bikeway.

(g) The committee will forward recommendations for designation to ORTAC for consultation during an ORTAC public meeting.

(h) The committee will forward recommendations for designation to the director for approval to advance to the designation process.

(i) If the committee does not recommend designating the route as an Oregon Scenic Bikeway, it shall provide comments and recommendations to the proponent. The proponent may reapply to the department only after fully addressing the recommendations of the committee.

(6) Designation Process:

(a) The Proponent must submit to the department a completed Bikeway Plan in the format specified by the department.

(b) The department shall hold public meetings on the recommended designation as provided in ORS 390.965(1).

(c) The committee shall provide each recommendation for designation as an Oregon Scenic Bikeway to the director.

(d) After the public meetings required in subsection (b) the director shall either:

(A) Submit the committee's recommendation to the commission for approval or denial of the proposed Oregon Scenic Bikeway; or

(B) Request that the committee provide further consideration of issues presented in the public meeting.

(7) Scenic Bikeway Management

(a) The department will enter into written cooperative agreements with landowners, federal agencies, other state agencies, local governments, private organizations and individuals as necessary to ensure that the development, signing, operation, maintenance, location or relocation of the trail meet the Oregon Scenic Bikeway Standards.

(b) The department shall evaluate each Oregon Scenic Bikeway at least once every five (5) years. The department will provide the committee an evaluation of the Scenic Bikeway including any significant changes on the route that would diminish its scenic qualities and the strength of the local proponent group. Upon review, the committee may recommend:

(A) The trail be improved to meet the standards of state designation;

or

(B) Removal of Oregon Scenic Bikeway designation when or if the route no longer meets the criteria.

(c) Signing and Publication of Oregon Scenic Bikeway.

(A) Consistent with the requirements of ORS 390.959, the department will establish sign standards and coordinate sign placement for all routes that the commission designates as an Oregon Scenic Bikeway.

(B) The department will publish on its web page and make available standardized route maps for all Oregon Scenic Bikeways.

Stat. Auth.: ORS 390.971(8)
Stats. Implemented: ORS 390.956, 390.959, 390.962, 390.968 & 390.971
Hist.: PRD 7-2008, f. & cert. ef. 9-15-08; PRD 21-2009, f. & cert. ef. 12-8-09; PRD 2-2016, f. & cert. ef. 5-2-16

**Public Utility Commission
Chapter 860**

Rule Caption: In the Matter of Rulemaking to Implement 2015 Senate Bill 611: Qualified Project Determination.

Adm. Order No.: PUC 2-2016

Filed with Sec. of State: 5-3-2016

Certified to be Effective: 5-3-16

Notice Publication Date: 1-1-2016

Rules Adopted: 860-200-0005, 860-200-0050, 860-200-0100, 860-200-0150

Rules Repealed: 860-200-0005(T), 860-200-0050(T), 860-200-0100(T), 860-200-0150(T)

Subject: These rules establish the process by which a company may seek the Commission's determination of qualification for a project, as a first step towards the property tax exemption per 2015 Senate Bill 611.

Rules Coordinator: Diane Davis—(503) 378-4372

860-200-0005

Applicability and Waiver

(1) These rules apply to a company that is seeking a qualified project determination as set forth in ORS 308.677.

(2) Upon request or its own motion, the Commission may waive any Division 200 rule for good cause shown. A request for waiver must be made in writing, unless otherwise allowed by the Commission.

Stat. Auth.: ORS 756.040, ORS 308.677
Stats. Implemented: ORS 308.677
Hist.: PUC 8-2015(Temp), f. & cert. 11-6-15 thru 5-3-16; PUC 2-2016, f. & cert. ef. 5-3-16

860-200-0050

Definitions

For the purposes of Division 200:

(1) "Broadband services" means the provision of data transmission technology that provides two-way data transmission to and from the Internet through other than a dial-up connection.

(2) "City" has the same meaning as that term is defined in ORS 174.100.

(3) "Company" has the same meaning as that term is defined in ORS 308.505.

(4) "Communication" has the same meaning as that term is defined in ORS 308.505.

(5) "Communication services" is the offering of communication to the public, including the provisioning of voice, video, text or other electronic form of information using any means of transmission.

(6) "Qualified service" is the offering of communication services, including a capacity to provide, at least, approximately one gigabit per second symmetrical service, to a majority of the residential customers of a company's broadband services.

Stat. Auth.: ORS 756.040, ORS 308.677
Stats. Implemented: ORS 308.677
Hist.: PUC 8-2015(Temp), f. & cert. 11-6-15 thru 5-3-16; PUC 2-2016, f. & cert. ef. 5-3-16

860-200-0100

Application for Qualified Project Determination

(1) A company seeking a qualified project determination under ORS 308.677 must submit an application to the Commission.

(2) Each applicant must:

(a) Complete and file an application. As part of the application, the applicant must file an Application Cover Sheet on a form approved by the Commission.

(b) Submit the \$50,000 application fee made payable to the Public Utility Commission of Oregon.

(c) Confirm a copy of the application was sent to the Oregon Department of Revenue at: Valuation Section, Property Tax Division, Oregon Department of Revenue, PO Box 14600, Salem, OR 97309-5075.

(3) The application, any subsequent amendments, and any other submissions related to the application, excluding Commission staff-issued information requests and the responses to those requests, must be filed in the same manner as provided in OAR 860-001-0170.

(4) An applicant must file a complete application.

(a) If an application, in any material respect, lacks required information, if the filing fee is not paid in full, or if the Oregon Department of Revenue is not provided a copy of the application, the application is incomplete. The Commission will not make a determination regarding an incomplete application. Pending application filings that are incomplete as of March 15 of each year will be closed. Once an application file is closed, the applicant must submit a new application for consideration by the Commission.

(b) An applicant may submit a written request to Commission staff for confirmation regarding the completeness of its application or amended application. Commission staff shall respond to such a written request within five business days from the date the written request is received.

(c) The Commission will not consider amendments to an application filed after February 15, unless the applicant requests an extension of two weeks for the determination.

(5) On the same day that it files its application for a qualified project determination, the applicant must notify the representatives of each city and county, identified per OAR 860-200-0150(5), of the application.

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(6) The Commission will issue a determination on an application in writing.

(7) Upon determination by the Commission that a company has a qualified project, the Commission shall forward the approval determination to the company, the Oregon Department of Revenue, and the assessor of each county in which the project is located. The Commission's determination under ORS 308.677(4) shall only determine whether a project is or is not a qualified project.

Stat. Auth.: ORS 756.040, ORS 308.677
Stats. Implemented: ORS 308.677

Hist.: PUC 8-2015(Temp), f. & cert. 11-6-15 thru 5-3-16; PUC 2-2016, f. & cert. ef. 5-3-16

860-200-0150

Application Requirements

The application must contain all of the following:

(1) The name and mailing address of the applicant and the name, mailing address, telephone number, and electronic mail address of the following: the applicant's representative; an individual authorized to answer technical questions regarding the application, if different from the applicant's representative; and, if applicable, the applicant's legal counsel.

(2) A certification executed by an authorized representative of the company that the applicant's project meets the requirements for a qualified project set forth in ORS 308.677(2). The representative's certification must be a sworn statement under ORS 162.055 attesting to the truth of the certification.

(3) A written commitment by the applicant that when its network depends in part on a third party to provide the qualified service, the applicant will use commercially reasonable practices to ensure that the use of any third party will not impede the performance of the project's infrastructure in providing the applicant's qualified service.

(4) A paper map and an electronic version with GIS-compatible map layers of the area served or to be served by the project's infrastructure depicting:

- (a) County labels and boundaries; and
- (b) City labels and boundaries.

(5) A list of Oregon cities and counties where the applicant's project is or will be located, including the name and contact information for the representative of each such city and county that the applicant understands is most knowledgeable with respect to the applicant's project. The applicant must highlight the contacts on this list that represent cities with which the applicant has entered into a franchise fee agreement to provide services to which the application relates.

(6) A list, in an Excel-readable spreadsheet format, of the census blocks served or planned to be served by the project, and for each census block:

- (a) The number of occupied households (using the most current available U.S. Census statistics);
- (b) The number of those occupied households with access or planned access to the applicant's communication services that will be enabled by the project, as described in the application; and
- (c) The associated county.

(7) For an applicant that is providing broadband service to residential customers in Oregon at the time of the application, the number of the applicant's existing residential broadband customers in Oregon and the number of those residential broadband customers with access to the applicant's qualified service and the number of those residential broadband customers with planned access to the qualified service.

(8) An electronic version, in Excel-readable spreadsheet format, of the applicant's Federal Communications Commission (FCC) Form 477, most recently filed, if any, with the FCC by the applicant, listing only Oregon-specific broadband subscription data exactly as compiled and submitted for filing, including all filer number and name identifiers including, but not limited to, FRN, Provider Name, and DBA Name. Information identified as confidential in the applicant's filing with the FCC must be identified as confidential consistent with OAR 860-001-0070.

(9) A description of the project. The applicant must provide information regarding the project sufficient to allow the Commission to make a determination as to whether the project is capable of providing the qualified service. Subsections (a) through (d) of this section are non-exclusive examples of acceptable information that may be provided. The information the applicant provides to demonstrate its project's qualifying capabilities may be, but is not limited to, one of the examples in subsections (a) through (d) below.

(a) A description of the project's infrastructure that enables the applicant to offer the qualified service, a provision for physical observation of key network elements by Commission staff and speed test data of a statis-

tically significant number of customers who receive service that provides, at least, approximately one gigabit per second symmetrical service. The speed test methodology must conform to industry standards. The project's infrastructure description must specifically identify:

(A) The transport medium and basic technology or technologies utilized;

(B) A drawing of the infrastructure topology that includes an indication where the network's key infrastructure in paragraph (C) of this subsection is utilized;

(C) The technical specifications of the network's key infrastructure and equipment directly affecting network capacity including, but not limited to, routers, switches, hubs, and other integral active or passive electronics and transport medium including, but not limited to, coaxial cable, copper wire, and fiber;

(D) The capacity provided at the applicant's internet traffic aggregation points; e.g., the engineered throughput ratio of switch or router equipment used at aggregation points including an indication in the description of paragraph (C) of this subsection which network key infrastructure is used at the aggregation points;

(E) The tier designation of the applicant's internet backbone provider; and

(F) A copy of a customer service agreement for Oregon customers who receive service that provides, at least, approximately one gigabit per second symmetrical service.

(b) A description of the project's planned infrastructure that will enable the applicant to offer the qualified service. The description must specifically identify:

(A) The transport medium and basic technology or technologies utilized;

(B) A drawing of the infrastructure topology that includes an indication where the network's key infrastructure in paragraph (C) of this subsection is planned;

(C) The technical specifications of the network's key infrastructure and equipment directly affecting the network capacity including, but not limited to, routers, switches, hubs, and other integral active or passive electronics and transport medium including, but not limited to, coaxial cable, copper wire, and fiber;

(D) The capacity provided at the applicant's internet traffic aggregation points; e.g., the engineered throughput ratio of switch or router equipment used at aggregation points including an indication in the description of paragraph (C) of this subsection of which network key infrastructure is planned at the aggregation points;

(E) The tier designation of the applicant's internet backbone provider; and

(F) One of the following:

(i) Documentation that the applicant operates a network in another jurisdiction confirming that the applicant's communication services operating in that jurisdiction are capable of providing, at least, approximately one gigabit per second symmetrical service along with, for comparison purposes, any technical data and network information provided to the referenced jurisdiction by the applicant. Documentation may be provided by the applicant or the referenced jurisdiction. Applicant will also provide a copy of a customer service agreement for customers in the referenced jurisdiction who receive service that provides, at least, approximately one gigabit per second symmetrical service. The applicant must provide contact information for individuals in the referenced jurisdiction for technical questions. Documentation need not be provided if the applicant is not providing service of, at least, approximately one gigabit per second symmetrical service in another jurisdiction; or

(ii) A copy of all franchise agreements in effect where the applicant intends to provide the qualified service if such agreements require the applicant to provide and operate a project for the qualified service as described in ORS 308.677(2).

(c) An applicant may provide a third-party engineering certification from an Oregon licensed professional engineer, in good standing, with a report detailing the reviewing engineer's qualifications as an independent evaluator and a description of the methodology used in the third-party's examination of the applicant's infrastructure sufficient to allow the engineer to certify that the applicant's project is capable of providing the qualified service.

(d) An applicant may provide documentation that the applicant participates in a qualified gigabit network certification program from a national organization recognized by the Commission as competent to certify a gigabit network and that the applicant has received a certification that the

ADMINISTRATIVE RULES

project identified in the application is capable of providing the qualified service.

Stat. Auth.: ORS 756.040, ORS 308.677

Stats. Implemented: ORS 308.677

Hist.: PUC 8-2015(Temp), f. & cert. 11-6-15 thru 5-3-16; PUC 2-2016, f. & cert. ef. 5-3-16

Real Estate Agency
Chapter 863

Rule Caption: Establishing hourly fee for condominium review, approval, and revision activities.

Adm. Order No.: REA 1-2016

Filed with Sec. of State: 4-25-2016

Certified to be Effective: 4-25-16

Notice Publication Date: 11-1-2015

Rules Adopted: 863-060-0011

Subject: The Oregon Real Estate Agency currently has the following statutory authority to set an hourly fee by rule:

ORS 100.670 Fees; hourly rate; deposit. (1) A developer or other person required to file materials or information with the Real Estate Commissioner under ORS 100.005 to 100.910 shall pay to the commissioner a fee as required under subsections (2) and (3) of this section for the review, approval and handling of the filings by the commissioner at the time of the initial filing with the commissioner.

(2) A fee charged by the commissioner under subsection (1) of this section shall be determined by the commissioner to cover the costs of the commissioner's review, approval or revision activity. The fee shall be based upon an hourly rate that is subject to prior approval of the Oregon Department of Administrative Services and a report to the Emergency Board prior to adopting the fee and shall be within the budget authorized by the Legislative Assembly as that budget may be modified by the Emergency Board.

The new fee of \$200 per hour covers the cost of review, approval and revision activities related to condominium filings.

Establishes new rule, OAR 863-060-0011

The hourly fee for review, approval and revision activities related to materials or information filed by a developer or other person with the Real Estate Commissioner under ORS 100.005 to 100.910 is two hundred dollars (\$200) per hour.

Rules Coordinator: Michael Hanifin—(503) 378-4632

863-060-0011

Hourly Fee for Condominium Review, Approval and Revision Activities

The hourly fee for review, approval and revision activities related to material or information filed by a developer or other person with the Real Estate Commissioner under ORS 100.005 to 100.910 is two hundred dollars (\$200) per hour.

Stat. Auth.: ORS 100.670

Stats. Implemented: ORS 100.670

Hist.: REA 1-2016, f. & cert. ef. 4-25-16

Rule Caption: Establishing hourly fee for condominium review, approval, and revision activities.

Adm. Order No.: REA 2-2016

Filed with Sec. of State: 5-13-2016

Certified to be Effective: 5-13-16

Notice Publication Date: 11-1-2015

Rules Adopted: 863-060-0011

Subject: The Oregon Real Estate Agency currently has the following statutory authority to set an hourly fee by rule:

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(2) A fee charged by the commissioner under subsection (1) of this section shall be determined by the commissioner to cover the costs of the commissioner's review, approval or revision activity. The fee shall be based upon an hourly rate that is subject to prior approval

of the Oregon Department of Administrative Services and a report to the Emergency Board prior to adopting the fee and shall be within the budget authorized by the Legislative Assembly as that budget may be modified by the Emergency Board.

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Rules Coordinator: Michael Hanifin—(503) 378-4632

863-060-0011

Hourly Fee for Condominium Review, Approval and Revision Activities

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Stat. Auth.: ORS 100.670

Stats. Implemented: ORS 100.670

Hist.: REA 1-2016, f. & cert. ef. 4-25-16; REA 2-2016, f. & cert. ef. 5-13-16

Secretary of State,
Archives Division
Chapter 166

Rule Caption: Amends, repeals and adopts new rules that address the management of electronic records

Adm. Order No.: OSA 1-2016

Filed with Sec. of State: 5-5-2016

Certified to be Effective: 5-5-16

Notice Publication Date: 4-1-2016

Rules Adopted: 166-017-0005, 166-017-0015, 166-017-0025, 166-017-0035, 166-017-0045, 166-017-0055, 166-017-0065, 166-017-0075, 166-017-0085, 166-017-0090, 166-017-0095, 166-030-0019

Rules Amended: 166-017-0010

Rules Repealed: 166-017-0020, 166-017-0030, 166-017-0040, 166-017-0050, 166-017-0060, 166-017-0070, 166-017-0080

Subject: Amends the definitions section of OAR 166 Division 17 to include terms that are used in the newly adopted rules in this division. Adopts new rules to help guide state agencies and local governments in the proper management of electronic records. Adopts new rule to require state agencies to submit written policies for consideration by the State Archivist. Repeals rules that are no longer technologically relevant.

Rules Coordinator: Julie Yamaka—(503) 378-5199

166-017-0005

Purpose

Agencies must ensure access to all public records as defined by ORS 192.410 to 192.505 for the entire length of the retention period approved by the State Archivist. Electronic public records are particularly susceptible to accidental deletion, damage and obsolescence. These rules help to ensure that public records maintained in electronic format are accessible for their scheduled retention period.

Stat. Auth.: ORS 192.050, 192.060 & 192.105

Stats. Implemented: 357.825(2), 357.855 & 357.895

Hist.: OSA 1-2016, f. & cert. ef. 5-5-16

166-017-0010

Definitions

In addition to the definitions contained in OAR 166-005-0010, the following definitions apply to this division:

(1) "AIM" — Association for Information and Image Management.

(2) "ANSI" — American National Standards Institute.

(3) "ASCII" — American Standard Code for Information

Interchange; A standard, seven-bit character set for use by digital computers, which includes 96 displaying symbols (letters, digits, punctuation) and 32 control codes (line feed, newline, tab, etc.).

ADMINISTRATIVE RULES

(4) "Cloud storage" is a model of networked enterprise storage where data is stored in virtualized pools of storage which may be hosted by third parties.

(5) "Digitization" means the process of transforming analog material into electronic form, especially for storage and use in a computer.

(6) "DoD" — Department of Defense.

(7) "DPI" — Dots per inch; refers to the number of pixels contained in a linear inch.

(8) "Electronic record" means any information recorded in a form that requires a machine to process and access the information.

(9) "Electronic records system" is a generic term to indicate any combination of hardware, media or storage, and software used to store electronic records.

(10) "Electronic records management system (ERMS)" means commercial or open source purpose-built software used by an organization to manage records from creation to final disposition. The system's primary functions are categorizing and locating records and identifying records that are due for disposition. The Electronic Records Management System also stores, retrieves and may dispose of the electronic records that are stored in its repository.

(11) "Hybrid micrographic system" means a system that combines a micrographic/microfilm analog system with electronic, digital technology.

(12) "IEC" — International Electrotechnical Commission.

(13) "ISO" — International Organization for Standardization.

(14) "Magnetic media" means any type of storage medium that utilizes magnetic patterns to represent information.

(15) "NIST SP" — National Institute of Standards and Technology Special Publication

(16) "Open format" means a data format that is defined in complete detail and that allows transformation of the data to other formats without loss of information. An open format may be either standards-based or proprietary.

(17) "Optical media" means a platter used to store large quantities of data that can be read using light.

(18) "PDF" — Portable Document Format.

(19) "TIFF" — Tagged Image File Format.

(20) "WORM" — Write once, read many; refers to a type of optical disk which cannot be erased or amended.

Stat. Auth.: ORS 192.050, 192.060 & 192.105

Stats. Implemented: ORS 357.825(2), 357.855 & 357.895

Hist.: OSA 2-1994, f. 1-28-94, cert. ef. 4-1-94; OSA 1-2016, f. & cert. ef. 5-5-16

166-017-0015

General Requirements

(1) Agencies must ensure that all public records in all formats or mediums, including electronic, are maintained in accordance with an applicable records retention schedule approved by the State Archivist.

(2) Agencies must develop policies and procedures and perform periodic reviews to monitor compliance to agency policies regarding access, use, retention, and disposition of electronic records.

(3) In accordance with their contracting authority, agencies may contract with external vendors for the storage or management of electronic records. The vendors must comply with all rules in OAR 166, Division 17. Agencies must not enter into a contract with any person or entity if the contract will impair the right of the public to inspect or copy the agency's nonexempt public records, including contracts where the custody of the records is transferred, either purposefully or inadvertently, from the agency to the hosting entity.

(4) Contracting agencies must ensure that vendors manage agency records in compliance with all rules in OAR 166, Division 17. Contracts for the storage of electronic records by external vendors must require the vendor to comply with OAR 166, Division 17 and to return all electronic data files and indexing information to the agency at the expiration of the contract or upon vendor failure to comply with OAR 166, Division 17.

(5) Agencies must ensure that electronic public records are accessible to the public for their entire authorized retention period and that non-permanent records are destroyed at the end of their authorized retention period. Agencies must also maintain confidentiality for electronic public records that are exempt from public disclosure.

Stat. Auth.: ORS 192.050, 192.060 & 192.105

Stats. Implemented: 357.825(2), 357.855 & 357.895

Hist.: OSA 1-2016, f. & cert. ef. 5-5-16

166-017-0025

Electronic Records Management Systems

If an agency purchases an Electronic Records Management System (ERMS) to manage electronic records, the system must be certified as con-

forming to DoD 5015.2-STD, "Design Criteria Standard for Electronic Records Management Applications, Version 2 or 3."

Stat. Auth.: ORS 192.050, 192.060 & 192.105

Stats. Implemented: 357.825(2), 357.855 & 357.895

Hist.: OSA 1-2016, f. & cert. ef. 5-5-16

166-017-0035

Digitization Standards

Agency electronic records systems that maintain official copies of public records must meet the following minimum requirements for digitization of paper or microfilm records into the system (as stated in OAR 166, Division 25):

(1) Documents containing fonts ten-point or larger, and containing no signatures, must be scanned at a minimum density of 200 DPI (dots per inch), when converting paper or microfilm records to electronic records.

(2) Documents containing fonts smaller than ten-point, signatures, architectural and engineering drawings, maps and line art must be scanned at a minimum density of 300 DPI.

(3) Cancelled checks must be scanned at a minimum density of 240 DPI grayscale and meet the requirements of ANSI X9.100-140 — Specifications for an Image Replacement Document.

(4) Digitized documents must be verified for accuracy and completeness after digitization and prior to the destruction of the paper or microfilm original.

(5) Scanners must be monitored for quality control. Documentation describing each inspection must be maintained for each digital imaging system and must include the date of inspection, name of inspector(s), group of documents inspected, and sample size (if applicable). Policies and procedures must conform to ANSI/AIIM MS44-R1993, Recommended Practice for Quality Control of Image Scanners and ANSI/AIIM TR25-1995 — The Use of Optical Disks for Public Records which are incorporated by reference and are available from the Association for Information and Image Management, 1100 Wayne Avenue, Suite 1100, Silver Spring, MD 20910.

(6) Targeting for converting microforms to electronic images must be done in accordance with ANSI/AIIM MS44-R1993. Technical targets used must be the IEE Std 167A-1987, Facsimile Test Chart, AIIM Scanner Test Chart #2, and for color images, the Process Ink Gamut Chart. These Charts are available from the Association of Information and Image Management, 1100 Wayne Avenue, Suite 1100, Silver Spring, MD 20910 or from the Archives Division.

(7) A hybrid micrographic system (system combining a micrographic/microfilm analog system with electronic technology) that conforms to OAR 166-025-0021 may be used.

Stat. Auth.: ORS 192.050, 192.060 & 192.105

Stats. Implemented: 357.825(2), 357.855 & 357.895

Hist.: OSA 1-2016, f. & cert. ef. 5-5-16

166-017-0045

Electronic Record as Official Copy of a Public Record

Electronic records (including digital images) may serve as the official copy of a public record under the following conditions:

(1) Public records with a scheduled retention period of less than 100 years may be stored exclusively on electronic records systems and media provided that the standards and requirements specified in OAR 166, Division 17 are met.

(2) Public records with a scheduled retention period of 100 years or more may be stored on electronic records systems provided that the original records are retained in hard copy or on microfilm for the entire scheduled retention period, and in compliance with OAR 166.

(3) Agencies may petition the State Archivist in writing for exceptions to 166-017-0045(2) for public records meeting specific preservation requirements. The petition must specify whether the records are stored in a DoD 5015.2 certified system and state the file format for the records. The State Archivist will either grant or deny the request based on the information provided.

(4) At a minimum, records stored in an electronic format, with a scheduled retention period of 100 years or more must be maintained in accordance with one of the following:

(a) TIFF 6.0 (with Intel byte order) specification (June 3, 1992), which is hereby incorporated by reference and made a part of this rule. This specification is available from Adobe Systems Incorporated, 345 Park Avenue, San Jose, CA 95110-2704.

(b) ISO 32000-1 2008 PDF specification which is hereby incorporated by reference and made part of this rule. This specification is available from Adobe Systems Incorporated, 345 Park Avenue, San Jose, CA 95110-2704.

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(c) ISO/IEC 11172-3 1993 MPEG Layer III Audio Encoding (MP3) specification which is hereby incorporated by reference and made part of this rule. This specification is available from the International Organization for Standardization, Geneva, Switzerland.

(d) ISO/IEC 14496-14 2003 MPEG 4 File Format (MP4), Version 2 specification which is hereby incorporated by reference and made part of this rule. This specification is available from the International Organization for Standardization, Geneva, Switzerland.

Stat. Auth.: ORS 192.050, 192.060 & 192.105
Stats. Implemented: 357.825(2), 357.855 & 357.895
Hist.: OSA 1-2016, f. & cert. ef. 5-5-16

166-017-0055

Security Standards

Agency electronic records systems that maintain official copies of public records must meet the following minimum security requirements:

(1) Provide a method for all authorized users of the system to retrieve desired records.

(2) Provide an appropriate level of security to ensure the integrity of the records. Security controls must include, at a minimum, physical and logical access controls, backup and recovery procedures, file integrity monitoring and training for custodians and users.

Stat. Auth.: ORS 192.050, 192.060 & 192.105
Stats. Implemented: 357.825(2), 357.855 & 357.895
Hist.: OSA 1-2016, f. & cert. ef. 5-5-16

166-017-0065

Interoperability Standards

Agency electronic records systems that maintain official copies of public records must meet the following minimum interoperability requirements:

(1) Identify the open format or standard interchange format when necessary to permit the exchange of records on electronic media between agency electronic records systems using different software/operating systems and the conversion or migration of records on electronic media from one system to another. For text records in the absence of other conversion capabilities, the word processing or text creation system must be able to import and export files in the ASCII format as prescribed by Federal Information Processing Standard Publication (FIPS PUB) Number 1-2; entitled Coded Character Sets - 7-Bit American National Standard Code for Information Interchange (7-Bit ASCII) (1986, R2002), which is hereby incorporated by reference, and made a part of this rule. This publication is available from the National Technical Information Service (NTIS), 5285 Port Royal Road, U.S. Department of Commerce, Springfield, VA 22161.

(2) Provide for the disposition of the records including, when appropriate, transfer to the Oregon State Archives in the format requested by the State Archivist.

(3) Electronic records must remain accessible during their entire authorized retention period.

Stat. Auth.: ORS 192.050, 192.060 & 192.105
Stats. Implemented: 357.825(2), 357.855 & 357.895
Hist.: OSA 1-2016, f. & cert. ef. 5-5-16

166-017-0075

Maintenance and Backup Standards

Agency electronic records systems must meet the following minimum requirements to ensure the ongoing maintenance of electronic records:

(1) Electronic storage media must be maintained in an environment with a constant temperature from 65 to 75 Degrees Fahrenheit not to fluctuate more than +/- 5 Degrees and relative humidity not to exceed 50% (ANSI/AIIM TR 25-1995).

(2) Electronic records stored on magnetic media must not be stored closer than 2 inches from sources of magnetic fields, including generators, elevators, transformers, loudspeakers, microphones, headphones, magnetic cabinet latches and magnetized tools. They must not be stored in metal containers unless the metal is non-magnetic.

(3) Storage containers must be resistant to impact, dust intrusion and moisture.

(4) Official copies of electronic records must be maintained by personnel properly trained in the handling of records and associated equipment.

(5) Written policies and procedures must be established and adopted by the agency for external labeling of the contents of disks, tapes, flash or hard drives or other storage media so that all authorized users can identify and retrieve the stored information.

(6) Storage media must be converted, as necessary, to provide compatibility with the agency's current hardware and software, ensuring that information is not lost due to changing technology or deterioration of stor-

age media. Before conversion of information to different media, agencies must determine that authorized disposition of the electronic records can be implemented after conversion.

(7) Electronic records systems must be backed up on a regularly scheduled basis according to written agency policies and procedures to safeguard against the loss of information due to equipment malfunctions or human error.

(8) Backups must be stored and maintained in off-site storage areas meeting the requirements of 166-020-0015, 166-020-0045 and 166-017-0075(1), and must be located in buildings separate from the location of the records that have been copied.

Stat. Auth.: ORS 192.050, 192.060 & 192.105
Stats. Implemented: 357.825(2), 357.855 & 357.895
Hist.: OSA 1-2016, f. & cert. ef. 5-5-16

166-017-0085

Records Retention Requirements

Agencies must develop and adopt policies and procedures to ensure that electronic records are retained and managed as specified in a records retention schedule approved by the State Archivist (166-030-0026 or 166-030-0027). These retention policies and procedures must include provisions for:

(1) Scheduling the retention and disposition of all electronic records, as well as related access documentation and indexes, in accordance with approved records retention schedules developed and authorized by the State Archivist.

(2) Identifying, maintaining and protecting essential records and essential records systems (OAR 166-020-0045).

(3) Establishing procedures for regular copying, reformatting, and other necessary maintenance to ensure the retention and usability of the electronic records throughout their authorized retention period so that the records remain accessible.

(4) Ensuring that electronic records specified in OAR 166-030-0026(4) are not destroyed without the written permission of the State Archivist.

Stat. Auth.: ORS 192.050, 192.060 & 192.105
Stats. Implemented: 357.825(2), 357.855 & 357.895
Hist.: OSA 1-2016, f. & cert. ef. 5-5-16

166-017-0090

Records Destruction Requirements for Electronic Records

Agency electronic records may be destroyed only in accordance with the provisions of a records retention schedule approved by the State Archivist. Each agency must ensure:

(1) Electronic records which are confidential by law and negotiable instruments (even when cancelled or satisfied in writing) and records that contain sensitive, proprietary, or security information must be destroyed so that the image and confidential metadata are irreversibly non-retrievable, either through electronic or physical destruction as specified below:

(a) Electronic records stored on magnetic media must be degaussed or "bulk erased" and then irreversibly reformatted to ensure the data/information cannot be retrieved.

(b) Electronic records held on optical media may be destroyed by cutting, crushing, shredding, or other physical means of destruction. Rewritable optical disks must be irreversibly reformatted before being disposed of or re-used.

(c) Electronic records stored on hard drives or flash drives of personal computers and servers must be irreversibly reformatted before computers are disposed of. If the agency is unable to determine whether a hard drive or flash drive has been irreversibly reformatted, it must be physically destroyed.

(d) For additional guidance on data sanitation and destruction, refer to NIST SP 800-88, Guidelines for Media Sanitization and DoD 5220.22-M. (2) Expungement of digital images stored on WORM optical media must conform to the Expungement of Information Recorded on Optical Write-Once-Read-Many (WORM) Systems (TR28-1991) which is incorporated by reference and is available from Association of Information and Image Management, 1100 Wayne Avenue, Suite 1100, Silver Spring, MD 20910 or the State Archives.

Stat. Auth.: ORS 192.050, 192.060 & 192.105
Stats. Implemented: 357.825(2), 357.855 & 357.895
Hist.: OSA 1-2016, f. & cert. ef. 5-5-16

166-017-0095

Use of Alternate Formats and New Technologies for Public Records

(1) If adopting new formats or new technologies for public records, such as text messages, social networking sites, and alternate private email

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accounts, agencies must ensure all actions comply with the requirements of the Oregon Revised Statutes and the rules found in OAR 166 will be met.

(2) If an agency utilizes private records storage facilities such as cloud storage, the agency must ensure that they maintain ownership of all of the agency's stored public records.

Stat. Auth.: ORS 192.050, 192.060 & 192.105
Stats. Implemented: 357.825(2), 357.855 & 357.895
Hist.: OSA 1-2016, f. & cert. ef. 5-5-16

166-030-0019 Written Policies

State Agencies must develop and implement written policies that set forth the agency's use, access, retention and ownership of public records. These policies, including any subsequent amendments, must be submitted to the State Archivist for approval per ORS 192.018. Model policies are available from the State Archivist. Although not required, the State Archives recommends the use of such policies by all agencies, including local governments.

Stat. Auth.: ORS 192 & ORS 357
Stats. Implemented: ORS 357.855 & 357.895
Hist.: OSA 1-2016, f. & cert. ef. 5-5-16

**Secretary of State,
Elections Division
Chapter 165**

Rule Caption: Clarifies process of registering qualified individuals to vote using DMV data.

Adm. Order No.: ELECT 1-2016

Filed with Sec. of State: 5-13-2016

Certified to be Effective: 5-13-16

Notice Publication Date: 4-1-2016

Rules Amended: 165-005-0170

Subject: The rule implements Oregon Laws 2015, chapter 8, which requires the Secretary to establish by rule, voter registration based on qualified individuals interactions with DMV. This rule amendment clarifies processes for registering and updating qualified individuals based on DMV information, and provides the schedule and process for the registration of individuals who interacted with DMV in 2014 and 2015.

Rules Coordinator: Brenda Bayes—(503) 986-1518

165-005-0170 Designating the Oregon Motor Voter Registration Manual

The Secretary of State designates the *Oregon Motor Voter Registration Manual* as the procedures to be used for voter registration and voter updates of qualified individuals from certain DMV interactions.

Stat. Auth.: ORS 247 & OL 2015 Ch. 8 Sec. 1 (HB 2177)
Stats. Implemented: ORS 247.012 & OL 2015 Ch. 8 Sec. 1 (HB 2177)
Hist.: ELECT 9-2015, f. 12-18-15, cert. ef. 1-1-16; ELECT 1-2016, f. & cert. ef. 5-13-16

**Southern Oregon University
Chapter 573**

Rule Caption: Special Fees

Adm. Order No.: SOU 1-2016

Filed with Sec. of State: 5-4-2016

Certified to be Effective: 5-4-16

Notice Publication Date: 4-1-2016

Rules Amended: 573-040-0005

Subject: The proposed rule amendment eliminates fees that are no longer necessary and establishes, increases, or decreases fees to more accurately reflect actual costs of instruction for certain courses and special services not otherwise funded through the institution's operating budget.

Rules Coordinator: Treasa Sprague—(541) 552-6319

573-040-0005 Special Fees

The Special Fees for certain courses and general services approved by Southern Oregon University are hereby adopted by reference.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 351.070
Stats. Implemented: ORS 351.070 & 580-040-0010
Hist.: SOSC 4, f. & ef. 9-2-76; SOSC 10, f. & ef. 5-9-77; SOSC 6-1978, f. & ef. 6-2-77; SOSC 8-1978, f. & ef. 12-15-78; SOSC 2-1979, f. & ef. 6-20-79; SOSC 4-1980, f. & ef. 5-20-80; SOSC 4-1980, f. & ef. 5-20-80; SOSC 2-1981, f. & ef. 6-2-81; SOSC 3-1982, f. & ef.

7-1-82; SOSC 4-1983, f. & ef. 5-26-83; SOSC 1-1984, f. & ef. 6-20-84; SOSC 4-1985, f. & ef. 6-3-85; SOSC 9-1985, f. & ef. 12-17-85; SOSC 2-1986, f. & ef. 5-30-86; SOSC 1-1987, f. & ef. 6-5-87; SOSC 4-1987, f. & ef. 9-4-87; SOSC 1-1988, f. & cert. ef. 5-19-88; SOSC 2-1988(Temp), f. & cert. ef. 9-2-88; SOSC 4-1988, f. & cert. ef. 11-23-88; SOSC 3-1989, f. & cert. ef. 6-1-89; SOSC 3-1990, f. & cert. ef. 5-31-90; SOSC 3-1991, f. & cert. ef. 5-30-91; SOSC 1-1992, f. & cert. ef. 6-3-92; SOSC 3-1993, f. & cert. ef. 5-21-93; SOSC 2-1994, f. & cert. ef. 6-10-94; SOSC 1-1995, f. & cert. ef. 6-7-95; SOSC 1-1996, f. & cert. ef. 6-5-96; SOU 1-1997, f. & cert. ef. 5-20-97; SOU 1-1998, f. & cert. ef. 4-23-98; SOU 2-1999, f. & cert. ef. 5-7-99; SOU 1-2000, f. & cert. ef. 4-10-00; SOU 1-2001, f. & cert. ef. 4-4-01; SOU 1-2002, f. & cert. ef. 4-11-02; SOU 1-2003, f. & cert. ef. 4-16-03; SOU 1-2004, f. & cert. ef. 4-5-04; SOU 1-2005, f. & cert. ef. 4-11-05; SOU 1-2006, f. & cert. ef. 3-31-06; SOU 1-2007, f. & cert. ef. 4-25-07; SOU 4-2008, f. 4-9-08, cert. ef. 4-15-08; SOU 1-2009, f. 6-4-09, cert. ef. 6-15-09; SOU 4-2010, f. & cert. ef. 7-12-10; SOU 1-2011, f. & cert. ef. 6-13-11; SOU 1-2012, f. & cert. ef. 5-10-12; SOU 1-2013, f. & cert. ef. 5-7-13; SOU 1-2014, f. & cert. ef. 5-12-14; SOU 1-2015, f. & cert. ef. 5-6-15; SOU 1-2016, f. & cert. ef. 5-4-16

Rule Caption: Parking Enforcement and Appeals

Adm. Order No.: SOU 2-2016

Filed with Sec. of State: 5-4-2016

Certified to be Effective: 5-4-16

Notice Publication Date: 4-1-2016

Rules Amended: 573-050-0010, 573-050-0025, 573-050-0030, 573-050-0035, 573-050-0045

Subject: This amendment in division 50 edits language and adjusts parking fees.

Rules Coordinator: Treasa Sprague—(541) 552-6319

573-050-0010 Application of Motor Vehicle Laws of the State of Oregon and the City of Ashland

All motor vehicle laws of the State of Oregon and City of Ashland, including specifically, but not by way of limitation, ORS Chapters 810, 811, 814, 815, and 816, together with amendments hereafter adopted, are applicable and enforceable on the campus of Southern Oregon University to the same extent as if this campus and its streets were public highways.

Stat. Auth.: ORS 351.070
Stats. Implemented: ORS 352.360
Hist.: SOCS 5, f. & ef. 9-2-76; SOSC 4-1979, f. 8-8-79, ef. 9-1-79; SOSC 5-1980, f. & ef. 8-19-80; SOSC 3-1990, f. & cert. ef. 5-31-90; SOU 2-1997, f. & cert. ef. 8-26-97; SOU 1-2004, f. & cert. ef. 4-5-04; SOU 3-2007, f. & cert. ef. 7-23-07; SOU 2-2016, f. & cert. ef. 5-4-16

573-050-0025 Vehicle Permits, Parking Areas and Fee Schedule

(1) All vehicles parked on the University campus are required to display a valid SOU permit when the posted signs require a permit. Faculty/Staff lots are posted yellow; Student Commuter lots are posted green; Resident Student lots are posted red. Parking Services can be contacted for the location where other types of permits may be obtained. Failure to display a permit may result in the issuance of a parking citation. Faculty/Staff hangtags, commuter decals, and resident decals can be purchased on the SOU parking website only. Once ordered, decals/hangtag permits are to be picked up at enrollment services in Britt Hall the following business day. Permits will not be mailed to personal addresses, or via campus mail services. Visitor/Guest Permits may be purchased 24 hours a day at any of the parking meters. All permits are valid for the current academic year only, unless otherwise designated by Parking Services at the time of issuance; there are no open-ended permits. Permit is defined as any Parking Services sanctioned or issued permit. Examples include: decal, hangtag, guest, metered, temporary, courtesy*, media, or other placard or device issued or developed by Parking Services as needed to facilitate parking of vehicles on Southern Oregon University property. *(A courtesy permit refers to a Retiree, VIP, or a Volunteer.) Any misuse of these parking permits may cause them to be revoked.

(2) Parking permits and faculty/staff hangtags are serialized for use on specific vehicle(s) with a license plate designated by the purchaser at the time of purchase. Permits (decals) must be affixed outside to left-rear bumper, left-rear body, left-rear window, or rear-side window behind driver of the vehicle where visible. The adhesive on the back of the permit must be the attaching mechanism. Hangtags are to be hung from the rear-view mirror; serialized numbers facing out. Parking Services (at the Enrollment Services Center in Britt Hall) must be informed of changes in vehicles; re-registering the hangtags to the appropriate vehicle(s). A maximum of three vehicles may be registered to one hangtag. Those three vehicles must be registered to the owner or his/her spouse. Hangtags are not to be shared with others. If a vehicle is disposed of, the permit must be removed and returned to Parking Services.

(3) Parking permits may be purchased for the time period designated on the decals; generally, the academic year. The academic year begins and

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ends in September. Parking permits purchased during the winter, spring, or summer terms are at a proportionately reduced rate.

(4) Faculty/Staff (yellow) parking permits (or hangtags) will be sold to classified employees, graduate assistants, temporary employees who are half-time or more, and faculty. Faculty/staff employees working .50 FTE or less will be eligible for a permit at a reduced rate of one-half the cost of the permit. Hangtags are issued for a three-year period. Faculty/staff hangtags are considered the first permit. They are not to be sold as a second permit. Vehicles displaying a Faculty/Staff permit (yellow) (or hangtag) are authorized to park in designated Faculty/Staff (yellow) parking areas or Student parking areas (red parking areas or green parking areas).

(5) Student Commuter parking (green) permits will be sold to students who live off campus and wish to bring vehicles on campus. Vehicles displaying a Student Commuter permit are authorized to park in designated Student Commuter (green) parking areas.

(6) Residence Hall (red) parking permits will be sold to students living in campus residence halls. Vehicles displaying a Residence Hall permit are authorized to park in designated Residence Hall (red) parking areas.

(7) Second parking permits may be purchased for an additional vehicle if more than one vehicle will be brought to campus. The purchaser must also be the registered owner of the vehicle. Only one permit (the original or second permit) is valid in permit-required lots at a time. If both first and second permits of one person are parked in permit-required lots at the same time, both vehicles will be cited for improper permits. A second permit may not be purchased for a car if the first permit is for a vehicle used in a Residence Hall Parking area, a motorcycle, moped, or scooter.

(8) A replacement permit may be obtained for a damaged, unreadable permit or for a replacement vehicle. The replacement vehicle must be registered to the same owner as the original vehicle. The permit which is being replaced will be considered void and should be returned to Parking Services (at the Enrollment Services Center in Britt Hall) There is no charge for lost, stolen, or destroyed permits; however, it must be reported to CPS if there is evidence of possible theft.

(9) Hourly, daily, and weekly permits for visitors/guests are to be purchased at a parking meter. Parking Services will no longer issue department guest pass booklets, however departments can finish out the guest pass books they currently have. Departments will now use meter codes. Departments that wish to pay for their visitor parking will receive the code to give to their guests. When entered at one of the parking meters, it will then print out a parking permit with no charge. At the end of the month the parking manager will pull a report of how many times that code was used, and then charge the department. The codes will expire at the end of the month, and a new code will be issued for the next month. The department is responsible for giving out their meter code to guests, and are therefore responsible for any misuse. The department is required to pay the fees based on the amount of times the code was used. At any point the department can request to have their code deactivated. Meter codes may also be programmed to be limited in number of uses, based on departmental needs. Guest permits may not be used in timed or visitor pay meter lots. Guest permits will not be valid if issued to University employees, faculty, students, buses, or vehicles displaying a valid parking permit. For those departments still issuing their guest passes: Guest permits will not be valid and a citation may be issued for failure to display permit if any of the following information is illegible or omitted:

- (a) Both license number and make or color of vehicle;
 - (b) Date that permit is valid;
 - (c) Name and telephone extension of departmental personnel issuing the permit.
- (d) Must be written in ink.

(10) Carpool parking permits will be sold for the entire school year only if the carpool meets the following criteria:

(a) The carpool must contain at least two registered participants but no more than six.

(b) No more than one vehicle from the carpool is allowed on campus at a particular time. They may not purchase a second permit. However, replacement permits are available if requirements as stated in the regulations for replacement permits are met.

(11) Temporary replacement vehicles for a vehicle with a permit may be brought on campus after obtaining a Substitute Vehicle parking permit from Parking Services. This permit is used for temporary situations of short duration (15 days or less).

(12) Special permits may be approved by Parking Services on an as-needed basis.

(13) Visitor/guest meter Permits may be purchased at any of the parking meters. Hourly pass: \$1.00 per hour, Daily pass: \$10.00, 3-day pass: \$20, 7-day pass: \$30.00.

(14) Courtesy (purple), parking permits are available to Emeritus Faculty only. Courtesy (purple), permits are valid for Emeritus Faculty only, not to be used by family or friends. A grandfather clause exists for employees who have already received a purple permit prior to the effective date of this rule. Volunteer board members, designated governmental officials, media representatives, and such others as deemed necessary by the President will have dated and numbered VIP hangtags to facilitate their interaction with the institution. Media representatives will receive dated and numbered hangtags. Permits may be used only for their intended purpose.

(15) Commercial Permits:

(a) Commercial permits will be sold to commercial vendors, including vending machine, video game, outside maintenance, travel, office supply, and food vendor companies, and contractors' employees. Companies or departments can purchase a long-term permit for six months or a year. Short-term permits are available for one day or one month. Companies or departments will be billed for the permits by Parking Services via meter code.

(b) Volunteer parking permits will be issued to departments for use by volunteers. Volunteer permits may be issued for a period of six months. There is no charge. Volunteer permits are not valid if issued to current University employees, faculty or students.

(16) Disabled parking is in accordance with ORS 811.602, 811.605, 811.606, 811.607, and 811.615. Only vehicles displaying a valid disabled placard or license plate issued and registered at the Motor Vehicles Division (as designated in Rule 573-050-0020) will be allowed to park in spaces posted for use by disabled persons. These vehicles must also display an SOU permit or meter permit unless otherwise posted.

(a) Temporary placards are issued by the Motor Vehicle Division for persons with qualifying temporary disabilities (as provided by ORS 811.606 and 811.640). The requirements for parking on campus apply for all disabled parking listed above.

(b) Vehicles with a valid disabled placard or license plate and SOU permit may park in any lot or space without incurring citations, except timed spaces or reserved spaces.

(17) Refunds will be given for student/staff parking permits for unused academic terms, except summer term. No refunds will be given for year permits that are not used summer term. Permits cannot be purchased for a single term only. Refunds will be given upon return of the permit or fragments thereof showing the permit numbers and expiration date. Refund schedules are on file at ESC.

(18) Vehicles displaying valid permits are not guaranteed a parking space on the campus.

(19) Vehicles displaying valid permits are not exempt from timed parking restrictions. Timed spaces are limited and are intended for visitors with SOU business and/or seeking to enroll at Southern Oregon University. Vehicles with valid permits may park in a metered parking space but must comply with the time limits or metered fee payment of the specific space.

(20) Mopeds, scooters, & motorcycles must have a motorcycle permit and be parked in a motorcycle parking space. If a motorcycle has a full price vehicle parking permit they may park in a vehicle space that corresponds with the color of the permit. Motorcycles may park in timed spaces that are open to the public. Mopeds, scooters, and motorcycles parked in bicycle racks and on the campus grounds will be cited for improper parking. Vehicles parked inside University buildings will be towed at the owner's expense.

(21) If a faculty/staff hangtag is the first legal permit, and a motorcycle is the second vehicle, a decal may be purchased at second decal rate.

(22) If, during the process of issuing a parking citation, the driver of the violating vehicle drives away from the scene, thus preventing the issuing agent from placing the citation on the vehicle, the citation will be entered into the parking system as if it had been placed on the vehicle. When a driver leaves the scene during the issuing process, this will be considered "constructive notice" of the citation.

(23) Vehicles parked facing in the direction against one-way arrows will be cited for improper parking. Vehicles parked on the side of street opposing direction of usual traffic flow will be cited for improper parking.

(24) Vehicles using parking lots marked "Pay Parking" are required to display the serialized meter permit purchased at each lot of this type. Failure to display the meter permit in plain view on the left side of the vehicle's dashboard will result in a citation for failure to display a permit. There is no grace period to obtain change for the permit machine.

ADMINISTRATIVE RULES

(25) Government Vehicles not assigned a permanent parking space may only be parked for a period of 24 hours in Faculty/Staff or Student parking spaces unless permission has been obtained from Parking Services. Vehicles may be liable for enforcement action for non-compliance.

(26) Buses may park where directed by Parking Services.

(27) Fee Schedule:

(a) Carpool, sold for entire school year only: \$135 each pool.

(b) Faculty and staff decal for first-registered vehicle, fall term through summer term: \$150.

(c) Faculty/staff hangtags are issued for a three-year period: \$439.

(A) This fee is for a one-time purchase. Proration is available for the second and third year.

(B) Payroll deduction is available, plus applicable increases in permit fees.

(d) Student Commuter and Residence Hall decal for first-registered vehicle for only fall term through summer term: \$140.

(e) Motorcycles, mopeds, and scooters, one vehicle only:

(A) Fall term through summer term: \$57.

(B) If motorcycles park in auto spaces, the fee is commensurate with full auto fee for the area.

(f) Second Vehicle permit: \$49,

(A) Second permits will be sold only to Faculty/Staff and Commuter permit holders. Red permit holders may not purchase a second permit.

(B) One second permit is allowed for each full-price (first-registered vehicle) permit purchased.

(C) Replacement permits can be obtained only in accordance with OAR 573-050-0025(8).

(g) Replacement permits or hangtags: \$30.

(h) Lost, stolen, or destroyed permits: No fee. Any evidence of theft must be reported to Campus Public Safety before receiving the new permit.

(i) Departmental Reserved Parking spaces (nonrefundable): \$100 over and above price for regular parking permit and a \$50 fee for each subsequent sign-change after a sign is posted.

(j) Commercial permit, each vehicle:

(A) Long-term, twelve months: \$ 250.

(B) Long-term, six months: \$180.

(C) Short-term, one month: \$60.

(D) Short-term, daily: \$10.

(k) Weekly parking permits: \$30 per week available at the parking meters.

(l) Daily parking permits: \$10 per day available at the parking meters.

(m) Three-day parking permits: \$20 available at the parking meters.

(n) Volunteer permit: No fee. Valid for 6 months. Volunteer permits may not be issued to current students, faculty, or staff.

(o) Handling charges:

(A) Deducting fines from payroll check: \$ 8.

(B) Out-of-state Department of Motor Vehicles research fee: \$10.

Parking meter locations: 1, 3, 12, 29, 36 and 37 takes coin or card, and can print out long term permits. Lot 41 has a meter that takes cash or coin, and can only print hourly permits. The meter price rates are universal on all meters on campus. Valid meter permits may be used in any metered lot, and are not limited to parking only in the lot where the permit was purchased.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 352.360

Hist.: SOSC 5, f. & ef. 9-2-76; SOSC 4-1979, f. 8-8-79, ef. 9-1-79; SOSC 5-1980, f. & ef. 8-19-80; SOSC 3-1981, f. & ef. 9-9-81; SOSC 4-1982, f. & ef. 7-28-82; SOSC 1-1983, f. & ef. 1-3-83; SOSC 6-1983, f. & ef. 8-23-83; SOSC 2-1984, f. & ef. 8-14-84; SOSC 8-1985, f. & ef. 8-12-85; SOSC 3-1986, f. & ef. 7-22-86; SOSC 5-1987, f. & ef. 9-8-87; SOSC 4-1989, f. & ef. 9-19-89; SOSC 3-1990, f. & ef. 5-31-90; SOSC 4-1991, f. & ef. 6-11-91; SOSC 2-1994, f. & ef. 6-10-94; SOSC 2-1996, f. & ef. 8-2-96; SOU 2-1997, f. & ef. 8-26-97; SOU 2-1998, f. & ef. 7-16-98; SOU 1-1999, f. & ef. 5-7-99; SOU 2-2000, f. & ef. 6-9-00; SOU 1-2001, f. & ef. 4-4-01; SOU 2-2002, f. & ef. 6-28-02; SOU 1-2004, f. & ef. 4-5-04; SOU 3-2006, f. & ef. 6-29-06; SOU 3-2007, f. & ef. 7-23-07; SOU 3-2009, f. 10-1-09, cert. ef. 10-4-09; SOU 3-2010, f. & ef. 6-8-10; SOU 2-2011, f. & ef. 6-13-11; SOU 2-2012, f. & ef. 6-11-12; SOU 3-2013, f. & ef. 6-20-13; SOU 3-2014, f. & ef. 7-2-14; SOU 2-2015, f. & ef. 6-5-15; SOU 2-2016, f. & ef. 5-4-16

573-050-0030

Driving and Parking Regulations on Campus

The Vice President for Finance and Administration, in consultation with the Transportation Planning and Parking Committee (TPPC), will designate parking areas on campus.

(1) Anyone operating a vehicle on campus will observe posted speed limits, barricades, bicycle lanes, crosswalks, and stop signs and will drive in a safe and prudent manner. The speed limit on campus is 15 MPH. Driving or parking vehicles, bicycles, motorcycles, mopeds, scooters, or motorized bicycles on sidewalks, lawns, and other areas not designated for driving, parking, or public thoroughfare is prohibited.

(2) Regulations may change from time to time. In the event of conflict between traffic signs or markings and printed regulations, the signs or markings will prevail.

(3) Vehicles shall be parked within indicated parking areas only. All campus lots are enforced year round, including summer term and holidays.

(4) Non-SOU service or delivery vehicles must be parked in parking spaces and will be cited for improper parking if parked on the grass, sidewalk, yellow zone, etc. Exceptions to this rule may only be considered if it is requested from Parking Services before parking in a no parking zone.

(5) Residence Hall (red) parking areas, and pay lots are enforced 24 hours a day. All other lots are enforced as indicted herein:

(a) Faculty/staff (yellow) enforced 6A-6P, after 6P and weekends any university permit including a paid meter pass is valid. Faculty lots are enforced 24 hours per day unless otherwise posted.

(b) Commuter lots (green) enforced 6A-6P, after 6P and weekends any university permit is valid. All lots are enforced 24 hours per day unless otherwise posted. After business hours any color permit or valid meter permit are permitted to park in yellow/green parking lots.

(6) Persons, departments, or schools sponsoring University-hosted or community events must contact the Parking Services event coordinator online or contact Parking Services (at the Enrollment Service Center in Britt Hall) to arrange for parking and fee payment as appropriate. The Parking Department will have authority to determine which parking lot should be used for event. Event is defined as any activity occurring on Southern Oregon University property in which the sponsors or attendees pay a fee, collectively utilize more than 5 permit area spaces, or requires services from Parking Services.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 352.360

Hist.: SOSC 5, f. & ef. 9-2-76; SOSC 4-1979, f. 8-8-79, ef. 9-1-79; SOSC 5-1980, f. & ef. 8-19-80; SOSC 3-1981, f. & ef. 9-9-81; SOSC 6-1983, f. & ef. 8-23-83; SOSC 2-1984, f. & ef. 8-14-84; SOSC 3-1986, f. & ef. 7-22-86; SOSC 5-1987, f. & ef. 9-8-87; SOSC 4-1989, f. & ef. 9-19-89; SOSC 2-1994, f. & ef. 6-10-94; SOU 2-1997, f. & ef. 8-26-97; SOU 2-1998, f. & ef. 7-16-98; SOU 1-1999, f. & ef. 5-7-99; SOU 2-2002, f. & ef. 6-28-02; SOU 1-2004, f. & ef. 4-5-04; SOU 3-2006, f. & ef. 6-29-06; SOU 3-2007, f. & ef. 7-23-07; SOU 3-2013, f. & ef. 6-20-13; SOU 2-2015, f. & ef. 6-5-15; SOU 2-2016, f. & ef. 5-4-16

573-050-0035

Transportation Planning and Parking Committee

(1) The Transportation Planning and Parking Committee (TPPC), is established to advise on policies, procedures, and programs which address the transportation needs of students, faculty, staff, and visitors who access the Ashland campus, including routes and parking within the campus. Further, the committee makes recommendations creating or modifying traffic and parking policies and assists in the equitable, effective, and economic regulation of vehicle use on campus. Included in these duties is the adjudication of second appeals for parking citations and consideration of petitions for reserved parking. The committee will be convened as necessary to serve as the institution's Vehicle Accident Review Board.

(2) The TPPC will include three faculty or unclassified members identified through the Administrative Committee appointment procedure, three student members recommended by the Student Senate, and three classified staff members identified through the Administrative Committee appointment procedure. All members are subject to final confirmation by the President or the President's designee. A minimum of three members at a meeting shall constitute a quorum. Final authority for traffic parking policies will rest with the Director of Campus Public Safety/Parking.

(3) Each member of the TPPC will be appointed for the period of three years. Terms of office will be staggered to provide continuity.

(4) The Director of Campus Public Safety/Parking, being responsible for the enforcement of these regulations, has authority over TPPC, and makes the final decisions. The purpose of the TPPC is for advising and recommendations.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 352.360

Hist.: SOSC 5, f. & ef. 9-2-76; SOSC 4-1979, f. 8-8-79, ef. 9-1-79; SOSC 5-1980, f. & ef. 8-19-80; SOSC 2-1984, f. & ef. 8-14-84; SOSC 8-1985, f. & ef. 8-12-85; SOSC 4-1989, f. & ef. 9-19-89; SOSC 4-1991, f. & ef. 6-11-91; SOSC 3-1993, f. & ef. 5-21-93; SOU 2-1997, f. & ef. 8-26-97; SOU 1-2001, f. & ef. 4-4-01; SOU 2-2002, f. & ef. 6-28-02; SOU 1-2004, f. & ef. 4-5-04; SOU 3-2006, f. & ef. 6-29-06; SOU 3-2007, f. & ef. 7-23-07; SOU 2-2016, f. & ef. 5-4-16

573-050-0045

Enforcement and Appeals

(1) Campus regulations are in effect 24 hours a day, seven days a week. Including summer term and holidays. Except when parking permits are not required (as stated in OAR 573-050-0030).

ADMINISTRATIVE RULES

(2) Tow-away zones will be enforced 24 hours a day, seven days a week.

(3) All penalties prescribed in OAR 573-050-0040 will be administratively enforced by Southern Oregon University. Violators will receive a parking citation of offense, together with the scheduled fine for said violation, in accordance with the penalties set forth in OAR 573-050-0040.

(4) After receipt of a parking citation, the individual must, within seven calendar days of the date of the citation, file a request for a hearing before the CPS/Parking director or pay the appropriate fine. First appeals will be reviewed monthly by the CPS/Parking director; or by another CPS representative that the director appoints in his absence. Second appeals will be reviewed by the TPPC board. Appellants may appear in person to speak on their behalf at both first and second appeals. Only the President or Vice President of Finance and Administration has the authority to overrule a second appeal decision.

(5) Any University personnel or students issuing a Guest permit may contact Parking Services (at the Enrollment Services Center in Britt Hall) to transfer responsibility for citations received by their guests to themselves. This in no way implies the fine will be suspended, only that the guest will not be billed or pursued to pay the fine. The University personnel or students will be responsible and have all avenues of appeal available as if the citation were issued to them personally.

(6) Any person wishing to take a case before the CPS/Parking director must prepare a Petition for Appeal of Traffic Violation for a hearing indicating why the citation should be adjudicated. The petition form, available from Parking Services, must be completed online and submitted to parking services within seven calendar days of the citation date.

(7) A person appealing the citation may appear before the CPS/Parking Director to present his/her case. If the appellant does not wish to appear in person, for reasons he/she may specify, the written appeal will be reviewed by the CPS/Parking Director, which shall render judgment. The appellant shall be notified by mail or email of the decision of the CPS/Parking Director.

(8) The party appealing the citation may have legal counsel to present his/her case at both the first and second appeal hearings.

(9) In adjudicating appeals, the CPS/Parking Director shall have full authority to do the following:

- (a) Dismiss the violations;
- (b) Find the individual not guilty of the charges of the citation;
- (c) Find the individual guilty of the violation and either impose a lesser fine, or apply an administration fee of \$10.
- (d) Enter a finding of guilty without imposing any fine; issue a reprimand or warning; or impose a fine.

(10) The decision of the CPS/Parking Director may be appealed a second and final time to the Transportation Planning and Parking Committee (TPPC) by appealing the citation online within ten calendar days following the decision of the CPS/Parking Director. Parking Services will also have an opportunity to submit a written statement concerning the issuance of the citation.

(11) Once the CPS/Parking Director makes the decision on an appeal for a parking citation, the appellant will have ten calendar days from the decision date to appeal the Director's decision further via the TPPC. After a decision has been made on the second appeal, the appellant has ten calendar days to pay any amount owed before it is charged to his/her account.

(12) The student's right to register for classes may be denied if any fines owing under these regulations remain unpaid.

(13) A student who fails to pay the University for any outstanding fine will have the fine charged to his/her account. Non-students who fail to pay any outstanding fines may be subjected to University collection policies and practices of up to and including assignment to an outside collection agency.

(14) Students leaving or graduating from the University will continue to be responsible for parking fines owed to the University, as long as such fines can be identified as belonging to the student(s) responsible.

(15) A faculty or staff member who fails to pay the University for any outstanding parking fines may have the fine deducted from his/her payroll check 30 days after written notice of the outstanding fines.

(16) Vehicles having outstanding parking fines may be denied issuance of a replacement or new parking decal.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 352.360

Hist.: SOSC 5, f. & ef. 9-2-76; SOSC 4-1979, f. 8-8-79, ef. 9-1-79; SOSC 5-1980, f. & ef. 8-19-80; SOSC 3-1981, f. & ef. 9-9-81; SOSC 4-1982, f. & ef. 7-28-82; SOSC 6-1983, f. & ef. 8-23-83; SOSC 2-1984, f. & ef. 8-14-84; SOSC 8-1985, f. & ef. 8-12-85; SOSC 3-1986, f. & ef. 7-22-86; SOSC 5-1987, f. & ef. 9-8-87; SOSC 4-1989, f. & ef. 9-19-89; SOSC 3-1990, f. & ef. 5-31-90; SOSC 4-1991, f. & ef. 6-11-91; SOSC 3-1993, f. & ef. 5-21-93; SOSC 2-1996, f. & ef. 8-2-96; SOU 2-1997, f. & ef. 8-26-97; SOU 2-1998, f. & ef. 7-16-98; SOU 1-1999, f. & ef. 5-7-99; SOU 2-2000, f. & ef. 6-

9-00; SOU 1-2001, f. & cert. ef. 4-4-01; SOU 2-2002, f. & cert. ef. 6-28-02; SOU 1-2004, f. & cert. ef. 4-5-04; SOU 1-2005, f. & cert. ef. 4-11-05; SOU 3-2006, f. & cert. ef. 6-29-06; SOU 3-2007, f. & cert. ef. 7-23-07; SOU 5-2008, f. 6-4-08, cert. ef. 6-5-08; SOU 3-2009, f. 10-1-09, cert. ef. 10-4-09; SOU 3-2010, f. & cert. ef. 6-8-10; SOU 2-2016, f. & cert. ef. 5-4-16

Water Resources Department Chapter 690

Rule Caption: Procedures for Extending Reservations of Water for Economic Development

Adm. Order No.: WRD 3-2016

Filed with Sec. of State: 4-19-2016

Certified to be Effective: 4-19-16

Notice Publication Date: 2-1-2016

Rules Adopted: 690-079-0170

Rules Amended: 690-079-0010, 690-079-0160

Subject: A reservation of water for future economic development sets aside a quantity of water for storage to meet future needs. The existing OAR 690, Division 079 rules, which outline procedures to establish and extend reservations, have not been updated since the statutes governing reservations were amended in 1995 and 1997. As a result, the Division 079 rules are not consistent with changes in statute. A number of reservations are set to expire over the next few years; therefore, these Division 079 rules are intended to clarify the information requirements and process the Department will follow in considering requests to extend reservations.

Rules Coordinator: Diana Enright—(503) 986-0874

690-079-0010

Purpose

(1) This Division establishes the procedure for state agencies to request reservations of water for future economic development pursuant to ORS 537.356.

(2) These rules shall apply to all reservation requests received by the Department after June 30, 1989. Notwithstanding the provisions of OAR 690-079-0040 to 690-079-0150, any reservation for which a request is received by the Department prior to June 5, 1992, and which is approved under these rules, shall receive a priority date of June 5, 1992, provided information that conforms to the provision of OAR 690-079-0060 are received by the Department prior to January 1, 1995. For purposes of this rule, the request for a reservation of water in the Willamette Basin for municipal purposes and the request for a reservation of water in the Willamette Basin for agricultural purposes, both of which were referenced in the Commission's Willamette Basin Plan as adopted on January 31, 1992, shall be considered requests received by the Department prior to June 5, 1992.

(3) This Division also establishes procedures to consider applications to extend reservations established in basin program rules as provided in OAR 690-079-0160. OAR 690-079-0020 to 0150 does not apply to requests for extensions of reservations, which were originally established in basin program rules pursuant to ORS 537.249 or 537.356.

Stat. Auth.: ORS 536.025, 536.027, 536.220, 536.300, 536.310, 537.170, 537.249, 537.338 & 537.356 - 537.358

Stats. Implemented: ORS 536.220, 536.310, 537.249, 537.356, 537.358

Hist.: WRD 9-1992, f. & cert. ef. 7-1-92; WRD 7-1993, f. & cert. ef. 11-30-93; WRD 7-2015(Temp), f. & cert. ef. 12-2-15 thru 5-29-16; WRD 3-2016, f. & cert. ef. 4-19-16

690-079-0160

Extension of Reservations

(1) This section establishes a process to consider extending reservations established in basin program rules pursuant to ORS 537.249 or 537.356 that are set to expire unless extended in rule by the Water Resources Commission.

(2) Notwithstanding OAR 690-079-0020 to 690-079-0150, applications to extend reservations established in basin program rules shall be processed according to the provisions in this section.

(3) Prior to termination of the approved term of reservation, the applicant may apply for a time extension of up to 20 years from the expiration date established in rule. An approved time extension shall retain the priority date of the original reservation.

(4) An application for an extension shall contain the information required in OAR 690-079-0170.

(5) The Department shall provide notification, accept public comment, and hold hearings as provided in ORS 183.335, 536.300(3), and OAR 690, Division 1. Notice shall also be provided to Oregon Department

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of Environmental Quality, Oregon Department of Fish and Wildlife, Oregon Parks and Recreation Department, and Business Oregon. The public comment period shall be no less than 30 days.

(6) In considering an application to extend a reservation, the Commission shall review information in the application, comments received, and information and recommendations provided by the Department. The Commission may extend the reservation up to 20 years unless the Commission determines the reservation is no longer consistent with ORS 536.310 or with rules of the Commission. The Commission may modify the reservation or include conditions as necessary for the reservation to remain consistent with ORS 536.310 and the purpose of reserving water for future economic development.

Stat. Auth.: ORS 536 & 537

Stats. Implemented: ORS 536.220, 536.310, 537.249, 537.356, 537.358

Hist.: WRD 7-2015(Temp), f. & cert. ef. 12-2-15 thru 5-29-16; WRD 3-2016, f. & cert. ef. 4-19-16

690-079-0170

Information Requirements to Request Extension of Reservations in Rule

Requests to extend reservations of water for future economic development shall include the following information:

- (1) Requestor name and address;

- (2) Description of the existing reservation and applicable rule reference;

- (3) Discussion of the continued current and future need for the reservation;

- (4) Description of actions taken to advance development of the reservation;

- (5) Discussion of challenges to developing the reservation;

- (6) Description of actions that will need to be undertaken in the future in order to develop the reservation;

- (7) Information on how the proposal is compatible with overall basin program goals and policies;

- (8) Identification of affected local governments

- (9) Copies of letters notifying each local government of the intent to file an extension request that includes a description of the reservation and statement that an opportunity to provide comment will be provided at a future date;

- (10) Description of expected economic benefits;

- (11) Information on whether the reservation exists above or within a Scenic Waterway;

- (12) Statement that explains how the reservation and proposed water use(s) will promote the beneficial use of the water without waste.

Stat. Auth.: ORS 536 & 537

Stats. Implemented: ORS 536.220, 536.310, 537.249, 537.356, 537.358

Hist.: WRD 3-2016, f. & cert. ef. 4-19-16

OAR REVISION CUMULATIVE INDEX

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104-080-0000	12-1-2015	Amend	1-1-2016	123-042-0122(T)	2-29-2016	Repeal	4-1-2016
104-080-0010	12-1-2015	Repeal	1-1-2016	123-042-0132	2-29-2016	Amend	4-1-2016
104-080-0020	12-1-2015	Repeal	1-1-2016	123-042-0132(T)	2-29-2016	Repeal	4-1-2016
104-080-0021	12-1-2015	Repeal	1-1-2016	123-042-0155	2-29-2016	Amend	4-1-2016
104-080-0022	12-1-2015	Repeal	1-1-2016	123-042-0155(T)	2-29-2016	Repeal	4-1-2016
104-080-0023	12-1-2015	Repeal	1-1-2016	123-042-0165	2-29-2016	Amend	4-1-2016
104-080-0024	12-1-2015	Repeal	1-1-2016	123-042-0165(T)	2-29-2016	Repeal	4-1-2016
104-080-0025	12-1-2015	Repeal	1-1-2016	123-042-0175	2-29-2016	Amend	4-1-2016
104-080-0026	12-1-2015	Repeal	1-1-2016	123-042-0175(T)	2-29-2016	Repeal	4-1-2016
104-080-0027	12-1-2015	Repeal	1-1-2016	123-042-0180	2-29-2016	Amend	4-1-2016
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104-080-0040	12-1-2015	Repeal	1-1-2016	123-052-1100	2-9-2016	Amend(T)	3-1-2016
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105-040-0065	3-1-2016	Amend(T)	3-1-2016	123-623-1000	1-29-2016	Amend	3-1-2016
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123-021-0050	4-11-2016	Amend(T)	5-1-2016	123-623-1300	1-29-2016	Amend	3-1-2016
123-021-0080	4-11-2016	Amend(T)	5-1-2016	123-623-1400	1-29-2016	Amend	3-1-2016
123-021-0090	4-11-2016	Amend(T)	5-1-2016	123-623-1500	1-29-2016	Amend	3-1-2016
123-021-0110	4-11-2016	Amend(T)	5-1-2016	123-623-1525	1-29-2016	Amend	3-1-2016
123-042-0020	2-29-2016	Amend	4-1-2016	123-623-1600	1-29-2016	Amend	3-1-2016
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123-042-0026	2-29-2016	Amend	4-1-2016	123-623-1800	1-29-2016	Amend	3-1-2016
123-042-0026(T)	2-29-2016	Repeal	4-1-2016	123-623-1900	1-29-2016	Amend	3-1-2016
123-042-0036(T)	2-29-2016	Repeal	4-1-2016	123-623-1950	1-29-2016	Amend	3-1-2016
123-042-0038	2-29-2016	Amend	4-1-2016	123-623-2000	1-29-2016	Amend	3-1-2016
123-042-0038(T)	2-29-2016	Repeal	4-1-2016	123-623-3000	1-29-2016	Amend	3-1-2016
123-042-0045	2-29-2016	Amend	4-1-2016	123-623-3200	1-29-2016	Amend	3-1-2016
123-042-0045(T)	2-29-2016	Repeal	4-1-2016	123-623-4000	1-29-2016	Amend	3-1-2016
123-042-0055	2-29-2016	Amend	4-1-2016	123-623-4100	1-29-2016	Amend	3-1-2016
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123-042-0061	2-29-2016	Adopt	4-1-2016	123-635-0000	3-28-2016	Amend	5-1-2016
123-042-0065(T)	2-29-2016	Repeal	4-1-2016	123-635-0100	3-28-2016	Amend	5-1-2016
123-042-0076	2-29-2016	Amend	4-1-2016	123-635-0150	3-28-2016	Amend	5-1-2016
123-042-0076(T)	2-29-2016	Repeal	4-1-2016	123-635-0175	3-28-2016	Amend	5-1-2016
123-042-0122	2-29-2016	Amend	4-1-2016	123-635-0200	3-28-2016	Amend	5-1-2016

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123-635-0300	3-28-2016	Amend	5-1-2016	137-050-0745	1-1-2016	Amend	2-1-2016
123-635-0350	3-28-2016	Amend	5-1-2016	137-055-1140	2-1-2016	Amend	3-1-2016
125-007-0200	1-4-2016	Amend	2-1-2016	137-055-1160	2-1-2016	Amend	3-1-2016
125-007-0210	1-4-2016	Amend	2-1-2016	137-055-3240	1-1-2016	Amend	2-1-2016
125-007-0220	1-4-2016	Amend	2-1-2016	137-055-3300	2-1-2016	Amend	3-1-2016
125-007-0230	1-4-2016	Repeal	2-1-2016	137-055-3490	1-1-2016	Amend	2-1-2016
125-007-0240	1-4-2016	Repeal	2-1-2016	137-055-3660	1-1-2016	Amend	2-1-2016
125-007-0250	1-4-2016	Amend	2-1-2016	137-055-5035	1-1-2016	Amend	2-1-2016
125-007-0260	1-4-2016	Amend	2-1-2016	137-055-5080	1-1-2016	Amend	2-1-2016
125-007-0270	1-4-2016	Amend	2-1-2016	137-055-5110	2-1-2016	Amend	3-1-2016
125-007-0280	1-4-2016	Repeal	2-1-2016	137-055-6220	1-1-2016	Amend	2-1-2016
125-007-0290	1-4-2016	Repeal	2-1-2016	137-055-6240	1-1-2016	Amend	2-1-2016
125-007-0300	1-4-2016	Amend	2-1-2016	137-055-7020	1-1-2016	Repeal	2-1-2016
125-007-0310	1-4-2016	Amend	2-1-2016	137-055-7040	1-1-2016	Amend	2-1-2016
125-007-0320	1-4-2016	Repeal	2-1-2016	137-055-7060	1-1-2016	Amend	2-1-2016
125-007-0330	1-4-2016	Amend	2-1-2016	137-055-7100	1-1-2016	Amend	2-1-2016
125-045-0200	1-7-2016	Amend	2-1-2016	137-055-7120	1-1-2016	Amend	2-1-2016
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125-055-0040	1-1-2016	Amend	2-1-2016	137-055-7190	1-1-2016	Amend	2-1-2016
125-246-0100	1-1-2016	Amend	2-1-2016	137-084-0001	4-19-2016	Amend(T)	6-1-2016
125-246-0110	1-1-2016	Amend	2-1-2016	137-084-0010	4-19-2016	Amend(T)	6-1-2016
125-246-0135	1-1-2016	Adopt	2-1-2016	137-084-0020	4-19-2016	Amend(T)	6-1-2016
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125-247-0100	1-1-2016	Amend	2-1-2016	137-085-0070	2-3-2016	Adopt	3-1-2016
125-247-0185	1-1-2016	Adopt	2-1-2016	137-085-0080	2-3-2016	Adopt	3-1-2016
125-247-0260	1-1-2016	Amend	2-1-2016	137-085-0090	2-3-2016	Adopt	3-1-2016
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125-247-0500	1-1-2016	Amend	2-1-2016	141-067-0150	6-1-2016	Amend	6-1-2016
125-247-0640	1-1-2016	Amend	2-1-2016	141-067-0155	6-1-2016	Amend	6-1-2016
125-248-0100	1-1-2016	Amend	2-1-2016	141-067-0170	6-1-2016	Amend	6-1-2016
125-248-0220	1-1-2016	Amend	2-1-2016	141-067-0180	6-1-2016	Amend	6-1-2016
125-249-0100	1-1-2016	Amend	2-1-2016	141-067-0195	6-1-2016	Amend	6-1-2016
125-249-0120	1-1-2016	Amend	2-1-2016	141-067-0200	6-1-2016	Repeal	6-1-2016
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125-249-0390	1-1-2016	Amend	2-1-2016	141-067-0220	6-1-2016	Amend	6-1-2016
125-249-0440	1-1-2016	Amend	2-1-2016	141-067-0270	6-1-2016	Amend	6-1-2016
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137-046-0110	1-1-2016	Amend	2-1-2016	141-068-0020	6-1-2016	Adopt	6-1-2016
137-046-0140	1-1-2016	Adopt	2-1-2016	141-068-0030	6-1-2016	Adopt	6-1-2016
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137-046-0210	1-1-2016	Amend	2-1-2016	141-068-0050	6-1-2016	Adopt	6-1-2016
137-047-0260	1-1-2016	Amend	2-1-2016	141-068-0060	6-1-2016	Adopt	6-1-2016
137-047-0640	1-1-2016	Amend	2-1-2016	141-068-0070	6-1-2016	Adopt	6-1-2016
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137-049-0120	1-1-2016	Amend	2-1-2016	141-068-0090	6-1-2016	Adopt	6-1-2016
137-049-0370	1-1-2016	Amend	2-1-2016	141-068-0100	6-1-2016	Adopt	6-1-2016
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141-125-0170	12-29-2015	Amend	2-1-2016	165-001-0025	1-1-2016	Amend	2-1-2016
150-118.140	1-1-2016	Amend	2-1-2016	165-001-0034	1-1-2016	Amend	2-1-2016
150-118.NOTE	1-1-2016	Repeal	2-1-2016	165-001-0050	1-1-2016	Amend	2-1-2016
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150-294.175(1)(c)	1-1-2016	Am. & Ren.	2-1-2016	165-005-0070	1-1-2016	Amend	2-1-2016
150-294.175(2)	1-1-2016	Am. & Ren.	2-1-2016	165-005-0170	1-1-2016	Adopt	2-1-2016
150-305.100-(C)	1-1-2016	Repeal	2-1-2016	165-005-0170	5-13-2016	Amend	6-1-2016
150-305.120	1-1-2016	Adopt	2-1-2016	165-007-0030	12-11-2015	Amend	1-1-2016
150-305.145(5)	1-1-2016	Renumber	2-1-2016	165-007-0035	1-1-2016	Amend	2-1-2016
150-305.155-(A)	1-1-2016	Adopt	2-1-2016	165-010-0005	1-1-2016	Amend	2-1-2016
150-305.612	1-1-2016	Amend	2-1-2016	165-012-0005	1-1-2016	Amend	2-1-2016
150-305.792	12-7-2015	Adopt(T)	1-1-2016	165-012-0240	1-1-2016	Amend	2-1-2016
150-306.125	1-1-2016	Repeal	2-1-2016	165-013-0010	1-1-2016	Amend	2-1-2016
150-306.126(1)	1-1-2016	Am. & Ren.	2-1-2016	165-013-0020	1-1-2016	Amend	2-1-2016
150-306.126(2)	1-1-2016	Am. & Ren.	2-1-2016	165-013-0030	1-2-2016	Amend	2-1-2016
150-306.126(3)-(A)	1-1-2016	Am. & Ren.	2-1-2016	165-014-0005	1-1-2016	Amend	2-1-2016
150-307.242(2)	1-1-2016	Am. & Ren.	2-1-2016	165-014-0100	1-1-2016	Amend	2-1-2016
150-307.405(3)	1-1-2016	Repeal	2-1-2016	165-014-0260	1-1-2016	Amend	2-1-2016
150-308.010	1-1-2016	Amend	2-1-2016	165-014-0280	1-1-2016	Repeal	2-1-2016
150-308.205-(A)	1-1-2016	Amend	2-1-2016	165-016-0000	1-1-2016	Amend	2-1-2016
150-308.205-(D)	1-1-2016	Amend	2-1-2016	166-017-0005	5-5-2016	Adopt	6-1-2016
150-308.205(2)	1-1-2016	Am. & Ren.	2-1-2016	166-017-0010	5-5-2016	Amend	6-1-2016
150-308.290-(A)	1-1-2016	Repeal	2-1-2016	166-017-0015	5-5-2016	Adopt	6-1-2016
150-308.290-(B)	1-1-2016	Amend	2-1-2016	166-017-0020	5-5-2016	Repeal	6-1-2016
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150-309.110-(A)	1-1-2016	Amend	2-1-2016	166-017-0030	5-5-2016	Repeal	6-1-2016
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213-017-0008	5-10-2016	Amend	6-1-2016	259-060-0135	3-22-2016	Amend	5-1-2016
213-018-0035	5-10-2016	Amend	6-1-2016	259-060-0145	12-22-2015	Amend	2-1-2016
213-018-0050	5-10-2016	Amend	6-1-2016	259-061-0010	3-22-2016	Amend	5-1-2016
213-018-0068	5-10-2016	Amend	6-1-2016	259-061-0018	3-22-2016	Amend	5-1-2016
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250-030-0020	2-1-2016	Repeal	2-1-2016	274-005-0046	12-28-2015	Adopt	2-1-2016
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255-085-0030	1-27-2016	Adopt	3-1-2016	291-131-0021	5-10-2016	Amend	6-1-2016
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259-008-0011	4-1-2016	Amend	5-1-2016	291-167-0015	2-29-2016	Amend	4-1-2016
259-008-0015	4-1-2016	Amend	5-1-2016	291-180-0252	3-1-2016	Amend	4-1-2016
259-008-0020	4-1-2016	Amend	5-1-2016	291-205-0020	1-21-2016	Amend	3-1-2016
259-008-0025	1-1-2016	Amend	2-1-2016	291-205-0030	1-21-2016	Amend	3-1-2016
259-008-0025	3-22-2016	Amend	5-1-2016	291-205-0050	1-21-2016	Amend	3-1-2016
259-008-0030	3-22-2016	Repeal	5-1-2016	291-209-0010	1-1-2016	Amend(T)	2-1-2016
259-008-0035	3-22-2016	Repeal	5-1-2016	291-209-0010	3-30-2016	Amend	5-1-2016
259-008-0040	1-1-2016	Amend	2-1-2016	291-209-0010(T)	3-30-2016	Repeal	5-1-2016
259-008-0060	1-1-2016	Amend	2-1-2016	291-209-0020	1-1-2016	Amend(T)	2-1-2016
259-008-0085	3-22-2016	Amend	5-1-2016	291-209-0020	3-30-2016	Amend	5-1-2016
259-008-0100	1-1-2016	Amend	2-1-2016	291-209-0020(T)	3-30-2016	Repeal	5-1-2016
259-009-0059	1-1-2016	Amend	2-1-2016	291-209-0030	1-1-2016	Amend(T)	2-1-2016
259-009-0062	12-22-2015	Amend	2-1-2016	291-209-0030	3-30-2016	Amend	5-1-2016
259-009-0070	1-1-2016	Amend	2-1-2016	291-209-0030(T)	3-30-2016	Repeal	5-1-2016

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291-209-0040	3-30-2016	Amend	5-1-2016	333-007-0200	2-8-2016	Amend(T)	3-1-2016
291-209-0040(T)	3-30-2016	Repeal	5-1-2016	333-008-0000	3-1-2016	Repeal	4-1-2016
291-209-0050	1-1-2016	Suspend	2-1-2016	333-008-0010	3-1-2016	Amend	4-1-2016
291-209-0050	3-30-2016	Repeal	5-1-2016	333-008-0010(T)	3-1-2016	Repeal	4-1-2016
291-209-0050(T)	3-30-2016	Repeal	5-1-2016	333-008-0020	3-1-2016	Amend	4-1-2016
291-209-0060	1-1-2016	Suspend	2-1-2016	333-008-0021	3-1-2016	Adopt	4-1-2016
291-209-0060	3-30-2016	Repeal	5-1-2016	333-008-0022	3-1-2016	Adopt	4-1-2016
291-209-0060(T)	3-30-2016	Repeal	5-1-2016	333-008-0023	3-1-2016	Adopt	4-1-2016
291-209-0070	1-1-2016	Amend(T)	2-1-2016	333-008-0025	3-1-2016	Amend	4-1-2016
309-012-0130	11-25-2015	Amend(T)	1-1-2016	333-008-0025(T)	3-1-2016	Repeal	4-1-2016
309-012-0210	11-25-2015	Amend(T)	1-1-2016	333-008-0030	3-1-2016	Amend	4-1-2016
309-012-0220	11-25-2015	Amend(T)	1-1-2016	333-008-0033	3-1-2016	Adopt	4-1-2016
309-088-0100	4-7-2016	Adopt(T)	5-1-2016	333-008-0035	3-1-2016	Adopt	4-1-2016
309-088-0110	4-7-2016	Adopt(T)	5-1-2016	333-008-0037	3-1-2016	Adopt	4-1-2016
309-088-0120	4-7-2016	Adopt(T)	5-1-2016	333-008-0040	3-1-2016	Amend	4-1-2016
309-090-0000	5-3-2016	Amend	6-1-2016	333-008-0045	3-1-2016	Amend	4-1-2016
309-090-0005	5-3-2016	Amend	6-1-2016	333-008-0047	3-1-2016	Adopt	4-1-2016
309-090-0010	5-3-2016	Amend	6-1-2016	333-008-0049	3-1-2016	Adopt	4-1-2016
309-090-0015	5-3-2016	Amend	6-1-2016	333-008-0050	3-2-2016	Repeal	4-1-2016
309-090-0020	5-3-2016	Amend	6-1-2016	333-008-0060	3-1-2016	Repeal	4-1-2016
309-090-0025	5-3-2016	Amend	6-1-2016	333-008-0070	3-1-2016	Repeal	4-1-2016
309-090-0030	5-3-2016	Amend	6-1-2016	333-008-0080	3-1-2016	Amend	4-1-2016
309-090-0035	5-3-2016	Amend	6-1-2016	333-008-0110	3-1-2016	Amend	4-1-2016
309-090-0050	5-3-2016	Amend	6-1-2016	333-008-0120	3-1-2016	Repeal	4-1-2016
309-090-0055	5-3-2016	Amend	6-1-2016	333-008-0499	1-1-2016	Adopt(T)	2-1-2016
309-090-0060	5-3-2016	Amend	6-1-2016	333-008-0499(T)	3-1-2016	Repeal	4-1-2016
309-090-0065	5-3-2016	Amend	6-1-2016	333-008-0500	1-1-2016	Adopt(T)	2-1-2016
309-090-0070	5-3-2016	Amend	6-1-2016	333-008-0500	3-1-2016	Adopt	4-1-2016
309-091-0050	4-28-2016	Amend	6-1-2016	333-008-0500(T)	3-1-2016	Repeal	4-1-2016
309-112-0000	4-21-2016	Amend	6-1-2016	333-008-0510	1-1-2016	Adopt(T)	2-1-2016
309-112-0005	4-21-2016	Amend	6-1-2016	333-008-0510	3-1-2016	Adopt	4-1-2016
309-112-0010	4-21-2016	Amend	6-1-2016	333-008-0510(T)	3-1-2016	Repeal	4-1-2016
309-112-0015	4-21-2016	Amend	6-1-2016	333-008-0520	1-1-2016	Adopt(T)	2-1-2016
309-112-0017	4-21-2016	Amend	6-1-2016	333-008-0520	3-1-2016	Adopt	4-1-2016
309-112-0020	4-21-2016	Amend	6-1-2016	333-008-0520(T)	3-1-2016	Repeal	4-1-2016
309-112-0025	4-21-2016	Amend	6-1-2016	333-008-0530	1-1-2016	Adopt(T)	2-1-2016
309-112-0030	4-21-2016	Amend	6-1-2016	333-008-0530	3-1-2016	Adopt	4-1-2016
309-112-0035	4-21-2016	Amend	6-1-2016	333-008-0530(T)	3-1-2016	Repeal	4-1-2016
309-114-0005	11-24-2015	Amend(T)	1-1-2016	333-008-0540	3-1-2016	Adopt	4-1-2016
325-005-0015	1-29-2016	Amend	3-1-2016	333-008-0550	3-1-2016	Adopt	4-1-2016
325-010-0025	1-29-2016	Amend	3-1-2016	333-008-0560	3-1-2016	Adopt	4-1-2016
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330-140-0070	12-23-2015	Amend	2-1-2016	333-008-0630	3-1-2016	Adopt	4-1-2016
330-140-0140	12-23-2015	Amend	2-1-2016	333-008-0640	3-1-2016	Adopt	4-1-2016
330-170-0010	3-1-2016	Amend	4-1-2016	333-008-0700	3-1-2016	Adopt	4-1-2016
330-170-0050	3-1-2016	Amend	4-1-2016	333-008-0710	3-1-2016	Adopt	4-1-2016
330-210-0000	3-15-2016	Amend	4-1-2016	333-008-0720	3-1-2016	Adopt	4-1-2016
330-210-0010	3-15-2016	Amend	4-1-2016	333-008-0730	3-1-2016	Adopt	4-1-2016
330-210-0040	3-15-2016	Amend	4-1-2016	333-008-0740	3-1-2016	Adopt	4-1-2016
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330-210-0110	3-15-2016	Adopt	4-1-2016	333-008-1000	3-1-2016	Amend	4-1-2016
330-210-0150	3-15-2016	Amend	4-1-2016	333-008-1010	3-1-2016	Amend	4-1-2016
331-710-0050	1-1-2016	Amend	2-1-2016	333-008-1010(T)	3-1-2016	Repeal	4-1-2016

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333-008-1040	3-1-2016	Amend	4-1-2016	333-008-1710	3-1-2016	Adopt	4-1-2016
333-008-1050	3-1-2016	Amend	4-1-2016	333-008-1720	3-1-2016	Adopt	4-1-2016
333-008-1060	3-1-2016	Amend	4-1-2016	333-008-1730	3-1-2016	Adopt	4-1-2016
333-008-1060(T)	3-1-2016	Repeal	4-1-2016	333-008-1740	3-1-2016	Adopt	4-1-2016
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333-008-1070	3-1-2016	Amend	4-1-2016	333-008-1760	3-1-2016	Adopt	4-1-2016
333-008-1070(T)	3-1-2016	Repeal	4-1-2016	333-008-1770	3-1-2016	Adopt	4-1-2016
333-008-1073	3-1-2016	Adopt	4-1-2016	333-008-1780	3-1-2016	Adopt	4-1-2016
333-008-1075	3-1-2016	Adopt	4-1-2016	333-008-1790	3-1-2016	Adopt	4-1-2016
333-008-1078	3-1-2016	Adopt	4-1-2016	333-008-1800	3-1-2016	Adopt	4-1-2016
333-008-1080	3-1-2016	Repeal	4-1-2016	333-008-1810	3-1-2016	Adopt	4-1-2016
333-008-1090	3-1-2016	Repeal	4-1-2016	333-008-1820	3-1-2016	Adopt	4-1-2016
333-008-1100	3-1-2016	Repeal	4-1-2016	333-008-1830	3-1-2016	Adopt	4-1-2016
333-008-1110	3-1-2016	Amend	4-1-2016	333-008-2000	3-1-2016	Adopt	4-1-2016
333-008-1120	3-1-2016	Repeal	4-1-2016	333-008-2010	3-1-2016	Adopt	4-1-2016
333-008-1130	3-2-2016	Repeal	4-1-2016	333-008-2020	3-1-2016	Adopt	4-1-2016
333-008-1140	3-2-2016	Repeal	4-1-2016	333-008-2030	3-1-2016	Adopt	4-1-2016
333-008-1150	3-2-2016	Repeal	4-1-2016	333-008-2040	3-1-2016	Adopt	4-1-2016
333-008-1160	3-2-2016	Repeal	4-1-2016	333-008-2050	3-1-2016	Adopt	4-1-2016
333-008-1170	3-2-2016	Repeal	4-1-2016	333-008-2060	3-1-2016	Adopt	4-1-2016
333-008-1180	3-2-2016	Repeal	4-1-2016	333-008-2070	3-1-2016	Adopt	4-1-2016
333-008-1190	3-1-2016	Amend	4-1-2016	333-008-2080	3-1-2016	Adopt	4-1-2016
333-008-1200	3-1-2016	Amend	4-1-2016	333-008-2090	3-1-2016	Adopt	4-1-2016
333-008-1205	3-1-2016	Adopt	4-1-2016	333-008-2100	3-1-2016	Adopt	4-1-2016
333-008-1210	3-1-2016	Repeal	4-1-2016	333-008-2110	3-1-2016	Adopt	4-1-2016
333-008-1220	3-1-2016	Amend	4-1-2016	333-008-2120	3-1-2016	Adopt	4-1-2016
333-008-1225	3-1-2016	Amend	4-1-2016	333-008-2130	3-1-2016	Adopt	4-1-2016
333-008-1225	4-15-2016	Amend(T)	5-1-2016	333-008-2140	3-1-2016	Adopt	4-1-2016
333-008-1230	3-1-2016	Amend	4-1-2016	333-008-2150	3-1-2016	Adopt	4-1-2016
333-008-1240	3-1-2016	Repeal	4-1-2016	333-008-2160	3-1-2016	Adopt	4-1-2016
333-008-1245	3-1-2016	Amend	4-1-2016	333-008-2170	3-1-2016	Adopt	4-1-2016
333-008-1247	3-1-2016	Adopt	4-1-2016	333-008-2180	3-1-2016	Adopt	4-1-2016
333-008-1248	3-1-2016	Adopt	4-1-2016	333-008-2190	3-1-2016	Adopt	4-1-2016
333-008-1250	3-1-2016	Repeal	4-1-2016	333-008-2200	3-1-2016	Adopt	4-1-2016
333-008-1260	3-1-2016	Repeal	4-1-2016	333-008-3000	3-1-2016	Adopt	4-1-2016
333-008-1270	3-1-2016	Repeal	4-1-2016	333-008-3010	3-1-2016	Adopt	4-1-2016
333-008-1275	3-1-2016	Repeal	4-1-2016	333-008-9000	1-1-2016	Adopt(T)	2-1-2016
333-008-1280	3-1-2016	Repeal	4-1-2016	333-008-9000(T)	3-1-2016	Repeal	4-1-2016
333-008-1290	3-1-2016	Repeal	4-1-2016	333-008-9900	4-15-2016	Adopt(T)	5-1-2016
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333-008-1500(T)	3-1-2016	Repeal	4-1-2016	333-010-0105	4-1-2016	Amend	5-1-2016
333-008-1501	3-1-2016	Adopt	4-1-2016	333-010-0105(T)	4-1-2016	Repeal	5-1-2016
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333-008-1505	3-1-2016	Adopt	4-1-2016	333-010-0110(T)	4-1-2016	Repeal	5-1-2016
333-008-1600	3-1-2016	Adopt	4-1-2016	333-010-0115	4-1-2016	Amend	5-1-2016
333-008-1610	3-1-2016	Adopt	4-1-2016	333-010-0115(T)	4-1-2016	Repeal	5-1-2016
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333-008-1630	3-1-2016	Adopt	4-1-2016	333-010-0120(T)	4-1-2016	Repeal	5-1-2016
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333-008-1650	3-1-2016	Adopt	4-1-2016	333-010-0130	4-1-2016	Amend	5-1-2016
333-008-1660	3-1-2016	Adopt	4-1-2016	333-010-0130(T)	4-1-2016	Repeal	5-1-2016
333-008-1670	3-1-2016	Adopt	4-1-2016	333-010-0135	4-1-2016	Amend	5-1-2016
333-008-1680	3-1-2016	Adopt	4-1-2016	333-010-0140	4-1-2016	Amend	5-1-2016

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333-010-0150	4-1-2016	Amend	5-1-2016	333-052-0043	1-1-2016	Amend	1-1-2016
333-010-0155	4-1-2016	Amend	5-1-2016	333-052-0080	1-1-2016	Amend	1-1-2016
333-010-0160	4-1-2016	Amend	5-1-2016	333-052-0120	1-1-2016	Amend	1-1-2016
333-010-0165	4-1-2016	Amend	5-1-2016	333-053-0040	1-1-2016	Amend	1-1-2016
333-010-0175	4-1-2016	Amend	5-1-2016	333-053-0050	1-1-2016	Amend	1-1-2016
333-010-0180	4-1-2016	Amend	5-1-2016	333-053-0080	1-1-2016	Amend	1-1-2016
333-010-0197	4-1-2016	Amend	5-1-2016	333-054-0010	1-1-2016	Amend	1-1-2016
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333-012-0500	1-1-2016	Am. & Ren.	2-1-2016	333-054-0050	1-1-2016	Amend	1-1-2016
333-015-0030	1-1-2016	Amend	2-1-2016	333-054-0060	1-1-2016	Amend	1-1-2016
333-015-0035	1-1-2016	Amend	2-1-2016	333-054-0070	1-1-2016	Amend	1-1-2016
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333-015-0045	1-1-2016	Amend	2-1-2016	333-055-0006	2-8-2016	Amend	3-1-2016
333-015-0064	1-1-2016	Amend	2-1-2016	333-055-0015	2-8-2016	Amend	3-1-2016
333-015-0068	1-1-2016	Amend	2-1-2016	333-055-0021	2-8-2016	Amend	3-1-2016
333-015-0070	1-1-2016	Amend	2-1-2016	333-055-0030	2-8-2016	Amend	3-1-2016
333-015-0075	1-1-2016	Amend	2-1-2016	333-055-0035	2-8-2016	Amend	3-1-2016
333-015-0078	1-1-2016	Amend	2-1-2016	333-061-0020	4-1-2016	Amend	3-1-2016
333-015-0085	1-1-2016	Amend	2-1-2016	333-061-0030	4-1-2016	Amend	3-1-2016
333-015-0200	1-1-2016	Adopt(T)	2-1-2016	333-061-0031	4-1-2016	Amend	3-1-2016
333-015-0205	1-1-2016	Adopt(T)	2-1-2016	333-061-0032	4-1-2016	Amend	3-1-2016
333-015-0210	1-1-2016	Adopt(T)	2-1-2016	333-061-0036	4-1-2016	Amend	3-1-2016
333-015-0215	1-1-2016	Adopt(T)	2-1-2016	333-061-0040	4-1-2016	Amend	3-1-2016
333-015-0220	1-1-2016	Adopt(T)	2-1-2016	333-061-0042	4-1-2016	Amend	3-1-2016
333-016-2000	1-1-2016	Adopt	2-1-2016	333-061-0043	4-1-2016	Amend	3-1-2016
333-016-2010	1-1-2016	Adopt	2-1-2016	333-061-0045	4-1-2016	Amend	3-1-2016
333-016-2020	1-1-2016	Adopt	2-1-2016	333-061-0050	4-1-2016	Amend	3-1-2016
333-016-2030	1-1-2016	Adopt	2-1-2016	333-061-0060	1-1-2016	Amend	1-1-2016
333-018-0015	2-18-2016	Amend(T)	4-1-2016	333-061-0060	4-1-2016	Amend	3-1-2016
333-028-0300	1-29-2016	Adopt	3-1-2016	333-061-0063	4-1-2016	Amend	3-1-2016
333-028-0310	1-29-2016	Adopt	3-1-2016	333-061-0065	4-1-2016	Amend	3-1-2016
333-028-0320	1-29-2016	Adopt	3-1-2016	333-061-0070	4-1-2016	Amend	3-1-2016
333-028-0330	1-29-2016	Adopt	3-1-2016	333-061-0071	4-1-2016	Amend	3-1-2016
333-028-0340	1-29-2016	Adopt	3-1-2016	333-061-0072	1-1-2016	Amend	1-1-2016
333-028-0350	1-29-2016	Adopt	3-1-2016	333-061-0073	1-1-2016	Amend	1-1-2016
333-030-0015	5-9-2016	Amend	6-1-2016	333-061-0075	4-1-2016	Amend	3-1-2016
333-030-0020	5-9-2016	Amend	6-1-2016	333-061-0076	1-1-2016	Amend	1-1-2016
333-030-0023	5-9-2016	Adopt	6-1-2016	333-061-0076	4-1-2016	Amend	3-1-2016
333-030-0100	5-9-2016	Amend	6-1-2016	333-061-0077	4-1-2016	Amend	3-1-2016
333-030-0110	5-9-2016	Amend	6-1-2016	333-061-0078	4-1-2016	Adopt	3-1-2016
333-030-0120	5-9-2016	Amend	6-1-2016	333-061-0090	4-1-2016	Amend	3-1-2016
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333-050-0050(T)	1-20-2016	Repeal	3-1-2016	333-064-0025	1-1-2016	Amend(T)	2-1-2016
333-050-0080	1-20-2016	Amend	3-1-2016	333-064-0060	1-1-2016	Amend(T)	2-1-2016
333-050-0080(T)	1-20-2016	Repeal	3-1-2016	333-076-0101	2-24-2016	Amend	4-1-2016
333-050-0095	1-20-2016	Amend	3-1-2016	333-076-0135	2-24-2016	Amend	4-1-2016
333-050-0095(T)	1-20-2016	Repeal	3-1-2016	333-076-0137	2-24-2016	Adopt	4-1-2016
333-050-0100	1-20-2016	Amend	3-1-2016	333-103-0025	1-1-2016	Amend	2-1-2016
333-050-0100(T)	1-20-2016	Repeal	3-1-2016	333-200-0000	1-1-2016	Amend	1-1-2016

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333-200-0020	1-1-2016	Amend	1-1-2016	340-045-0075	1-1-2016	Amend	1-1-2016
333-200-0030	1-1-2016	Amend	1-1-2016	340-071-0140	1-1-2016	Amend	1-1-2016
333-200-0035	1-1-2016	Amend	1-1-2016	340-071-0140	1-27-2016	Amend	3-1-2016
333-200-0040	1-1-2016	Amend	1-1-2016	340-083-0010	2-4-2016	Amend	3-1-2016
333-200-0050	1-1-2016	Amend	1-1-2016	340-083-0020	2-4-2016	Amend	3-1-2016
333-200-0060	1-1-2016	Amend	1-1-2016	340-083-0030	2-4-2016	Amend	3-1-2016
333-200-0070	1-1-2016	Amend	1-1-2016	340-083-0040	2-4-2016	Amend	3-1-2016
333-200-0080	1-1-2016	Amend	1-1-2016	340-083-0050	2-4-2016	Amend	3-1-2016
333-200-0090	1-1-2016	Amend	1-1-2016	340-083-0070	2-4-2016	Amend	3-1-2016
333-200-0235	1-1-2016	Adopt	1-1-2016	340-083-0080	2-4-2016	Amend	3-1-2016
333-200-0245	1-1-2016	Adopt	1-1-2016	340-083-0090	2-4-2016	Amend	3-1-2016
333-200-0250	1-1-2016	Adopt	1-1-2016	340-083-0100	2-4-2016	Amend	3-1-2016
333-200-0255	1-1-2016	Adopt	1-1-2016	340-083-0500	2-4-2016	Adopt	3-1-2016
333-200-0265	1-1-2016	Adopt	1-1-2016	340-083-0510	2-4-2016	Adopt	3-1-2016
333-200-0275	1-1-2016	Adopt	1-1-2016	340-083-0520	2-4-2016	Adopt	3-1-2016
333-200-0285	1-1-2016	Adopt	1-1-2016	340-083-0530	2-4-2016	Adopt	3-1-2016
333-200-0295	1-1-2016	Adopt	1-1-2016	340-097-0001	2-4-2016	Amend	3-1-2016
333-200-0300	1-1-2016	Adopt	1-1-2016	340-097-0110	2-4-2016	Amend	3-1-2016
333-205-0000	1-1-2016	Amend	1-1-2016	340-097-0120	2-4-2016	Amend	3-1-2016
333-205-0010	1-1-2016	Amend	1-1-2016	340-200-0040	12-10-2015	Amend	1-1-2016
333-205-0020	1-1-2016	Amend	1-1-2016	340-215-0010	12-10-2015	Amend	1-1-2016
333-205-0040	1-1-2016	Amend	1-1-2016	340-215-0020	12-10-2015	Amend	1-1-2016
333-205-0050	1-1-2016	Amend	1-1-2016	340-215-0030	12-10-2015	Amend	1-1-2016
333-250-0040	4-28-2016	Amend	6-1-2016	340-215-0040	12-10-2015	Amend	1-1-2016
333-250-0041	4-28-2016	Amend	6-1-2016	340-215-0060	12-10-2015	Amend	1-1-2016
333-250-0085	4-28-2016	Adopt	6-1-2016	340-244-0010	4-21-2016	Amend(T)	6-1-2016
333-265-0056	4-7-2016	Adopt	5-1-2016	340-244-9000	4-21-2016	Adopt(T)	6-1-2016
333-500-0045	2-24-2016	Amend	4-1-2016	340-244-9010	4-21-2016	Adopt(T)	6-1-2016
333-505-0005	2-24-2016	Amend	4-1-2016	340-244-9020	4-21-2016	Adopt(T)	6-1-2016
333-505-0007	2-24-2016	Amend	4-1-2016	340-244-9030	4-21-2016	Adopt(T)	6-1-2016
333-505-0030	2-24-2016	Amend	4-1-2016	340-244-9040	4-21-2016	Adopt(T)	6-1-2016
333-505-0050	2-24-2016	Amend	4-1-2016	340-244-9050	4-21-2016	Adopt(T)	6-1-2016
333-510-0030	2-24-2016	Amend	4-1-2016	340-244-9060	4-21-2016	Adopt(T)	6-1-2016
333-515-0030	2-24-2016	Amend	4-1-2016	340-244-9070	4-21-2016	Adopt(T)	6-1-2016
333-515-0050	2-24-2016	Repeal	4-1-2016	340-244-9070	5-6-2016	Amend(T)	6-1-2016
333-515-0060	2-24-2016	Repeal	4-1-2016	340-244-9080	4-21-2016	Adopt(T)	6-1-2016
333-520-0020	2-24-2016	Amend	4-1-2016	340-244-9090	4-21-2016	Adopt(T)	6-1-2016
333-520-0050	2-24-2016	Amend	4-1-2016	340-248-0250	1-1-2016	Amend(T)	1-1-2016
333-525-0000	2-24-2016	Amend	4-1-2016	340-248-0250	4-21-2016	Amend	6-1-2016
333-535-0061	2-24-2016	Amend	4-1-2016	340-248-0270	1-1-2016	Amend(T)	1-1-2016
333-535-0080	2-24-2016	Amend	4-1-2016	340-248-0270	4-21-2016	Amend	6-1-2016
333-535-0110	2-24-2016	Amend	4-1-2016	340-253-0000	1-1-2016	Amend	1-1-2016
340-012-0054	1-1-2016	Amend	1-1-2016	340-253-0040	1-1-2016	Amend	1-1-2016
340-012-0135	1-1-2016	Amend	1-1-2016	340-253-0060	1-1-2016	Amend	1-1-2016
340-012-0140	1-1-2016	Amend	1-1-2016	340-253-0100	1-1-2016	Amend	1-1-2016
340-039-0001	12-10-2015	Adopt	1-1-2016	340-253-0200	1-1-2016	Amend	1-1-2016
340-039-0003	12-10-2015	Adopt	1-1-2016	340-253-0250	1-1-2016	Amend	1-1-2016
340-039-0005	12-10-2015	Adopt	1-1-2016	340-253-0310	1-1-2016	Amend	1-1-2016
340-039-0015	12-10-2015	Adopt	1-1-2016	340-253-0320	1-1-2016	Amend	1-1-2016
340-039-0017	12-10-2015	Adopt	1-1-2016	340-253-0330	1-1-2016	Amend	1-1-2016
340-039-0020	12-10-2015	Adopt	1-1-2016	340-253-0340	1-1-2016	Amend	1-1-2016
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340-039-0030	12-10-2015	Adopt	1-1-2016	340-253-0450	1-1-2016	Amend	1-1-2016
340-039-0035	12-10-2015	Adopt	1-1-2016	340-253-0500	1-1-2016	Amend	1-1-2016
340-039-0040	12-10-2015	Adopt	1-1-2016	340-253-0600	1-1-2016	Amend	1-1-2016

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340-253-0630	1-1-2016	Amend	1-1-2016	409-015-0030	3-28-2016	Amend	5-1-2016
340-253-0650	1-1-2016	Amend	1-1-2016	409-015-0035	3-28-2016	Amend	5-1-2016
340-253-1000	1-1-2016	Amend	1-1-2016	409-015-0040	3-28-2016	Repeal	5-1-2016
340-253-1010	1-1-2016	Amend	1-1-2016	409-025-0100	1-5-2016	Amend	2-1-2016
340-253-1020	1-1-2016	Amend	1-1-2016	409-025-0110	1-5-2016	Amend	2-1-2016
340-253-1030	1-1-2016	Amend	1-1-2016	409-025-0120	1-5-2016	Amend	2-1-2016
340-253-1050	1-1-2016	Amend	1-1-2016	409-025-0130	1-5-2016	Amend	2-1-2016
340-253-2000	1-1-2016	Amend	1-1-2016	409-025-0140	1-5-2016	Amend	2-1-2016
340-253-2100	1-1-2016	Amend	1-1-2016	409-025-0150	1-5-2016	Amend	2-1-2016
340-253-2200	1-1-2016	Amend	1-1-2016	409-025-0160	1-5-2016	Amend	2-1-2016
340-253-8010	1-1-2016	Amend	1-1-2016	409-025-0170	1-5-2016	Amend	2-1-2016
340-253-8010	4-22-2016	Amend(T)	6-1-2016	409-026-0100	2-8-2016	Amend(T)	3-1-2016
340-253-8020	1-1-2016	Amend	1-1-2016	409-026-0100	3-25-2016	Amend	5-1-2016
340-253-8020	4-22-2016	Amend(T)	6-1-2016	409-026-0100(T)	3-25-2016	Repeal	5-1-2016
340-253-8030	1-1-2016	Amend	1-1-2016	409-026-0110	2-8-2016	Amend(T)	3-1-2016
340-253-8030	4-22-2016	Amend(T)	6-1-2016	409-026-0110	3-25-2016	Amend	5-1-2016
340-253-8040	1-1-2016	Amend	1-1-2016	409-026-0110(T)	3-25-2016	Repeal	5-1-2016
340-253-8040	4-22-2016	Amend(T)	6-1-2016	409-026-0120	2-8-2016	Amend(T)	3-1-2016
340-253-8050	1-1-2016	Amend	1-1-2016	409-026-0120	3-25-2016	Amend	5-1-2016
340-253-8060	1-1-2016	Amend	1-1-2016	409-026-0120(T)	3-25-2016	Repeal	5-1-2016
340-253-8070	1-1-2016	Amend	1-1-2016	409-026-0130	2-8-2016	Amend(T)	3-1-2016
340-253-8080	1-1-2016	Amend	1-1-2016	409-026-0130	3-25-2016	Amend	5-1-2016
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407-007-0010	1-14-2016	Amend(T)	2-1-2016	409-026-0140	2-8-2016	Amend(T)	3-1-2016
407-007-0020	1-14-2016	Amend(T)	2-1-2016	409-026-0140	3-25-2016	Amend	5-1-2016
407-007-0030	1-14-2016	Amend(T)	2-1-2016	409-026-0140(T)	3-25-2016	Repeal	5-1-2016
407-007-0050	1-14-2016	Amend(T)	2-1-2016	409-035-0020	11-24-2015	Amend	1-1-2016
407-007-0060	1-14-2016	Amend(T)	2-1-2016	409-035-0020	4-22-2016	Amend	6-1-2016
407-007-0065	1-14-2016	Amend(T)	2-1-2016	409-035-0020(T)	11-24-2015	Repeal	1-1-2016
407-007-0070	1-14-2016	Amend(T)	2-1-2016	409-055-0000	5-13-2016	Amend	6-1-2016
407-007-0075	1-14-2016	Suspend	2-1-2016	409-055-0010	1-1-2016	Amend(T)	2-1-2016
407-007-0080	1-14-2016	Amend(T)	2-1-2016	409-055-0010	5-13-2016	Amend	6-1-2016
407-007-0090	1-14-2016	Amend(T)	2-1-2016	409-055-0010(T)	5-13-2016	Repeal	6-1-2016
407-007-0200	1-14-2016	Amend(T)	2-1-2016	409-055-0020	5-13-2016	Amend	6-1-2016
407-007-0210	1-14-2016	Amend(T)	2-1-2016	409-055-0030	1-1-2016	Amend(T)	2-1-2016
407-007-0220	1-14-2016	Amend(T)	2-1-2016	409-055-0030	5-13-2016	Amend	6-1-2016
407-007-0230	1-14-2016	Amend(T)	2-1-2016	409-055-0030(T)	5-13-2016	Repeal	6-1-2016
407-007-0240	1-14-2016	Amend(T)	2-1-2016	409-055-0040	1-1-2016	Amend(T)	2-1-2016
407-007-0250	1-14-2016	Amend(T)	2-1-2016	409-055-0040	5-13-2016	Amend	6-1-2016
407-007-0275	1-14-2016	Amend(T)	2-1-2016	409-055-0040(T)	5-13-2016	Repeal	6-1-2016
407-007-0277	1-14-2016	Amend(T)	2-1-2016	409-055-0045	5-13-2016	Amend	6-1-2016
407-007-0280	1-14-2016	Suspend	2-1-2016	409-055-0050	5-13-2016	Amend	6-1-2016
407-007-0290	1-14-2016	Amend(T)	2-1-2016	409-055-0060	1-1-2016	Amend(T)	2-1-2016
407-007-0300	1-14-2016	Amend(T)	2-1-2016	409-055-0060	5-13-2016	Amend	6-1-2016
407-007-0315	1-14-2016	Amend(T)	2-1-2016	409-055-0060(T)	5-13-2016	Repeal	6-1-2016
407-007-0320	1-14-2016	Amend(T)	2-1-2016	409-055-0070	1-1-2016	Amend(T)	2-1-2016
407-007-0325	1-14-2016	Suspend	2-1-2016	409-055-0070	5-13-2016	Amend	6-1-2016
407-007-0330	1-14-2016	Amend(T)	2-1-2016	409-055-0070(T)	5-13-2016	Repeal	6-1-2016
407-007-0350	1-14-2016	Amend(T)	2-1-2016	409-055-0080	5-13-2016	Amend	6-1-2016
407-007-0370	1-14-2016	Amend(T)	2-1-2016	409-055-0090	5-13-2016	Amend	6-1-2016
407-007-0400	1-14-2016	Suspend	2-1-2016	409-060-0110	4-19-2016	Amend	6-1-2016
407-045-0260	2-3-2016	Amend	3-1-2016	409-060-0120	4-19-2016	Amend	6-1-2016
407-045-0350	2-3-2016	Amend	3-1-2016	409-060-0150	4-19-2016	Amend	6-1-2016
409-015-0005	3-28-2016	Amend	5-1-2016	409-062-0000	4-22-2016	Adopt(T)	6-1-2016
409-015-0010	3-28-2016	Amend	5-1-2016	409-062-0010	4-22-2016	Adopt(T)	6-1-2016

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409-062-0030	4-22-2016	Adopt(T)	6-1-2016	410-130-0220(T)	5-1-2016	Repeal	6-1-2016
409-062-0040	4-22-2016	Adopt(T)	6-1-2016	410-136-3040	1-1-2016	Amend	2-1-2016
409-062-0050	4-22-2016	Adopt(T)	6-1-2016	410-140-0020	3-1-2016	Amend	4-1-2016
409-062-0060	4-22-2016	Adopt(T)	6-1-2016	410-140-0040	3-1-2016	Amend	4-1-2016
409-110-0025	5-9-2016	Adopt(T)	6-1-2016	410-140-0050	3-1-2016	Amend	4-1-2016
409-110-0030	5-9-2016	Adopt(T)	6-1-2016	410-140-0080	3-1-2016	Amend	4-1-2016
409-110-0035	5-9-2016	Adopt(T)	6-1-2016	410-140-0120	3-1-2016	Amend	4-1-2016
409-110-0040	5-9-2016	Adopt(T)	6-1-2016	410-140-0140	3-1-2016	Amend	4-1-2016
409-110-0045	5-9-2016	Adopt(T)	6-1-2016	410-140-0160	3-1-2016	Amend	4-1-2016
410-050-0861	4-1-2016	Amend(T)	5-1-2016	410-140-0200	3-1-2016	Amend	4-1-2016
410-120-0006	1-1-2016	Amend	1-1-2016	410-140-0260	3-1-2016	Amend	4-1-2016
410-120-1340	1-1-2016	Amend(T)	2-1-2016	410-140-0280	3-1-2016	Amend	4-1-2016
410-120-1340	3-1-2016	Amend	4-1-2016	410-140-0300	3-1-2016	Amend	4-1-2016
410-120-1340(T)	3-1-2016	Repeal	4-1-2016	410-141-0000	12-10-2015	Amend	1-1-2016
410-121-0000	1-1-2016	Amend	2-1-2016	410-141-0080	12-10-2015	Amend	1-1-2016
410-121-0030	12-27-2015	Amend	2-1-2016	410-141-0085	12-10-2015	Repeal	1-1-2016
410-121-0030	1-1-2016	Amend(T)	2-1-2016	410-141-0160	12-10-2015	Amend	1-1-2016
410-121-0030	5-1-2016	Amend(T)	6-1-2016	410-141-0220	12-10-2015	Amend	1-1-2016
410-121-0030(T)	12-27-2015	Repeal	2-1-2016	410-141-0320	12-10-2015	Amend	1-1-2016
410-121-0040	12-27-2015	Amend	2-1-2016	410-141-0340	12-10-2015	Amend	1-1-2016
410-121-0040	1-1-2016	Amend(T)	2-1-2016	410-141-0410	12-10-2015	Repeal	1-1-2016
410-121-0040	2-12-2016	Amend(T)	3-1-2016	410-141-0420	12-10-2015	Amend	1-1-2016
410-121-0040	5-1-2016	Amend(T)	6-1-2016	410-141-0520	1-1-2016	Amend(T)	2-1-2016
410-121-0040(T)	12-27-2015	Repeal	2-1-2016	410-141-0520	3-1-2016	Amend	4-1-2016
410-121-0135	1-1-2016	Amend	2-1-2016	410-141-0520(T)	3-1-2016	Repeal	4-1-2016
410-121-0146	1-1-2016	Amend	2-1-2016	410-141-0660	12-10-2015	Repeal	1-1-2016
410-121-4000	1-1-2016	Am. & Ren.	2-1-2016	410-141-0680	12-10-2015	Repeal	1-1-2016
410-121-4005	1-1-2016	Am. & Ren.	2-1-2016	410-141-0700	12-10-2015	Repeal	1-1-2016
410-121-4010	1-1-2016	Am. & Ren.	2-1-2016	410-141-0720	12-10-2015	Repeal	1-1-2016
410-121-4015	1-1-2016	Renumber	2-1-2016	410-141-0740	12-10-2015	Repeal	1-1-2016
410-121-4020	1-1-2016	Renumber	2-1-2016	410-141-0760	12-10-2015	Repeal	1-1-2016
410-122-0186	2-3-2016	Amend	3-1-2016	410-141-0780	12-10-2015	Repeal	1-1-2016
410-122-0204	3-1-2016	Amend	4-1-2016	410-141-0800	12-10-2015	Repeal	1-1-2016
410-122-0211	4-1-2016	Amend	5-1-2016	410-141-0820	12-10-2015	Repeal	1-1-2016
410-122-0240	3-1-2016	Amend	4-1-2016	410-141-0840	12-10-2015	Repeal	1-1-2016
410-122-0300	3-1-2016	Amend	4-1-2016	410-141-0860	12-10-2015	Amend	1-1-2016
410-122-0360	3-1-2016	Amend	4-1-2016	410-141-3040	1-7-2016	Adopt	2-1-2016
410-122-0365	3-1-2016	Amend	4-1-2016	410-141-3040(T)	1-7-2016	Repeal	2-1-2016
410-122-0380	3-1-2016	Amend	4-1-2016	410-141-3060	1-1-2016	Amend(T)	2-1-2016
410-122-0475	3-1-2016	Amend	4-1-2016	410-141-3080	12-10-2015	Amend	1-1-2016
410-122-0480	3-1-2016	Amend	4-1-2016	410-141-3080	1-1-2016	Amend(T)	2-1-2016
410-122-0510	3-1-2016	Amend	4-1-2016	410-141-3150	1-1-2016	Adopt	2-1-2016
410-122-0525	3-1-2016	Amend	4-1-2016	410-141-3150(T)	1-1-2016	Repeal	2-1-2016
410-122-0640	3-1-2016	Amend	4-1-2016	410-141-3267	12-27-2015	Adopt	2-1-2016
410-122-0678	3-1-2016	Amend	4-1-2016	410-141-3267(T)	12-27-2015	Repeal	2-1-2016
410-123-1220	5-10-2016	Amend(T)	6-1-2016	410-141-3345	1-1-2016	Amend(T)	2-1-2016
410-123-1240	12-1-2015	Amend	1-1-2016	410-141-3345	3-1-2016	Amend	3-1-2016
410-123-1240(T)	12-1-2015	Repeal	1-1-2016	410-141-3345(T)	3-1-2016	Repeal	3-1-2016
410-123-1260	1-1-2016	Amend(T)	2-1-2016	410-141-3440	1-1-2016	Amend	2-1-2016
410-123-1260	2-9-2016	Amend(T)	3-1-2016	410-165-0000	5-13-2016	Amend(T)	6-1-2016
410-123-1510	1-1-2016	Adopt(T)	2-1-2016	410-165-0020	5-13-2016	Amend(T)	6-1-2016
410-130-0200	12-1-2015	Amend(T)	1-1-2016	410-165-0040	5-13-2016	Amend(T)	6-1-2016
410-130-0200	1-1-2016	Amend	2-1-2016	410-165-0060	5-13-2016	Amend(T)	6-1-2016
410-130-0200(T)	1-1-2016	Repeal	2-1-2016	410-165-0080	5-13-2016	Amend(T)	6-1-2016
410-130-0220	3-4-2016	Amend(T)	4-1-2016	410-165-0100	5-13-2016	Amend(T)	6-1-2016

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410-165-0120	5-13-2016	Amend(T)	6-1-2016	411-031-0020(T)	3-23-2016	Suspend	5-1-2016
410-165-0140	5-13-2016	Amend(T)	6-1-2016	411-031-0040	3-2-2016	Amend(T)	4-1-2016
410-170-0110	2-7-2016	Amend(T)	3-1-2016	411-031-0040	3-23-2016	Amend(T)	5-1-2016
410-170-0110	2-23-2016	Amend	4-1-2016	411-031-0040(T)	3-23-2016	Suspend	5-1-2016
410-170-0110(T)	2-23-2016	Repeal	4-1-2016	411-031-0050	3-2-2016	Amend(T)	4-1-2016
410-172-0660	4-15-2016	Amend(T)	5-1-2016	411-031-0050	3-23-2016	Amend(T)	5-1-2016
410-200-0015	12-22-2015	Amend(T)	2-1-2016	411-031-0050(T)	3-23-2016	Suspend	5-1-2016
410-200-0100	12-22-2015	Amend(T)	2-1-2016	411-032-0050	12-27-2015	Amend	1-1-2016
410-200-0105	12-22-2015	Amend(T)	2-1-2016	411-032-0050(T)	12-27-2015	Repeal	1-1-2016
410-200-0110	12-22-2015	Amend(T)	2-1-2016	411-050-0602	1-1-2016	Amend(T)	2-1-2016
410-200-0111	12-22-2015	Amend(T)	2-1-2016	411-050-0615	1-1-2016	Amend(T)	2-1-2016
410-200-0115	12-22-2015	Amend(T)	2-1-2016	411-050-0630	1-1-2016	Amend(T)	2-1-2016
410-200-0120	12-22-2015	Amend(T)	2-1-2016	411-050-0632	1-1-2016	Amend(T)	2-1-2016
410-200-0125	12-22-2015	Amend(T)	2-1-2016	411-050-0635	1-1-2016	Amend(T)	2-1-2016
410-200-0130	12-22-2015	Amend(T)	2-1-2016	411-050-0642	1-1-2016	Amend(T)	2-1-2016
410-200-0135	12-22-2015	Amend(T)	2-1-2016	411-050-0645	1-1-2016	Amend(T)	2-1-2016
410-200-0140	12-22-2015	Amend(T)	2-1-2016	411-050-0650	1-1-2016	Amend(T)	2-1-2016
410-200-0200	12-22-2015	Amend(T)	2-1-2016	411-050-0655	1-1-2016	Amend(T)	2-1-2016
410-200-0215	12-22-2015	Amend(T)	2-1-2016	411-050-0662	1-1-2016	Amend(T)	2-1-2016
410-200-0230	12-22-2015	Amend(T)	2-1-2016	411-050-0665	1-1-2016	Amend(T)	2-1-2016
410-200-0235	12-22-2015	Amend(T)	2-1-2016	411-050-0670	1-1-2016	Amend(T)	2-1-2016
410-200-0240	12-22-2015	Amend(T)	2-1-2016	411-050-0685	1-1-2016	Amend(T)	2-1-2016
410-200-0310	12-22-2015	Amend(T)	2-1-2016	411-054-0000	1-1-2016	Amend(T)	2-1-2016
410-200-0315	3-1-2016	Amend(T)	4-1-2016	411-054-0005	1-1-2016	Amend(T)	2-1-2016
410-200-0407	12-18-2015	Adopt(T)	2-1-2016	411-054-0012	1-1-2016	Amend(T)	2-1-2016
410-200-0415	12-22-2015	Amend(T)	2-1-2016	411-054-0025	1-1-2016	Amend(T)	2-1-2016
410-200-0425	12-22-2015	Amend(T)	2-1-2016	411-054-0027	1-1-2016	Amend(T)	2-1-2016
410-200-0440	12-22-2015	Amend(T)	2-1-2016	411-054-0036	1-1-2016	Amend(T)	2-1-2016
410-200-0500	12-22-2015	Suspend	2-1-2016	411-054-0038	1-1-2016	Adopt(T)	2-1-2016
410-200-0505	12-22-2015	Amend(T)	2-1-2016	411-070-0437	4-1-2016	Amend(T)	5-1-2016
410-200-0510	12-22-2015	Amend(T)	2-1-2016	411-070-0442	4-1-2016	Amend(T)	5-1-2016
411-004-0000	1-1-2016	Adopt	1-1-2016	411-070-0470	4-1-2016	Amend	4-1-2016
411-004-0010	1-1-2016	Adopt	1-1-2016	411-089-0030	4-1-2016	Amend	4-1-2016
411-004-0020	1-1-2016	Adopt	1-1-2016	411-300-0110	1-1-2016	Amend(T)	2-1-2016
411-004-0020	1-1-2016	Amend	2-1-2016	411-300-0130	1-1-2016	Amend(T)	2-1-2016
411-004-0030	1-1-2016	Adopt	1-1-2016	411-300-0150	1-1-2016	Amend(T)	2-1-2016
411-004-0040	1-1-2016	Adopt	1-1-2016	411-300-0155	1-1-2016	Amend(T)	2-1-2016
411-020-0002	1-1-2016	Amend(T)	2-1-2016	411-300-0170	1-1-2016	Amend(T)	2-1-2016
411-020-0002	5-6-2016	Amend	6-1-2016	411-308-0020	1-1-2016	Amend(T)	2-1-2016
411-020-0002(T)	5-6-2016	Repeal	6-1-2016	411-308-0050	1-1-2016	Amend(T)	2-1-2016
411-027-0005	3-18-2016	Amend	4-1-2016	411-308-0080	1-1-2016	Amend(T)	2-1-2016
411-027-0005(T)	3-18-2016	Repeal	4-1-2016	411-308-0100	1-1-2016	Amend(T)	2-1-2016
411-027-0170	3-18-2016	Adopt	4-1-2016	411-308-0110	1-1-2016	Amend(T)	2-1-2016
411-027-0170(T)	3-18-2016	Repeal	4-1-2016	411-308-0120	1-1-2016	Amend(T)	2-1-2016
411-030-0020	3-18-2016	Amend	4-1-2016	411-308-0130	1-1-2016	Amend(T)	2-1-2016
411-030-0020(T)	3-18-2016	Repeal	4-1-2016	411-317-0000	1-1-2016	Amend(T)	2-1-2016
411-030-0068	3-18-2016	Adopt	4-1-2016	411-318-0000	1-1-2016	Amend(T)	2-1-2016
411-030-0068(T)	3-18-2016	Repeal	4-1-2016	411-318-0005	1-1-2016	Amend(T)	2-1-2016
411-030-0070	3-18-2016	Amend	4-1-2016	411-318-0010	1-1-2016	Amend(T)	2-1-2016
411-030-0070(T)	3-18-2016	Repeal	4-1-2016	411-320-0020	1-1-2016	Amend(T)	2-1-2016
411-030-0080	3-18-2016	Amend	4-1-2016	411-320-0040	1-1-2016	Amend(T)	2-1-2016
411-030-0080(T)	3-18-2016	Repeal	4-1-2016	411-320-0060	1-1-2016	Amend(T)	2-1-2016
411-030-0100	3-18-2016	Amend	4-1-2016	411-320-0080	1-1-2016	Amend(T)	2-1-2016
411-030-0100(T)	3-18-2016	Repeal	4-1-2016	411-320-0090	1-1-2016	Amend(T)	2-1-2016
411-031-0020	3-2-2016	Amend(T)	4-1-2016	411-320-0110	1-1-2016	Amend(T)	2-1-2016
411-031-0020	3-23-2016	Amend(T)	5-1-2016	411-320-0120	1-1-2016	Amend(T)	2-1-2016

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411-323-0010	1-1-2016	Amend(T)	2-1-2016	411-350-0100	1-1-2016	Amend(T)	2-1-2016
411-323-0020	1-1-2016	Amend(T)	2-1-2016	411-355-0000	12-28-2015	Amend	1-1-2016
411-323-0030	1-1-2016	Amend(T)	2-1-2016	411-355-0000(T)	12-28-2015	Repeal	1-1-2016
411-323-0035	1-1-2016	Amend(T)	2-1-2016	411-355-0010	12-28-2015	Amend	1-1-2016
411-323-0060	1-1-2016	Amend(T)	2-1-2016	411-355-0010	1-1-2016	Amend(T)	2-1-2016
411-325-0010	1-1-2016	Amend(T)	2-1-2016	411-355-0010(T)	12-28-2015	Repeal	1-1-2016
411-325-0020	1-1-2016	Amend(T)	2-1-2016	411-355-0020	12-28-2015	Amend	1-1-2016
411-325-0040	1-1-2016	Amend(T)	2-1-2016	411-355-0020(T)	12-28-2015	Repeal	1-1-2016
411-325-0130	1-1-2016	Amend(T)	2-1-2016	411-355-0030	12-28-2015	Amend	1-1-2016
411-325-0140	1-1-2016	Amend(T)	2-1-2016	411-355-0030	1-1-2016	Amend(T)	2-1-2016
411-325-0150	1-1-2016	Amend(T)	2-1-2016	411-355-0030(T)	12-28-2015	Repeal	1-1-2016
411-325-0170	1-1-2016	Amend(T)	2-1-2016	411-355-0040	12-28-2015	Amend	1-1-2016
411-325-0220	1-1-2016	Amend(T)	2-1-2016	411-355-0040	1-1-2016	Amend(T)	2-1-2016
411-325-0300	1-1-2016	Amend(T)	2-1-2016	411-355-0040(T)	12-28-2015	Repeal	1-1-2016
411-325-0390	1-1-2016	Amend(T)	2-1-2016	411-355-0045	12-28-2015	Adopt	1-1-2016
411-325-0430	1-1-2016	Amend(T)	2-1-2016	411-355-0045(T)	12-28-2015	Repeal	1-1-2016
411-328-0550	1-1-2016	Amend(T)	2-1-2016	411-355-0050	12-28-2015	Amend	1-1-2016
411-328-0560	1-1-2016	Amend(T)	2-1-2016	411-355-0050	1-1-2016	Amend(T)	2-1-2016
411-328-0625	1-1-2016	Adopt(T)	2-1-2016	411-355-0050(T)	12-28-2015	Repeal	1-1-2016
411-328-0630	1-1-2016	Amend(T)	2-1-2016	411-355-0060	12-28-2015	Repeal	1-1-2016
411-328-0650	1-1-2016	Amend(T)	2-1-2016	411-355-0070	12-28-2015	Repeal	1-1-2016
411-328-0720	1-1-2016	Amend(T)	2-1-2016	411-355-0075	12-28-2015	Adopt	1-1-2016
411-328-0750	1-1-2016	Amend(T)	2-1-2016	411-355-0075(T)	12-28-2015	Repeal	1-1-2016
411-328-0790	1-1-2016	Amend(T)	2-1-2016	411-355-0080	12-28-2015	Amend	1-1-2016
411-330-0020	1-1-2016	Amend(T)	2-1-2016	411-355-0080(T)	12-28-2015	Repeal	1-1-2016
411-330-0050	1-1-2016	Amend(T)	2-1-2016	411-355-0090	12-28-2015	Amend	1-1-2016
411-330-0060	1-1-2016	Amend(T)	2-1-2016	411-355-0090(T)	12-28-2015	Repeal	1-1-2016
411-330-0070	1-1-2016	Amend(T)	2-1-2016	411-355-0100	12-28-2015	Amend	1-1-2016
411-330-0080	1-1-2016	Amend(T)	2-1-2016	411-355-0100(T)	12-28-2015	Repeal	1-1-2016
411-330-0110	1-1-2016	Amend(T)	2-1-2016	411-355-0110	12-28-2015	Repeal	1-1-2016
411-340-0020	1-1-2016	Amend(T)	2-1-2016	411-355-0120	12-28-2015	Repeal	1-1-2016
411-340-0030	1-1-2016	Amend(T)	2-1-2016	411-360-0010	1-1-2016	Amend(T)	2-1-2016
411-340-0120	1-1-2016	Amend(T)	2-1-2016	411-360-0020	1-1-2016	Amend(T)	2-1-2016
411-340-0130	1-1-2016	Amend(T)	2-1-2016	411-360-0050	1-1-2016	Amend(T)	2-1-2016
411-340-0140	1-1-2016	Amend(T)	2-1-2016	411-360-0055	1-1-2016	Amend(T)	2-1-2016
411-340-0150	1-1-2016	Amend(T)	2-1-2016	411-360-0060	1-1-2016	Amend(T)	2-1-2016
411-340-0160	1-1-2016	Amend(T)	2-1-2016	411-360-0130	1-1-2016	Amend(T)	2-1-2016
411-340-0170	1-1-2016	Amend(T)	2-1-2016	411-360-0140	1-1-2016	Amend(T)	2-1-2016
411-345-0010	1-1-2016	Amend(T)	2-1-2016	411-360-0170	1-1-2016	Amend(T)	2-1-2016
411-345-0020	1-1-2016	Amend(T)	2-1-2016	411-360-0190	1-1-2016	Amend(T)	2-1-2016
411-345-0025	1-1-2016	Amend(T)	2-1-2016	411-370-0010	1-1-2016	Amend(T)	2-1-2016
411-345-0030	1-1-2016	Amend(T)	2-1-2016	411-375-0010	1-1-2016	Amend(T)	2-1-2016
411-345-0085	1-1-2016	Amend(T)	2-1-2016	411-375-0050	1-1-2016	Amend(T)	2-1-2016
411-345-0110	1-1-2016	Amend(T)	2-1-2016	411-375-0055	1-1-2016	Adopt(T)	2-1-2016
411-345-0160	1-1-2016	Amend(T)	2-1-2016	411-375-0070	1-1-2016	Amend(T)	2-1-2016
411-346-0100	2-23-2016	Amend(T)	4-1-2016	411-375-0080	1-1-2016	Amend(T)	2-1-2016
411-346-0110	2-23-2016	Amend(T)	4-1-2016	411-380-0010	1-1-2016	Adopt(T)	2-1-2016
411-346-0170	2-23-2016	Amend(T)	4-1-2016	411-380-0020	1-1-2016	Adopt(T)	2-1-2016
411-346-0190	2-23-2016	Amend(T)	4-1-2016	411-380-0030	1-1-2016	Adopt(T)	2-1-2016
411-346-0200	2-23-2016	Amend(T)	4-1-2016	411-380-0040	1-1-2016	Adopt(T)	2-1-2016
411-350-0020	1-1-2016	Amend(T)	2-1-2016	411-380-0050	1-1-2016	Adopt(T)	2-1-2016
411-350-0030	1-1-2016	Amend(T)	2-1-2016	411-380-0060	1-1-2016	Adopt(T)	2-1-2016
411-350-0040	1-1-2016	Amend(T)	2-1-2016	411-380-0070	1-1-2016	Adopt(T)	2-1-2016
411-350-0050	1-1-2016	Amend(T)	2-1-2016	411-380-0080	1-1-2016	Adopt(T)	2-1-2016
411-350-0055	1-1-2016	Adopt(T)	2-1-2016	411-380-0090	1-1-2016	Adopt(T)	2-1-2016
411-350-0080	1-1-2016	Amend(T)	2-1-2016	413-010-0000	2-1-2016	Amend	3-1-2016

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413-015-0115	1-1-2016	Amend	2-1-2016	413-130-0310	1-1-2016	Amend(T)	2-1-2016
413-015-0115(T)	1-1-2016	Repeal	2-1-2016	413-130-0320	1-1-2016	Amend(T)	2-1-2016
413-015-0205	1-1-2016	Amend	2-1-2016	413-130-0330	1-1-2016	Amend(T)	2-1-2016
413-015-0211	1-1-2016	Amend	2-1-2016	413-130-0340	1-1-2016	Amend(T)	2-1-2016
413-015-0211(T)	1-1-2016	Repeal	2-1-2016	413-130-0350	1-1-2016	Amend(T)	2-1-2016
413-015-0215	4-11-2016	Amend(T)	5-1-2016	413-130-0355	1-1-2016	Amend(T)	2-1-2016
413-015-0415	1-1-2016	Amend	2-1-2016	413-130-0360	1-1-2016	Amend(T)	2-1-2016
413-015-0415(T)	1-1-2016	Repeal	2-1-2016	413-130-0365	1-1-2016	Adopt(T)	2-1-2016
413-015-0460	1-1-2016	Amend	2-1-2016	413-130-0400	1-1-2016	Suspend	2-1-2016
413-015-0470	1-1-2016	Amend	2-1-2016	413-130-0420	1-1-2016	Suspend	2-1-2016
413-015-1220	1-1-2016	Amend	2-1-2016	413-130-0430	1-1-2016	Suspend	2-1-2016
413-015-9000	1-1-2016	Amend	2-1-2016	413-130-0440	1-1-2016	Suspend	2-1-2016
413-015-9000(T)	1-1-2016	Repeal	2-1-2016	413-130-0450	1-1-2016	Suspend	2-1-2016
413-030-0400	11-24-2015	Amend(T)	1-1-2016	413-130-0455	1-1-2016	Suspend	2-1-2016
413-030-0400	2-1-2016	Amend	3-1-2016	413-130-0460	1-1-2016	Suspend	2-1-2016
413-030-0400(T)	2-1-2016	Repeal	3-1-2016	413-130-0480	1-1-2016	Suspend	2-1-2016
413-040-0000	1-1-2016	Amend(T)	2-1-2016	413-130-0490	1-1-2016	Suspend	2-1-2016
413-040-0010	11-24-2015	Amend(T)	1-1-2016	413-130-0500	1-1-2016	Suspend	2-1-2016
413-040-0010	2-1-2016	Amend	3-1-2016	413-130-0510	1-1-2016	Suspend	2-1-2016
413-040-0010(T)	2-1-2016	Repeal	3-1-2016	413-130-0520	1-1-2016	Suspend	2-1-2016
413-040-0145	1-1-2016	Amend(T)	2-1-2016	413-140-0032	4-26-2016	Amend(T)	6-1-2016
413-040-0150	1-1-2016	Amend(T)	2-1-2016	414-150-0050	1-25-2016	Amend	3-1-2016
413-070-0551	11-24-2015	Amend(T)	1-1-2016	414-150-0055	1-25-2016	Amend	3-1-2016
413-070-0551	2-1-2016	Amend	3-1-2016	414-150-0060	1-25-2016	Amend	3-1-2016
413-070-0551(T)	2-1-2016	Repeal	3-1-2016	414-150-0070	1-25-2016	Amend	3-1-2016
413-080-0050	11-24-2015	Amend(T)	1-1-2016	414-150-0080	1-25-2016	Repeal	3-1-2016
413-080-0050	1-1-2016	Amend	2-1-2016	414-150-0090	1-25-2016	Repeal	3-1-2016
413-080-0050(T)	11-24-2015	Suspend	1-1-2016	414-150-0100	1-25-2016	Repeal	3-1-2016
413-080-0050(T)	1-1-2016	Repeal	2-1-2016	414-150-0110	1-25-2016	Amend	3-1-2016
413-080-0053	1-1-2016	Adopt	2-1-2016	414-150-0120	1-25-2016	Amend	3-1-2016
413-080-0053(T)	1-1-2016	Repeal	2-1-2016	414-150-0130	1-25-2016	Amend	3-1-2016
413-080-0054	1-1-2016	Amend	2-1-2016	414-150-0140	1-25-2016	Adopt	3-1-2016
413-080-0054(T)	1-1-2016	Repeal	2-1-2016	414-150-0150	1-25-2016	Adopt	3-1-2016
413-090-0085	1-1-2016	Amend	2-1-2016	414-150-0160	1-25-2016	Adopt	3-1-2016
413-090-0085(T)	1-1-2016	Repeal	2-1-2016	414-150-0170	1-25-2016	Adopt	3-1-2016
413-090-0087	1-1-2016	Adopt	2-1-2016	415-060-0010	1-5-2016	Suspend	2-1-2016
413-090-0087(T)	1-1-2016	Repeal	2-1-2016	415-060-0020	1-5-2016	Suspend	2-1-2016
413-090-0400	2-1-2016	Amend	3-1-2016	415-060-0030	1-5-2016	Suspend	2-1-2016
413-090-0410	2-1-2016	Repeal	3-1-2016	415-060-0040	1-5-2016	Suspend	2-1-2016
413-090-0420	2-1-2016	Repeal	3-1-2016	415-060-0050	1-5-2016	Suspend	2-1-2016
413-090-0430	2-1-2016	Repeal	3-1-2016	416-115-0025	4-1-2016	Amend	5-1-2016
413-100-0400	12-21-2015	Amend	2-1-2016	416-335-0090	3-10-2016	Amend(T)	4-1-2016
413-100-0410	12-21-2015	Amend	2-1-2016	416-335-0090	5-2-2016	Amend	6-1-2016
413-100-0420	12-21-2015	Amend	2-1-2016	416-530-0010	3-2-2016	Amend	4-1-2016
413-100-0435	12-21-2015	Amend	2-1-2016	416-530-0020	3-2-2016	Amend	4-1-2016
413-100-0457	12-21-2015	Repeal	2-1-2016	416-530-0030	3-2-2016	Amend	4-1-2016
413-100-0800	4-1-2016	Amend	5-1-2016	416-530-0035	3-2-2016	Amend	4-1-2016
413-100-0810	4-1-2016	Amend	5-1-2016	416-530-0040	3-2-2016	Amend	4-1-2016
413-100-0820	4-1-2016	Amend	5-1-2016	416-530-0060	3-2-2016	Amend	4-1-2016
413-100-0830	4-1-2016	Amend	5-1-2016	416-530-0070	3-2-2016	Amend	4-1-2016
413-100-0840	4-1-2016	Repeal	5-1-2016	416-530-0090	3-2-2016	Amend	4-1-2016
413-100-0850	4-1-2016	Repeal	5-1-2016	416-530-0200	3-2-2016	Amend	4-1-2016
413-120-0730	2-24-2016	Amend(T)	4-1-2016	418-040-0000	1-1-2016	Adopt(T)	2-1-2016
413-120-0925	1-1-2016	Amend(T)	2-1-2016	418-040-0010	1-1-2016	Adopt(T)	2-1-2016
413-130-0000	1-1-2016	Amend(T)	2-1-2016	418-040-0020	1-1-2016	Adopt(T)	2-1-2016

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418-040-0040	1-1-2016	Adopt(T)	2-1-2016	438-015-0010	1-1-2016	Amend	2-1-2016
418-040-0050	1-1-2016	Adopt(T)	2-1-2016	438-015-0019	1-1-2016	Amend	2-1-2016
418-040-0060	1-1-2016	Adopt(T)	2-1-2016	438-015-0025	1-1-2016	Amend	2-1-2016
418-040-0070	1-1-2016	Adopt(T)	2-1-2016	438-015-0033	1-1-2016	Adopt	2-1-2016
418-040-0080	1-1-2016	Adopt(T)	2-1-2016	438-015-0045	1-1-2016	Amend	2-1-2016
418-040-0090	1-1-2016	Adopt(T)	2-1-2016	438-015-0048	1-1-2016	Adopt	2-1-2016
431-121-2005	12-7-2015	Amend	1-1-2016	438-015-0055	1-1-2016	Amend	2-1-2016
436-001-0003	1-1-2016	Amend	1-1-2016	438-015-0065	1-1-2016	Amend	2-1-2016
436-001-0004	1-1-2016	Amend	1-1-2016	438-015-0070	1-1-2016	Amend	2-1-2016
436-001-0009	1-1-2016	Amend	1-1-2016	438-015-0110	1-1-2016	Amend	2-1-2016
436-001-0019	1-1-2016	Amend	1-1-2016	440-001-9000	1-1-2016	Adopt(T)	2-1-2016
436-001-0027	1-1-2016	Amend	1-1-2016	441-175-0002	3-7-2016	Amend	4-1-2016
436-001-0030	1-1-2016	Amend	1-1-2016	441-175-0010	3-7-2016	Amend	4-1-2016
436-001-0170	1-1-2016	Amend	1-1-2016	441-175-0015	3-7-2016	Amend	4-1-2016
436-001-0240	1-1-2016	Amend	1-1-2016	441-175-0020	3-7-2016	Amend	4-1-2016
436-001-0246	1-1-2016	Amend	1-1-2016	441-175-0030	3-7-2016	Amend	4-1-2016
436-001-0259	1-1-2016	Amend	1-1-2016	441-175-0040	3-7-2016	Amend	4-1-2016
436-001-0410	1-1-2016	Amend	1-1-2016	441-175-0041	3-7-2016	Amend	4-1-2016
436-001-0420	1-1-2016	Amend	1-1-2016	441-175-0046	3-7-2016	Amend	4-1-2016
436-001-0435	1-1-2016	Adopt	1-1-2016	441-175-0050	3-7-2016	Amend	4-1-2016
436-001-0500	1-1-2016	Adopt	1-1-2016	441-175-0055	3-7-2016	Amend	4-1-2016
436-009-0001	4-1-2016	Amend	4-1-2016	441-175-0060	3-7-2016	Amend	4-1-2016
436-009-0004	1-1-2016	Amend(T)	1-1-2016	441-175-0070	3-7-2016	Amend	4-1-2016
436-009-0004	4-1-2016	Amend	4-1-2016	441-175-0085	3-7-2016	Amend	4-1-2016
436-009-0004(T)	4-1-2016	Repeal	4-1-2016	441-175-0100	3-7-2016	Amend	4-1-2016
436-009-0005	4-1-2016	Amend	4-1-2016	441-175-0110	3-7-2016	Amend	4-1-2016
436-009-0008	4-1-2016	Amend	4-1-2016	441-175-0120	3-7-2016	Amend	4-1-2016
436-009-0010	1-1-2016	Amend(T)	1-1-2016	441-175-0130	3-7-2016	Amend	4-1-2016
436-009-0010	4-1-2016	Amend	4-1-2016	441-175-0140	3-7-2016	Amend	4-1-2016
436-009-0010(T)	4-1-2016	Repeal	4-1-2016	441-175-0150	3-7-2016	Amend	4-1-2016
436-009-0020	4-1-2016	Amend	4-1-2016	441-175-0160	3-7-2016	Amend	4-1-2016
436-009-0025	4-1-2016	Amend	4-1-2016	441-175-0165	3-7-2016	Amend	4-1-2016
436-009-0030	4-1-2016	Amend	4-1-2016	441-175-0171	3-7-2016	Amend	4-1-2016
436-009-0040	4-1-2016	Amend	4-1-2016	441-175-0175	3-7-2016	Amend	4-1-2016
436-009-0060	4-1-2016	Amend	4-1-2016	441-500-0020	3-16-2016	Amend(T)	5-1-2016
436-009-0080	4-1-2016	Amend	4-1-2016	441-710-0305	1-1-2016	Adopt	2-1-2016
436-009-0090	4-1-2016	Amend	4-1-2016	441-855-0114	1-1-2016	Adopt	1-1-2016
436-009-0110	4-1-2016	Amend	4-1-2016	441-865-0060	12-14-2015	Amend	1-1-2016
436-010-0001	4-1-2016	Amend	4-1-2016	459-001-0000	1-29-2016	Amend	3-1-2016
436-010-0005	4-1-2016	Amend	4-1-2016	459-005-0001	11-20-2015	Amend	1-1-2016
436-010-0008	4-1-2016	Amend	4-1-2016	459-005-0310	11-20-2015	Amend	1-1-2016
436-010-0240	4-1-2016	Amend	4-1-2016	459-005-0350	11-20-2015	Amend	1-1-2016
436-010-0265	4-1-2016	Amend	4-1-2016	459-005-0605	1-29-2016	Adopt	3-1-2016
436-010-0270	4-1-2016	Amend	4-1-2016	459-010-0012	11-20-2015	Amend	1-1-2016
436-010-0330	4-1-2016	Amend	4-1-2016	459-011-0500	11-20-2015	Amend	1-1-2016
436-010-0340	4-1-2016	Amend	4-1-2016	459-013-0060	11-20-2015	Amend	1-1-2016
436-050-0003	1-1-2016	Amend	2-1-2016	459-013-0310	11-20-2015	Amend	1-1-2016
436-050-0175	1-1-2016	Amend	2-1-2016	459-080-0150	1-1-2016	Amend	1-1-2016
437-003-0001	1-1-2017	Amend	4-1-2016	461-001-0000	1-1-2016	Amend	2-1-2016
437-003-0134	1-1-2017	Amend	4-1-2016	461-001-0000	4-1-2016	Amend	5-1-2016
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437-003-1500	10-1-2017	Amend	4-1-2016	461-001-0020	4-1-2016	Amend	5-1-2016
437-003-1501	1-1-2017	Amend	4-1-2016	461-001-0025	12-28-2015	Amend	2-1-2016
437-003-2501	1-1-2017	Adopt	4-1-2016	461-001-0025	4-1-2016	Amend	5-1-2016
437-003-3502	10-1-2017	Repeal	4-1-2016	461-110-0210	4-1-2016	Amend	5-1-2016

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461-115-0016	4-1-2016	Amend	5-1-2016	461-135-0520	4-1-2016	Amend	5-1-2016
461-115-0016(T)	4-1-2016	Repeal	5-1-2016	461-135-0520	4-5-2016	Amend(T)	5-1-2016
461-115-0651	1-1-2016	Amend	2-1-2016	461-135-0520	5-1-2016	Amend(T)	6-1-2016
461-115-0700	1-1-2016	Amend	2-1-2016	461-135-0520(T)	3-2-2016	Suspend	4-1-2016
461-120-0110	3-4-2016	Amend(T)	4-1-2016	461-135-0520(T)	4-1-2016	Repeal	5-1-2016
461-120-0110	5-1-2016	Amend	6-1-2016	461-135-0521	4-1-2016	Amend(T)	5-1-2016
461-120-0110(T)	5-1-2016	Repeal	6-1-2016	461-135-0750	12-15-2015	Amend(T)	1-1-2016
461-120-0125	1-1-2016	Amend	2-1-2016	461-135-0750	4-1-2016	Amend	5-1-2016
461-120-0210	4-1-2016	Amend	5-1-2016	461-135-0750(T)	4-1-2016	Repeal	5-1-2016
461-120-0340	4-1-2016	Amend	5-1-2016	461-135-0780	2-3-2016	Amend	3-1-2016
461-125-0010	4-1-2016	Repeal	5-1-2016	461-135-1250	4-1-2016	Amend	5-1-2016
461-125-0030	4-1-2016	Repeal	5-1-2016	461-135-1270	4-1-2016	Adopt	5-1-2016
461-125-0050	4-1-2016	Repeal	5-1-2016	461-140-0020	1-1-2016	Amend	2-1-2016
461-125-0060	4-1-2016	Repeal	5-1-2016	461-140-0120	1-1-2016	Amend	2-1-2016
461-125-0090	4-1-2016	Repeal	5-1-2016	461-140-0250	1-1-2016	Amend	2-1-2016
461-125-0110	4-1-2016	Repeal	5-1-2016	461-145-0010	1-1-2016	Amend	2-1-2016
461-125-0120	4-1-2016	Repeal	5-1-2016	461-145-0020	1-1-2016	Amend	2-1-2016
461-125-0130	4-1-2016	Repeal	5-1-2016	461-145-0040	1-1-2016	Amend	2-1-2016
461-125-0170	4-1-2016	Repeal	5-1-2016	461-145-0050	1-1-2016	Amend	2-1-2016
461-125-0230	4-1-2016	Repeal	5-1-2016	461-145-0080	1-1-2016	Amend	2-1-2016
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461-125-0255	4-1-2016	Repeal	5-1-2016	461-145-0220	1-1-2016	Amend	2-1-2016
461-125-0370	3-1-2016	Amend(T)	4-1-2016	461-145-0240	1-1-2016	Amend	2-1-2016
461-125-0370	4-1-2016	Amend	5-1-2016	461-145-0252	1-1-2016	Amend	2-1-2016
461-125-0370	5-10-2016	Amend	6-1-2016	461-145-0259	1-1-2016	Adopt	2-1-2016
461-125-0370	5-13-2016	Amend(T)	6-1-2016	461-145-0260	1-1-2016	Amend	2-1-2016
461-125-0370(T)	3-1-2016	Suspend	4-1-2016	461-145-0280	1-1-2016	Amend	2-1-2016
461-125-0370(T)	4-1-2016	Repeal	5-1-2016	461-145-0300	1-1-2016	Amend	2-1-2016
461-125-0830(T)	1-1-2016	Repeal	2-1-2016	461-145-0310	1-1-2016	Amend	2-1-2016
461-130-0310	1-1-2016	Amend	2-1-2016	461-145-0320	1-1-2016	Amend	2-1-2016
461-130-0310	1-1-2016	Amend(T)	2-1-2016	461-145-0330	1-1-2016	Amend	2-1-2016
461-130-0310	4-1-2016	Amend	5-1-2016	461-145-0360	1-1-2016	Amend	2-1-2016
461-130-0310(T)	4-1-2016	Repeal	5-1-2016	461-145-0365	1-1-2016	Amend	2-1-2016
461-130-0315	4-1-2016	Amend	5-1-2016	461-145-0380	1-1-2016	Amend	2-1-2016
461-130-0327	4-1-2016	Amend	5-1-2016	461-145-0410	1-1-2016	Amend	2-1-2016
461-130-0330	1-1-2016	Amend	2-1-2016	461-145-0410	4-1-2016	Amend	5-1-2016
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461-130-0335	4-1-2016	Amend	5-1-2016	461-145-0430	1-1-2016	Amend	2-1-2016
461-135-0070	4-1-2016	Amend	5-1-2016	461-145-0460	1-1-2016	Amend	2-1-2016
461-135-0071	4-1-2016	Adopt	5-1-2016	461-145-0490	1-1-2016	Amend	2-1-2016
461-135-0073	4-1-2016	Adopt	5-1-2016	461-145-0510	1-1-2016	Amend	2-1-2016
461-135-0075	4-1-2016	Amend	5-1-2016	461-145-0540	1-1-2016	Amend	2-1-2016
461-135-0087	4-1-2016	Repeal	5-1-2016	461-145-0600	1-1-2016	Amend	2-1-2016
461-135-0400	1-1-2016	Amend	2-1-2016	461-145-0910	1-1-2016	Amend	2-1-2016
461-135-0405	1-1-2016	Amend	2-1-2016	461-145-0910(T)	1-1-2016	Repeal	2-1-2016
461-135-0405(T)	1-1-2016	Repeal	2-1-2016	461-150-0050	1-1-2016	Amend	2-1-2016
461-135-0407	1-1-2016	Amend	2-1-2016	461-150-0090	1-1-2016	Amend	2-1-2016
461-135-0407(T)	1-1-2016	Repeal	2-1-2016	461-155-0020	4-1-2016	Amend	5-1-2016
461-135-0475	4-1-2016	Amend	5-1-2016	461-155-0030	1-1-2016	Amend	2-1-2016
461-135-0485	4-1-2016	Amend	5-1-2016	461-155-0030	4-1-2016	Amend	5-1-2016
461-135-0506	1-1-2016	Amend(T)	2-1-2016	461-155-0030	5-12-2016	Amend(T)	6-1-2016
461-135-0506	4-1-2016	Amend	5-1-2016	461-155-0035	1-1-2016	Amend	2-1-2016
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461-155-0180	4-1-2016	Amend	5-1-2016	461-180-0140	12-15-2015	Amend(T)	1-1-2016
461-155-0290	3-1-2016	Amend	4-1-2016	461-180-0140	1-22-2016	Amend(T)	3-1-2016
461-155-0291	3-1-2016	Amend	4-1-2016	461-180-0140	4-1-2016	Amend	5-1-2016
461-155-0295	3-1-2016	Amend	4-1-2016	461-180-0140(T)	1-22-2016	Suspend	3-1-2016
461-155-0575	1-1-2016	Amend	2-1-2016	461-180-0140(T)	4-1-2016	Repeal	5-1-2016
461-160-0010	1-1-2016	Amend	2-1-2016	461-190-0211	12-28-2015	Amend	2-1-2016
461-160-0015	1-1-2016	Amend	2-1-2016	461-190-0310	4-1-2016	Amend	5-1-2016
461-160-0040	1-1-2016	Amend	2-1-2016	461-190-0360	11-30-2015	Amend(T)	1-1-2016
461-160-0040(T)	1-1-2016	Repeal	2-1-2016	461-190-0360	4-1-2016	Amend	5-1-2016
461-160-0100	4-1-2016	Amend	5-1-2016	461-190-0360(T)	4-1-2016	Repeal	5-1-2016
461-160-0300	1-1-2016	Amend	2-1-2016	461-190-0406	4-1-2016	Amend	5-1-2016
461-160-0300(T)	1-1-2016	Repeal	2-1-2016	461-190-0500	2-5-2016	Adopt(T)	3-1-2016
461-160-0410	4-1-2016	Amend(T)	5-1-2016	461-190-0500	4-1-2016	Adopt	5-1-2016
461-160-0550	1-1-2016	Amend	2-1-2016	461-190-0500(T)	4-1-2016	Repeal	5-1-2016
461-160-0551	1-1-2016	Amend	2-1-2016	461-195-0521	1-1-2016	Amend	2-1-2016
461-160-0552	1-1-2016	Amend	2-1-2016	461-195-0621	1-1-2016	Amend	2-1-2016
461-165-0030	1-1-2016	Amend	2-1-2016	462-220-0040	5-9-2016	Amend	6-1-2016
461-165-0030	4-1-2016	Amend	5-1-2016	462-220-0080	1-27-2016	Amend	3-1-2016
461-165-0180	1-20-2016	Amend(T)	3-1-2016	471-010-0080	1-29-2016	Amend(T)	3-1-2016
461-165-0180	3-14-2016	Amend(T)	4-1-2016	543-001-0010	1-11-2016	Amend(T)	2-1-2016
461-165-0180(T)	3-14-2016	Suspend	4-1-2016	543-010-0003	1-11-2016	Amend(T)	2-1-2016
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461-170-0101	1-1-2016	Amend	2-1-2016	543-010-0022	1-11-2016	Suspend	2-1-2016
461-170-0103	1-1-2016	Amend	2-1-2016	543-010-0026	1-11-2016	Adopt(T)	2-1-2016
461-170-0103(T)	1-1-2016	Repeal	2-1-2016	543-010-0030	1-11-2016	Amend(T)	2-1-2016
461-170-0150	1-1-2016	Amend	2-1-2016	543-010-0032	1-11-2016	Suspend	2-1-2016
461-170-0150(T)	1-1-2016	Repeal	2-1-2016	543-020-0010	1-11-2016	Suspend	2-1-2016
461-170-0160	1-1-2016	Amend	2-1-2016	543-020-0025	1-11-2016	Suspend	2-1-2016
461-170-0160(T)	1-1-2016	Repeal	2-1-2016	543-020-0026	1-11-2016	Suspend	2-1-2016
461-175-0200	1-1-2016	Amend	2-1-2016	543-020-0030	1-11-2016	Suspend	2-1-2016
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461-175-0300	1-1-2016	Amend	2-1-2016	543-060-0040	1-11-2016	Amend(T)	2-1-2016
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461-175-0340	1-1-2016	Amend	2-1-2016	573-050-0030	5-4-2016	Amend	6-1-2016
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461-180-0090	12-15-2015	Amend(T)	1-1-2016	575-001-0030	12-18-2015	Amend	2-1-2016
461-180-0090	1-22-2016	Amend(T)	3-1-2016	575-001-0035	12-18-2015	Amend	2-1-2016

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575-007-0240	12-18-2015	Amend	2-1-2016	575-039-0090	4-21-2016	Adopt	6-1-2016
575-007-0280	12-18-2015	Amend	2-1-2016	575-039-0100	4-21-2016	Adopt	6-1-2016
575-007-0310	12-18-2015	Amend	2-1-2016	575-039-0110	4-21-2016	Adopt	6-1-2016
575-007-0330	12-18-2015	Amend	2-1-2016	575-039-0120	4-21-2016	Adopt	6-1-2016
575-007-0340	12-18-2015	Amend	2-1-2016	575-039-0140	4-21-2016	Adopt	6-1-2016
575-007-0380	12-18-2015	Amend	2-1-2016	575-039-0150	4-21-2016	Adopt	6-1-2016
575-030-0005	12-18-2015	Amend	2-1-2016	575-045-0005	12-18-2015	Amend	2-1-2016
575-030-0005	4-21-2016	Amend	6-1-2016	575-050-0005	12-18-2015	Amend	2-1-2016
575-031-0005	12-18-2015	Amend	2-1-2016	575-050-0010	12-18-2015	Amend	2-1-2016
575-031-0005	4-21-2016	Amend	6-1-2016	575-050-0015	12-18-2015	Amend	2-1-2016
575-031-0010	12-18-2015	Amend	2-1-2016	575-050-0020	12-18-2015	Amend	2-1-2016
575-031-0010	4-21-2016	Amend	6-1-2016	575-050-0025	12-18-2015	Amend	2-1-2016
575-031-0015	4-21-2016	Amend	6-1-2016	575-050-0030	12-18-2015	Amend	2-1-2016
575-031-0016	4-21-2016	Amend	6-1-2016	575-050-0035	12-18-2015	Amend	2-1-2016
575-031-0020	12-18-2015	Amend	2-1-2016	575-050-0040	12-18-2015	Amend	2-1-2016
575-031-0022	12-18-2015	Amend	2-1-2016	575-050-0042	12-18-2015	Amend	2-1-2016
575-031-0022	4-21-2016	Amend	6-1-2016	575-050-0045	12-18-2015	Amend	2-1-2016
575-031-0023	12-18-2015	Amend	2-1-2016	575-050-0050	12-18-2015	Amend	2-1-2016
575-031-0023	4-21-2016	Amend	6-1-2016	575-060-0005	12-18-2015	Amend	2-1-2016
575-031-0025	12-18-2015	Amend	2-1-2016	575-060-0020	12-18-2015	Amend	2-1-2016
575-031-0025	4-21-2016	Amend	6-1-2016	575-063-0010	12-18-2015	Amend	2-1-2016
575-031-0030	4-21-2016	Amend	6-1-2016	575-065-0001	12-18-2015	Amend	2-1-2016
575-031-0045	12-18-2015	Amend	2-1-2016	575-065-0045	12-18-2015	Amend	2-1-2016
575-031-0045	4-21-2016	Amend	6-1-2016	575-065-0055	12-18-2015	Amend	2-1-2016
575-031-0046	4-21-2016	Amend	6-1-2016	575-070-0005	12-18-2015	Amend	2-1-2016
575-031-0060	4-21-2016	Adopt	6-1-2016	575-070-0010	12-18-2015	Amend	2-1-2016
575-035-0005	12-18-2015	Amend	2-1-2016	575-070-0020	12-18-2015	Amend	2-1-2016
575-035-0010	12-18-2015	Amend	2-1-2016	575-070-0030	12-18-2015	Amend	2-1-2016
575-035-0015	12-18-2015	Amend	2-1-2016	575-070-0040	12-18-2015	Amend	2-1-2016
575-035-0020	12-18-2015	Amend	2-1-2016	575-070-0045	12-18-2015	Amend	2-1-2016
575-035-0025	12-18-2015	Amend	2-1-2016	575-070-0050	12-18-2015	Amend	2-1-2016
575-035-0030	12-18-2015	Amend	2-1-2016	575-070-0060	12-18-2015	Amend	2-1-2016
575-035-0040	12-18-2015	Amend	2-1-2016	575-070-0070	12-18-2015	Amend	2-1-2016
575-035-0045	12-18-2015	Amend	2-1-2016	575-070-0080	12-18-2015	Amend	2-1-2016
575-035-0046	12-18-2015	Amend	2-1-2016	575-070-0090	12-18-2015	Amend	2-1-2016
575-035-0050	12-18-2015	Amend	2-1-2016	575-071-0000	12-18-2015	Amend	2-1-2016
575-035-0051	12-18-2015	Amend	2-1-2016	575-071-0040	12-18-2015	Amend	2-1-2016
575-035-0055	12-18-2015	Amend	2-1-2016	575-072-0000	12-18-2015	Amend	2-1-2016
575-037-0005	12-18-2015	Amend	2-1-2016	575-072-0010	12-18-2015	Amend	2-1-2016
575-037-0010	12-18-2015	Amend	2-1-2016	575-072-0040	12-18-2015	Amend	2-1-2016
575-037-0020	12-18-2015	Amend	2-1-2016	575-072-0050	12-18-2015	Amend	2-1-2016
575-037-0030	12-18-2015	Amend	2-1-2016	575-072-0060	12-18-2015	Amend	2-1-2016
575-037-0040	12-18-2015	Amend	2-1-2016	575-072-0080	12-18-2015	Amend	2-1-2016
575-038-0000	12-18-2015	Amend	2-1-2016	575-072-0090	12-18-2015	Amend	2-1-2016
575-038-0010	12-18-2015	Amend	2-1-2016	575-073-0000	12-18-2015	Amend	2-1-2016
575-038-0020	12-18-2015	Amend	2-1-2016	575-074-0000	12-18-2015	Amend	2-1-2016
575-038-0030	12-18-2015	Amend	2-1-2016	575-075-0001	12-18-2015	Amend	2-1-2016
575-038-0040	12-18-2015	Amend	2-1-2016	575-075-0005	12-18-2015	Amend	2-1-2016
575-039-0010	4-21-2016	Adopt	6-1-2016	575-075-0007	12-18-2015	Amend	2-1-2016
575-039-0020	4-21-2016	Adopt	6-1-2016	575-075-0008	12-18-2015	Amend	2-1-2016
575-039-0030	4-21-2016	Adopt	6-1-2016	575-075-0010	12-18-2015	Amend	2-1-2016
575-039-0040	4-21-2016	Adopt	6-1-2016	575-075-0030	12-18-2015	Amend	2-1-2016
575-039-0050	4-21-2016	Adopt	6-1-2016	575-075-0040	12-18-2015	Amend	2-1-2016
575-039-0060	4-21-2016	Adopt	6-1-2016	575-075-0043	12-18-2015	Amend	2-1-2016
575-039-0070	4-21-2016	Adopt	6-1-2016	575-075-0044	12-18-2015	Amend	2-1-2016

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575-075-0046	12-18-2015	Amend	2-1-2016	581-017-0392	2-5-2016	Adopt	3-1-2016
575-075-0047	12-18-2015	Amend	2-1-2016	581-017-0395	2-5-2016	Adopt	3-1-2016
575-075-0049	12-18-2015	Amend	2-1-2016	581-017-0432	2-5-2016	Adopt	3-1-2016
575-075-0050	12-18-2015	Amend	2-1-2016	581-017-0435	2-5-2016	Adopt	3-1-2016
575-075-0055	12-18-2015	Amend	2-1-2016	581-017-0438	2-5-2016	Adopt	3-1-2016
575-076-0010	12-18-2015	Amend	2-1-2016	581-017-0441	2-5-2016	Adopt	3-1-2016
575-080-0100	12-18-2015	Amend	2-1-2016	581-017-0444	2-5-2016	Adopt	3-1-2016
575-085-0000	12-18-2015	Amend	2-1-2016	581-017-0447	2-5-2016	Adopt	3-1-2016
575-085-0020	12-18-2015	Amend	2-1-2016	581-017-0450	2-5-2016	Adopt	3-1-2016
575-085-0030	12-18-2015	Amend	2-1-2016	581-017-0453	2-5-2016	Adopt	3-1-2016
575-085-0040	12-18-2015	Amend	2-1-2016	581-017-0456	2-5-2016	Adopt	3-1-2016
575-085-0050	12-18-2015	Amend	2-1-2016	581-017-0459	2-5-2016	Adopt	3-1-2016
575-085-0060	12-18-2015	Amend	2-1-2016	581-017-0462	2-5-2016	Adopt	3-1-2016
575-085-0070	12-18-2015	Amend	2-1-2016	581-017-0465	12-28-2015	Adopt(T)	2-1-2016
575-090-0020	12-18-2015	Amend	2-1-2016	581-017-0466	3-22-2016	Adopt	5-1-2016
575-090-0030	12-18-2015	Amend	2-1-2016	581-017-0469	12-28-2015	Adopt(T)	2-1-2016
575-090-0040	12-18-2015	Amend	2-1-2016	581-017-0470	3-22-2016	Adopt	5-1-2016
575-090-0050	12-18-2015	Amend	2-1-2016	581-017-0473	12-28-2015	Adopt(T)	2-1-2016
575-095-0005	12-18-2015	Amend	2-1-2016	581-017-0474	3-22-2016	Adopt	5-1-2016
581-001-0002	4-7-2016	Amend	5-1-2016	581-017-0477	12-28-2015	Adopt(T)	2-1-2016
581-005-0001	4-7-2016	Repeal	5-1-2016	581-017-0478	3-22-2016	Adopt	5-1-2016
581-015-2200	12-21-2015	Amend	2-1-2016	581-017-0481	12-28-2015	Adopt(T)	2-1-2016
581-015-2595	12-18-2015	Amend	2-1-2016	581-017-0482	3-22-2016	Adopt	5-1-2016
581-015-2930	12-22-2015	Amend	2-1-2016	581-017-0485	12-28-2015	Adopt(T)	2-1-2016
581-017-0287	12-18-2015	Adopt	2-1-2016	581-017-0486	3-22-2016	Adopt	5-1-2016
581-017-0291	12-18-2015	Adopt	2-1-2016	581-018-0110	2-5-2016	Amend	3-1-2016
581-017-0294	12-18-2015	Adopt	2-1-2016	581-018-0120	2-5-2016	Amend	3-1-2016
581-017-0297	12-18-2015	Adopt	2-1-2016	581-018-0130	12-18-2015	Amend	2-1-2016
581-017-0301	12-28-2015	Amend(T)	2-1-2016	581-018-0145	12-18-2015	Amend	2-1-2016
581-017-0309	12-28-2015	Amend(T)	2-1-2016	581-018-0148	12-18-2015	Amend	2-1-2016
581-017-0318	12-28-2015	Amend(T)	2-1-2016	581-019-0036	5-3-2016	Adopt	6-1-2016
581-017-0321	12-28-2015	Amend(T)	2-1-2016	581-019-0037	5-3-2016	Adopt	6-1-2016
581-017-0321	3-22-2016	Amend	5-1-2016	581-019-0038	5-3-2016	Adopt	6-1-2016
581-017-0324	12-28-2015	Amend(T)	2-1-2016	581-019-0039	5-3-2016	Adopt	6-1-2016
581-017-0324	3-22-2016	Amend	5-1-2016	581-019-0040	5-3-2016	Adopt	6-1-2016
581-017-0327	12-28-2015	Amend(T)	2-1-2016	581-019-0041	5-3-2016	Adopt	6-1-2016
581-017-0327	3-22-2016	Amend	5-1-2016	581-019-0042	5-3-2016	Adopt	6-1-2016
581-017-0330	12-28-2015	Amend(T)	2-1-2016	581-019-0043	5-3-2016	Adopt	6-1-2016
581-017-0330	3-22-2016	Amend	5-1-2016	581-019-0044	5-3-2016	Adopt	6-1-2016
581-017-0333	12-28-2015	Amend(T)	2-1-2016	581-019-0045	5-3-2016	Adopt	6-1-2016
581-017-0333	3-22-2016	Amend	5-1-2016	581-019-0046	5-3-2016	Adopt	6-1-2016
581-017-0350	2-5-2016	Amend	3-1-2016	581-019-0047	5-3-2016	Adopt	6-1-2016
581-017-0353	2-5-2016	Amend	3-1-2016	581-019-0048	5-3-2016	Adopt	6-1-2016
581-017-0356	2-5-2016	Amend	3-1-2016	581-019-0049	5-3-2016	Adopt	6-1-2016
581-017-0359	2-5-2016	Amend	3-1-2016	581-020-0530	12-28-2015	Adopt(T)	2-1-2016
581-017-0362	2-5-2016	Amend	3-1-2016	581-020-0531	3-22-2016	Adopt	5-1-2016
581-017-0365	4-7-2016	Adopt	5-1-2016	581-020-0533	12-28-2015	Adopt(T)	2-1-2016
581-017-0367	4-7-2016	Adopt	5-1-2016	581-020-0534	3-22-2016	Adopt	5-1-2016
581-017-0369	4-7-2016	Adopt	5-1-2016	581-020-0536	12-28-2015	Adopt(T)	2-1-2016
581-017-0371	4-7-2016	Adopt	5-1-2016	581-020-0537	3-22-2016	Adopt	5-1-2016
581-017-0373	4-7-2016	Adopt	5-1-2016	581-020-0539	12-28-2015	Adopt(T)	2-1-2016
581-017-0375	4-7-2016	Adopt	5-1-2016	581-020-0540	3-22-2016	Adopt	5-1-2016
581-017-0380	2-5-2016	Adopt	3-1-2016	581-020-0541	12-28-2015	Adopt(T)	2-1-2016
581-017-0383	2-5-2016	Adopt	3-1-2016	581-020-0542	3-22-2016	Adopt	5-1-2016
581-017-0386	2-5-2016	Adopt	3-1-2016	581-020-0600	2-5-2016	Adopt	3-1-2016

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581-020-0606	2-5-2016	Adopt	3-1-2016	583-030-0020(T)	2-19-2016	Repeal	4-1-2016
581-020-0609	2-5-2016	Adopt	3-1-2016	583-030-0025	2-19-2016	Amend	4-1-2016
581-020-0612	2-5-2016	Adopt	3-1-2016	583-030-0025(T)	2-19-2016	Repeal	4-1-2016
581-020-0615	2-5-2016	Adopt	3-1-2016	583-030-0030	2-19-2016	Amend	4-1-2016
581-021-0037	3-22-2016	Amend	5-1-2016	583-030-0030(T)	2-19-2016	Repeal	4-1-2016
581-021-0043	2-5-2016	Adopt	3-1-2016	583-030-0032	2-19-2016	Amend	4-1-2016
581-021-0043	4-28-2016	Amend	6-1-2016	583-030-0032(T)	2-19-2016	Repeal	4-1-2016
581-021-0047	3-22-2016	Amend	5-1-2016	583-030-0035	2-19-2016	Amend	4-1-2016
581-021-0065	2-5-2016	Amend	3-1-2016	583-030-0035(T)	2-19-2016	Repeal	4-1-2016
581-021-0070	2-5-2016	Amend	3-1-2016	583-030-0036	2-19-2016	Amend	4-1-2016
581-021-0077	2-5-2016	Amend	3-1-2016	583-030-0036(T)	2-19-2016	Repeal	4-1-2016
581-021-0505	4-7-2016	Adopt	5-1-2016	583-030-0041	2-19-2016	Amend	4-1-2016
581-021-0580	4-28-2016	Adopt	6-1-2016	583-030-0041(T)	2-19-2016	Repeal	4-1-2016
581-021-0582	4-28-2016	Adopt	6-1-2016	583-030-0042	2-19-2016	Amend	4-1-2016
581-021-0584	4-28-2016	Adopt	6-1-2016	583-030-0042(T)	2-19-2016	Repeal	4-1-2016
581-022-0102	12-18-2015	Amend	2-1-2016	583-030-0043	2-19-2016	Amend	4-1-2016
581-022-0421	12-22-2015	Amend	2-1-2016	583-030-0043(T)	2-19-2016	Repeal	4-1-2016
581-022-0610	12-21-2015	Amend	2-1-2016	583-030-0045	2-19-2016	Amend	4-1-2016
581-022-0617	3-22-2016	Amend	5-1-2016	583-030-0045(T)	2-19-2016	Repeal	4-1-2016
581-022-1133	4-28-2016	Amend	6-1-2016	583-030-0046	2-19-2016	Amend	4-1-2016
581-022-1310	4-7-2016	Amend	5-1-2016	583-030-0046(T)	2-19-2016	Repeal	4-1-2016
581-022-1420	12-22-2015	Amend	2-1-2016	583-030-0049	2-19-2016	Amend	4-1-2016
581-022-1440	3-22-2016	Amend	5-1-2016	583-030-0049(T)	2-19-2016	Repeal	4-1-2016
581-022-1723	5-5-2016	Amend	6-1-2016	583-030-0051	2-19-2016	Adopt	4-1-2016
581-022-1910	12-18-2015	Amend	2-1-2016	583-030-0051(T)	2-19-2016	Repeal	4-1-2016
581-023-0006	2-5-2016	Amend	3-1-2016	583-030-0052	2-19-2016	Adopt	4-1-2016
581-023-0040	2-5-2016	Amend	3-1-2016	583-030-0052(T)	2-19-2016	Repeal	4-1-2016
581-023-0102	2-5-2016	Amend	3-1-2016	583-030-0053	2-19-2016	Adopt	4-1-2016
581-023-0106	3-22-2016	Amend	5-1-2016	583-030-0053(T)	2-19-2016	Repeal	4-1-2016
581-023-0250	2-5-2016	Adopt	3-1-2016	583-030-0054	2-19-2016	Adopt	4-1-2016
581-024-0275	12-22-2015	Amend	2-1-2016	583-030-0054(T)	2-19-2016	Repeal	4-1-2016
581-026-0210	12-18-2015	Amend	2-1-2016	583-030-0056	2-19-2016	Adopt	4-1-2016
581-027-0005	4-28-2016	Adopt	6-1-2016	583-030-0056(T)	2-19-2016	Repeal	4-1-2016
581-027-0010	4-28-2016	Adopt	6-1-2016	583-050-0006	2-19-2016	Amend	4-1-2016
581-027-0015	4-28-2016	Adopt	6-1-2016	583-050-0006(T)	2-19-2016	Repeal	4-1-2016
581-027-0020	4-28-2016	Adopt	6-1-2016	583-050-0011	2-19-2016	Amend	4-1-2016
581-027-0025	4-28-2016	Adopt	6-1-2016	583-050-0011(T)	2-19-2016	Repeal	4-1-2016
581-044-0250	12-18-2015	Amend	2-1-2016	583-050-0014	2-19-2016	Amend	4-1-2016
583-001-0000	2-19-2016	Amend	4-1-2016	583-050-0014(T)	2-19-2016	Repeal	4-1-2016
583-001-0000(T)	2-19-2016	Repeal	4-1-2016	583-050-0016	2-19-2016	Amend	4-1-2016
583-001-0005	2-19-2016	Amend	4-1-2016	583-050-0016(T)	2-19-2016	Repeal	4-1-2016
583-001-0005(T)	2-19-2016	Repeal	4-1-2016	583-050-0026	2-19-2016	Amend	4-1-2016
583-001-0015	2-19-2016	Amend	4-1-2016	583-050-0026(T)	2-19-2016	Repeal	4-1-2016
583-001-0015(T)	2-19-2016	Repeal	4-1-2016	583-050-0027	2-19-2016	Amend	4-1-2016
583-030-0005	2-19-2016	Amend	4-1-2016	583-050-0027(T)	2-19-2016	Repeal	4-1-2016
583-030-0005(T)	2-19-2016	Repeal	4-1-2016	583-050-0028	2-19-2016	Amend	4-1-2016
583-030-0009	2-19-2016	Amend	4-1-2016	583-050-0028(T)	2-19-2016	Repeal	4-1-2016
583-030-0009(T)	2-19-2016	Repeal	4-1-2016	583-050-0036	2-19-2016	Amend	4-1-2016
583-030-0010	2-19-2016	Amend	4-1-2016	583-050-0036(T)	2-19-2016	Repeal	4-1-2016
583-030-0010(T)	2-19-2016	Repeal	4-1-2016	583-050-0040	2-19-2016	Amend	4-1-2016
583-030-0011	2-19-2016	Repeal	4-1-2016	583-050-0040(T)	2-19-2016	Repeal	4-1-2016
583-030-0015	2-19-2016	Amend	4-1-2016	584-010-0090	1-1-2016	Suspend	2-1-2016
583-030-0015(T)	2-19-2016	Repeal	4-1-2016	584-017-1100	2-10-2016	Adopt	3-1-2016
583-030-0016	2-19-2016	Amend	4-1-2016	584-018-0110	1-1-2016	Suspend	2-1-2016
583-030-0016(T)	2-19-2016	Repeal	4-1-2016	584-018-0110	4-15-2016	Repeal	5-1-2016

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584-040-0010	2-10-2016	Repeal	3-1-2016	584-100-0006	4-15-2016	Repeal	5-1-2016
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584-040-0160	2-10-2016	Repeal	3-1-2016	584-100-0041	4-15-2016	Repeal	5-1-2016
584-040-0165	2-10-2016	Repeal	3-1-2016	584-100-0051	4-15-2016	Repeal	5-1-2016
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584-040-0200	2-10-2016	Repeal	3-1-2016	584-100-0066	4-15-2016	Repeal	5-1-2016
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584-040-0230	2-10-2016	Repeal	3-1-2016	584-100-0091	4-15-2016	Repeal	5-1-2016
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584-040-0241	2-10-2016	Repeal	3-1-2016	584-100-0111	4-15-2016	Repeal	5-1-2016
584-040-0242	2-10-2016	Repeal	3-1-2016	584-200-0004	1-1-2016	Adopt(T)	2-1-2016
584-040-0243	2-10-2016	Repeal	3-1-2016	584-200-0005	2-10-2016	Adopt	3-1-2016
584-040-0250	2-10-2016	Repeal	3-1-2016	584-200-0010	1-1-2016	Amend(T)	2-1-2016
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584-040-0265	2-10-2016	Repeal	3-1-2016	584-200-0020	2-10-2016	Adopt	3-1-2016
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584-220-0080	2-10-2016	Amend	3-1-2016	584-420-0600	2-10-2016	Adopt	3-1-2016
584-220-0085	2-10-2016	Amend	3-1-2016	584-420-0610	2-10-2016	Adopt	3-1-2016
584-220-0090	2-10-2016	Amend	3-1-2016	584-420-0620	2-10-2016	Adopt	3-1-2016
584-220-0095	2-10-2016	Amend	3-1-2016	584-420-0630	2-10-2016	Adopt	3-1-2016
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603-057-0530	2-26-2016	Amend	4-1-2016	635-005-0830	4-1-2016	Amend	5-1-2016
603-057-0531	2-26-2016	Adopt	4-1-2016	635-005-0835	4-1-2016	Amend	5-1-2016
603-057-0532	2-26-2016	Amend	4-1-2016	635-005-0840	4-1-2016	Amend	5-1-2016
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629-025-0022	3-11-2016	Adopt	4-1-2016	635-008-0080	4-27-2016	Amend	6-1-2016
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629-025-0050	3-11-2016	Amend	4-1-2016	635-008-0120	4-27-2016	Amend	6-1-2016
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635-003-0085	4-25-2016	Amend	6-1-2016	635-014-0090	1-1-2016	Amend	2-1-2016
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635-023-0095	4-30-2016	Amend(T)	6-1-2016	635-042-0160	4-21-2016	Amend(T)	6-1-2016
635-023-0095	5-1-2016	Amend(T)	6-1-2016	635-042-0160(T)	3-28-2016	Suspend	5-1-2016
635-023-0095(T)	4-30-2016	Suspend	6-1-2016	635-042-0160(T)	4-21-2016	Suspend	6-1-2016
635-023-0095(T)	5-1-2016	Suspend	6-1-2016	635-042-0170	2-8-2016	Amend(T)	3-1-2016
635-023-0125	1-1-2016	Amend	2-1-2016	635-042-0170	4-21-2016	Amend(T)	6-1-2016
635-023-0125	3-1-2016	Amend(T)	3-1-2016	635-042-0170(T)	4-21-2016	Suspend	6-1-2016
635-023-0125	4-8-2016	Amend(T)	5-1-2016	635-042-0180	2-8-2016	Amend(T)	3-1-2016
635-023-0125	5-6-2016	Amend(T)	6-1-2016	635-042-0180	3-28-2016	Amend(T)	5-1-2016
635-023-0125	5-13-2016	Amend(T)	6-1-2016	635-042-0180	4-21-2016	Amend(T)	6-1-2016
635-023-0125(T)	4-8-2016	Suspend	5-1-2016	635-042-0180(T)	3-28-2016	Suspend	5-1-2016
635-023-0125(T)	5-6-2016	Suspend	6-1-2016	635-042-0180(T)	4-21-2016	Suspend	6-1-2016
635-023-0125(T)	5-13-2016	Suspend	6-1-2016	635-044-0200	12-9-2015	Repeal	1-1-2016
635-023-0128	1-1-2016	Amend	2-1-2016	635-044-0205	12-9-2015	Repeal	1-1-2016
635-023-0130	1-1-2016	Amend	2-1-2016	635-044-0210	12-9-2015	Repeal	1-1-2016
635-023-0134	1-1-2016	Amend	2-1-2016	635-044-0215	12-9-2015	Repeal	1-1-2016
635-023-0134	4-23-2016	Amend(T)	5-1-2016	635-044-0240	12-9-2015	Repeal	1-1-2016
635-023-0140	1-1-2016	Amend	2-1-2016	635-044-0245	12-9-2015	Repeal	1-1-2016
635-039-0080	1-1-2016	Amend	2-1-2016	635-044-0250	12-9-2015	Repeal	1-1-2016
635-039-0080	1-19-2016	Amend	3-1-2016	635-044-0255	12-9-2015	Repeal	1-1-2016
635-039-0085	4-26-2016	Amend	6-1-2016	635-044-0280	12-9-2015	Repeal	1-1-2016
635-039-0090	1-1-2016	Amend	2-1-2016	635-044-0300	12-9-2015	Repeal	1-1-2016
635-039-0090	1-19-2016	Amend	3-1-2016	635-044-0305	12-9-2015	Repeal	1-1-2016
635-039-0090	4-1-2016	Amend(T)	5-1-2016	635-044-0310	12-9-2015	Repeal	1-1-2016
635-039-0090	4-26-2016	Amend	6-1-2016	635-045-0000	11-25-2015	Amend	1-1-2016
635-039-0090	4-26-2016	Amend(T)	6-1-2016	635-045-0000	4-27-2016	Amend	6-1-2016
635-039-0090(T)	4-26-2016	Repeal	6-1-2016	635-045-0002	11-25-2015	Amend	1-1-2016
635-041-0065	2-1-2016	Amend(T)	3-1-2016	635-047-0010	4-27-2016	Amend	6-1-2016
635-041-0065	2-12-2016	Amend(T)	3-1-2016	635-051-0000	4-27-2016	Amend	6-1-2016
635-041-0065	2-19-2016	Amend(T)	4-1-2016	635-052-0000	4-27-2016	Amend	6-1-2016
635-041-0065	2-26-2016	Amend(T)	4-1-2016	635-053-0000	4-27-2016	Amend	6-1-2016
635-041-0065	3-5-2016	Amend(T)	4-1-2016	635-054-0000	4-27-2016	Amend	6-1-2016
635-041-0065	5-16-2016	Amend(T)	6-1-2016	635-060-0000	11-25-2015	Amend	1-1-2016
635-041-0065(T)	2-12-2016	Suspend	3-1-2016	635-060-0000	4-27-2016	Amend	6-1-2016
635-041-0065(T)	2-19-2016	Suspend	4-1-2016	635-060-0005	11-25-2015	Amend	1-1-2016
635-041-0065(T)	2-26-2016	Suspend	4-1-2016	635-060-0018	11-25-2015	Amend	1-1-2016
635-041-0065(T)	3-5-2016	Suspend	4-1-2016	635-062-0000	12-9-2015	Adopt	1-1-2016
635-041-0610	4-25-2016	Adopt	6-1-2016	635-062-0005	12-9-2015	Adopt	1-1-2016
635-042-0022	3-28-2016	Amend(T)	5-1-2016	635-062-0010	12-9-2015	Adopt	1-1-2016
635-042-0022	4-5-2016	Amend(T)	5-1-2016	635-062-0015	12-9-2015	Adopt	1-1-2016
635-042-0022	5-11-2016	Amend(T)	6-1-2016	635-062-0020	12-9-2015	Adopt	1-1-2016
635-042-0022(T)	4-5-2016	Suspend	5-1-2016	635-062-0025	12-9-2015	Adopt	1-1-2016
635-042-0022(T)	5-11-2016	Suspend	6-1-2016	635-062-0030	12-9-2015	Adopt	1-1-2016
635-042-0130	2-1-2016	Amend(T)	3-1-2016	635-062-0035	12-9-2015	Adopt	1-1-2016
635-042-0145	2-8-2016	Amend(T)	3-1-2016	635-062-0040	12-9-2015	Adopt	1-1-2016
635-042-0145	3-28-2016	Amend(T)	5-1-2016	635-062-0045	12-9-2015	Adopt	1-1-2016
635-042-0145	4-6-2016	Amend(T)	5-1-2016	635-062-0050	12-9-2015	Adopt	1-1-2016
635-042-0145	4-13-2016	Amend(T)	5-1-2016	635-062-0055	12-9-2015	Adopt	1-1-2016
635-042-0145	4-21-2016	Amend(T)	6-1-2016	635-062-0060	12-9-2015	Adopt	1-1-2016
635-042-0145	5-11-2016	Amend(T)	6-1-2016	635-065-0001	3-21-2016	Amend	5-1-2016
635-042-0145(T)	3-28-2016	Suspend	5-1-2016	635-065-0001	3-25-2016	Amend(T)	5-1-2016
635-042-0145(T)	4-6-2016	Suspend	5-1-2016	635-065-0011	3-21-2016	Amend	5-1-2016
635-042-0145(T)	4-13-2016	Suspend	5-1-2016	635-065-0015	3-21-2016	Amend	5-1-2016
635-042-0145(T)	4-21-2016	Suspend	6-1-2016	635-065-0090	3-21-2016	Amend	5-1-2016

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635-065-0625	3-21-2016	Amend	5-1-2016	660-025-0060	2-10-2016	Amend	3-1-2016
635-065-0720	3-21-2016	Amend	5-1-2016	660-025-0085	2-10-2016	Amend	3-1-2016
635-065-0735	3-21-2016	Amend	5-1-2016	660-025-0090	2-10-2016	Amend	3-1-2016
635-065-0740	3-21-2016	Amend	5-1-2016	660-025-0130	2-10-2016	Amend	3-1-2016
635-065-0760	3-21-2016	Amend	5-1-2016	660-025-0140	2-10-2016	Amend	3-1-2016
635-065-0765	2-25-2016	Amend(T)	4-1-2016	660-025-0150	2-10-2016	Amend	3-1-2016
635-065-0765	3-21-2016	Amend	5-1-2016	660-025-0160	2-10-2016	Amend	3-1-2016
635-066-0000	3-21-2016	Amend	5-1-2016	660-025-0175	2-10-2016	Amend	3-1-2016
635-067-0000	3-21-2016	Amend	5-1-2016	660-027-0070	2-10-2016	Amend	3-1-2016
635-067-0027	12-1-2015	Amend(T)	1-1-2016	660-033-0020	3-24-2016	Amend	5-1-2016
635-067-0030	3-21-2016	Amend	5-1-2016	660-033-0030	2-10-2016	Amend	3-1-2016
635-067-0036	3-21-2016	Adopt	5-1-2016	660-033-0030	3-24-2016	Amend	5-1-2016
635-068-0000	3-21-2016	Amend	5-1-2016	660-033-0045	2-10-2016	Amend	3-1-2016
635-069-0000	3-21-2016	Amend	5-1-2016	660-033-0100	3-24-2016	Amend	5-1-2016
635-070-0000	4-6-2016	Amend	5-1-2016	660-033-0120	2-10-2016	Amend	3-1-2016
635-071-0000	4-6-2016	Amend	5-1-2016	660-033-0130	2-10-2016	Amend	3-1-2016
635-072-0000	3-21-2016	Amend	5-1-2016	660-033-0135	2-10-2016	Amend	3-1-2016
635-073-0000	3-21-2016	Amend	5-1-2016	660-033-0150	2-10-2016	Repeal	3-1-2016
635-073-0000	5-10-2016	Amend(T)	6-1-2016	660-038-0000	1-1-2016	Adopt	2-1-2016
635-073-0100	3-21-2016	Adopt	5-1-2016	660-038-0010	1-1-2016	Adopt	2-1-2016
635-075-0020	3-21-2016	Amend	5-1-2016	660-038-0020	1-1-2016	Adopt	2-1-2016
635-075-0025	3-21-2016	Amend	5-1-2016	660-038-0030	1-1-2016	Adopt	2-1-2016
635-075-0026	3-21-2016	Amend	5-1-2016	660-038-0040	1-1-2016	Adopt	2-1-2016
635-415-0025	3-25-2016	Amend	5-1-2016	660-038-0050	1-1-2016	Adopt	2-1-2016
635-435-0000	12-9-2015	Amend	1-1-2016	660-038-0060	1-1-2016	Adopt	2-1-2016
635-435-0005	12-9-2015	Amend	1-1-2016	660-038-0070	1-1-2016	Adopt	2-1-2016
635-435-0010	12-9-2015	Amend	1-1-2016	660-038-0080	1-1-2016	Adopt	2-1-2016
635-435-0010	12-9-2015	Amend(T)	1-1-2016	660-038-0090	1-1-2016	Adopt	2-1-2016
635-435-0015	12-9-2015	Amend	1-1-2016	660-038-0100	1-1-2016	Adopt	2-1-2016
635-435-0020	12-9-2015	Amend	1-1-2016	660-038-0110	1-1-2016	Adopt	2-1-2016
635-435-0025	12-9-2015	Amend	1-1-2016	660-038-0120	1-1-2016	Adopt	2-1-2016
635-435-0030	12-9-2015	Repeal	1-1-2016	660-038-0130	1-1-2016	Adopt	2-1-2016
635-435-0035	12-9-2015	Repeal	1-1-2016	660-038-0140	1-1-2016	Adopt	2-1-2016
635-435-0040	12-9-2015	Amend	1-1-2016	660-038-0150	1-1-2016	Adopt	2-1-2016
635-435-0045	12-9-2015	Amend	1-1-2016	660-038-0160	1-1-2016	Adopt	2-1-2016
635-435-0050	12-9-2015	Amend	1-1-2016	660-038-0170	1-1-2016	Adopt	2-1-2016
635-435-0055	12-9-2015	Amend	1-1-2016	660-038-0180	1-1-2016	Adopt	2-1-2016
635-435-0060	12-9-2015	Amend	1-1-2016	660-038-0190	1-1-2016	Adopt	2-1-2016
647-010-0010	7-1-2016	Amend	6-1-2016	660-038-0200	1-1-2016	Adopt	2-1-2016
660-004-0018	2-10-2016	Amend	3-1-2016	668-010-0010	3-9-2016	Amend	4-1-2016
660-006-0005	2-10-2016	Amend	3-1-2016	690-051-0000	1-1-2016	Amend	2-1-2016
660-006-0010	2-10-2016	Amend	3-1-2016	690-051-0010	1-1-2016	Amend	2-1-2016
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660-006-0027	2-10-2016	Amend	3-1-2016	690-051-0050	1-1-2016	Amend	2-1-2016
660-015-0000	1-1-2016	Amend	2-1-2016	690-051-0060	1-1-2016	Amend	2-1-2016
660-023-0115	2-10-2016	Amend	3-1-2016	690-051-0090	1-1-2016	Amend	2-1-2016
660-024-0000	1-1-2016	Amend	2-1-2016	690-051-0095	1-1-2016	Amend	2-1-2016
660-024-0050	1-1-2016	Amend	2-1-2016	690-051-0130	1-1-2016	Amend	2-1-2016
660-024-0060	1-1-2016	Amend	2-1-2016	690-051-0140	1-1-2016	Amend	2-1-2016
660-024-0065	1-1-2016	Adopt	2-1-2016	690-051-0150	1-1-2016	Amend	2-1-2016
660-024-0067	1-1-2016	Adopt	2-1-2016	690-051-0160	1-1-2016	Amend	2-1-2016
660-024-0070	1-1-2016	Amend	2-1-2016	690-051-0170	1-1-2016	Amend	2-1-2016
660-025-0020	2-10-2016	Amend	3-1-2016	690-051-0180	1-1-2016	Amend	2-1-2016
660-025-0035	2-10-2016	Amend	3-1-2016	690-051-0190	1-1-2016	Amend	2-1-2016

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690-051-0210	1-1-2016	Amend	2-1-2016	731-070-0080	3-22-2016	Amend	5-1-2016
690-051-0220	1-1-2016	Amend	2-1-2016	731-070-0110	3-22-2016	Amend	5-1-2016
690-051-0230	1-1-2016	Amend	2-1-2016	731-070-0130	3-22-2016	Amend	5-1-2016
690-051-0240	1-1-2016	Amend	2-1-2016	731-070-0140	3-22-2016	Amend	5-1-2016
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690-051-0270	1-1-2016	Repeal	2-1-2016	731-070-0170	3-22-2016	Amend	5-1-2016
690-051-0280	1-1-2016	Amend	2-1-2016	731-070-0190	3-22-2016	Repeal	5-1-2016
690-051-0290	1-1-2016	Amend	2-1-2016	731-070-0195	3-22-2016	Repeal	5-1-2016
690-051-0310	1-1-2016	Repeal	2-1-2016	731-070-0240	3-22-2016	Am. & Ren.	5-1-2016
690-051-0320	1-1-2016	Amend	2-1-2016	731-070-0245	3-22-2016	Am. & Ren.	5-1-2016
690-051-0330	1-1-2016	Repeal	2-1-2016	731-070-0250	3-22-2016	Am. & Ren.	5-1-2016
690-051-0340	1-1-2016	Repeal	2-1-2016	731-070-0260	3-22-2016	Am. & Ren.	5-1-2016
690-051-0350	1-1-2016	Amend	2-1-2016	731-070-0350	3-22-2016	Amend	5-1-2016
690-051-0360	1-1-2016	Repeal	2-1-2016	731-070-0360	3-22-2016	Repeal	5-1-2016
690-051-0370	1-1-2016	Repeal	2-1-2016	734-010-0200	4-29-2016	Repeal	6-1-2016
690-051-0380	1-1-2016	Amend	2-1-2016	734-010-0210	4-29-2016	Repeal	6-1-2016
690-051-0400	1-1-2016	Amend	2-1-2016	734-010-0220	4-29-2016	Repeal	6-1-2016
690-079-0010	12-2-2015	Amend(T)	1-1-2016	734-010-0230	4-29-2016	Repeal	6-1-2016
690-079-0010	4-19-2016	Amend	6-1-2016	734-010-0240	4-29-2016	Repeal	6-1-2016
690-079-0160	12-2-2015	Adopt(T)	1-1-2016	734-010-0250	4-29-2016	Repeal	6-1-2016
690-079-0160	4-19-2016	Amend	6-1-2016	734-010-0260	4-29-2016	Repeal	6-1-2016
690-079-0170	4-19-2016	Adopt	6-1-2016	734-010-0270	4-29-2016	Repeal	6-1-2016
690-509-0000	3-1-2016	Amend	4-1-2016	734-010-0280	4-29-2016	Repeal	6-1-2016
690-509-0100	3-1-2016	Amend	4-1-2016	734-020-0018	11-20-2015	Amend	1-1-2016
690-512-0010	4-15-2016	Adopt	5-1-2016	734-020-0019	11-20-2015	Amend	1-1-2016
690-512-0020	4-15-2016	Adopt	5-1-2016	734-074-0027	12-17-2015	Amend	2-1-2016
690-512-0040	4-15-2016	Repeal	5-1-2016	734-082-0005	12-17-2015	Amend	2-1-2016
690-512-0090	4-15-2016	Adopt	5-1-2016	734-082-0040	12-17-2015	Amend	2-1-2016
715-013-0005	12-14-2015	Amend(T)	1-1-2016	734-082-0045	12-17-2015	Amend	2-1-2016
715-013-0005	2-19-2016	Amend	4-1-2016	734-082-0070	12-17-2015	Amend	2-1-2016
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715-045-0001	3-9-2016	Amend	4-1-2016	735-061-0210	4-29-2016	Amend	6-1-2016
715-045-0007	3-9-2016	Amend	4-1-2016	735-062-0005	1-1-2016	Amend	2-1-2016
715-045-0012	3-9-2016	Amend	4-1-2016	735-062-0007	4-29-2016	Amend	6-1-2016
731-007-0500	4-29-2016	Adopt	6-1-2016	735-062-0035	1-1-2016	Amend	2-1-2016
731-007-0510	4-29-2016	Adopt	6-1-2016	735-062-0110	1-1-2016	Amend	2-1-2016
731-007-0520	4-29-2016	Adopt	6-1-2016	735-062-0120	1-1-2016	Amend	2-1-2016
731-007-0530	4-29-2016	Adopt	6-1-2016	735-064-0070	1-1-2016	Amend	2-1-2016
731-007-0540	4-29-2016	Adopt	6-1-2016	735-070-0080	1-1-2016	Amend	2-1-2016
731-007-0550	4-29-2016	Adopt	6-1-2016	735-070-0082	1-1-2016	Amend	2-1-2016
731-007-0560	4-29-2016	Adopt	6-1-2016	735-118-0000	1-1-2016	Amend	2-1-2016
731-007-0570	4-29-2016	Adopt	6-1-2016	735-118-0050	1-1-2016	Amend	2-1-2016
731-035-0010	12-17-2015	Amend	2-1-2016	735-150-0010	1-1-2016	Amend	2-1-2016
731-035-0020	12-17-2015	Amend	2-1-2016	735-150-0015	1-1-2016	Amend	2-1-2016
731-035-0030	12-17-2015	Amend	2-1-2016	735-150-0017	1-1-2016	Amend	2-1-2016
731-035-0040	12-17-2015	Amend	2-1-2016	735-150-0020	1-1-2016	Amend	2-1-2016
731-035-0050	12-17-2015	Amend	2-1-2016	735-150-0037	1-1-2016	Amend	2-1-2016
731-035-0060	12-17-2015	Amend	2-1-2016	735-150-0047	1-1-2016	Amend	2-1-2016
731-035-0070	12-17-2015	Amend	2-1-2016	735-150-0055	1-1-2016	Amend	1-1-2016
731-035-0080	12-17-2015	Amend	2-1-2016	735-150-0110	1-1-2016	Amend	2-1-2016
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731-070-0020	3-22-2016	Amend	5-1-2016	735-150-0140	1-1-2016	Amend	1-1-2016
731-070-0030	3-22-2016	Repeal	5-1-2016	736-009-0025	5-2-2016	Amend	6-1-2016
731-070-0050	3-22-2016	Amend	5-1-2016	736-009-0030	5-2-2016	Amend	6-1-2016
731-070-0055	3-22-2016	Amend	5-1-2016	736-015-0035	3-16-2016	Amend	5-1-2016

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738-010-0050	12-15-2015	Amend	1-1-2016	808-003-0613	1-1-2016	Amend	2-1-2016
738-010-0060	12-15-2015	Amend	1-1-2016	808-004-0180	1-1-2016	Amend	2-1-2016
738-080-0010	12-15-2015	Amend	1-1-2016	808-004-0211	1-1-2016	Amend	2-1-2016
738-080-0015	12-15-2015	Adopt	1-1-2016	808-004-0320	1-1-2016	Amend	2-1-2016
738-080-0020	12-15-2015	Amend	1-1-2016	808-040-0020	1-1-2016	Amend	2-1-2016
738-080-0030	12-15-2015	Amend	1-1-2016	808-040-0025	4-8-2016	Amend	5-1-2016
738-080-0040	12-15-2015	Repeal	1-1-2016	808-040-0050	4-8-2016	Amend	5-1-2016
738-080-0045	12-15-2015	Adopt	1-1-2016	808-040-0060	4-8-2016	Amend	5-1-2016
738-124-0010	5-11-2016	Adopt(T)	6-1-2016	808-040-0080	1-1-2016	Amend	2-1-2016
738-124-0015	5-11-2016	Adopt(T)	6-1-2016	811-010-0085	5-2-2016	Amend	5-1-2016
738-124-0020	5-11-2016	Adopt(T)	6-1-2016	813-013-0001	11-30-2015	Amend(T)	1-1-2016
738-124-0025	5-11-2016	Adopt(T)	6-1-2016	813-013-0005	11-30-2015	Amend(T)	1-1-2016
738-124-0030	5-11-2016	Adopt(T)	6-1-2016	813-013-0010	11-30-2015	Amend(T)	1-1-2016
738-124-0035	5-11-2016	Adopt(T)	6-1-2016	813-013-0015	11-30-2015	Amend(T)	1-1-2016
738-124-0040	5-11-2016	Adopt(T)	6-1-2016	813-013-0020	11-30-2015	Amend(T)	1-1-2016
738-124-0045	5-11-2016	Adopt(T)	6-1-2016	813-013-0035	11-30-2015	Amend(T)	1-1-2016
738-140-0005	12-15-2015	Adopt	1-1-2016	813-013-0040	11-30-2015	Amend(T)	1-1-2016
738-140-0010	12-15-2015	Adopt	1-1-2016	813-013-0050	11-30-2015	Amend(T)	1-1-2016
738-140-0015	12-15-2015	Adopt	1-1-2016	813-013-0054	11-30-2015	Amend(T)	1-1-2016
738-140-0020	12-15-2015	Adopt	1-1-2016	813-110-0010	5-5-2016	Amend(T)	6-1-2016
738-140-0025	12-15-2015	Adopt	1-1-2016	813-110-0013	5-5-2016	Amend(T)	6-1-2016
738-140-0030	12-15-2015	Adopt	1-1-2016	813-110-0015	5-5-2016	Amend(T)	6-1-2016
738-140-0035	12-15-2015	Adopt	1-1-2016	813-300-0005	3-25-2016	Amend	5-1-2016
738-140-0040	12-15-2015	Adopt	1-1-2016	813-300-0120	3-25-2016	Amend	5-1-2016
741-520-0010	11-17-2015	Repeal	1-1-2016	813-300-0150	3-25-2016	Amend	5-1-2016
800-020-0025	4-1-2016	Amend	5-1-2016	813-300-0150	4-20-2016	Amend(T)	6-1-2016
801-001-0035	1-1-2016	Amend(T)	2-1-2016	813-300-0150(T)	3-25-2016	Repeal	5-1-2016
806-010-0010	12-14-2015	Amend	1-1-2016	813-330-0000	2-11-2016	Adopt	3-1-2016
806-010-0020	12-14-2015	Amend	1-1-2016	813-330-0010	2-11-2016	Adopt	3-1-2016
806-010-0035	12-14-2015	Amend	1-1-2016	813-330-0020	2-11-2016	Adopt	3-1-2016
808-002-0020	1-1-2016	Amend	2-1-2016	813-330-0030	2-11-2016	Adopt	3-1-2016
808-002-0200	1-1-2016	Amend	2-1-2016	813-330-0040	2-11-2016	Adopt	3-1-2016
808-002-0250	1-1-2016	Repeal	2-1-2016	813-330-0050	2-11-2016	Adopt	3-1-2016
808-002-0300	1-1-2016	Amend	2-1-2016	813-330-0060	2-11-2016	Adopt	3-1-2016
808-002-0320	1-1-2016	Amend	2-1-2016	817-090-0025	4-4-2016	Amend	5-1-2016
808-002-0338	1-1-2016	Amend	2-1-2016	817-090-0035	4-4-2016	Amend	5-1-2016
808-002-0455	1-1-2016	Amend	2-1-2016	817-090-0050	4-4-2016	Repeal	5-1-2016
808-002-0480	1-1-2016	Amend	2-1-2016	817-090-0080	4-4-2016	Amend	5-1-2016
808-002-0490	1-1-2016	Amend	2-1-2016	817-090-0090	4-4-2016	Amend	5-1-2016
808-002-0500	1-1-2016	Amend	2-1-2016	817-090-0100	4-4-2016	Amend	5-1-2016
808-002-0730	1-1-2016	Amend	2-1-2016	820-010-0505	2-16-2016	Amend	4-1-2016
808-002-0780	1-1-2016	Amend	2-1-2016	820-010-0615	5-12-2016	Amend	6-1-2016
808-002-0810	1-1-2016	Repeal	2-1-2016	820-010-3020	1-14-2016	Adopt	2-1-2016
808-002-0884	1-1-2016	Repeal	2-1-2016	820-010-4000	3-15-2016	Amend(T)	4-1-2016
808-002-0920	1-1-2016	Amend	2-1-2016	820-010-5000	1-15-2016	Amend(T)	2-1-2016
808-003-0015	1-1-2016	Amend	2-1-2016	820-010-5000	5-12-2016	Amend	6-1-2016
808-003-0018	1-1-2016	Amend	2-1-2016	820-010-5000(T)	5-12-2016	Repeal	6-1-2016
808-003-0040	1-1-2016	Amend	2-1-2016	820-015-0026	2-16-2016	Amend	4-1-2016
808-003-0060	1-1-2016	Amend	2-1-2016	820-020-0015	2-16-2016	Amend	4-1-2016
808-003-0095	1-1-2016	Amend	2-1-2016	820-020-0025	2-16-2016	Amend	4-1-2016
808-003-0125	1-1-2016	Amend	2-1-2016	820-020-0030	2-16-2016	Amend	4-1-2016
808-003-0126	1-1-2016	Amend	2-1-2016	820-020-0035	2-16-2016	Amend	4-1-2016

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820-025-0005	5-12-2016	Amend	6-1-2016	836-053-0012	4-26-2016	Adopt	6-1-2016
820-025-0015	1-15-2016	Amend(T)	2-1-2016	836-053-0012(T)	4-26-2016	Repeal	6-1-2016
820-025-0015	5-12-2016	Amend	6-1-2016	836-053-0013	12-17-2015	Adopt(T)	2-1-2016
820-025-0015(T)	5-12-2016	Repeal	6-1-2016	836-053-0013	4-26-2016	Adopt	6-1-2016
820-030-0005	2-16-2016	Adopt	4-1-2016	836-053-0013(T)	4-26-2016	Repeal	6-1-2016
820-040-0005	2-16-2016	Amend	4-1-2016	836-053-0014(T)	4-8-2016	Repeal	5-1-2016
830-011-0000	1-1-2016	Amend	2-1-2016	836-053-0015	4-8-2016	Adopt	5-1-2016
830-011-0020	1-1-2016	Amend	2-1-2016	836-053-0015(T)	4-8-2016	Repeal	5-1-2016
830-011-0040	1-1-2016	Amend	2-1-2016	836-053-0021	4-8-2016	Amend	5-1-2016
830-011-0065	1-1-2016	Adopt	2-1-2016	836-053-0030	4-8-2016	Amend	5-1-2016
830-020-0000	1-1-2016	Amend	2-1-2016	836-053-0050	4-8-2016	Amend	5-1-2016
830-020-0030	1-1-2016	Amend	2-1-2016	836-053-0066	4-8-2016	Amend	5-1-2016
830-020-0040	1-1-2016	Amend	2-1-2016	836-053-0230	4-8-2016	Amend	5-1-2016
830-030-0004	1-1-2016	Amend	2-1-2016	836-053-0410	4-8-2016	Amend	5-1-2016
830-030-0090	1-1-2016	Amend	2-1-2016	836-053-0431	4-8-2016	Amend	5-1-2016
830-040-0095	1-1-2016	Adopt	2-1-2016	836-053-0465	4-8-2016	Amend	5-1-2016
833-120-0011	4-1-2016	Amend	5-1-2016	836-053-0472	4-8-2016	Amend	5-1-2016
834-020-0000	3-1-2016	Amend	4-1-2016	836-053-0510	4-8-2016	Amend	5-1-2016
834-030-0000	3-1-2016	Amend	4-1-2016	836-053-0600	1-1-2016	Adopt	2-1-2016
834-030-0010	3-1-2016	Amend	4-1-2016	836-053-0600(T)	1-1-2016	Repeal	2-1-2016
834-040-0000	3-1-2016	Amend	4-1-2016	836-053-0605	1-1-2016	Adopt	2-1-2016
834-050-0000	3-1-2016	Amend	4-1-2016	836-053-0605(T)	1-1-2016	Repeal	2-1-2016
834-050-0010	3-1-2016	Amend	4-1-2016	836-053-0610	1-1-2016	Adopt	2-1-2016
836-009-0020	4-8-2016	Repeal	5-1-2016	836-053-0610(T)	1-1-2016	Repeal	2-1-2016
836-009-0025	4-8-2016	Repeal	5-1-2016	836-053-0615	1-1-2016	Adopt	2-1-2016
836-009-0030	4-8-2016	Repeal	5-1-2016	836-053-0615(T)	1-1-2016	Repeal	2-1-2016
836-009-0035	4-8-2016	Repeal	5-1-2016	836-053-0825	4-8-2016	Amend	5-1-2016
836-009-0040	4-8-2016	Repeal	5-1-2016	836-053-0830	4-8-2016	Amend	5-1-2016
836-010-0013	4-8-2016	Amend	5-1-2016	836-053-0835	4-8-2016	Amend	5-1-2016
836-010-0013	4-28-2016	Amend(T)	6-1-2016	836-053-1020	12-17-2015	Amend(T)	2-1-2016
836-010-0155	4-26-2016	Adopt	6-1-2016	836-053-1020	4-26-2016	Amend	6-1-2016
836-011-0000	2-3-2016	Amend	3-1-2016	836-053-1404	12-17-2015	Amend(T)	2-1-2016
836-027-0005	3-3-2016	Amend	4-1-2016	836-053-1404	4-26-2016	Amend	6-1-2016
836-027-0010	3-3-2016	Amend	4-1-2016	836-053-1405	12-17-2015	Amend(T)	2-1-2016
836-027-0012	3-3-2016	Amend	4-1-2016	836-053-1405	4-26-2016	Amend	6-1-2016
836-027-0100	3-3-2016	Amend	4-1-2016	836-053-1406	4-26-2016	Am. & Ren.	6-1-2016
836-027-0125	3-3-2016	Amend	4-1-2016	836-053-1500	4-8-2016	Adopt	5-1-2016
836-027-0140	3-3-2016	Amend	4-1-2016	836-053-1500(T)	4-8-2016	Repeal	5-1-2016
836-027-0160	3-3-2016	Amend	4-1-2016	836-053-1505	4-8-2016	Adopt	5-1-2016
836-051-0150	1-1-2016	Adopt	2-1-2016	836-053-1505(T)	4-8-2016	Repeal	5-1-2016
836-051-0153	1-1-2016	Adopt	2-1-2016	836-053-1510	4-8-2016	Adopt	5-1-2016
836-051-0156	1-1-2016	Adopt	2-1-2016	836-053-1510(T)	4-8-2016	Repeal	5-1-2016
836-052-0142	1-1-2016	Amend	2-1-2016	836-054-0000	1-1-2016	Amend	2-1-2016
836-052-1000	4-8-2016	Amend	5-1-2016	836-054-0000(T)	1-1-2016	Repeal	2-1-2016
836-053-0002	12-17-2015	Amend(T)	2-1-2016	836-054-0020	1-1-2016	Adopt	2-1-2016
836-053-0002	4-26-2016	Amend	6-1-2016	836-071-0354	1-1-2016	Adopt	2-1-2016
836-053-0004	12-17-2015	Adopt(T)	2-1-2016	836-071-0354	1-20-2016	Adopt	3-1-2016
836-053-0004	4-26-2016	Adopt	6-1-2016	836-071-0355	1-1-2016	Amend	2-1-2016
836-053-0004(T)	4-26-2016	Repeal	6-1-2016	836-071-0355	1-20-2016	Amend	3-1-2016
836-053-0008	12-17-2015	Amend(T)	2-1-2016	836-071-0370	1-1-2016	Amend	2-1-2016
836-053-0008	4-26-2016	Amend	6-1-2016	836-071-0370	1-20-2016	Amend	3-1-2016
836-053-0009	12-17-2015	Amend(T)	2-1-2016	836-071-0380	1-1-2016	Amend	2-1-2016
836-053-0009	4-26-2016	Amend	6-1-2016	836-071-0380	1-20-2016	Amend	3-1-2016
836-053-0010	4-8-2016	Amend	5-1-2016	837-012-0305	1-1-2016	Amend	2-1-2016
836-053-0010	4-26-2016	Am. & Ren.	6-1-2016	837-012-0310	1-1-2016	Amend	2-1-2016

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839-025-0020	3-31-2016	Amend	5-1-2016	845-025-1440	1-1-2016	Adopt(T)	1-1-2016
839-025-0037	3-31-2016	Amend	5-1-2016	845-025-1450	1-1-2016	Adopt(T)	1-1-2016
839-025-0100	3-31-2016	Amend	5-1-2016	845-025-1460	1-1-2016	Adopt(T)	1-1-2016
839-025-0320	3-31-2016	Amend	5-1-2016	845-025-1470	1-1-2016	Adopt(T)	1-1-2016
839-025-0530	3-31-2016	Amend	5-1-2016	845-025-1600	1-1-2016	Adopt(T)	1-1-2016
839-025-0700	1-1-2016	Amend	1-1-2016	845-025-1620	1-1-2016	Adopt(T)	1-1-2016
839-025-0700	4-1-2016	Amend	5-1-2016	845-025-2000	1-1-2016	Adopt(T)	1-1-2016
845-003-0210	2-23-2016	Amend(T)	4-1-2016	845-025-2020	1-1-2016	Adopt(T)	1-1-2016
845-003-0220	2-23-2016	Amend(T)	4-1-2016	845-025-2030	1-1-2016	Adopt(T)	1-1-2016
845-003-0270	2-23-2016	Amend(T)	4-1-2016	845-025-2040	1-1-2016	Adopt(T)	1-1-2016
845-003-0331	2-23-2016	Amend(T)	4-1-2016	845-025-2050	1-1-2016	Adopt(T)	1-1-2016
845-004-0015	2-23-2016	Amend(T)	4-1-2016	845-025-2060	1-1-2016	Adopt(T)	1-1-2016
845-004-0101	2-1-2016	Amend	2-1-2016	845-025-2070	1-1-2016	Adopt(T)	1-1-2016
845-004-0105	2-1-2016	Repeal	2-1-2016	845-025-2080	1-1-2016	Adopt(T)	1-1-2016
845-005-0400	3-1-2016	Amend	4-1-2016	845-025-2400	1-1-2016	Adopt(T)	1-1-2016
845-005-0413	2-1-2016	Amend	2-1-2016	845-025-2800	1-1-2016	Adopt(T)	1-1-2016
845-005-0417	1-1-2016	Amend(T)	2-1-2016	845-025-2820	1-1-2016	Adopt(T)	1-1-2016
845-005-0420	1-1-2016	Suspend	2-1-2016	845-025-2840	1-1-2016	Adopt(T)	1-1-2016
845-005-0428	4-1-2016	Amend	5-1-2016	845-025-2860	1-1-2016	Adopt(T)	1-1-2016
845-005-0431	2-1-2016	Amend	2-1-2016	845-025-2880	1-1-2016	Adopt(T)	1-1-2016
845-006-0392	1-1-2016	Amend(T)	2-1-2016	845-025-2890	1-1-2016	Adopt(T)	1-1-2016
845-006-0396	1-1-2016	Amend(T)	2-1-2016	845-025-3200	1-1-2016	Adopt(T)	1-1-2016
845-006-0446	4-1-2016	Adopt	5-1-2016	845-025-3210	1-1-2016	Adopt(T)	1-1-2016
845-006-0450	4-1-2016	Amend	5-1-2016	845-025-3220	1-1-2016	Adopt(T)	1-1-2016
845-006-0452	2-1-2016	Amend	2-1-2016	845-025-3230	1-1-2016	Adopt(T)	1-1-2016
845-013-0040	4-1-2016	Amend	5-1-2016	845-025-3240	1-1-2016	Adopt(T)	1-1-2016
845-015-0148	5-2-2016	Amend	6-1-2016	845-025-3250	1-1-2016	Adopt(T)	1-1-2016
845-025-1000	1-1-2016	Adopt(T)	1-1-2016	845-025-3260	1-1-2016	Adopt(T)	1-1-2016
845-025-1015	1-1-2016	Adopt(T)	1-1-2016	845-025-3280	1-1-2016	Adopt(T)	1-1-2016
845-025-1030	1-1-2016	Adopt(T)	1-1-2016	845-025-3290	1-1-2016	Adopt(T)	1-1-2016
845-025-1045	1-1-2016	Adopt(T)	1-1-2016	845-025-3500	1-1-2016	Adopt(T)	1-1-2016
845-025-1060	1-1-2016	Adopt(T)	1-1-2016	845-025-5000	1-1-2016	Adopt(T)	1-1-2016
845-025-1070	1-1-2016	Adopt(T)	1-1-2016	845-025-5030	1-1-2016	Adopt(T)	1-1-2016
845-025-1080	1-1-2016	Adopt(T)	1-1-2016	845-025-5045	1-1-2016	Adopt(T)	1-1-2016
845-025-1090	1-1-2016	Adopt(T)	1-1-2016	845-025-5060	1-1-2016	Adopt(T)	1-1-2016
845-025-1100	1-1-2016	Adopt(T)	1-1-2016	845-025-5075	1-1-2016	Adopt(T)	1-1-2016
845-025-1115	1-1-2016	Adopt(T)	1-1-2016	845-025-5300	1-1-2016	Adopt(T)	1-1-2016
845-025-1115	1-1-2016	Amend(T)	2-1-2016	845-025-5350	1-1-2016	Adopt(T)	1-1-2016
845-025-1130	1-1-2016	Adopt(T)	1-1-2016	845-025-5500	1-1-2016	Adopt(T)	1-1-2016
845-025-1145	1-1-2016	Adopt(T)	1-1-2016	845-025-5520	1-1-2016	Adopt(T)	1-1-2016
845-025-1160	1-1-2016	Adopt(T)	1-1-2016	845-025-5540	1-1-2016	Adopt(T)	1-1-2016
845-025-1175	1-1-2016	Adopt(T)	1-1-2016	845-025-5560	1-1-2016	Adopt(T)	1-1-2016
845-025-1190	1-1-2016	Adopt(T)	1-1-2016	845-025-5580	1-1-2016	Adopt(T)	1-1-2016
845-025-1200	1-1-2016	Adopt(T)	1-1-2016	845-025-5590	1-1-2016	Adopt(T)	1-1-2016
845-025-1215	1-1-2016	Adopt(T)	1-1-2016	845-025-5700	1-1-2016	Adopt(T)	1-1-2016
845-025-1230	1-1-2016	Adopt(T)	1-1-2016	845-025-5720	1-1-2016	Adopt(T)	1-1-2016
845-025-1245	1-1-2016	Adopt(T)	1-1-2016	845-025-5740	1-1-2016	Adopt(T)	1-1-2016
845-025-1260	1-1-2016	Adopt(T)	1-1-2016	845-025-5760	1-1-2016	Adopt(T)	1-1-2016
845-025-1275	1-1-2016	Adopt(T)	1-1-2016	845-025-7000	1-1-2016	Adopt(T)	1-1-2016
845-025-1290	1-1-2016	Adopt(T)	1-1-2016	845-025-7020	1-1-2016	Adopt(T)	1-1-2016
845-025-1295	1-1-2016	Adopt(T)	1-1-2016	845-025-7020	2-23-2016	Amend(T)	4-1-2016
845-025-1300	1-1-2016	Adopt(T)	1-1-2016	845-025-7040	1-1-2016	Adopt(T)	1-1-2016
845-025-1400	1-1-2016	Adopt(T)	1-1-2016	845-025-7060	1-1-2016	Adopt(T)	1-1-2016
845-025-1410	1-1-2016	Adopt(T)	1-1-2016	845-025-7500	1-1-2016	Adopt(T)	1-1-2016
845-025-1420	1-1-2016	Adopt(T)	1-1-2016	845-025-7520	1-1-2016	Adopt(T)	1-1-2016

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845-025-7560	1-1-2016	Adopt(T)	1-1-2016	852-010-0015	4-1-2016	Amend	4-1-2016
845-025-7580	1-1-2016	Adopt(T)	1-1-2016	852-010-0080	4-1-2016	Amend	4-1-2016
845-025-7590	1-1-2016	Adopt(T)	1-1-2016	852-010-0080	4-8-2016	Amend	5-1-2016
845-025-7700	1-1-2016	Adopt(T)	1-1-2016	852-050-0006	4-1-2016	Amend	4-1-2016
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