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Supplements the 2016 *Oregon Administrative Rules Compilation*

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Published by
JEANNE P. ATKINS
Secretary of State

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, rulemaking 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 Adminstrative 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.

Administratrative 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 rulemaking 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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REQUEST FOR COMMENTS
PROPOSAL TO MAKE CHANGES IN THE STATE'S COORDINATED CARE ORGANIZATION (CCO) RATE-SETTING METHODOLOGY AND IMPROVE QUALITY INCENTIVES

COMMENTS DUE: April 1, 2016
PROPOSAL: The Oregon Health Authority (OHA) is proposing to request approval from the federal Department of Health and Human Services (HHS), Centers for Medicare and Medicaid Services (CMS) to make changes in the state's Coordinated Care Organization (CCO) rate-setting methodology so that it will better support and incentivize the use of health-related services as originally envisioned in Health Systems Transformation.

The state will seek CMS support to make it easier for CCOs to provide flexible services and Community Benefit Initiatives (CBIs) by asking CMS to provide the federal matching funds for these services at the same rate as they provide for medical services, rather than at the lower rate that is currently contributed by the federal government for administrative expenses.

The state will also ask CMS to approve the state's requiring CCOs to use alternative payment structures to provide incentives for quality performance by the providers with whom they contract, and to reinvest a portion of the savings generated by the use of flexible services into member care, rather than returning the savings to the state.
BACKGROUND: In July 2012, CMS approved a new 5-year extension of the 1115 Medicaid Demonstration that initiated Oregon's Health System Transformation, and the major goals of improving care and access for Oregon health plan members while achieving a reduction in the growth rate of OHP spending. In general, CCOs receive a global payment for each member. This provides them with the flexibility to offer a range of health and health-related services necessary to improve care delivery and member health.

Some CCOs are using **flexible services** and **community benefit initiatives (CBIs)** to address member and community needs. Flexible services, specifically authorized through the waiver, are cost-effective services offered instead of or as an adjunct to covered benefits (e.g., home modifications and healthy cooking classes). CBIs are community-level—as opposed to member-specific—interventions, such as investments in provider capacity and care management capabilities.

If approved, the requested changes will advance health system transformation goals as well as benefit Oregon Health Plan (OHP) members, local communities and the CCOs and providers that serve them. The full Concept Paper, *Global Budgets and Delivery System Improvements,* as submitted to CMS on February 9, 2016, is available for your review at: http://www.oregon.gov/oha/healthplan/pages/waiver.aspx.
EFFECTIVE DATE: July 1, 2016
HOW TO COMMENT: Send written comments by email, Fax or mail to:

Janna Starr, 1115 Demonstration Manager
Division of Medical Assistance Programs
500 Summer Street NE; Salem, Oregon 97301
Fax: 503-945-5872
Email: janna.starr@state.or.us

PUBLIC NOTICE
DEQ SELECTS CLEANUP APPROACH FOR EAST WHITAKER POND

PROJECT LOCATION: 5611 NE Columbia Boulevard, Portland, Oregon
ACTION: The Oregon Department of Environmental Quality selected the cleanup action for East Whitaker Pond (ECSI# 5455), within the Columbia Slough watershed. The selected remedial action includes a combination of soil removal, dredging of contaminated sediments and placement of a thin layer of clean material across the remainder of the pond. In some locations, the clean material will include an activated carbon amendment.
HIGHLIGHTS: During past Metro Metals Northwest, Inc. metal recycling operations, hazardous substance releases likely occurred to East Whitaker Pond as a result of historical contaminated stormwater runoff. Since 2008, stormwater from the facility is filtered and treated before discharging into the pond, with the exception of roof drains which currently discharge through a separate outfall.

The company performed a stormwater source control evaluation and sediment investigation in 2012 and 2013. Metals, petroleum constituents (PAHs) and PCBs were elevated in pond sediments. Chemical concentrations decrease from east to west with distance from the outfalls, with the exception of chromium, which is generally consistent across the pond. PCBs were detected at concentrations above the screening criteria across the pond.

The selected remedial action includes:

- Excavation and off-site disposal of soils above ecological risk based concentrations.
- Excavation and off-site disposal of sediment located in the eastern 170 feet of the pond.
- Placement of activated carbon-amended material between 170 and 800 feet from the east end of the pond to address moderate concentrations of PCBs remaining after dredging.
- Placement of a thin layer of clean material across the remainder of the pond bottom to enhance natural recovery.
- Confirmation sampling and long-term monitoring to evaluate the effectiveness of the remedial action.

PUBLIC REVIEW: DEQ issued a staff report describing the proposed cleanup for public comment in November 2015. DEQ received three comment letters and DEQ provided responses in the Record of Decision. The substantive comments were related to protecting sensitive species that may be present in East Whitaker Pond, clarification of the removal extent and activated carbon placement.

The remedy has been modified to include additional evaluation of sensitive species prior to implementing the remedial action and incorporate the results to minimize fish and wildlife impacts. Soil and sediment removal extent and activated carbon placement were clarified. The basic elements of the selected remedy however are the same as those proposed.
THE NEXT STEP: DEQ is working with Metro Metals Northwest, Inc. to develop a Remedial Design/Remedial Action plan which will specify a schedule for remedy implementation.

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#5455 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled ECSI #5455 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/Webdocs/Forms/Output/FPController.ashx?SourceIdType=11&SourceId=5455&Screen=Load.
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.

REQUEST FOR COMMENTS
PROPOSED PARTIAL CONDITIONAL NO FURTHER ACTION DETERMINATION FOR FORMER CAMPBELL DRY CLEANER SITE

COMMENTS DUE: 5 p.m., Friday March 31, 2016
PROJECT LOCATION: 817-819 N. Russell St., Portland
PROPOSAL: The Department of Environmental Quality proposes a partial conditional no further action determination for the former Campbell Dry Cleaner site. Multiple cleanup measures have resulted in indoor air quality that is now safe for building occupants. This proposed partial conditional no further action determination meets the requirements of Oregon Administrative Rules Chapter 340, Division 122, Sections 0010 to 0140 and Oregon Revised Statutes 465.200 through 465.455. The former Campbell Dry Cleaner build-

ing is repurposed as street-level retail space with a single-family residence on the second floor.

HIGHLIGHTS: Previous environmental investigations at the Campbell Dry Cleaners site identified soil, soil gas, and indoor air impacted with chlorinated volatile organic compounds (cVOCs), particularly the dry cleaning solvent, tetrachloroethene. Contaminants in the building crawl space were found to be entering the building exposing occupants to unacceptable levels of cVOCs in indoor air.

Remedial actions were performed to mitigate the risk posed by cVOC contamination to building occupants. DEQ oversaw removal of contaminated soil from the crawlspace beneath the former dry cleaning machine, installation of a vapor barrier above crawl space soils, improved building seals, and installation of a mechanical venting system to remove residual vapors from the building crawlspace. Following completion of these remedial actions, DEQ sampled indoor air and determined that remediation efforts have produced indoor air conditions safe for building occupants.

HOW TO COMMENT: Send comments to DEQ Project Manager Kenneth Thiessen at 700 NE Multnomah St., Suite 600, Portland, Oregon 97232. For more information, contact the project manager at 503-229-6015.

Find information about requesting a review of DEQ project files or the file review application form.

To access site summary information and other documents in the DEQ Environmental Cleanup Site Information database, select "Search complete ECSI database," then enter 5680 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled ECSI 5680 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=5680

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

THE NEXT STEP: Once the public comment period has closed DEQ will consider all comments before making a decision concerning the proposed no further action determination.

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 or 711 for people with hearing impairments.

REQUEST FOR COMMENTS PROPOSED CONDITIONAL NO FURTHER ACTION FOR THE FORMER LOOMIS WAREHOUSE SITE

COMMENTS DUE: 5 p.m., Thursday, March 31, 2016

PROJECT LOCATION: 955 N. Columbia Blvd, Portland, Oregon

PROPOSAL: To mitigate vapor intrusion risks from subsurface volatile organic compounds (VOC) contamination by using engineering controls. DEQ recommends a Conditional No Further Action for the property subject to maintaining an effective engineering control and related institutional controls. The proposed determination meets the requirements of Oregon Administrative Rules Chapter 340 Division 122, Sections 010 to 0140; and ORS 465.200 through 465.455.

HIGHLIGHTS: Releases of hazardous substances at the site are attributed to Loomis Chemical operations during its occupancy of a former warehouse from 1979 to 1986. Spills resulted in VOC contamination from chlorinated solvents, including trichloroethylene. Several phases of investigation have been completed since 1987 to determine the extent of contamination. A groundwater and soil gas plume is present beneath the site and offsite to the southwest. Groundwater contamination does not pose unacceptable risk under current uses but soil vapor concentrations require long term mitigation. To address this risk, a soil vapor extraction system was installed beneath an onsite building in 2011. The system has been demonstrated to effectively mitigate vapor intrusion risks for occupants of the building and to restore conditions protective for human health for current and reasonably likely future land use. DEQ proposes the interim engineering control consisting of the soil vapor extraction system, as a requirement of a Conditional No Further Action determination for the property. The system will continue to operate until it is determined by DEQ that the engineering control is no longer necessary.

HOW TO COMMENT: Send comments to DEQ Project Manager Erin McDonnell at 700 NE Multnomah Street, Suite 600, Portland, Oregon 97232, or mcdonnell.erin@deq.state.or.us. For more information, contact the project manager at 503-229-6900.

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 143 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled 143 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/Webdocs/Forms/Output/FPController.ashx?SourceIdType=11&SourceId=143.

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

THE NEXT STEP: DEQ will consider all public comments received within the public comment period and prior issuance of a conditional no further action determination.

ACCESSIBILITY INFORMATION: DEQ is committed to accommodating people with disabilities. Please notify DEQ of any special physical or language accommodations or if you need information in large print, Braille or another format. To make these arrangements, call DEQ at 503-229-5696 or toll free in Oregon at 800-452-4011; fax to 503-229-6762; or email to deqinfo@deq.state.or.us. People with hearing impairments may call 711.

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.*

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Board of Chiropractic Examiners
Chapter 811

Rule Caption: Amends two current rules to add Chiropractic Assistants to the fingerprint and background check requirement

Date:	Time:	Location:
3-17-16	8:30 a.m.	Morrow Crane Bldg. 3218 Pringle Rd. SE 2nd Flr. Large Conference Rm. Salem, OR 97302

Hearing Officer: Jason Young DC, OBCE President
Stat. Auth.: ORS 684.054, 684 100 & 684.155
Other Auth.: ORS 183
Stats. Implemented: ORS 684.054, 684 100 & 684.155
Proposed Amendments: 811-010-0084, 811-010-0110
Last Date for Comment: 3-17-16, Close of Hearing
Summary: Amends two current rules to add Chiropractic Assistants to the fingerprint and background check requirement
Rules Coordinator: Kelly J. Beringer
Address: Board of Chiropractic Examiners, 3218 Pringle Rd. SE, Suite 150, Salem, OR 97302
Telephone: (503) 373-1573

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Rule Caption: Amends rule to reflect use of a national testing agency to administer Oregon Examination

Date:	Time:	Location:
3-17-16	8:30 a.m.	Morrow Crane Bldg. 3218 Pringle Rd. SE 2nd Flr. Large Conference Rm. Salem, OR 97302

Hearing Officer: Jason Young DC, OBCE President
Stat. Auth.: ORS 684.050 & 684.052
Stats. Implemented: ORS 684.050 & 684.052
Proposed Amendments: 811-010-0085
Last Date for Comment: 3-17-16, Close of Hearing
Summary: Amends rule to reflect a change to using a national testing agency to administer a portion of the Oregon Specifics Examination
Rules Coordinator: Kelly J. Beringer
Address: Board of Chiropractic Examiners, 3218 Pringle Rd. SE, Suite 150, Salem, OR 97302
Telephone: (503) 373-1573

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Board of Licensed Professional Counselors and Therapists
Chapter 833

Rule Caption: License renewal; Healthcare Workforce Data Survey and fee requirement.

Date:	Time:	Location:
5-16-16	10 a.m.	3218 Pringle Rd. SE Salem, OR 97302

Hearing Officer: LaRee' Felton
Stat. Auth.: ORS 675.705–675.835 & 676.410
Stats. Implemented: ORS 675.715–675.720, 675.785 & 676.410
Proposed Amendments: 833-020-0101
Last Date for Comment: 5-16-16, 5 p.m.
Summary: Senate Bill 230 (SB 230) passed during the 2015 Regular Session and amended ORS 676.410. This added a requirement that certain healthcare workforce regulatory boards, including the Board of Licensed Professional Counselors and Therapists, collaborate with the Oregon Health Authority (OHA) and adopt rules that will require renewing licensees to provide specified information and pay a fee established by OHA. This proposed rule amendment implements SB 230 by requiring that licensed professional counselors and licensed marriage and family therapists, in order to complete their annual license renewal, must pay the fee established by OHA and complete the healthcare workforce data survey. This requirement will begin with renewals due in July of 2016. The proposed amendment also creates Board discretion to waive delinquent fees for late renewals, and makes other clarifications to the license renewal process.
Rules Coordinator: LaRee' Felton
Address: Board of Licensed Professional Counselors and Therapists, 3218 Pringle Rd. SE, Suite 250, Salem, OR 97302
Telephone: (503) 373-1196

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Rule Caption: Criminal background checks for renewing licensees.
Stat. Auth.: ORS 181.534, 675.705–675.835, 676.303
Stats. Implemented: ORS 181.534, 675.785, 676.303
Proposed Amendments: 833-120-0011
Last Date for Comment: 3-24-16, 5 p.m.
Summary: This proposed rulemaking removes the requirement that renewing licensed professional counselors, licensed marriage and family therapists, and registered interns complete a fingerprint-based criminal background check at least once every five years.
Rules Coordinator: LaRee' Felton
Address: Board of Licensed Professional Counselors and Therapists, 3218 Pringle Rd. SE, Suite 250, Salem, OR 97302
Telephone: (503) 373-1196

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Board of Pharmacy
Chapter 855

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

Date:	Time:	Location:
3-23-16	9:30 a.m.	800 NE Oregon St. Conference Rm. 1A Portland, OR 97232

Hearing Officer: Staff
Stat. Auth.: ORS 689.205
Stats. Implemented: ORS 689.005 & 689.683
Proposed Adoptions: 855-019-0400, 855-019-0405, 855-019-0410, 855-019-0415, 855-019-0420, 855-019-0425, 855-019-0430, 855-019-0435
Last Date for Comment: 3-23-16, 4:30 p.m.
Summary: Prescriptive Authority rules in OAR 855-019-0400 through 855-019-0435 are proposed for permanent rulemaking.

These rules are currently temporary rules. 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.

This draft rule and a complete page of information and resources on this topic, can be found on the Board's website at www.pharmacy.state.or.us.

Rules Coordinator: Karen MacLean
Address: Board of Pharmacy, 800 NE Oregon St., # 150, Portland, OR 97232
Telephone: (971) 673-0001

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Board of Psychologist Examiners
Chapter 858

Rule Caption: Healthcare workforce data survey and fee requirement for renewing licensees.

Date:	Time:	Location:
5-2-16	10 a.m.	3218 Pringle Rd. SE Salem, OR 97302

Hearing Officer: LaRee' Felton
Stat. Auth.: ORS 675.010–675.150 & 676.410
Stats. Implemented: ORS 675.110 & 676.410
Proposed Amendments: 858-010-0041
Last Date for Comment: 5-2-16, 5 p.m.
Summary: Senate Bill 230 (SB 230) passed during the 2015 Regular Session and amended ORS 676.410. This added a requirement that certain healthcare workforce regulatory boards, including the Board of Psychologist Examiners, collaborate with the Oregon Health Authority (OHA) and adopt rules that will require renewing licensees to provide specified information and pay a fee established by OHA. This proposed rule amendment implements SB 230 by requiring that licensed psychologists and psychologist associates, in order to complete their biennial license renewal, must pay the fee established by OHA and complete the healthcare workforce data survey. This requirement will begin with renewals due in July of 2016.
Rules Coordinator: LaRee' Felton
Address: Board of Psychologist Examiners, 3218 Pringle Rd. SE, Suite 130, Salem, OR 97302
Telephone: (503) 373-1196

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Rule Caption: Contested case hearings.

Date:	Time:	Location:
5-2-16	10 a.m.	3218 Pringle Rd. SE Salem, OR 97302

Hearing Officer: LaRee' Felton
Stat. Auth.: ORS 675.010–675.150, 676.175 & 183.341
Stats. Implemented: ORS 675.110, 676.175 & 183.341
Proposed Amendments: 858-020-0075
Last Date for Comment: 5-2-16, 5 p.m.
Summary: The proposed amendment clarifies that contested case hearings are closed to the public. There is also a correction to a statute reference.
Rules Coordinator: LaRee' Felton
Address: Board of Psychologist Examiners, 3218 Pringle Rd. SE, Suite 130, Salem, OR 97302
Telephone: (503) 373-1196

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Rule Caption: Application for licensure; consequence for failure to disclose arrest or conviction.

Date:	Time:	Location:
5-2-16	10 a.m.	3218 Pringle Rd. SE Salem, OR 97302

Hearing Officer: LaRee' Felton
Stat. Auth.: ORS 675.010–675.150
Stats. Implemented: ORS 675.070
Proposed Amendments: 858-010-0020
Last Date for Comment: 5-2-16, 5 p.m.
Summary: The proposed amendment requires that applications for licensure not make omissions or false, misleading or deceptive statements on any Board application form, establishes a minimum $200 civil penalty for failure to disclose an arrest or conviction, and prohibits an application from being approved until Board ordered conditions are met.
Rules Coordinator: LaRee' Felton
Address: Board of Psychologist Examiners, 3218 Pringle Rd. SE, Suite 130, Salem, OR 97302
Telephone: (503) 373-1196

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Board of Tax Practitioners
Chapter 800

Rule Caption: Amend OAR 800-020-0025 to repeal $10 temporary fee decrease enacted in 2013.

Date:	Time:	Location:
3-10-16	10 a.m.	3218 Pringle Rd. SE #120 Salem, Oregon 97302

Hearing Officer: Heather Shepherd
Stat. Auth.: ORS 673.685
Stats. Implemented: ORS 673.605–673.740
Proposed Amendments: 800-020-0025
Last Date for Comment: 3-17-16, Close of Business
Summary: Proposed amendments to increase annual licensing and registration fees by $10. A temporary fee reduction of $10 was implemented in 2013.

The agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

Public comments or questions may be submitted in writing. Written comments may be submitted via email tax.bd@oregon.gov; fax 503-585-5797; or mailing to Heather Shepherd, Compliance Specialist, Oregon Board of Tax Practitioners, 3218 Pringle Rd SE #120, Salem, OR 97302. Questions may also be directed to Ms. Shepherd at 503-378-4860, or by calling the Board office at 503-378-4034.
Rules Coordinator: Heather Shepherd
Address: Board of Tax Practitioners, 3218 Pringle Rd. SE, Suite 120, Salem, OR 97302
Telephone: (503) 378-4860

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Department of Agriculture
Chapter 603

Rule Caption: Defines colonies, adds a fee for each beehive.

Date:	Time:	Location:
3-15-16	10 a.m.	Agriculture Bldg. Conference Rm. D 635 Capitol St. NE Salem, OR

Hearing Officer: Staff
Stat. Auth.: ORS 561.190 & 602.090
Stats. Implemented: ORS 602.090
Proposed Adoptions: 603-055-0200
Proposed Amendments: 603-055-0100
Last Date for Comment: 3-22-16, 5 p.m.
Summary: House Bill 3362 from 78th Oregon Legislative Assembly-2015 Regular Session, Section 2 requires amending ORS 602.090 and amending the apiary registration fee rule to add annual fees for each beehive for beekeeper with more than five beehives.
Rules Coordinator: Sue Gooch
Address: Department of Agriculture, 635 Capitol St. NE, Salem, OR 97301
Telephone: (503) 986-4583

Department of Consumer and Business Services,
Director's Office
Chapter 440

Rule Caption: Repeals DCBS rule to streamline criminal records requirement and use statewide DADS amended rule
Stat. Auth.: ORS 181.435 & 705.135
Other Auth.: HB 2250 (2015)
Stats. Implemented: ORS 705.141 & 181.534
Proposed Repeals: 440-007-0200, 440-007-0210, 440-004-0230, 40-007-0240, 440-007-0250, 440-007-0260, 440-007-0270, 440-007-0272, 440-007-0275, 440-007-0280, 440-007-0285, 440-007-0290, 440-007-0300
Last Date for Comment: 3-29-16, Close of Business
Summary: Repeals existing DCBS-specific administrative rules relating to criminal records checks in order for the agency to follow DAS administrative rules.
Rules Coordinator: Jenny Craig
Address: Department of Consumer and Business Services, Director's Office, PO Box 14480, Salem, OR 97309-0405
Telephone: (503) 947-7866

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Department of Consumer and Business Services,
Health Insurance Marketplace
Chapter 945

Rule Caption: 2017 Health Insurance Marketplace Qualified Health Plan and Stand Alone Dental Plan Annual Assessment Rates

Date:	Time:	Location:
3-23-16	10 a.m.	350 Winter St. NE, Rm. 260 Salem, OR 97301 Dial-in: 1 (562) 247-8422 Attendee Access Code: 737-386-609

Hearing Officer: Victor Garcia
Stat. Auth.: ORS 741.102
Stats. Implemented: ORS 741.105
Proposed Amendments: 945-030-0030
Proposed Repeals: 945-030-0035
Last Date for Comment: 3-30-16, 12 p.m.
Summary: The amendment to OAR 945-030-0030 consolidates the rules for the 2015 and 2016 assessments for qualified health plans and stand alone dental plans into one rule and establishes the assessment rate for qualified health plans and stand alone dental plans for 2017. OAR 945-030-0035 is repealed because the substance of the rule is being consolidated into OAR 945-030-0030.
Rules Coordinator: Victor Garcia
Address: Department of Consumer and Business Services, Health Insurance Marketplace, 350 Winter St. NE, Salem, OR 97301
Telephone: (971) 283-1878

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Department of Fish and Wildlife
Chapter 635

Rule Caption: Confederated Tribes of the Grand Ronde Community of Oregon Ceremonial Fishery.

Date:	Time:	Location:
4-22-16	8 a.m.	Bandon Conference and Community Center 1200 11th St. SW Bandon, OR 97411

Hearing Officer: Oregon Fish and Wildlife Commission
Stat. Auth.: ORS 497.075, 496.138, 506.036, 506.109, 506.119, 506.129
Stats. Implemented: ORS 506.109, 506.129 & 508.111
Proposed Adoptions: Rules in 635-017, 635-041
Proposed Amendments: Rules in 635-017, 635-041
Proposed Repeals: Rules in 635-017, 635-041
Last Date for Comment: 4-22-16, Close of Hearing
Summary: 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
Address: Department of Fish and Wildlife, 4034 Fairview Industrial Dr. SE, Salem, OR 97302
Telephone: (503) 947-6044

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Rule Caption: Amendments Regarding Harvest of Game Birds, Season Dates, Open Areas, Bag Limits and Hunting Preserves

Date:	Time:	Location:
4-22-16	8 a.m.	Bandon Conference and Community Center 1200 11th St. SW Bandon, OR 97411

Hearing Officer: ODFW Commission
Stat. Auth.: ORS 496.012, 496.138, 496.146, 496.162 & 498.002
Stats. Implemented: ORS 496.012, 496.138, 496.146, 496.162 & 498.002
Proposed Amendments: Rules in 635-008, 635-045, 635-047, 635-051, 635-052, 635-053, 635-054, 635-060
Last Date for Comment: 4-22-16, Close of Hearing
Summary: 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
Address: Department of Fish and Wildlife, 4034 Fairview Industrial Dr. SE, Salem, OR 97302
Telephone: (503) 947-6044

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Rule Caption: Amend rules implementing ORS 496.750, Wildlife Violator Compact.

Date:	Time:	Location:
4-22-16	8 a.m.	Bandon Conference and Community Center 1200 11th St. SW Bandon, OR 97411

Hearing Officer: ODFW Commission
Stat. Auth.: ORS 496.750
Stats. Implemented: ORS 496.750
Proposed Amendments: 635-001-0210
Last Date for Comment: 4-22-16, Close of Hearing
Summary: This amendment is needed to clarify the rule implementing the Wildlife Violator Compact ORS 496.750.
Rules Coordinator: Michelle Tate
Address: Department of Fish and Wildlife, 4034 Fairview Industrial Dr. SE, Salem, OR 97302
Telephone: (503) 947-6044

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Rule Caption: Approve rules and adopt Coquille Valley Wildlife Area Management Plan

Date:	Time:	Location:
4-22-16	8 a.m.	Bandon Conference and Community Center 1200 11th St. SW Bandon, OR 97411

Hearing Officer: ODFW Commission

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Proposed Amendments: 635-008-0068
Last Date for Comment: 4-22-16, Close of Hearing
Summary: 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
Address: Department of Fish and Wildlife, 4034 Fairview Industrial Dr. SE, Salem, OR 97302
Telephone: (503) 947-6044

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Rule Caption: Salmon Seasons for Commercial and Sport Fisheries In the Pacific Ocean.

Date:	Time:	Location:
4-22-16	8 a.m.	Bandon Conference and Community Center 1200 11th St. SW Bandon, OR 97411

Hearing Officer: ODFW Commission
Stat. Auth.: ORS 496.138, 496.146, 506.119 & 506.750 et Seq.
Other Auth.: Magnuson-Stevens Sustainable Fisheries Act.
Stats. Implemented: ORS 496.162, 506.129 & 506.750 et Seq.
Proposed Adoptions: Rules in 635-003, 635-013
Proposed Amendments: Rules in 635-003, 635-013
Proposed Repeals: Rules in 635-003, 635-013
Last Date for Comment: 4-22-16, Close of Hearing
Summary: Amend rules related to commercial and sport salmon fishing in the Pacific Ocean within Oregon State jurisdiction. Housekeeping and technical corrections to the regulations may occur to ensure rule consistency.
Rules Coordinator: Michelle Tate
Address: Department of Fish and Wildlife, 4034 Fairview Industrial Dr. SE, Salem, OR 97302
Telephone: (503) 947-6044

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Rule Caption: Amend Rules for Sport and Commercial Halibut Fisheries.

Date:	Time:	Location:
4-22-16	8 a.m.	Bandon Conference and Community Center 1200 11th Street SW Bandon, OR 97411

Hearing Officer: Oregon Fish and Wildlife Commission.
Stat. Auth.: ORS 496.138, 496.146, 496.162, 497.121, 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 496.004, 496.009, 496.162, 506.109, 506.129 & 508.306
Proposed Adoptions: Rules in 635-004, 635-039
Proposed Amendments: Rules in 635-004, 635-039
Proposed Repeals: Rules in 635-004, 635-039
Last Date for Comment: 4-22-16, Close of Hearing
Summary: 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
Address: Department of Fish and Wildlife, 4034 Fairview Industrial Dr. SE, Salem, OR 97302
Telephone: (503) 947-6044

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Department of Human Services,
Child Welfare Programs
Chapter 413

Rule Caption: Amending rules relating to child support referrals for parents of children in substitute care

Date:	Time:	Location:
3-21-16	11 a.m.	500 Summer St. NE, Rm. 257 Salem, OR 97301

Hearing Officer: Kris Skaro
Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 109.010, 109.015, 418.005 & 418.032
Proposed Amendments: 413-100-0800, 413-100-0810, 413-100-0820, 413-100-0830
Proposed Repeals: 413-100-0840, 413-100-0850
Last Date for Comment: 3-23-16, 11 a.m.
Summary: The Department is proposing to update its rules governing child support referrals. Parents of children placed in substitute care with the Department may be required by law to pay child support in some circumstances. The rules governing this process are being updated and consolidated to improve organization and clarity for both internal and external stakeholders; no substantive policy changes are being proposed.

Rule text showing edits for the rules described above is available at http://www.dhs.state.or.us/policy/childwelfare/drafts/drafts.htm.
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 the TANF (Temporary Assistance for Needy Families) program

Date:	Time:	Location:
3-21-16	1 p.m.	500 Summer St. NE, Rm. 252 Salem, OR 97301

Hearing Officer: Kris Skaro
Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.095, 412.006, 412.009, 412.049, 412.079, 412.124 & 2015 OL Ch. 765
Stats. Implemented: ORS 409.10, 409.050, 411.060, 411.070, 411.081, 411.087, 411.095, 412.001, 412.006, 412.009, 412.049, 412.079 & 2015 OL Ch. 765
Proposed Adoptions: 461-135-0071, 461-135-0073, 461-135-1270
Proposed Amendments: 461-001-0000, 461-001-0025, 461-110-0210, 461-110-0630, 461-110-0750, 461-120-0210, 461-120-0340, 461-130-0310, 461-130-0315, 461-130-0327, 461-135-0070, 461-135-0075, 461-135-0475, 461-135-0485, 461-135-1250, 461-145-0410, 461-155-0020, 461-155-0030, 461-155-0150, 461-155-0180, 461-160-0100, 461-165-0030, 461-170-0011, 461-175-0200, 461-175-0210, 461-175-0300, 461-180-0050, 461-190-0406
Proposed Repeals: 461-125-0010, 461-125-0030, 461-125-0050, 461-125-0060, 461-125-0090, 461-125-0110, 461-125-0120, 461-125-0130, 461-125-0170, 461-125-0230, 461-125-0250, 461-125-0255, 461-135-0087
Last Date for Comment: 3-23-16, 5 p.m.
Summary: The Department is proposing several changes to the TANF (Temporary Assistance for Needy Families) program, most of which are to comply with HB 3535 (Oregon Laws 2015, chapter 765) which:

- Provides $225 in transition payments (called Employment Payments) for up to three months to families exiting TANF under certain circumstances;
- Increases the income limit for families exiting TANF;
- Reduces the ERDC copay to $27 for three months for parents transitioning to employment;
- Expands the definition of caretaker relative to allow additional relatives to care for children in the absence of a parent; and
- Removes the requirement that a child must be deprived of parental support based on parental absence, incapacity, or under employment or unemployment to be eligible to receive TANF.

The changes are described in detail below and rule text showing proposed changes is available at http://www.dhs.state.or.us/policy/selfsufficiency/ar_proposed.htm.

OAR 461-001-0000 about definitions for rules in OAR chapter 461 is being amended to:

- Expand the definition of "caretaker relative" in the Pre-TANF, SFPSS, and TANF programs to include half-blood relatives of the child, individuals of preceding generations as denoted by prefixes of grand, great, or great-great, and individuals related through adoption consistent with section 10 of HB 3535; and

- Clarify the definition of "parent" to state that it includes the biological mother of an unborn child or the biological, step, or adoptive mother or father of a child.

OAR 461-001-0025 about definitions of terms, components, and activities in the JOBS, Pre-TANF, Post-TANF, and TANF programs is being amended to define "Employment Payments" as a three-month transitional payment to participants who are employed and no longer eligible for Pre-TANF, SFPSS, or TANF due to earnings.

OAR 461-110-0210 about household groups is being amended to state when an individual remains in the household group in the TANF program despite being absent from the household. Specifically, if an individual who would otherwise be included in the household group is absent for up to 60 days solely due to the regulations of a homeless or domestic violence shelter or other circumstances beyond the individual's control, that individual is still considered in the household group.

OAR 461-110-0630 about need groups is being amended to clarify who is in the need group in the Pre-TANF and TANF programs. Specifically, all members of the financial group (see OAR 461-110-0530) are included in the need group except a parent who is in foster care and receiving foster care payment or an unborn child.

OAR 461-110-0750 about benefit groups is being amended to clarify which individuals are not included in the benefit group for the TANF program. Specifically, the following individuals are not included:

- An individual who is removed for a disqualification penalty, for an intentional program violation, or because they reached the 6-month time limit in OAR 461-135-0071 and do not meet the criteria for an extension;

- A fleeing felon;

- An individual violating a condition of parole, probation, or post-prison supervision;

- An individual who does not meet the citizenship and alien status requirements in OAR 461-120-0110; or

- An individual who chooses not to receive benefits.

OAR 461-120-0210 about the requirement to provide a Social Security Number (SSN) is being amended to clarify that a TANF client may receive benefits while verification of SSN is pending as long as verification of application for a SSN is provided and the SSN is provided within six months of initial TANF approval or by the end of the certification period, whichever is sooner. This is consistent with current practice which is to have the client apply for the SSN, open TANF, and then provide the SSN once received.

OAR 461-120-0340 about TANF clients who are required to help the Department obtain support from the noncustodial parent is being amended to add that clients receiving Employment Payments are not subject to the requirement to help the Department obtain support.

OAR 461-125-0010, 461-125-0030, 461-125-0050, 461-125-0060, 461-125-0090, 461-125-0110, 461-125-0120, 461-125-0130, 461-125-0170, 461-125-0230, 461-125-0250, and 461-125-0255 are being repealed. All of these rules relate to the deprivation requirement in the TANF program. The deprivation requirement in ORS 412.001 is repealed by section 10 of HB 3535. Additionally, references to deprivation in OAR 461-135-1250, 461-180-0050, and 461-190-0406 are being removed.

OAR 461-130-0310 about employment participation classifications is being amended to state that an individual receiving Employment Payments is considered a volunteer. A clarification is also made relating to when a pregnant individual is exempt from employment program participation to align with state statutes regarding pregnancy exemptions.

OAR 461-130-0315 about requirements for mandatory employment program clients is being amended to remove the requirement to maintain employment in the TANF program. Maintaining employment is a TANF eligibility requirement covered in OAR 461-135-0070 described below.

OAR 461-130-0327 about good cause relating to participation in employment program activities is being amended to make the rule applicable to the requirement to attend substance abuse or mental health evaluation or treatment under OAR 461-135-0085. Good cause for not attending substance abuse or mental health evaluation or treatment was addressed in OAR 461-135-0087 but that rule is being repealed and will now be covered by this rule.

OAR 461-135-0070 about specific requirements of the TANF program is being amended to:

- Add a condition of TANF eligibility for clients whose TANF benefits closed within the prior three months with an active level 1 through 4 disqualification or were closed under OAR 461-130-0330(3)(d). These clients must demonstrate two-consecutive weeks of participation in appropriate activities before TANF may be opened unless the client is exempt from JOBS participation and disqualification under OAR 461-130-0310(2).

- Clarify what qualifies as "good cause" for quitting a job or voluntarily reducing work hours.

- Clarify that the current provision which states that a need group is not eligible for TANF for 120 days from the date a caretaker relative was separated from employment is applicable at initial application, recertification, and is a condition ongoing TANF eligibility.

- State that an individual who is pregnant and in the last month of pregnancy or experiencing medical complications due to pregnancy will not lose benefits under section (3) of the rule. Section (3) of the rule provides that a need group is not eligible for TANF benefits for 120 days from the date a caretaker relative was separated from employment.

OAR 461-135-0071 and 461-135-0073 are being adopted and OAR 461-135-0075 is being amended to update the TANF time limit rules consistent with ORS 412.079 as amended by section 19 of HB 3535. Specifically:

- OAR 461-135-0071 is being adopted to state the general information about the TANF time limit, namely that a minor parent head of household or needy caretaker relative is limited to 60 months of TANF benefits except as provided in OAR 461-135-0073 and 461-135-0075. The time limit was previously in OAR 461-135-0075 but is moved into its own rule.

- OAR 461-135-0073 is being adopted to establish criteria for an individual to receive an extension of the 60-month TANF time limit. Criteria includes being unable to obtain or maintain employment because the individual: is a victim of domestic violence; has a learning disability; has a mental health condition or alcohol or drug abuse problem; has a disability; has a child with a disability; is deprived of needed medical care; or is subjected to battery or extreme cruelty. The rule also allows current benefits to continue if the client is completing a JOBS Plus agreement or has a short-term crisis that warrants the Department to approve an extension.

- OAR 461-135-0075 about exemptions to the TANF time limit is being amended to add a subsection that a month in which a minor parent head of household or adult is a recipient of Employment Payments does not count toward the accrual of the 60-month time limit unless the individual received TANF during the same month. This rule is also reorganized and information about the general 60-month TANF time limit is moved into a new rule, OAR 461-135-0071 described above.

OAR 461-135-0475 about the requirements of the Pre-TANF program is being amended to state that Pre-TANF may be closed when the client becomes employed and eligible to receive Employment Payments.

OAR 461-135-0485 about the requirement to complete an employability screening and overview of the JOBS Program is being amended so that the rule applies to the Pre-TANF program.

OAR 461-135-1270 is being adopted to establish the requirements for clients to receive Employment Payments for three months after TANF benefits close due to earnings, as required by ORS 412.124 as amended by section 6 of HB 3535. To be eligible, a client must become employed and become over income for Pre-TANF, SFPSS, or TANF due to an increase in earned income from unsubsidized paid employment. The payment is $225 and is issued over three months ($100 in the first month, $75 in the second month, and $50 in the third month). The rule also states that while receiving an employment payment, the client is not eligible for JOBS Plus or JPI and that eligibility ends when the individual becomes eligible for Pre-TANF, SFPSS, or TANF.

OAR 461-145-0410 about how program benefits are treated is being amended to state how Employment Payments are treated when determining eligibility for other programs. Specifically, these payments are counted as unearned income in the month received in the REF, REFM, SNAP, and TANF programs and are excluded in all other programs.

OAR 461-155-0020 about prorated standards is being amended to change references to "need group" to "benefit group" when referencing prorated standards in the TANF program.

OAR 461-155-0030 about income and payment standards is being amended in its entirety to clarify the rule; update terminology; update and add tables; make clarifications regarding which sections apply to which groups; and add a new section with a higher countable income limit (the Exit Limit Increase) that will apply to current REF and TANF recipients who gain employment or to reopen closed REF or TANF benefits within 30 days of closure due to earned income.

OAR 461-155-0150 about income eligibility standards, payment rates, and copay amounts in the ERDC (Employment Related Day Care) program is being amended to state that a client's copay is $27 during the first three months after closure of Pre-TANF, SFPSS, or TANF benefits when the closure is due to going over income and the client is eligible for ERDC.

OAR 461-155-0180 about income standards is being amended to add a section for 350 percent of the FPL, which is the income standard for eligibility for Employment Payments (see new OAR 461-135-1270 described above).

OAR 461-160-0100 about how income affects eligibility and benefits in the REF and TANF programs is being amended to clarify how countable and adjusted income are compared to the standards in OAR 461-155-0030 to determine eligibility and calculate the benefit amount.

OAR 461-165-0030 about receiving benefits from more than one program concurrently is being amended to state that a client receiving Employment Payments who becomes eligible for TANF may receive both benefits in the same month and a client receiving JPI (Job Participation Incentive) who becomes eligible for Pre-TANF or TANF may receive both benefits in the same month.

OAR 461-170-0011 about changes that must be reported is being amended to state that TANF clients must report a job separation, rather than job status, within 10 days.

OAR 461-175-0210 about the notice situation when a client moves or the client's whereabouts is unknown is being amended to state that no decision notice is required for Employment Payments if the Department determines that the benefit group has moved out of Oregon or if Department mail or benefits have been returned with no forwarding address.

OAR 461-175-0300 about the notice requirements when prior notice has been given is being amended to clarify that the Department does not send an additional decision notice to end Employment Payments, the three-month reduced ERDC copay after the closure of Pre-TANF, SFPSS, or TANF benefits due to earned income (see amendment to OAR 461-155-0150 described above), or TA-DVS when a decision notice was previously given that included the eligibility start and end dates and the eligibility period ends or, in the case of Employment Payments, eligibility ends because the individual becomes eligible for TANF. OAR 461-175-0200 about general information about notice situations is also being amended to move the provision regarding prior notice for TA-DVS to the prior notice rule and add a cross-reference to that rule in the section that describes when no decision notice is required.

In addition, non-substantive edits may be made 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; remove unnecessary language; improve ease of reading; and clarify Department rules and processes.

Rule text showing edits 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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Rule Caption: Amending rules relating to time limits for some SNAP clients

Date:	**Time:**	**Location:**
3-21-16	1 p.m.	500 Summer St. NE, Rm. 252 Salem, OR 97301

Hearing Officer: Kris Skaro

Stat. Auth.: ORS 411.060, 411.070, 411.121 & 411.816

Other Auth.: Food and Nutrition Act of 2008 - 7 USC 2015(o), 7 USC 2020(s)(5), 7 CFR 273.7, 7 CFR 273.24, 7 CFR 273.26-32

Stats. Implemented: ORS 411.060, 411.070, 411.121, 411.816, 411.825 & 411.837

Proposed Adoptions: 461-190-0500

Proposed Amendments: 461-001-0020, 461-130-0310, 461-130-0330, 461-130-0335, 461-135-0506, 461-135-0520, 461-190-0310, 461-190-0360

Proposed Repeals: 461-130-0310(T), 461-135-0506(T), 461-135-0520(T), 461-190-0360(T), 461-190-0500(T)

Last Date for Comment: 3-23-16, 5 p.m.

Summary: Effective January 1, 2016, the Department implemented a three-month limit on SNAP benefits for ABAWD (able-bodied adults without dependents) clients residing in Multnomah and Washington counties who are not otherwise exempt. (Oregon's statewide waiver of this federal requirement expired December 31, 2015. The new waiver excludes all reservations and counties in Oregon, except Multnomah and Washington.) The Department is proposing to adopt and amend rules to support SNAP policies regarding ABAWD clients subject to the time limit who must meet work requirements to receive SNAP benefits beyond the three-month time limit. The changes are described in more detail below and rule text showing edits is available at http://www.dhs.state.or.us/policy/selfsufficiency/ar_proposed.htm.

OAR 461-001-0020 about SNAP employment and training definitions is being amended to expand the employment and training definitions beyond OFSET and to include all SNAP employment and training programs. It is also being amended to: update the Workforce Investment Act to the new title; add definitions for "case management", "work experience", and "job retention"; update the definition of "education"; and add reference to Workfare.

OAR 461-130-0310 about participation classifications is being amended to make permanent a temporary rule adopted on January 1, 2016 that exempted chronically homeless individuals from employment program participation in the SNAP program. An individual is considered chronically homeless if an individual is currently homeless and one of the following applies:

- The individual has been homeless for more than six months.

- The individual has been homeless more than one time in the last year.

- The individual states that the individual is unable to meet the basic necessities of everyday life.

OAR 461-130-0330 about SNAP employment program disqualifications is being amended to indicate that employment and training disqualifications apply to the ABAWD client only when they quit a job or reduce their work effort.

OAR 461-130-0335 about removing disqualifications is being amended to include how an individual disqualified under 461-130-0330 may have the disqualification lifted.

OAR 461-135-0506 about Transitional Benefit Alternative (TBA) is being amended to state that a household may not participate in TBA if a member of the financial group becomes ineligible for the SNAP program because of the time limit for ABAWD clients living in Multnomah and Washington counties. This makes permanent temporary changes adopted on January 1, 2016.

OAR 461-135-0520 about eligibility requirements for ABAWD clients is being amended to add participation in Workfare (see new Workfare rule OAR 461-190-0500 described below) as an option for ABAWD clients to meet the work participation requirements for continued receipt of SNAP benefits. This makes permanent a temporary rule adopted on February 5, 2016.

OAR 461-190-0310 about limits to SNAP employment and training components and activities is being amended to state that the OFSET program in Multnomah and Washington counties ended effective November 30, 2015 (this policy was adopted by temporary rule on November 30, 2015 in OAR 461-190-0360 but is being permanently adopted in this rule) and that OFSET services are not offered to clients served by the APD or AAA SNAP offices. The rule is also amended to state the limits on the work requirements for ABAWD clients residing in Multnomah and Washington counties.

OAR 461-190-0360 about special payments for SNAP employment and training programs is being amended to state when a client may be eligible to receive special payments to help meet the requirements of the case plan. The amendments also clarify limitations on the payments and state when payments may be reduced, closed, or denied.

OAR 461-190-0500 is being adopted to establish the requirements for Workfare. Workfare is an employment program open to ABAWD clients who reside in Multnomah or Washington counties to meet the work requirements of OAR 461-135-0520. This makes permanent a temporary rule adopted on February 5, 2016.

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.

Written comments may be submitted until Wednesday, March 23, 2016 at 5:00 p.m. via email to kris.a.skaro//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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Rule Caption: Amending rule relating to child care provider rates

Stat. Auth.: ORS 409.050, 411.060, 411.070 & 411.816

Stats. Implemented: ORS 409.010, 409.050, 409.610, 411.060, 411.070, 411.122, 411.141 & 2015 OL Ch. 760

Proposed Amendments: 461-155-0150

Proposed Repeals: 461-155-0150(T)

Last Date for Comment: 3-23-16, 5 p.m.

Summary: OAR 461-155-0150 about child care eligibility standard, payment rates, and copayments is being amended to implement rate increases negotiated between the Department and the AFSCME and SEIU child care provider unions. See amended rule text to see specific rate changes based on type of provider, location of provider, age of the child, and type of billing. This makes permanent temporary rules adopted on January 1, 2016 and March 1, 2016.

Rule text showing proposed edits 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: Updating the maximum allowable child care costs

Stat. Auth.: ORS 25.270–25.290, 180.345

Stats. Implemented: ORS 25.270–25.290

Proposed Amendments: 137-050-0735

Last Date for Comment: 3-22-16, 5 p.m.

Summary: OAR 137-050-0735 is amended to update the maximum allowable child care costs by provider location in accordance with OAR 461-155-0150.

Please submit written comments by 5:00 p.m. Tuesday, March 22, 2016, 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

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Department of Public Safety Standards and Training
Chapter 259

Rule Caption: Updates and clarifies training requirements for armed private security professionals and firearms private security instructors.

Stat. Auth.: ORS 181A.870

Stats. Implemented: ORS 181A.870

Proposed Amendments: 259-060-0060, 259-060-0120, 259-060-0135

Last Date for Comment: 3-21-16, Close of Business

Summary: Current Oregon Administrative Rule (OAR) requires that all certified armed private security professionals complete an annual armed refresher course, which includes the refresher course, exam, and firearms marksmanship requalification. Further, firearms private security instructors must successfully complete an annual firearms instructor marksmanship qualification.

This proposed rule change updates the rule language to state that the certification of armed private security professionals and firearms private security instructors who fail to complete their required annual training within 90 days of their certification anniversary date will be subject to revocation. This proposed rule change also clarifies that armed private security professionals or firearms private security instructors who have not held certification as an armed private security professional or firearms private security instructor for over 90 days must complete basic training in its entirety.

Further, armed private security professionals who fail to complete the annual firearms marksmanship requalification and refresher course by the anniversary date of their armed certification are prohibited from performing armed private security services until the required training is successfully completed.

Additionally, armed private security professionals who fail to complete the annual firearms marksmanship requalification and refresher course within 90 days after their armed certification anniversary date will be required to complete the entire basic firearms course. Housekeeping has also been performed for consistency.

Rules Coordinator: Sharon Huck

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

Telephone: (503) 378-2432

Rule Caption: Adds requirements for private investigators regarding advertising and contracts (HB 3487 and legislative direction).
Stat. Auth.: ORS 703.430, 703.450 & 703.480
Stats. Implemented: ORS 703.430, 703.450 & 703.480
Proposed Amendments: 259-061-0018, 259-061-0300
Last Date for Comment: 3-21-16, Close of Business
Summary: This proposed rule change amends OAR 259-061-0018 and OAR 259-061-0300 to comply with the provisions of HB 3487, which was signed by the Governor on June 2, 2015. This bill restored language in Oregon Revised Statute (ORS) that requires that private investigators list their DPSST license number in all advertisements for investigatory services.

Further, at the request of the legislature, this proposed rule change also adds the requirement that all contracts for investigatory services contain the private investigator's name and DPSST number. It also clarifies the private investigator conduct requirements (ORS 703.450) and provides housekeeping.
Rules Coordinator: Sharon Huck
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: Amends rule language regarding private investigator inactive status; removes $50.00 inactive status application fee.
Stat. Auth.: ORS 703.480
Stats. Implemented: ORS 703.445 & 703.480
Proposed Amendments: 259-061-0010, 259-061-0160
Proposed Repeals: 259-061-0170, 259-061-0250
Last Date for Comment: 3-21-16, Close of Business
Summary: On April 30, 2015, DPSST filed a proposed rule change regarding clarifying the statutory requirements regarding private investigator inactive status. The rule change was initiated by the Private Investigator Subcommittee after their review of Oregon Revised Statutes regarding inactive status. The subcommittee determined that "Inactive" is license status, rather than an actual license. Entering into inactive status has no effect on the licensure period or renewal timelines. A private investigator's license expires two years after the initial issuance date, as required by statute.

Further, the current rule language in OAR 259-061-0250 (1), which states that the Department will review a licensee's re-activation application and determine, on a case-by-case basis, the number of continuing education hours that will be required prior to approving active status is beyond DPSST's statutory authority. ORS 703.447 (1)(a) states that, "An investigator issued a private investigator's license must complete at least 32 hours of continuing education every two years." ORS 703.447 (1) (b) states, "An investigator issued a provisional investigator's license must complete at least 40 hours of continuing education every two years." There is no provision in statute for pro-rating or adjusting the continuing education requirements.

The proposed rule change combined all the inactive status requirements under OAR 259-061-0160 and repealed 259-061-0170 and 259-061-0250, as well as housekeeping.

The proposed rule change opened for public comment on June 1, 2015. On June 21, 2015, a public comment was received opposing the $50.00 fee for applying for inactive status.

During meetings on July 28, 2015, and August 18, 2015, the Private Investigator Subcommittee reviewed the public comment and DPSST staff research regarding the inactive status administrative process.

The subcommittee decided it would be appropriate to remove the $50.00 inactive status application fee. The subcommittee also determined that the $50.00 application fee for reactivation from inactive status to active status was still appropriate. The rest of the proposed rule language filed on April 30, 2015, was not changed.
Rules Coordinator: Sharon Huck
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: Adds reserve officers to the statutory definition of public safety personnel (SB 239).
Stat. Auth.: ORS 181A.410 & 183.341
Stats. Implemented: ORS 181A.410 & 183.341
Proposed Amendments: 259-008-0005, 259-008-0010, 259-008-0015, 259-008-0020
Last Date for Comment: 3-21-16, Close of Business
Summary: A recent revocation case involving a certified police officer and non-certified reserve officer brought to light the lack of the Board on Public Safety Standards and Training (Board) and the Department of Public Safety Standards and Training's (DPSST) ability to require that agencies conduct a background check on sworn, non-certified reserve officers prior to employment or utilization as a reserve officer.

Though DPSST, in consultation with the Board, has the authority to set and enforce minimum standards for certified reserve officers, the certified reserve officer program has never been funded. Currently, there is a population of reserve officers who are sworn, but not subject to the same minimum employment standards as all other public safety officers in Oregon.

On April 24, 2014, the Board requested that a legislative concept be filed that would give the Board authority to require agencies employing or utilizing reserve officers to conduct a background check, pursuant to OAR 259-008-0015, prior to employment or utilization.

The resulting Senate Bill (SB 239) added reserve officers to the statutory definition of public safety personnel, allowing the Board and the DPSST to set and enforce minimum standards for the employment and utilization of reserve officers. The bill was signed into law by the Governor on May 20, 2015.

Pursuant to the Board's intent, this proposed rule change requires that background checks be conducted prior to employing or utilizing reserve officers. The proposed change also adds that required agencies employing or utilizing reserve officers submit F-4 Personnel Action Reports to DPSST indicating that a background check has been completed. The rule also provides housekeeping for consistency.
Rules Coordinator: Sharon Huck
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: Extensive housekeeping changes to clearly reflect minimum training standards and mandated training courses.
Stat. Auth.: ORS 181A.410 & 181A.590
Stats. Implemented: ORS 181A.410 & 181A.590
Proposed Amendments: 259-008-0025, 259-008-0085
Proposed Repeals: 259-008-0030, 259-008-0035
Last Date for Comment: 3-21-16, Close of Business
Summary: DPSST recently reviewed the administrative rule language pertaining to minimum training standards and mandated training courses. This proposed rule language contains extensive housekeeping changes made with the intention of more clearly reflecting current requirements and procedures, particularly with regard to waivers of minimum training standards and the Board-adopted minimum standards for mandated courses. This proposed rule does not alter any of the current Board on Public Safety Standards and Training (Board)-approved standards.

The following is a summary of the proposed changes:

OAR 259-008-0025 - Minimum Standards for Training:

This rule contains training timelines for public safety officers, along with waiver, reciprocity, challenge (telecommunications only) and extension processes. The language relating to the waiver process has been clarified to include the factors taken into consideration by

the Department when reviewing a training waiver request. Additionally, all information pertaining to basic course requirements have been moved to OAR 259-008-0085 (Minimum Standards for Mandated Courses), including the OR-PAT and Department of Corrections Basic Corrections Course language.

OAR 259-008-0030 and OAR 259-008-0035 have been incorporated into OAR 259-008-0025 and will be repealed.

OAR 259-008-0085 - Minimum Standards for Mandated Courses (previously Certification of Courses and Classes):

DPSST has not certified non-mandated courses or classes since 2007. As a result, this language has been removed and replaced with the Board-approved minimum standards for mandated courses, to include the basis of the course, the approximate hours of each course, testing requirements and documentation requirements for basic law enforcement courses, third-party emergency medical dispatcher courses, career officer development courses, instructor development courses, supervision courses and middle management courses. The proposed language also contains the Board-approved specific requirements of the DOC-delivered Basic Corrections Course. Finally, the proposed language clarifies the role of DPSST's Standards & Certification section in auditing mandated courses to ensure adherence to these standards.

During the Board meeting on January 28, 2016, DPSST clarified a concern that was expressed by the Department of Corrections (DOC) regarding section (6)(e)(B) of the proposed rule language in OAR 259-008-0085 regarding written incident reports. The proposed rule language states that the Basic Corrections Course (BCC) must include a minimum of three written incident reports. Currently, the DOC BCC requires six reports, which meet six hours of the Board-required training. DOC requested that DPSST clarify that even though the proposed rule language states a minimum of three required reports, their current practice of using six reports will remain acceptable. The Board had no objections.

Rules Coordinator: Sharon Huck
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: Updates physical standards, F2-T Medical Form and the physical standard waiver process for telecommunicators/ EMD's.
Stat. Auth.: ORS 181A.410
Stats. Implemented: ORS 181A.410
Proposed Amendments: 259-008-0011
Last Date for Comment: 3-21-16, Close of Business
Summary: In 2006, Oregon Health Sciences University reviewed the DPSST Job Task Analysis for telecommunicators and emergency medical dispatchers and provided recommendations for physical standards. The Telecommunications Policy Committee (TPC) and the Board on Public Safety Standards and training (Board) approved the physical standards recommendations and they were implemented in 2007.

To ensure that DPSST's physical standards for telecommunicators and emergency medical dispatchers are still appropriate, DPSST contracted with Doctor Brad Lorber, Medical Director for Northwest Occupational Medicine in Beaverton, Oregon, to review the current physical standards. Doctor Lorber analyzed the critical and essential job tasks, as defined by the 2010 DPSST Job Task Analysis for telecommunicators and the 1995 National Highway Traffic Safety Administration Emergency Medical Dispatcher National Standards Curriculum.

Doctor Lorber made several recommendations to update the physical standards. The TPC and the Board approved filing the proposed rule language with the Secretary of State. The proposed rule change was filed on August 4, 2015 and opened for public comment from September 1 to September 21, 2015.

On September 2, 2015, a public comment was received concerning the increased vision standard. DPSST contacted Doctor Lorber regarding the concerns expressed in the public comment. After review, Doctor Lorber stated that vision standard for law enforcement officers was inadvertently included in the vision standard for telecommunicators and emergency medical dispatchers. At Doctor Lorber's recommendation, the proposed vision acuity standard has been changed back to the previous standard (corrected vision must be at least 20/30 (Snellen) when tested using both eyes together.) No other changes were made.

The following are the physical standard recommendations for telecommunicators and emergency medical dispatchers.

Visual Acuity: Corrected vision must be at least 20/30 (Snellen) when tested using both eyes together.

Color Vision: Telecommunicators, emergency medical dispatchers and applicants must be able to distinguish red, green, blue, and yellow as determined by the HRR Test, 4th Edition. Red or green deficiencies may be acceptable, providing the applicant can read at least nine of the first 13 plates of the Ishihara Test.

Telecommunicators, emergency medical dispatchers or applicants who fail to meet the color vision standard may meet the standard by demonstrating that they can correctly discriminate colors via a field test conducted by the employer as approved by the examining licensed health professional.

Hearing: Telecommunicators, emergency medical dispatchers or applicants must meet National Emergency Number Association (NENA)hearing standard NENA-STA-007.2-2014 (June 14, 2014). Telecommunicators, emergency medical dispatchers or applicants who fail to meet the hearing standard must be examined by a licensed audiologist or otorhinolaryngologist to determine if an amplification device will allow them to meet the hearing standard. An amplification device may be used to meet the hearing standard, if a licensed audiologist or orotorhinolaryngologist determines an amplification device will allow the telecommunicator, emergency medical dispatcher or applicant to meet the hearing standard.

Medications (new standard): The side effects of any prescribed medication must not interfere with the telecommunicator's, emergency medical dispatcher's or applicant's ability to perform the essential functions and tasks of the job.

Further, at the suggestion of policy committee members, this proposed rule change eliminates the need for the policy committees and the Board to review and approve or deny physical standard waivers, a process that takes up to six months. Instead, the Department will review all physical standard waivers and make a determination to approve or deny the waiver based on the supporting documentation provided, including recommendations by licensed medical professionals. This will significantly streamline the waiver process for the applicant and the hiring agency.

This proposed rule change also alters the process for submitting a DPSST Medical Examination Report (Form F-2T). Rather than submitting the full F-2T Medical Form to DPSST, agencies or applicants will be required to only submit the final page (Form F-2TA.) This final page will be signed by the examining health care professional and will attest that the telecommunicator, emergency medical dispatcher or applicant either met or did not meet DPSST's physical standards.

DPSST will provide information regarding the new standards, the new waiver process, and the new F2-T Medical Form to assist with questions and to eliminate any confusion prior to implementation.

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

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Department of Transportation
Chapter 731

Rule Caption: Prequalification of highway and bridge public improvement project bidders
Stat. Auth.: ORS 184.616, 184.619 & 279C.430
Stats. Implemented: ORS 279C.430

Proposed Adoptions: 731-007-0500, 731-007-0510, 731-007-0520, 731-007-0530, 731-007-0540, 731-007-0550, 731-007-0560, 731-007-0570
Last Date for Comment: 3-21-16, Close of Business
Summary: 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
Address: Department of Transportation, 355 Capitol St. NE, MS 51, Salem, OR 97301
Telephone: (503) 986-3171

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

Rule Caption: Definition of Mother and Father for Purpose of Signing Application for Driving Privileges for Child
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
Proposed Amendments: 735-062-0007
Last Date for Comment: 3-21-16, Close of Business
Summary: 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 currently defines mother, father and legal guardian for purposes of ORS 807.060. DMV recently decided that the definition of mother and father should be revised to specify that a mother or father does not include a person whose parental rights have been terminated.
Rules Coordinator: Lauri Kunze
Address: Department of Transportation, Driver and Motor Vehicle Services Division, 355 Capitol St. NE, MS 51, Salem, OR 97301
Telephone: (503) 986-3171

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Rule Caption: Pilot Program — Class C Third Party Testing, Drive Tests
Stat. Auth.: ORS 184.616, 184,619, 802.010 & 802.600
Stats. Implemented: ORS 802.600
Proposed Amendments: 735-061-0210
Last Date for Comment: 3-21-16, Close of Business
Summary: 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 is therefore proposing to extend the pilot.

DMV proposes to amend OAR 735-061-0210 to extend the length of the pilot program to October 31, 2016.
Rules Coordinator: Lauri Kunze
Address: Department of Transportation, Driver and Motor Vehicle Services Division, 355 Capitol St. NE, MS 51, Salem, OR 97301
Telephone: (503) 986-3171

Department of Transportation,
Highway Division
Chapter 734

Rule Caption: Prequalification of highway and bridge public improvement project bidders
Stat. Auth.: ORS 184.616, 184.619 & 279C.430
Stats. Implemented: ORS 279C.430
Proposed Repeals: 734-010-0200, 734-010-0220, 734-010-0230, 734-010-0240, 734-010-0250, 734-010-0260, 734-010-0270, 734-010-0280
Last Date for Comment: 3-21-16, Close of Business
Summary: 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
Address: Department of Transportation, Highway Division, 355 Capitol St. NE, MS 51, Salem, OR 97301
Telephone: (503) 986-3171

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Higher Education Coordinating Commission,
Office of Student Access and Completion
Chapter 575

Rule Caption: Creation and implementation of the Oregon Promise Grant program.

Date:	Time:	Location:
3-16-16	2 p.m.	775 Court St. NE Small Conference Rm. Salem, OR 97301

Hearing Officer: Kelly Dickinson
Stat. Auth.: ORS 341
Other Auth.: SB 81 (2015 Oregon Legislative Assembly)
Stats. Implemented: ORS 341.522
Proposed Adoptions: 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
Last Date for Comment: 3-23-16, 5 p.m.
Summary: OAR 575-039-0010 through 575-039-0150 is a new rule that outlines and implements the Oregon Promise Grant created under Senate Bill 81adopted by the 2015 Legislative session. The OAR sets 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
Address: Higher Education Coordinating Commission, Office of Student Access and Completion, 775 Court St. NE, Salem, OR 97301
Telephone: (503) 947-2379

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Landscape Contractors Board
Chapter 808

Rule Caption: Clarifies the Board adopts the current version of the Attorney General's Administrative Law Manual

Date:	Time:	Location:
4-5-16	9 a.m.	LCB, 2111 Front St. NE Suite 2-101 Salem, OR 97301

Hearing Officer: Elizabeth Boxall
Stat. Auth.: ORS 671.670 & 670.310
Stats. Implemented: ORS 183

Proposed Amendments: 808-001-0005
Last Date for Comment: 4-5-16, Close of Hearing
Summary: Clarifies the Board adopts the current version of the Attorney General's Administrative Law Manual
Rules Coordinator: Kim Gladwill-Rowley
Address: Landscape Contractors Board, 2111 Front Street NE, Suite 2-101, Salem, OR 97301
Telephone: (503) 967-6291, ext. 223

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Rule Caption: Updates definition of landscape maintenance and clarifies exemption of casual, minor or inconsequential work.

Date:	Time:	Location:
4-5-16	9 a.m.	LCB, 2111 Front St. NE Suite 2-101 Salem, OR 97301

Hearing Officer: Elizabeth Boxall
Stat. Auth.: ORS 670.310 & 671.670
Stats. Implemented: ORS 671.520 & 671.540
Proposed Amendments: 808-002-0200, 808-002-0480, 808-002-0620
Last Date for Comment: 4-5-16, Close of Hearing
Summary: Updates definition of landscape maintenance and clarifies exemption of casual, minor or inconsequential work.
Rules Coordinator: Kim Gladwill-Rowley
Address: Landscape Contractors Board, 2111 Front Street NE, Suite 2-101, Salem, OR 97301
Telephone: (503) 967-6291, ext. 223

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Rule Caption: Clarifies military experience, training and education and procedures for an active duty licensee or respondent

Date:	Time:	Location:
4-5-16	9 a.m.	LCB, 2111 Front St. NE Suite 2-101 Salem, OR 97301

Hearing Officer: Elizabeth Boxall
Stat. Auth.: ORS 670.310 & 671.670
Stats. Implemented: ORS 408.450
Proposed Adoptions: 808-003-0234
Proposed Amendments: 808-003-0025, 808-003-0130, 808-003-0230, 808-040-0020, 808-040-0070, 808-040-0080
Last Date for Comment: 4-5-16, Close of Hearing
Summary: Clarifies military experience, training and education and procedures for an active duty licensee or respondent
Rules Coordinator: Kim Gladwill-Rowley
Address: Landscape Contractors Board, 2111 Front Street NE, Suite 2-101, Salem, OR 97301
Telephone: (503) 967-6291, ext. 223

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Rule Caption: Clarifies the claim process.

Date:	Time:	Location:
4-5-16	9 a.m.	LCB, 2111 Front St. NE Suite 2-101 Salem, OR 97301

Hearing Officer: Elizabeth Boxall
Stat. Auth.: ORS 670.310 & 671.600
Stats. Implemented: ORS 671.690, 671.695, 671.700, 671,701, 671.703, 671.707 & 671.710
Proposed Amendments: 808-004-0160, 808-004-0211, 808-004-0250, 808-004-0260, 808-004-0310, 808-004-0320, 808-004-0350, 808-004-0400, 808-004-0440, 808-004-0450, 808-004-0480, 808-004-0500, 808-004-0510, 808-004-0520, 808-004-0530, 808-004-0540, 808-004-0590
Proposed Repeals: 808-004-0180, 808-004-0240, 808-004-0460, 808-004-0470, 808-004-0550, 808-004-0560
Last Date for Comment: 4-5-16, Close of Hearing
Summary: Clarifies the claim process.
Rules Coordinator: Kim Gladwill-Rowley
Address: Landscape Contractors Board, 2111 Front Street NE, Suite 2-101, Salem, OR 97301
Telephone: (503) 967-6291, ext. 223

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Rule Caption: Updates Examination Rules to accommodate for the practical skills testing

Date:	Time:	Location:
4-5-16	9 a.m.	LCB, 2111 Front St. NE Suite 2-101 Salem, OR 97301

Hearing Officer: Elizabeth Boxall
Stat. Auth.: 670.310 & 671.670
Other Auth.: HB 3304 (2015 legislative session)
Stats. Implemented: ORS 671.560, 671.561 & 671.570
Proposed Adoptions: 808-003-0700, 808-003-0710, 808-003-0720, 808-003-0730, 808-003-0740, 808-003-0750, 808-003-0800, 808-003-0810, 808-003-0820, 808-003-0830, 808-003-0840, 808-003-0850, 808-003-0900, 808-003-0910, 808-003-0920, 808-003-0930, 808-003-0940, 808-003-0950, 808-003-0960, 808-003-0970, 808-003-0980, 808-003-0985, 808-003-0990, 808-003-0995
Proposed Amendments: 808-003-0030, 808-003-0045, 808-030-0020, 808-030-0040
Proposed Repeals: 808-003-0055, 808-003-0060, 808-003-0065, 808-003-0075, 808-003-0080, 808-003-0081, 808-003-0085
Last Date for Comment: 4-5-16, Close of Hearing
Summary: Updates Examination Rules to accommodate for the practical skills testing
Rules Coordinator: Kim Gladwill-Rowley
Address: Landscape Contractors Board, 2111 Front Street NE, Suite 2-101, Salem, OR 97301
Telephone: (503) 967-6291, ext. 223

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Oregon Department of Aviation
Chapter 738

Rule Caption: Financial Aid to Municipalities (FAM) Grant Program
Stat. Auth.: ORS 835.035 & 835.112
Stats. Implemented: ORS 835.015, 835.025, 836.015, 836.070 & 319.020
Proposed Amendments: 738-125-0010, 738-125-0015, 738-125-0020, 738-125-0025, 738-125-0030, 738-125-0035, 738-125-0040, 738-125-0045, 738-125-0050, 738-125-0055
Last Date for Comment: 3-21-16, Close of Business
Summary: Department of Aviation is amending its division 125 rules to include language that allows the Department to distribute revenue derived from ORS 319.020.
Rules Coordinator: Lauri Kunze
Address: Oregon Department of Aviation, 3040 25th St. SE, Salem, OR 97302-1125
Telephone: (503) 986-3171

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Oregon Department of Education
Chapter 581

Rule Caption: School Construction Matching Program

Date:	Time:	Location:
3-29-16	9 a.m.	255 Capitol St. NE Salem, OR

Hearing Officer: Emily Nazarov
Stat. Auth.: Oregon Laws 2015 OL Ch. 783, Sec. 2 & 5 (Enrolled SB 447)
Stats. Implemented: 2015 OL Ch. 783, Sec. 2, 4 & 5 (Enrolled SB 447)
Proposed Adoptions: 581-027-0005, 581-027-0010, 581-027-0015, 581-027-0020, 581-027-0025
Last Date for Comment: 4-14-16, 9 a.m.
Summary: 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
Address: Oregon Department of Education, 255 Capitol St. NE, Salem, OR 97310
Telephone: (503) 947-5651

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Rule Caption: Oregon State Seal of Bilteracy for K–12 public school students

Date:	Time:	Location:
3-29-16	9 a.m.	255 Capitol St. NE Salem, OR

Hearing Officer: Emily Nazarov
Stat. Auth.: ORS 326.051
Stats. Implemented: ORS 326.051
Proposed Adoptions: 581-021-0580, 581-021-0582, 581-021-0584
Last Date for Comment: 4-14-16, 9 a.m.
Summary: Establishes requirements for Superintendent of Public Instruction to award Oregon State Seal of Biliteracy to graduating public school students.
Rules Coordinator: Cindy Hunt
Address: Oregon Department of Education, 255 Capitol St. NE, Salem, OR 97310
Telephone: (503) 947-5651

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Rule Caption: Permanent Rules for the Preschool Promise Program
Stat. Auth.: ORS 326.425
Stats. Implemented: ORS 329.172
Proposed Adoptions: 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
Last Date for Comment: 3-31-16, 5 p.m.
Summary: The purpose of these 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. These rules describe the requirements for the establishment and operation of preschool services under the Preschool Promise program.
Rules Coordinator: Cindy Hunt
Address: Oregon Department of Education, 255 Capitol St. NE, Salem, OR 97310
Telephone: (503) 947-5651

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Oregon Health Authority,
Addictions and Mental Health Division:
Mental Health Services
Chapter 309

Rule Caption: Permanent amendments to OAR 309-090, titled "Forensic Mental Health Evaluators and Evaluations".

Date:	Time:	Location:
3-30-16	9 a.m.	500 Summer St. NE, Room 137-B Salem, OR 97301

Hearing Officer: Nola Russell
Stat. Auth.: ORS 419C.382
Stats. Implemented: ORS 161.309-161.370, 161.392, 419C.524, 419C.382; OL 2011, HB 3100, HB 2836, 419C.382
Proposed Amendments: 309-090-0005, 309-090-0015, 309-090-0020, 309-090-0025, 309-090-0030
Last Date for Comment: 4-5-16, Close of Business
Summary: 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
Address: Oregon Health Authority, Addictions and Mental Health Division: Mental Health Services, 500 Summer St. NE, Salem, OR 97301
Telephone: (503) 945-7652

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Oregon Health Authority,
Division of Medical Assistance Programs
Chapter 410

Rule Caption: Amending Prior Authorization Approval Criteria Guide

Date:	Time:	Location:
3-15-16	10:30 a.m.	500 Summer St. NE, Rm. 160 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: 3-17-16, 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, Division of Medical Assistance Programs, 500 Summer St. NE, Salem, OR 97301
Telephone: (503) 945-6430

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Rule Caption: Remove ICD-9 Diagnosis Codes
Stat. Auth.: ORS 413.042 & 414.065
Stats. Implemented: ORS 414.065
Proposed Amendments: 410-122-0211
Last Date for Comment: 3-17-16, 5 p.m.
Summary: The Division needs to remove the ICD-9 diagnosis codes from this rule. 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 changed to ICD-10.
Rules Coordinator: Sandy Cafourek
Address: Oregon Health Authority, Division of Medical Assistance Programs, 500 Summer St. NE, Salem, OR 97301
Telephone: (503) 945-6430

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Oregon Health Authority,
Health Policy and Analytics
Chapter 409

Rule Caption: Adding additional licensing boards required to submit information to Oregon Health Care Workforce Database

Date:	Time:	Location:
3-21-16	3 p.m.	500 Summer St. NE, Rm. 554 Salem, OR 97301

Hearing Officer: Zarie Haverkate
Stat. Auth.: ORS 676.410
Stats. Implemented: ORS 676.410
Proposed Amendments: 409-026-0100, 409-026-0110, 409-026-0120, 409-026-0130, 409-026-0140
Last Date for Comment: 3-23-16, 5 p.m.
Summary: The Oregon Health Authority is amending administrative rules relating to the Oregon health care workforce database to comply with Senate Bill 230 enacted in the 2015 legislative session.

The amendments reflect the additional licensing boards that are now required to submit information, change the fee amount, and tighten up data collection language.

Proposed rules are available on the OHPR Website: http://www.oregon.gov/OHPPR/rulemaking/index.shtml

For hardcopy requests, call: (503) 931-6420.

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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Rule Caption: Amends "Health care facility" definition to require Shriners Hospital to report financial information.
Stat. Auth.: ORS 442.400, 442.405, 442.420, 442.425 & 442.445
Stats. Implemented: ORS 442.400, 442.420 & 442.425
Proposed Amendments: 409-015-0005, 409-015-0010, 409-015-0015, 409-015-0030, and 409-015-0035
Proposed Repeals: 409-015-0040
Last Date for Comment: 3-23-16, 5 p.m.
Summary: The Oregon Health Authority is amending "Health Care Facility" definition to remove Shriners Hospital for Children-Portland, which is now a DRG hospital and subject to reporting requirements, from the list of facilities exempt from the financial reporting requirement. The rule is also be amended to update language from "Oregon Health Policy and Research" to "Oregon Health Authority" to reflect the current organizational structure, and clean up language in the rule.
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,
Public Health Division
Chapter 333

Rule Caption: Changes in program administration of Oregon ScreenWise Breast and Cervical Cancer Program (ScreenWise BCC)

Date:	Time:	Location:
3-16-16	1 p.m.	Portland State Office Bldg. 800 NE Oregon St. Rm. 1C Portland, OR 97232

Hearing Officer: Jana Fussell
Stat. Auth.: ORS 413.042 & 414.540
Stats. Implemented: ORS 413.042, 414.534 & 414.536
Proposed Amendments: 333-010-0100, 333-010-0105, 333-010-0110, 333-010-0115, 333-010-0120, 333-010-0125, 333-010-0130, 333-010-0135, 333-010-0140, 333-010-0145, 333-010-0150, 333-010-0155, 333-010-0160, 333-010-0165, 333-010-0175, 333-010-0180, 333-010-0197
Proposed Repeals: 333-010-0100(T), 333-010-0105(T), 333-010-0110(T), 333-010-0115(T), 333-010-0120(T), 333-010-0130(T), 333-010-0140(T), 333-010-0145(T), 333-010-0197(T)
Last Date for Comment: 3-22-16, 5 p.m.
Summary: The Oregon Health Authority, Public Health Division is proposing to permanently amend rules in OAR chapter 333, division 10 related to ScreenWise BCC program-level changes to enable the program to serve more low-income, medically underserved women in Oregon, while simplifying provider experience of working with the program.
Rules Coordinator: Brittany Sande
Address: Oregon Health Authority, Public Health Division, 800 NE Oregon St., Suite 930, Portland, OR 97232
Telephone: (971) 673-1291

Oregon Liquor Control Commission
Chapter 845

Rule Caption: The amendments allow an agent to submit a control plan preventing minor access and theft.

Date:	Time:	Location:
3-15-16	10 a.m.	9079 SE McLoughlin Blvd. Portland, OR 97222

Hearing Officer: Bryant Haley
Stat. Auth.: ORS 471, 471.030, 471.730(1) & (5)
Stats. Implemented: ORS 471.750(1)
Proposed Amendments: 845-015-0148
Last Date for Comment: 3-29-16, 5 p.m.
Summary: 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
Address: Oregon Liquor Control Commission, 9079 SE McLoughlin Blvd., Portland, OR 97222
Telephone: (503) 872-5136

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Oregon Youth Authority
Chapter 416

Rule Caption: OYA is adopting the February 2016 Interstate Commission for Juvenile rules by reference.
Stat. Auth.: ORS 420A.025
Stats. Implemented: ORS 417.010-417-080
Proposed Amendments: 416-115-0025
Last Date for Comment: 4-1-16, Close of Business
Summary: OYA is updating its Standards for Juvenile Interstate Transfer of Supervision by adopting the most current version of the Interstate Commission for Juveniles' rules that were effective February 1, 2016.
Rules Coordinator: Winifred Skinner
Address: Oregon Youth Authority, 530 Center St. NE, Suite 200, Salem, OR 97301-3765
Telephone: (503) 373-7570

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Parks and Recreation Department
Chapter 736

Rule Caption: Amend Recreation Trail Rules — Scenic Bikeway Designation
Stat. Auth.: ORS 390.971
Stats. Implemented: ORS 390.956, 390.959, 390.962, 390.968 & 390.971
Proposed Amendments: 736-009-0025, 736-009-0030
Last Date for Comment: 3-25-16, 5 p.m.
Summary: 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

Address: Parks and Recreation Department, 725 Summer St. NE, Suite C, Salem, OR 97301-1226
Telephone: (503) 872-5295

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Public Utility Commission,
Board of Maritime Pilots
Chapter 856

Rule Caption: Expands qualifying maritime experience to broaden the pool of potential trainees.
Stat. Auth.: ORS 776
Stats. Implemented: ORS 776.115, 776.300 & 776.325
Proposed Amendments: 856-010-0010, 856-010-0026
Last Date for Comment: 3-28-16, Close of Business
Summary: Expands applicant qualifications to include five or more years' experience as a state-licensed pilot in another jurisdiction.
Rules Coordinator: Susan Johnson
Address: Public Utility Commission, Board of Maritime Pilots, 800 NE Oregon St., Suite 507, Portland, OR 97232
Telephone: (971) 673-1530

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Teacher Standards and Practices Commission
Chapter 584

Rule Caption: Proposes rule changes to educator licensure requirements and processes.
Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120-200; 223-232; 400; 455-495; 533; 553
Proposed Adoptions: Rules in 584-225, 584-225-0060
Proposed Amendments: Rules in 584-420, 584-210, 584-210-0170
Proposed Repeals: Rules in 584-010, 584-010-0090, Rules in 584-018, 584-018-0110, Rules in 584-210, 584-210-0120, Rules in 584-100
Last Date for Comment: 3-20-16, 5:30 p.m.
Summary: Proposes changes to licensure requirements and procedures and rules related to former federal requirements.
Rules Coordinator: Victoria Chamberlain
Address: Teacher Standards and Practices Commission, 250 Division St. NE, Salem, OR 97301
Telephone: (503) 378-6813

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Water Resources Department
Chapter 690

Rule Caption: Malheur Lake Basin Program Provisions

Date:	**Time:**	**Location:**
3-30-16	10 a.m.	Harney County Community Ctr. 484 N. Broadway Burns, OR 97720
3-30-16	10 a.m.	Oregon Water Resources Dept. 725 Summer St. NE Rogue Conference Rm. Salem, OR 97301

Hearing Officer: Bruce Corn, Machelle Bamberger
Stat. Auth.: ORS 536 & 537
Other Auth.: ORS 536.340(1)(a), 537.525(3), (5), (7) & (8), 537.621(2), 537.777(1) & 537.780(1) & (1)(h)
Stats. Implemented: ORS 536.310, 537.249, 537.356 & 537.358
Proposed Adoptions: 690-512-0010, 690-512-0020, 690-512-0090
Proposed Repeals: 690-512-0040
Last Date for Comment: 3-30-16, 5 p.m.
Summary: OAR Chapter 690, Division 512 is the Malheur Lake Basin Program. In general, a Basin Program describes how water may be used in major river and lake basins and their tributaries. The Malheur Lake Basin Program currently describes that new uses may only be established if water is available unless the use is for an instream right, permit to store water between March 1 and May 31, use of stored water, and multipurpose storage projects authorized under OAR 690-512-0100. The Malheur Lake Basin Program also reserves water for future economic development in the Home Creek sub-basin.

Current data, comprising substantial evidence, indicate that groundwater levels are declining in areas of the Greater Harney Valley Groundwater Area of Concern. Additional allocation of groundwater within this area may exacerbate these declines. A comparison between estimated annual recharge and previously allocated groundwater volumes indicates that groundwater is fully allocated in some areas of the basin. The Department is proposing to establish the Greater Harney Valley Groundwater Area of Concern in part of the Malheur Lake Basin, which will allow some pending applications to be approved if offset water can be provided, and limit future applications from being approved while a groundwater study is completed. Exempt uses will not be limited.

The Department is also proposing to repeal OAR 690-512-0040, which describes how water availability is determined for new surface water and groundwater uses. The process described in this rule is obsolete and has been replaced by a water availability model. The determination of water availability is made consistent with OAR Chapter 690, Division 310 using the definition of "water is available" under OAR-690-300-010.
Rules Coordinator: Diana Enright
Address: Water Resources Department, 725 Summer St. NE, Salem, OR 97301
Telephone: (503) 986-0874

Board of Parole and Post-Prison Supervision
Chapter 255

Rule Caption: Establish classification rules for the Sex Offender Notification Level System.
Adm. Order No.: PAR 1-2016
Filed with Sec. of State: 1-27-2016
Certified to be Effective: 1-27-16
Notice Publication Date: 11-1-2015
Rules Adopted: 255-085-0010, 255-085-0020, 255-085-0030, 255-085-0040, 255-085-0050
Subject: Establish rules to classify sex offender registrants into a risk level under the Sex Offender Notification Level System; establish methodology and procedures for classification; creates timeline for classifying.
Rules Coordinator: Shawna Harnden—(503) 945-0914

255-085-0010
Definitions

The following definitions apply to OAR 255-085-0001 to 255-085-0050:

(1) "Adult male registrant" means a male who was convicted of a sex crime and required to register as a sex offender or who was found guilty except for insanity of a sex crime and required to register as a sex offender, and was at least 18 years of age when he committed the offense.

(2) "Category B registrant" means a person of either gender or any age at the time of crime commission who is required to register as a sex offender based only on a conviction for a Category B sex crime.

(3) "Category B sex crime" means any type of criminal offense within the scope of "Category B offenses" used to administer the Static-99R and listed in Exhibit Q-II and which is also a sex crime for which reporting is required.

(4) "Existing registrant" means a person for whom the event triggering the obligation to make an initial report under ORS 181.806(3)(a)(A), 181.807(4)(a)(A), 181.808(1)(a)(A), 2(a)(A) or (3)(a)(A) occurred before January 1, 2014.

(5) "Female registrant" means a female who was convicted of a sex crime and required to register as a sex offender or who was found guilty except for insanity of a sex crime and required to register as a sex offender, regardless of her age when she committed the offense.

(6) "Sex crime" has the definition contained in ORS 181.805(5).

(7) "Young male registrant" means a male who was convicted of a sex crime and required to register as a sex offender or who was found guilty except for insanity of a sex crime and required to register as a sex offender, and who was 17 years of age or younger when he committed the offense.

Stat. Auth: ORS 181.800 and 181.803
Stat. Implemented:
Hist.: PAR 3-2015(Temp), f. & cert. ef. 8-27-15 thru 2-19-16; PAR 1-2016, f. & cert. ef. 1-27-16

255-085-0020
Sex Offender Risk Assessment Methodology

(1) For classification and community notification for adult male registrants, the classifying agency shall use the Static-99R (Exhibit Q-I) and definitions (Exhibit Q-II). Classifying agencies shall score and place into one of the following levels:

(a) Level I: Low (Static-99R score of -3 to 3);

(b) Level II: Moderate (Static-99R score of 4 to 5); or

(c) Level III: High (Static-99R score of 6 or higher).

(2) For classification of female registrants, category B registrants, and young male registrants, the classifying agency shall use the Level of Services/Case Management Inventory (LS/CMI) as supplemented by an independent sexual offense-specific evaluation report. Classifying agencies shall score and place the registrant into one of the following levels:

(a) Level I: Low (Score 0 to 10; LS/CMI as supplemented by an independent sexual offense-specific evaluation);

(b) Level II: Moderate (Score 11 to 19; LS/CMI as supplemented by an independent sexual offense-specific evaluation); or

(c) Level III: High (Score 20 or higher; LS/CMI as supplemented by an independent sexual offense-specific evaluation).

(3) Classifying agencies shall classify a person as a Level III sex offender who is designated as sexually violent dangerous offenders under ORS 137.765.

(4) The Board shall classify the following existing registrants as Level III sex offenders:

(a) A person who was previously designated as a predatory sex offender between February 10, 2005 and December 31, 2013;

(b) A person who is designated as a sexually violent dangerous offender under ORS 137.765;

(5) The Board or the Psychiatric Security Review Board shall classify an existing registrant who refuses or fails to participate in a sex offender risk assessment as directed by the classifying agency as a Level III sex offender on or after December 1, 2018.

Stat. Auth: ORS 181.800 and 181.803
Stat. Implemented: ORS 181.800 and 181.803
Hist.: PAR 3-2015(Temp), f. & cert. ef. 8-27-15 thru 2-19-16; PAR 1-2016, f. & cert. ef. 1-27-16

255-085-0030
Timelines for Classifying Registrants

(1) When a person convicted of a crime described in ORS 163.355 to 163.427 is sentenced to a term of imprisonment in a Department of Corrections institution for that crime, the Board shall conduct a risk assessment of the person utilizing the risk assessment methodology in OAR 255-085-0020 before the person is released from custody.

(2) Subject to the procedures set forth in this rule, for a person described in ORS 181.801(4) who has not been assessed or classified prior to release, the Board shall conduct a risk assessment of the person utilizing the risk assessment methodology in OAR 255-085-0020 within 60 days of either the person's release from custody or the person's initial obligation to report in the State of Oregon.

(3) For persons who were released from custody or whose initial obligation to register occurred on or after January 1, 2014 but before the adoption of these rules, the Board shall conduct a risk assessment as soon as practicable.

(4) The Board will classify existing registrants by December 1, 2018.

Stat. Auth: ORS 181.801 and 181.802
Stat. Implemented: ORS 181.801 and 181.802
Hist.: PAR 3-2015(Temp), f. & cert. ef. 8-27-15 thru 2-19-16; PAR 1-2016, f. & cert. ef. 1-27-16

255-085-0040
Procedures for Classifying Adult Male Registrants

(1) The procedures contained in this administrative rule apply to all male offenders who are required to register as sex offenders and who were at least 18 years of age when they committed the offense that created the obligation to register.

(2) The Board will provide to the registrant the Static-99R score and a copy of the completed assessment, the Notice of Rights form (Exhibit SO-1 or SO-2), and the Written Objections form (Exhibit SO-3).

(3) Following the notification in subsection (2), the following timelines apply for a registrant to waive objections:

(a) If the registrant is supervised or in custody of the Department of Corrections and waives the right to submit Written Objections to the Static-99R score, the registrant will forward the Notice of Rights form (Exhibit SO-1) indicating the registrant's waiver to the Board within thirty (30) days of receiving the Notice of Rights.

(b) If the registrant is not supervised or in custody of the Department of Corrections and waives the right to submit Written Objections to the Static-99R score, the registrant will forward the Notice of Rights form (Exhibit SO-2) indicating the registrant's waiver to the Board within 60 days after the mailing date on the Notice of Rights.

(c) The Board will notify the Department of State Police of the results of the risk assessment and final classification within three business days of the date of the final classification.

(d) A registrant's refusal to participate in the notice of rights process shall be considered a waiver of objections to the Static-99R score.

(4) Following the notification in subsection (2), the following timelines apply for a registrant to submit written objections.

(a) If the registrant is supervised or in custody of the Department of Corrections, the registrant must submit his Static-99R assessment, the Notice of Rights form (exhibit SO-1) and any Written Objections (Exhibit SO-3) to the Static-99R score within thirty (30) days after receiving the Notice of Rights.

(b) If the registrant is not supervised or in custody of the Department of Corrections, the registrant must submit any his Static-99R assessment, the Notice of Rights form (Exhibit SO-2) and any Written Objections (Exhibit SO-3) to the Static-99R score to the Board within 60 days after the mailing date on the Notice of Rights.

(c) Objections that are not submitted within these timelines will not be reviewed, and the Board will proceed to final classification.

(5) Upon receipt of any timely submitted Written Objections (Exhibit SO-3), a Hearings Officer will conduct a review of the Static-99R score and supporting documents. The Hearings Officer will verify the accuracy of each point awarded on the Static-99R and prepare a memo that responds to the registrant's written objections. The Hearing Officer's review will detail the finding of the Static-99R and make a determination as to whether the registrant's Static-99R score is accurate or should be changed. Upon completing the review, the Hearings Officer will submit to the Board a memo detailing the review, as well as any information considered by the Hearing Officer.

(6) The Board will review the Hearings Officer's memo and will order the final classification level based on the Static-99R score and notify the Department of State Police of the results of the risk assessment within three business days of the date of the final classification.

(7) The Board's classification decision shall be final. The Board's classification decision is not subject to review under OAR chapter 255 division 80.

[ED. NOTE: Exhibits referenced are available from the agency.]
Stat. Auth: ORS 181.800, 181.801, 181.802
Stat. Implemented: ORS 181.800, 181.801, 181.802
Hist.: PAR 3-2015(Temp), f. & cert. ef. 8-27-15 thru 2-19-16; PAR 1-2016, f. & cert. ef. 1-27-16

255-085-0050
Procedures for Classifying Young Male Registrants, Female Registrants, and Category B Registrants

(1) These procedures apply to offenders for whom the Static-99R is not an appropriate assessment methodology as outlined in OAR 255-085-0020.

(2) With the cooperation of the Department of Corrections, the Board will identify young male registrants, female registrants, and Category B registrants sentenced to a term of imprisonment in a Department of Corrections institution for a sex crime.

(3) The Board will notify young male registrants, female registrants, and Category B registrants of the registrant's obligation to participate in the assessment and evaluation processes, the registrant's option to request a review of the assessment and evaluation, as well as the Board's final review of the review and evaluation report.

(4) Subject to the risk assessment methodology set forth in these administrative rules, the Board will classify young male registrants, female registrants, and Category B registrants based on the LS/CMI and findings from an independent sexual offense-specific evaluation performed by a licensed provider who is qualified to conduct sexual offense risk assessments. The independent evaluator will provide the Board with a written report stating the recommended sex offender classification and notification level, and will provide information regarding the registrant's risk for sexual re-offense. The evaluator should weigh the LS/CMI score when recommending a sex offender classification and notification level based on the sexual offense-specific evaluation.

(5) The Board will provide the registrant with a copy of the completed LS/CMI assessment and the independent sexual offense-specific evaluation report, the Notice of Rights form (Exhibit SO-1L or SO-2L), and the Written Objections form (Exhibit SO-3L).

(6) Following the notification in subsection (5), the following timelines apply for a registrant to waive objections:

(a) If the registrant is supervised or in custody of the Department of Corrections and waives the right to submit Written Objections to the LS/CMI score and evaluation report, the registrant will forward the Notice of Rights form (SO-1L) indicating the registrant's waiver to the Board within thirty (30) days of receiving the notice of rights.

(b) If the registrant is not supervised or in custody of the Department of Corrections and waives the right to submit Written Objections to the LS/CMI score and evaluation report, the registrant will forward the Notice of Rights form (SO-2L) indicating the registrant's waiver to the Board within 60 days after the mailing date on the Notice of Rights.

(c) The Board will notify the Department of State Police of the results of the risk assessment and final classification within three business days after the final classification.

(d) Refusal to participate in the notice of rights process will be considered a waiver of objections to the LS/CMI score and evaluation report.

(7) Following the notification in subsection (5), the following timelines apply for a registrant to submit written objections.

(a) If the registrant is supervised or in custody of the Department of Corrections, the registrant must submit the LS/CMI, evaluation report, Notice of Rights (SO-1L), and any Written Objections (Exhibit SO-3L) to the assessment and evaluation findings to the Board within thirty (30) days after receiving the Notice of Rights.

(b) If the registrant is not supervised or in custody of the Department of Corrections, the registrant must submit any Written Objections (Exhibit SO-4L) to the assessment and evaluation findings within 60 days after the mailing date on the Notice of Rights.

(c) Objections that are not submitted within these timelines will not be reviewed, and the Board will proceed to final classification.

(8) Upon the Board's receipt of the Written Objections (Exhibit SO-3L), a Hearings Officer will complete a review of the LS/CMI score, evaluation, and supporting documents. The review will verify the information, and the Hearings Officer will prepare a memo responding to the written objections, detail the finding of the evaluator, and make a determination as to whether the registrant's LS/CMI score is accurate or should be changed.

(a) If the score places the registrant in Level I or Level II, the Hearings Officer will provide this memo to the Board along with any information considered.

(b) If the score places the registrant in Level III, the Hearings Officer will schedule a hearing with the registrant. The following procedures shall apply:

(A) The Hearings Officer will provide the registrant with the documentation submitted for review 14 days before the hearing.

(B) At the hearing, the registrant may present additional evidence or information regarding the LS/CMI score and evaluator's report.

(C) The Hearings Officer will write a supplement to the memo as provided for in subsection (9) of this rule and will provide the supplement to the Board.

(D) A registrant's refusal to participate in the hearing shall be considered a waiver.

(9) The Board will review the Hearings Officer's memo. The Board will order the classification level based on the LS/CMI score, evaluator's report, and any additional findings and memorandum made by Hearings Officer, and will notify the Department of State Police of the registrant's final classification within three business days of the date the Board makes its final classification.

(10) The Board's classification decision shall be final. The Board's classification decision is not subject to review under OAR chapter 255 division 80.

[ED. NOTE: Exhibits referenced are available from the agency.]
Stat. Auth: ORS 181.800, 181.801, 181.802
Stat. Implemented: ORS 181.800, 181.801, 181.802
Hist.: PAR 3-2015(Temp), f. & cert. ef. 8-27-15 thru 2-19-16; PAR 1-2016, f. & cert. ef. 1-27-16

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Board of Psychologist Examiners
Chapter 858

Rule Caption: Notice of proposed rule procedures, good cause application extension, and reapplication after revocation.
Adm. Order No.: BPE 1-2016
Filed with Sec. of State: 2-1-2016
Certified to be Effective: 2-1-16
Notice Publication Date: 11-1-2015
Rules Amended: 858-010-0007, 858-010-0020
Subject: The proposed rulemaking requires the Board of Psychologist Examiners (Board) to no longer mail a copy of continuing education-related rulemaking notices to the State Board of Higher Education (which no longer exists), but instead to mail notice to the State Higher Education Coordinating Commission. It also removes language already specified in ORS 183.360. The Board proposes that it will not review a subsequent application for licensure for at least two years after a license revocation or surrender under investigation, and clarifies that an applicant's active application period may be extended for good cause.
Rules Coordinator: LaRee' Felton—(503) 373-1196

858-010-0007
Notice of Proposed Rule

Prior to the adoption, amendment, or repeal of a permanent rule, the Board of Psychologist Examiners shall give notice of the proposed adoption, amendment, or repeal:

(1) In the Secretary of State's Bulletin pursuant to ORS 183.360;

(2) By mailing or emailing a copy of the notice to individuals on the Board's mailing list established pursuant to ORS 183.335(8);

(3) By mailing or emailing a copy of the notice to the following individuals, organizations, or publications:

(a) All licensees of the Board;

(b) Oregon Psychological Association; and

(c) All applicants for licensure.

(4) Prior to the adoption, amendment, or repeal of any rule of the Board relating to continuing education, the Board shall additionally mail a copy of the notice to the State Higher Education Coordinating Commission.

Stat. Auth.: ORS 675.010 - 675.150

Stats. Implemented: ORS 675.110

Hist.: PE 13, f. & ef. 9-15-76; PE 1-1990, f. & cert. ef. 2-16-90; PE 2-1991, f. 8-15-91, cert. ef. 8-16-91; PE 4-1993, f. & cert. ef. 7-19-93; PE 1-1996, f. & cert. ef. 6-25-96; BPE 1-2001(Temp), f. & cert. ef. 8-31-01 thru 2-27-02; BPE 2-2002, f. & cert. ef. 2-27-02; BPE 2-2004, f. & cert. ef. 8-30-04; BPE 1-2008, f. & cert. ef. 3-26-08; BPE 1-2010, f. & cert. ef. 1-8-10; BPE 2-2010, f. & cert. ef. 9-28-10; BPE 1-2011, f. & cert. ef. 1-25-11; BPE 1-2016, f. & cert. ef. 2-1-16

858-010-0020

Process and Disposition of Application for License

(1) Application Review Procedure. When the application and all of the required supporting documents have been received, the application file shall be reviewed for eligibility. The reviewer shall either:

(a) Approve the application. When the reviewer determines the application is complete, a letter of approval shall be sent notifying the applicant of eligibility to take the EPPP and the Jurisprudence examination and to enter into a Resident Supervision Contract.

(b) Deny the application. If the application is denied, the reviewer shall send the applicant a letter stating the reason.

(c) Board review. Under unusual circumstances, the application will be reviewed by the full Board for determination of disposition.

(d) Incomplete Application. If the application is incomplete, the reviewer shall notify the applicant.

(e) Request for Review. Applicants for licensure may request, in writing, that any decision by the reviewer be reconsidered by the Board.

(2) Active Application Period.

(a) An incomplete application is missing one or more of the items required under the applicable application procedure of OAR 858-010-0016 or 858-010-0017. The Board shall maintain an incomplete application file for one year from the date the application was received.

(b) A complete application has been approved by the reviewer, but the candidate for licensure has not completed the remaining requirements for licensure: the post-degree supervised work experience, the EPPP, and/or the Oregon Jurisprudence Exam. The Board shall maintain a complete application file for two years from the date the application was approved.

(c) A file shall be presumed inactive and archived if correspondence from the Board is returned by the post office for reasons other than post office error.

(3) The Board may extend the active application period for good cause upon written request of the applicant, which must be received or postmarked prior to the expiration date. Failure to receive a courtesy reminder notice from the Board shall not relieve an applicant of the responsibility to timely request an extension.

(4) Reapplication. If an application for licensure has been denied by the Board for any reason, the Board will not review a second application until at least one year has elapsed from the date of the previous denial. If a license has been revoked by the Board or surrendered under investigation for any reason, the Board will not review a subsequent application for licensure until at least two years has elapsed from the effective date of the order.

(5) Information Changes. An applicant must notify the Board immediately if any information submitted on the application changes, including but not limited to: name; address, email address, and telephone number; complaints; disciplinary actions; and, civil, criminal, or ethical charges and employment investigations which lead to termination or resignation. Failure to do so may be grounds for denial of the application or revocation of the license, once issued.

Stat. Auth.: ORS 675.040, 675.045 & 675.050

Stats. Implemented: ORS 675.040(1)(2)(3), 675.045(1)(2)(a)(b), 675.050(1)(a)(b)(2)

Hist.: PE 6, f. 12-19-73, ef. 1-11-74; PE 2-1989, f. & cert. ef. 5-24-89; PE 1-1996, f. & cert. ef. 6-25-96; BPE 1-2001(Temp), f. & cert. ef. 8-31-01 thru 2-27-02; BPE 2-2002, f. & cert. ef. 2-27-02; BPE 2-2004, f. & cert. ef. 8-30-04; BPE 1-2008, f. & cert. ef. 3-26-08; BPE 1-2010, f. & cert. ef. 1-8-10; BPE 2-2010, f. & cert. ef. 9-28-10; BPE 3-2011, f. & cert. ef. 9-27-11; BPE 2-2012, f. & cert. ef. 6-8-12; BPE 3-2013, f. & cert. ef. 9-30-13; BPE 1-2016, f. & cert. ef. 2-1-16

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Rule Caption: Continuing education qualifying programs.
Adm. Order No.: BPE 2-2016
Filed with Sec. of State: 2-1-2016
Certified to be Effective: 2-1-16
Notice Publication Date: 1-1-2016
Rules Amended: 858-040-0035, 858-040-0055, 858-040-0065

Subject: This rule amendment will allow licensed psychologists and psychologist associates to count a limited amount of reading books towards their continuing education requirements. It also clarifies required evidence of completion.

Rules Coordinator: LaRee' Felton—(503) 373-1196

858-040-0035

Programs Which Qualify for Continuing Education Credit

Policy. Acceptable continuing education must be a learning activity which contributes directly to the professional competence of the licensee.

(1) Program Prerequisites. Continuing Education programs shall qualify for credit if:

(a) The subject matter deals primarily with substantive psychological issues, skills or Oregon laws, rules and ethical standards related to one's role as a psychologist or psychologist associate.

(b) The program is conducted by a qualified instructor or discussion leader. A qualified instructor or discussion leader is a person whose background, training, education, or experience makes it appropriate for the person to make a presentation or lead a discussion on the subject matter; and

(c) A record of attendance, such as a certificate of completion, is obtained.

(2) Qualifying Programs. The following shall qualify for continuing education credit, provided that they comply with all other CE requirements:

(a) Substantive professional development programs of recognized mental health organizations;

(b) University or college courses taken at accredited universities and colleges. Each classroom hour shall equal one qualifying hour;

(c) Formally organized work place educational programs;

(d) Formally organized study groups that comply with the following;

(A) At least two other mental health professionals attend;

(B) The study group prepares and preserves a syllabus of meeting dates and study topics in advance;

(C) A record is kept of each study group meeting. The record must include the names of the participants present, the subject matter and references which relate to any written material utilized; and

(e) Supervision or Consultation Received for a fee from an Oregon licensed Psychologist.

(A) Credit shall be given only to the licensee receiving supervision or consultation, not to the licensee providing supervision or consultation.

(B) No credit shall be given to licensees receiving supervision to fulfill licensure or discipline requirements.

(f) Home Study including internet and tele-courses.

(g) Published articles and books authored or co-authored by the licensee.

(h) Lecturer: Service as an instructor, discussion leader, or speaker.

(A) Lecturer credit may be claimed for work that is either paid or unpaid.

(B) Lecturer credit shall be allowed for the first time a course is taught. No credit shall be allowed for repeat presentations unless an instructor can demonstrate that the program content was substantially changed and such change required significant additional study or research.

(i) Service as an Oregon Board of Psychologist Examiners member or committee volunteer.

(j) Ethics committee meetings of professional associations.

(k) Formal trainings on office records organization, records maintenance and security procedures, or billing software instruction.

(l) Reading books or articles from peer-reviewed journals (home study).

Stat. Auth.: ORS 675.110

Stats. Implemented: ORS 675.110(14)

Hist.: BPE 2-1999, f. & cert. ef. 7-6-99; BPE 2-2002, f. & cert. ef. 2-27-02, 858-040-0035(2) Renumbered from 858-040-0045; BPE 4-2002, f. & cert. ef. 10-11-02; BPE 1-2008, f. & cert. ef. 3-26-08; BPE 1-2010, f. & cert. ef. 1-8-10; BPE 2-2010, f. & cert. ef. 9-28-10; BPE 2-2011, f. & cert. ef. 5-31-11; BPE 2-2014, f. 6-2-14, cert. ef. 1-1-15; BPE 2-2016, f. & cert. ef. 2-1-16

858-040-0055

Credit Hours Granted

(1) Credit shall be given for actual hours attended.

(2) Credit shall be given for no more than 20 hours of continuing education for home study and study group hours combined in each reporting period.

(3) An instructor, discussion leader, or speaker shall be given two hours of credit for preparation for each hour of presentation time, and one hour of credit for each hour of presentation time.

(4) Credit shall be given for no more than 20 hours of continuing education for service as an instructor, discussion leader, or speaker and published material combined in each reporting period.

(5) One hour of continuing education credit shall be given for reading 100 book pages or four peer-reviewed articles. Credit shall be given for no more than four hours (400 book pages or 16 articles) of reading in each reporting period. No more than two hours of reading may be used to fulfill the professional ethics continuing education requirement, and no more than two hours of reading may be used to fulfill the one-time pain management continuing education requirement.

Stat. Auth.: ORS 675.110
Stats. Implemented: ORS 675.110(14)
Hist.: BPE 2-1999, f. & cert. ef. 7-6-99; BPE 2-2002, f. & cert. ef. 2-27-02; BPE 1-2008, f. & cert. ef. 3-26-08; BPE 1-2010, f. & cert. ef. 1-8-10; BPE 2-2010, f. & cert. ef. 9-28-10; BPE 2-2014, f. 6-2-14, cert. ef. 1-1-15; BPE 2-2016, f. & cert. ef. 2-1-16

858-040-0065
Evidence of Completion

(1) Evidence of completion must be retained by the licensee for a minimum of two years after the reporting period.

(2) Responsibility for documenting the acceptability of the program and the validity of credit rests with the licensee.

(3) The following shall constitute evidence of completion:

(a) For academic credit: a copy of a transcript showing satisfactory completion of the course.

(b) For professional development or workplace educational programs, formal trainings or home study activities: a certificate of attendance. A copy of a paid receipt showing licensee's name as the payor, along with a conference brochure, workshop flier or program schedule, may serve as evidence of completion for no more than eight hours of continuing education credit. Documentation must at minimum show the qualified instructor(s)'s name and degree, date, start and end time, and subject matter of the program.

(c) For ethics committee meetings of professional organizations: meeting minutes showing the meeting date, ethics content, and licensee's name as a participating member..

(d) For formally organized study groups: a copy of the study group meeting record.

(e) For consultation or supervision received: copies of a cancelled check or a signed verification by the psychologist providing services.

(f) For authoring published material or reading books or journal articles: a copy of pertinent pages of the material showing the article/chapter title (if applicable), book/journal name, author(s), and date of publication.

(g) For lecturer credit: a copy of the course syllabus, conference brochure, workshop flier, program schedule or signed verification from the sponsor. Documentation must at minimum show the licensee's name as the lecturer, date, start and end time, and subject matter.

Stat. Auth.: ORS 675.110
Stats. Implemented: ORS 675.110(14)
Hist.: BPE 2-1999, f. & cert. ef. 7-6-99; BPE 2-2002, f. & cert. ef. 2-27-02; BPE 1-2008, f. & cert. ef. 3-26-08; BPE 1-2010, f. & cert. ef. 1-8-10; BPE 2-2014, f. 6-2-14, cert. ef. 1-1-15; BPE 2-2016, f. & cert. ef. 2-1-16

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Rule Caption: Clarifies post-doctoral supervised work experience requirements.
Adm. Order No.: BPE 3-2016
Filed with Sec. of State: 2-2-2016
Certified to be Effective: 2-2-16
Notice Publication Date: 9-1-2014
Rules Amended: 858-010-0036
Subject: This amendment makes clarifications to the post-doctoral supervised work experience requirements for licensure as a psychologist. The change specifies that the 24 month time limit on the psychologist licensure requirement statutory exemption under ORS 675.090(2)(a) does not restart or reset. The amendment also reorganizes some content for clarity and makes other helpful language changes. On November 14, 2014 the Board voted to adopt this rule amendment, and on November 17, 2014 the permanent rule was filed with the Secretary of State. Legislative Counsel found that it did not receive a copy of the adopted rule within 10 days of filing, so the permanent rule was refiled on September 30, 2015. Subsequently, it was discovered that a rule amendment filed on March 21, 2014 had been omitted due to clerical error. The Board is refiling the permanent rulemaking in order to restore the March 21, 2014 amendment to the post-doctoral supervised work experience requirements for psychologist licensure.
Rules Coordinator: LaRee' Felton—(503) 373-1196

858-010-0036
Post-Doctoral Supervised Work Experience

(1) Policy. One year of post-doctoral supervised work experience is required for licensure. The required work experience must take place after the doctorate degree is conferred.

(a) One year of supervised work experience is defined as 1,500 hours of psychological services performed over a period not less than twelve months.

(b) Psychological services are defined as direct psychological services to an individual or group; diagnosis and assessment; completing documentation related to services provided; client needs meetings and consultation; psychological testing; research related to client services; report writing; and receiving formal training including workshops and conferences.

(c) For the purposes of licensure, psychological services do not include business development; credentialing activities; marketing; purchasing; creating forms; administrative billing or other business management activities.

(d) A person with a doctoral degree in psychology who is employed at an "exempt site" pursuant to ORS 675.090(f) may practice psychology without a license for no more than 24 months from the time they begin practicing at an exempt site. The 24-month time limit does restart if the person ceases practicing and then begins again, and does not reset if the person begins working at a different exempt site.

(2) The following shall be used by the Board to define supervised work experience.

(a) Unless exempted from ORS 675.010 to 675.150, in order to obtain postdoctoral supervised work experience in Oregon, the candidate for licensure must be in a Board approved Resident Supervision Contract.

(b) Work experience completed in Oregon must be performed under the supervision of an Oregon licensed psychologist who has been licensed for at least two years in Oregon or in a jurisdiction with licensing standards comparable to Oregon.

(c) To receive supervised work experience credit from other jurisdictions, the experience must be a formal arrangement under the supervision of a psychologist who has been licensed for at least two years in a jurisdiction with licensing standards comparable to Oregon.

(d) The supervisor is not required to be working on-site with the resident.

(e) Frequency:

(A) If a resident works 1–20 hours in a week, the resident must receive at least one hour of individual face-to-face supervision during that week.

(B) If a resident works more than 20 hours in a week, the resident must receive at least two hours of supervision during that week. One hour must be individual and one hour may be group supervision. Group supervision must be:

(i) A formal and on-going group of at least three mental health professionals;

(ii) Facilitated by a licensed psychologist; and

(iii) Approved by the resident's supervisor.

(C) On a non-routine basis, in the absence of the primary supervisor, individual one-on-one supervision hours may be delayed up to 14 days to accommodate vacations, illness, travel or inclement weather.

(D) Non-routine individual supervision may occur by electronic means when geographical distance, weather or emergency prohibit a face-to-face meeting.

(E) If a resident's work in a particular week does not comply with these requirements, then it may not be counted towards the supervised work experience requirement.

(3) Candidates for licensure shall be eligible to enter into a Resident Supervision Contract as described in subsection (2)(a) of this rule.

(a) Resident status shall begin the date the Board approves the Resident Supervision Contract.

(b) Duration. The resident status is a transitional step toward licensure and is not intended as a means to avoid licensure. A Resident Supervision Contract shall be effective for a period not to exceed two years from the date of Board approval. The Board may extend the contract beyond two years for good cause upon a written request from the resident and the supervisor prior to the expiration of the contract. Failure to receive a courtesy reminder notice from the Board shall not relieve the resident of the responsibility to timely request an extension.

(c) Termination of a Resident Supervision Contract will be granted by the Board at the written request of the supervisor or the resident. The termination shall be effective at the time the Board approves the request in writing, or on the date indicated by the supervisor in the final residency evaluation, whichever is later.

(d) If the supervisor is to be paid for supervision payment must be in the form of a per-hour fee.

(e) Supervision of more than three residents concurrently shall require prior approval by the Board.

(4) Resident's Responsibilities. The resident's conduct must conform to the following standards:

(a) Title. The resident must be designated at all times by the title "psychologist resident." All signed materials, letterhead, business cards, telephone directory listings, internet postings, brochures, insurance billing and any other public or private representation must include the individual's title as "psychologist resident" and the supervisor's name and designation "supervisor."

(b) Scope of Practice. The resident will only offer services in those areas that the supervisor is competent.

(c) Nature of Supervision. The resident must obtain frequent and regular supervision meetings throughout the duration of the Resident Supervision Contract. The resident must provide the supervisor with a periodic evaluation of all cases and psychological activities in which the resident is engaged. The resident's practice must comply with Oregon laws and administrative rules.

(d) Confidentiality. The resident must advise all clients orally and in their informed consent policy that the supervisor may have access to all information and material relevant to the client's case.

(e) Promptly communicate to the Board any significant interruption or expected termination of the Resident Supervision Contract.

(f) The resident must discuss with their supervisor the Supervisor Evaluation Report at the conclusion or termination of the Resident Supervision Contract.

(5) The supervisor's responsibilities are:

(a) Review, supervise and evaluate representative and problem cases with attention to diagnostic evaluation, treatment planning, ongoing case management, emergency intervention, recordkeeping and termination;

(b) Countersign all psychological reports and professional correspondence produced by the resident; and ensure that letterhead, business cards, telephone directory listings, internet postings, brochures, insurance billing and any other public or private representation includes the appropriate title of "psychologist resident" or "psychologist associate resident" and the supervisor's name and designation as "supervisor." Client progress notes do not need to be co-signed by the supervisor.

(c) Review with the resident, Oregon laws and administrative rules related to the practice of psychology, including the current APA "Ethical Principles of Psychologists and Code of Conduct," professional relationships and referrals, protection of records, billing practices, recordkeeping and report writing;

(d) Assist the psychologist resident in developing a plan to prepare for the national written exam and the Oregon jurisprudence examination;

(e) Promptly communicate to the Board any professional or ethical concerns regarding the resident's conduct or performance;

(f) Notify the Board within fourteen days and explain any significant interruption or expected termination of the Resident Supervision Contract;

(g) Ensure that the resident has access to supervision by telephone to discuss urgent matters, if the supervisor is unavailable during a period not to exceed fourteen days;

(h) Create and maintain for at least three years a record of hours of supervision and notes for each supervision session contemporaneously as supervision occurs, and provide it to the Board within fourteen days of request;

(i) Provide the Board with an interim Resident Evaluation Report upon request; and

(j) Provide the Board with a final Resident Evaluation Report at the conclusion or termination of the Resident Supervision Contract.

(6) Associate Supervisor. Any supervision of the resident by a person other than the primary supervisor must be identified in the Resident Contract and approved by the Board.

(a) The associate supervisor is responsible for providing supervision as described in section (5) of this rule in the event that the primary supervisor is unavailable for any reason; and

(b) The associate supervisor is responsible for reporting professional or ethical concerns regarding the resident's conduct or performance to the primary supervisor and the Board.

Stat. Auth.: ORS 675.030, 675.040, 675.045, 675.050, 675.065 & 675.110
Stats. Implemented: ORS 675.030, 675.040, 675.045, 675.050, 675.065 & 675.110
Hist.: PE 1-1988, f. & cert. ef. 7-25-88; PE 1-1990, f. & cert. ef. 2-16-90; PE 1-1991, f. & cert. ef. 4-3-91; PE 2-1991, f. 8-15-91, cert. ef. 8-16-91; PE 4-1993, f. & cert. ef. 7-19-93; PE 1-1996, f. & cert. ef. 6-25-96; BPE 2-2002, f. & cert. ef. 2-27-02; BPE 4-2002, f. & cert. ef. 10-11-02; BPE 1-2008, f. & cert. ef. 3-26-08; BPE 1-2010, f. & cert. ef. 1-8-10; BPE 2-2010, f. & cert. ef. 9-28-10; BPE 1-2011, f. & cert. ef. 1-25-11; BPE 2-2011, f. & cert. ef. 5-31-11; BPE 3-2011, f. & cert. ef. 9-27-11; BPE 2-2012, f. & cert. ef. 6-8-12; BPE 3-2013, f. & cert. ef. 9-30-13; BPE 1-2014, f. & cert. ef. 3-24-14; BPE 6-2014, f. & cert. ef. 11-17-14; BPE 5-2015, f. & cert. ef. 9-30-15; BPE 3-2016, f. & cert. ef. 2-2-16

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Department of Administrative Services, Chief Human Resources Office
Chapter 105

Rule Caption: Amends rules to remove reference to limited duration appointments.
Adm. Order No.: CHRO 1-2016(Temp)
Filed with Sec. of State: 2-12-2016
Certified to be Effective: 3-1-16 thru 8-15-16
Notice Publication Date:
Rules Amended: 105-040-0040, 105-040-0065
Subject: These amendments are to remove references to limited duration appointments. The Chief Human Resources Office (CHRO) has drafted a policy specific to limited duration appointments which makes the rule redundant. Limited duration appointments are not defined or regulated in statute and are more appropriate in policy instead of rule.
Rules Coordinator: Janet Chambers—(503) 378-5522

105-040-0040
Types of Appointments

Applicability: Classified unrepresented and management service positions, initial appointment to all classified positions and temporary appointments.

(1) The State of Oregon has a variety of appointment types which are made in accordance with the type of position being filled and the individual needs of the agency. An agency head shall use one of the following methods to appoint persons to state service:

(a) Permanent Appointment: The appointment of a person to a permanent position;

(b) Seasonal Appointment: The appointment of a person to a position which occurs, terminates and recurs periodically or regularly;

(c) Temporary Appointment: The noncompetitive, non-status, appointment of a person for the purpose of meeting emergency, nonrecurring or short-term workload needs of the agency. A temporary employee shall be exempt from all provisions of the State Personnel Relations Law, Administrative Rules and HRSD Policies unless otherwise specified in accordance with HRSD State Policy 40.025.01, Temporary Appointments;

(d) Academic Year Appointment: The appointment of a person to a position which generally conforms to the academic year of mid-September to mid-June. Appointing authorities may extend employment into the period between academic years;

(A) Employees appointed to positions designated as academic year shall be placed on leave without pay during the unextended period between academic years. The employee shall be returned to the position on termination of leave without pay status. Time spent on such leave shall constitute service for purposes of computing vacation accrual rates, recognized service dates and any other purpose where service time is computed except for the period of trial service;

(B) A person accepting an academic year appointment shall be informed of the conditions of the appointment and shall acknowledge in writing acceptance of the appointment under those conditions.

(2) Documentation retention requirements are outlined under HRSD State Policy 40.010.001, Recruitment and Selection Records Retention.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 184.340, 240.145 & 240.250
Stats. Implemented: ORS 240.306, 659A.052, 659A.043 & 659A.046
Hist.: PD 7-1981, f. & ef. 12-18-81; PD 2-1985(Temp), f. & ef. 7-26-85; PD 1-1986, f. & ef. 1-23-86; PD 2-1989, f. & cert. ef. 12-1-89; PD 2-1992(Temp), f. & cert. ef. 2-21-92; PD 4-1992, f. & cert. ef. 8-12-92; PD 2-1994, f. & cert. ef. 8-1-94, Renumbered from 105-043-0000; HRSD 2-2003(Temp), f. & cert. ef. 1-13-03 thru 7-12-03; HRSD 4-2003, f. & cert. ef. 4-30-03; HRSD 15-2003, f. 7-15-03, cert. ef. 7-21-03; CHRO 1-2016(Temp), f. 2-12-16, cert. ef. 3-1-16 thru 8-15-16

105-040-0065
Management Service Trial Service Period

(1) Individuals appointed to a position in the Management Service as provided in ORS 240.195 and 240.212 are subject to a trial service period.

(2) A trial service period is the final phase of the hiring process to afford an employee the opportunity to demonstrate the ability to perform the work and provide state agencies the opportunity to confirm qualifications and fitness of an employee for a position.

(3) A state agency head has the authority to establish a trial service period for appointments to positions in the Management Service consistent with the following criteria:

(a) A trial service period is required upon initial appointment or promotion;

(b) A trial service period shall be no less than 6 months but may be up to 12 months based upon specific circumstances that affect the amount of time needed to demonstrate competency. Part-time employees shall serve a trial service period equivalent to that set by the agency for the specified classification on an hourly basis. For example, a 6-month trial service period is equivalent to 1040 hours for a part-time employee;

(c) A temporary appointment made pursuant to ORS 240.309 does not count as any portion of a trial service period upon subsequent appointment to a regular or seasonal status position in the management service;

(d) Upon successful completion of a trial service period, an employee shall gain regular status. A seasonal employee who does not complete trial service in a single seasonal period shall be credited with accumulated service if a break between service periods does not exceed two years.

(4) At the discretion of a state agency head or a state agency appointing authority, a trial service period, of 6 to 12 months, may be established when a regular status employee in any category of state service is appointed to a position in the Management Service by:

(a) Transfer to a different agency; or

(b) Transfer back to the same agency after an absence of more than one year; or

(c) Reemployment with a different agency; or

(d) Reemployment with the same agency after an absence of more than one year; or

(e) Voluntary demotion to a different classification series.

(5) A state agency head or a state agency appointing authority may extend the trial service period by the corresponding total number of days a period of leave with or without pay exceeds 15 calendar days.

Stat. Auth.: ORS 183.335, 183.341, 184.340, 240.250, 240.145(3)
Stats. Implemented: ORS 183.335, 183.341 240.316, 240.410, 240.570(3)
Hist.: HRSD 2-2007, f. 4-24-07, cert. ef. 5-1-07; CHRO 1-2016(Temp), f. 2-12-16, cert. ef. 3-1-16 thru 8-15-16

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Department of Agriculture
Chapter 603

Rule Caption: Temporary rule reduces license and permit terms from triennial to annual, for industrial hemp.
Adm. Order No.: DOA 1-2016(Temp)
Filed with Sec. of State: 1-29-2016
Certified to be Effective: 1-29-16 thru 7-26-16
Notice Publication Date:
Rules Amended: 603-048-0200, 603-048-0600
Subject: The 2015 legislative assembly revised statutes relating to industrial hemp, ORS 571.300 to 571.315. Substantial revisions to the statute include reducing the length of terms for industrial hemp license and agricultural hemp seed production permits from triennial to annual. This temporary rule establishes annual licenses and permits allowing for the issuance of these licenses and permits for spring planting of 2016.
Rules Coordinator: Sue Gooch—(503) 986-4583

603-048-0200
Review and Approval of License and Permit Applications, License and Permit Conditions

(1) Within 60 days of receiving an application, the Department shall determine whether an application or an application to renew contains the information required and is complete and not defective, including the payment of all required fees. If the Department determines that the application is incomplete or defective or that all fees have not been paid, the Department shall return any or all fees and the application, and may not issue the license or permit.

(2) Within 30 days of determining that an application contains all the required information and is complete and not defective, the Department may issue a license or permit.

(3) An industrial hemp license authorizes a person, joint venture or cooperative to grow and handle industrial hemp and is valid for one-year term effective January 1, through December 31 of the year of issuance, unless revoked. A license may be renewed as provided in OAR 603-048-0110. Licenses shall contain the following conditions:

(a) A condition requiring that the following be immediately reported to the Department:

(A) Any changes in the name or location of the individual or business entity holding the license.

(B) Any changes in the ownership of the land used to cultivate industrial hemp;

(C) Any changes in the ownership or structure of the entity holding an industrial hemp license;

(D) Any loss or theft of an industrial hemp crop.

(b) A condition requiring the licensee to keep the records as specified in OAR 603-048-0400.

(c) A condition requiring an Annual Report as provided in OAR 603-048-0300.

(d) A condition requiring the licensee to notify the Department a minimum of 14 days prior to the intended harvest date to allow the Department to take and test samples prior to harvest.

(e) General conditions specifying that the Department may inspect and sample industrial hemp as authorized in ORS 561.275 and ORS 571.305, to administer the laws governing industrial hemp production or to assure compliance with applicable statutes, rules, permit and license requirements or any Department order.

(f) A condition specifying the license is nontransferable.

(4) An agricultural hemp seed production permit authorizes a person, joint venture or cooperative with a valid, unsuspended industrial hemp license, to grow and handle agricultural hemp seed that is intended for sale or is sold to, or purchased by industrial hemp licensee's for planting, growing or handling and is valid for a one-year term effective January 1, through December 31 of the year of issuance, unless revoked. A permit may be renewed as provided in OAR 603-048-0110. Permits must contain the following conditions:

(a) A condition that a license for industrial hemp is required to obtain a permit authorizing growing or handling of agricultural hemp seed.

(b) A condition requiring that the following be immediately reported to the Department:

(A) Any changes in the name or location of the individual or business entity holding the license or permit or the facility used for handling agricultural hemp seed;

(B) Any changes in the location of the industrial hemp fields used to produce agricultural hemp seed or change in the number of acres of industrial hemp seed produced may not occur unless the licensee first notifies the Department of any changes and provides a map indicating the changes.

(C) Any changes in the ownership of the land used to cultivate industrial hemp or agricultural hemp seed;

(D) Any changes in the ownership or structure of the entity holding an industrial hemp license or agricultural hemp seed production permit;

(E) Any loss or theft of an industrial hemp crop or agricultural hemp seed.

(c) A condition requiring the grower or handler to keep the records as specified in OAR 603-048-0400.

(d) A condition requiring an annual report as provided in OAR 603-048-0300.

(e) A condition requiring the licensee to notify the Department a minimum of 14 days prior to the intended harvest date to allow the Department to take and test samples prior to harvest.

(f) A condition specifying that the permit is nontransferable.

(g) General conditions specifying that the Department may inspect and sample agricultural hemp seed as authorized in ORS 561.275 and 571.305 to administer the laws governing agricultural hemp seed or to assure compliance with applicable statutes, rules, permit and license requirements or any Department order.

(h) General conditions that, in addition to meeting all laws and regulations pertaining to industrial hemp growers and handlers, ORS 571.300 to 571.315 and OAR 603-048-0010 to 603-048-1000, all production, storing, processing, handling, packaging, labeling, marketing and selling of agricultural hemp seed must meet all applicable State seed laws and regulations as specified in ORS 633.511 through 633.996 and seed regulations, OAR 603-056-0030 to 603-056-0490

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

603-048-0600
Industrial hemp Fees, License, Permits and Inspection Fees

(1) The following designated annual license fees shall be applicable to each described activity under authority of ORS 571.305:

(a) Industrial Hemp License $500.00; and

(b) Agricultural Hemp Seed Production Permit $500.00.

(2) Sampling and Inspection: All sampling and inspection as described in OAR 603-048-0700 will be provided on a first come, first served basis, as qualified staff is available. The cost of services shall include:

(a) A charge for a minimum of four hours of service at a rate of $92 per hour;

(b) Travel time at the rate of $92 per hour;

(c) Mileage, lodging and per diem reimbursed at rates established by the Department of Administrative Services;

(3) Mileage Charges: Mileage may be charged in addition to all inspection fees or time charges, at the rate per mile established by the Department of Administrative Services, when travel is required.

(4) Overtime Charges: For all inspection services performed during the following times (which will be considered overtime), the regular inspection fees or hourly charges shall be charged plus $30 per hour for all time involved. Overtime charges shall be figured to the nearest one-half hour:

(a) After eight hours (per scheduled shift) or 6:00 p.m., whichever comes first, on Monday through Friday of each week;

(b) At any time on Saturdays or Sundays; and

(c) At any time on any day which is declared by law to be a holiday for state employees.

(5) Overtime Service Charge: The minimum overtime service charge for Saturdays, Sundays and other legal holidays shall be four hours.

(6) No Service Days: No service will be given on Thanksgiving, Christmas, or New Years days.

(7) Laboratory Charges shall be $350 per test.

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

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Rule Caption: Establishes fees for the certification of qualified equipment for certain food processors
Adm. Order No.: DOA 2-2016
Filed with Sec. of State: 2-9-2016
Certified to be Effective: 2-9-16
Notice Publication Date: 1-1-2016
Rules Adopted: 603-025-0151, 603-025-0152
Rules Amended: 603-025-0150
Subject: Oregon law establishes criteria that allows some qualified food processing equipment to be exempt from property taxation when it is used to process grains, bakery products, dairy products, and eggs. Food processors that are engaged in the business of producing alcholic beverages, marijuana, or any product containing marijuana or marijuana extract do not qualify for the exemption. Persons engaged in the production of bakery products do not qualify for the exemption unless the person maintains a wholesale license issued by the Oregon Department of Agriculture. Machinery and equipment used to process grains or bakery products must have a real market value of at least $100,000 when placed in service to be eliglble for the exemption. Furthermore, qualified machinery and equipement used to process bakery products is ineligible for the exemption if the proceeds from retail sales made at the processing site constitute more than 10% of all proceeds from sales made at the processing site.

This rulemaking fixes fees that the Department of Agriculture will assess and collect from food processors when certifiying qualified machinery and equipment for purposes of the tax exemption. The Department of Agriculture is authorized to certify qualified machinery and equipment in ORS 307. Additionally, the Oregon Legislative Assembly passes House Bill 3125 in 2015, which further amended ORS 307 to authorize the Department of Agriculture to fix, assess and collect, fees that are reasonably necessary to cover the costs of certification and administration of certifying qualified machinery and equipment. Plus, the scale of fees may vary according to the locatin of the qualified machinery and equipment.

The proposed fees include: (1) a charge of service at the rate of $95 per hour; (2) travel time at the rate of $95 per hour; (3) mileage, lodging, and per diem reimbursed rates established by the Department of Administrative Services (DAS); and (4) an application fee of $100 for each request that is submitted and received by the Department of Agriculture. Each request may include more than one item of machinery and equipment, but if additional requests are submitted, the application fee will be reassessed.
Rules Coordinator: Sue Gooch—(503) 986-4583

603-025-0150
Food Processing Establishments

In addition to the provisions of OAR 603-025-0020, a food processing establishment shall comply with the following:

(1) Construction and Repair of Equipment and Utensils: All plant equipment and utensils shall be suitable for their intended use, so designed and of such material and workmanship as to be adequately cleanable, and properly maintained. The design, construction and use of such equipment and utensils shall preclude the adulteration of foods with lubricants, fuel, metal fragments, contaminated water or any other contaminants. All equipment shall be installed and maintained so as to facilitate the cleaning of the equipment and of all adjacent spaces. Aisle or working spaces between equipment and between equipment and walls shall be unobstructed and of sufficient width to permit employees to perform their duties without contamination of food or food contact surfaces with clothing or personal contact.

(2) Sanitary Maintenance and Methods:

(a) Separate rooms shall be provided for those operations which may cause contamination of food products with undesirable microorganisms, chemicals, filth or other extraneous material. Building, fixtures and other physical facilities of the establishment shall be kept in good repair and in a sanitary condition. Cleaning operations shall be conducted so as to minimize the danger of contamination of food and food-contact surfaces. Detergents, sanitizers and other supplies employed in cleaning and sanitizing procedures shall be free of significant microbiological contamination and shall be safe and effective for their intended uses. Cleaning and sanitizing agents shall be subject to approval by the department;

(b) All utensils and product-contact surfaces of equipment shall be cleaned as frequently as necessary to prevent contamination of food and food products. Nonproduct-contact surfaces of equipment used in the operation of food plants should be cleaned as frequently as necessary to minimize accumulation of dust, dirt, food particles, and other debris. Single-service articles (such as utensils intended for one-time use, paper cups, paper towels, etc.) should be stored in appropriate containers and handled, dispensed, and disposed of in a manner that prevents contamination of food or food-contact surfaces. Where necessary to prevent the introduction of undesirable microbiological organisms into food products, all utensils and product-contact surfaces of equipment used in the plant shall be cleaned and sanitized prior to such use and following any interruption during which such utensils and contact surfaces may have become contaminated. Where such equipment and utensils are used in a continuous production operation, the contact surfaces of such equipment and utensils shall be cleaned and sanitized on a predetermined schedule using adequate methods for cleaning and sanitizing. Sanitizing agents shall be effective and safe under conditions of use. Any facility, procedure, machine or device may be acceptable for cleaning and sanitizing equipment and utensils if it is established that such facility, procedure, machine, or device will routinely render equipment and utensils clean and provide adequate sanitizing treatment;

(c) All cleaned and sanitized portable equipment and utensils with product-contact surfaces should be stored in such a location and manner that product-contact surfaces are protected from splash, dust, and other contamination;

(d) Adequate and convenient facilities for handwashing and, where appropriate, hand sanitizing shall be provided at each location in the plant where good sanitary practices require employees to wash or sanitize and dry their hands. Such facilities shall be furnished with running water at a suitable temperature for handwashing, effective hand cleaning and sanitizing preparations, sanitary towel service or suitable drying devices and, where appropriate, easily cleanable waste receptacles;

(e) All operations in the receiving, inspecting, transporting, packaging, segregating, preparing, processing and storage of food shall be conducted in accordance with adequate sanitation principles. Overall sanitation of the plant shall be under the supervision of an individual assigned responsibility for this function. All reasonable precautions, including the following, shall be taken to assure that production procedures do not contribute

contamination such as filth, harmful chemicals, undesirable microorganisms, or any other objectionable material to the processed product:

(A) Raw material and ingredients shall be inspected and segregated as necessary to insure that they are clean, wholesome, and fit for processing into human food and shall be stored under conditions that will protect against contamination and minimize deterioration. Raw materials shall be washed or cleaned as required to remove soil or other contamination;

(B) Containers and carriers of raw ingredients shall be inspected on receipt to assure that their condition has not contributed to the contamination or deterioration of the products. When ice is used in contact with food products, it shall be made from potable water and shall be used only if it has been manufactured in accordance with adequate standards and stored, transported, and handled in a sanitary manner;

(C) Food processing areas and equipment shall not be used to process animal feed or inedible products unless human food will not be contaminated thereby;

(D) Processing equipment shall be maintained in a sanitary condition through frequent cleaning, including sanitization where necessary. If necessary, equipment shall be taken apart for thorough cleaning. All food processing, including packaging and storage, shall be conducted under such conditions and controls as are necessary to minimize the potential for undesirable bacterial of other microbiological growth, toxin formation, or deterioration or contamination of the processed product or ingredients. This may require careful monitoring of such physical factors as time, temperature, humidity, pressure, flow-rate and such processing operations as freezing, dehydration, heat processing, and refrigeration to assure that mechanical breakdowns, time delays, temperature fluctuations and other factors do not contribute to the decomposition or contamination of the processed products;

(E) Chemical, microbiological, or extraneous material testing procedures shall be utilized where necessary to identify sanitation failures or food contamination, and all foods and ingredients that have become contaminated shall be rejected, treated or processed to eliminate the contamination where this may be properly accomplished;

(F) Packaging processes and materials shall not transmit contaminants or objectional substances to the products, shall conform to any applicable food additive rules, and shall provide adequate protection from contamination;

(G) Coding of products sold or otherwise distributed from a manufacturing, processing, packing or repacking activity should be utilized to enable positive lot identification so as to facilitate the segregation of specific food lots that may have become contaminated or otherwise unfit for their intended use. Records shall be retained for a period of time that exceeds the shelf life of the product, but need not be retained for more than two years.

(3) Processing Requirement for Retail Sale of Dehydrated Prunes: Dehydrated prunes shall not be sold at retail or offered or displayed for sale at retail, unless they have been subjected to heat treatment by water or steam to at least 180°F. long enough to remove adhering material and to obtain a uniform desired texture.

Stat. Auth.: ORS 561, 307.453, 307.455, 307.457, 307.459 & 2015 HR 3125, 78th Or. Legis. Assemb.
Stats. Implemented: ORS 307.459 & 616.700
Hist.: AD 2-1987, f. & ef. 1-30-87;.DOA 19-2005(Temp), f. 12-23-05, cert. ef. 1-3-06 thru 5-31-06; DOA 13-2006, f.& cert. ef. 6-21-06; DOA 2-2016, f. & cert. ef. 2-9-16

603-025-0151
Property Tax Exemption for Qualified Machinery and Equipment

(1) The Oregon Department of Agriculture is authorized to certify qualified machinery and equipment for the purposes of ORS 307.453–307.457.

(2) Definitions: For the purposes of this section, the definitions in ORS chapter 307.455 apply, unless the context requires otherwise. In addition, the following definitions apply.

(a) "Newly acquired property" means new or used machinery and equipment that is first purchased or leased by a food processor not more than two years (24 months) prior to placing it into service. Leased equipment may be exempt only if the food processor is responsible for the payment of the property taxes under the terms of the lease agreement. Newly acquired property does not include existing equipment that has been refurbished or reconditioned in the time frame provided by this rule.

(b) "Placed into service" means the date the machinery and equipment is first used or in such condition that it is readily available and operational for its intended commercial use. It does not include property that is being tested or is in the process of being erected or installed on the January 1 assessment date.

(c) "Real Market Value of the Property" for the purpose of determining the late filing penalty pursuant to ORS 307.455, means the invoice cost of the machinery and equipment, installation, engineering, and miscellaneous costs including machinery process piping, foundations, power wiring, interest during installation, and freight.

(3) The process for application and determination of certification for qualified machinery and equipment is as follows:

(a) Any food processor requesting certification must make a request for certification in writing on a form provided by the Oregon Department of Agriculture. Certification request forms are available on the Oregon Department of Agriculture web site and the Oregon Department of Revenue web site, or are available by mail from either agency upon request.

(b) Upon receiving a completed certification request form, the Food Safety Program of the Oregon Department of Agriculture may schedule a visit to the processing site for the purpose of inspecting and verifying the eligibility of machinery requested for certification as qualified machinery or equipment.

(c) After inspecting the food processing equipment requested to be certified, the Oregon Department of Agriculture shall make a determination as to property that is qualified for certification. This determination of certification shall be in writing and include a schedule of all machinery or equipment the Oregon Department of Agriculture has certified.

(4) Following certification, a food processor seeking continued exemption as described at ORS 307.455 must annually verify that equipment previously certified still constitutes qualified machinery or equipment as follows: By January 30th of each year following certification a food processor must submit to the Oregon Department of Revenue a signed form that includes a schedule of all equipment previously certified and provides sufficient information to the Oregon Department of Revenue such that it can determine whether previously-certified machinery or equipment continues to meet certification requirements.

(5) The Oregon Department of Agriculture may inspect any equipment or machinery previously certified for the purposes of determining continued certification pursuant to ORS 307.455.

(6) If a food processor seeks to add additional machinery or equipment not previously certified to its annual certification verification list then the food processor must apply for certification of this additional equipment pursuant to the process for certifying qualified machinery or equipment provided in these rules.

(7) Denial of certification of certain property by the Oregon Department of Agriculture is a contested case for the purpose of ORS Chapter 183.

Stat. Auth.: ORS 561, 307.453, 307.455, 307.457, 307.459 & 2015 HR 3125, 78th Or. Legis. Assemb.
Stats. Implemented: ORS 307.459 & 616.700
Hist.: DOA 2-2016, f. & cert. ef. 2-9-16

603-025-0152
Certification Fees

(1) Certification Fees. The Department may fix, access, and collect, or cause to be collected, fees on food processors for the certification of qualified equipment and machinery. The fees must be in an amount reasonably necessary to cover the costs of the certification and of administration of the certification program. These fees must be paid prior to the Department's submittal of the firm's exemption forms to the Oregon Department of Revenue.

(2) The following fees and charges are established for the administration and certification of machinery and equipment. The fees may be charged and assessed regardless if machinery and equipment is qualified for the exemption. The scale of fees may vary according to the location of the qualified machinery and equipment.

(3) The cost of such services may include:

(a) A charge of service at the rate of $95 per hour;

(b) Travel time at the rate of $95 per hour;

(c) Mileage, lodging, and per diem reimbursed rates established by the Department of Administrative Services (DAS); and

(d) Application fees for the certification of Machinery and Equipment of $100 for each request for certification received by the Department.

Stat. Auth.: ORS 561, 307.453, 307.455, 307.457, 307.459 & 2015 HR 3125, 78th Or. Legis. Assemb.
Stats. Implemented: ORS 307.459 & 616.700
Hist.: DOA 2-2016, f. & cert. ef. 2-9-16

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Rule Caption: Maricopa County onion sets can ship in reusable plastic containers; changes language to Special Permits.
Adm. Order No.: DOA 3-2016
Filed with Sec. of State: 2-12-2016

Certified to be Effective: 2-12-16
Notice Publication Date: 1-1-2016
Rules Amended: 603-052-0347
Subject: The amendments to OAR 603-052-0347 will: 1) allow shipment of onion sets from Maricopa County, AZ, in reusable plastic containers provided theose containers are sanitized sufficiently after each use to eliminate any risk of contamination by onion white rot; and, 2) change the phrase Director's Exemption to the phrase Special Permit in Section (7), which matches the language used in the Oregon Department of Agriculture's statutory authority.
Rules Coordinator: Sue Gooch—(503) 986-4583

603-052-0347
Control Area and Procedures in Malheur County

(1) As authorized by ORS 570.405 to 570.435, a control area is established for the protection of the onion industry in the following described area through the eradication or control of Allium white-rot disease caused by Sclerotium cepivorum. Such control area includes all of Malheur County.

(2) The following methods of control are declared to be the proper methods to be used in the control area described in section (1) of this rule, for the control and prevention of the introduction of Allium white-rot disease into the area:

(a) No person shall import into the control area for the purpose of propagation any bulbs, sets, or seedlings of onion, garlic, leek, chive, shallots, or other Allium spp. with the following exceptions:

(A) The bulbs, sets, or seedlings were produced in adjacent Idaho counties covered by the Idaho Rules Governing White-Rot Disease of Onion (IDAPA 02.06.07) in Ada, Bingham, Blaine, Boise, Bonneville, Canyon, Cassia, Elmore, Gem, Gooding, Jefferson, Jerome, Lincoln, Madison, Minidoka, Owyhee, Payette, Power, Twin Falls, and Washington counties;

(B) The onion (Allium cepa) bulbs, sets, or seedlings were produced in Maricopa County, Arizona and were shipped in new single-use containers. Bulbs, sets, or seedlings may be shipped in reusable plastic containers provided the reusable plastic containers were sufficiently sanitized to eliminate potential Allium white rot contamination prior to packing. Each shipment must be accompanied by a state phytosanitary certificate declaring the bulbs, sets, or seedlings were produced in Maricopa County and were officially inspected and found free of Allium white rot; for bulbs, sets, or seedlings shipped in reusable plastic containers, the sanitization treatment used to decontaminate the containers must be documented on the state phytosanitary certificate accompanying the shipment. Recipients and sellers of such onion bulbs, sets, or seedlings are required to notify the Oregon Department of Agriculture – Ontario Field Office, PO Box 459, Ontario, OR 97914, Phone: 541-889-5274, Fax: 541-889-5077, of the incoming shipment(s) not less than two (2) days prior to arrival;

(b) Commercial onion propagation within the control area shall be limited to production from seed, or if vegetative propagative material is used, that material must be produced within the control area or within the counties described in subsection (a) of this section;

(c) Garlic (Allium sativum) propagation within the control area shall be limited to production in home gardens for personal use;

(d) Except as provided in subsections (d) and (e) of this section, no person shall in any manner import or move machinery, tools, or equipment into the control area, which have previously been used in any manner on fields outside the control area where the host plants named in subsection (a) of this section have been cultivated. Machinery, tools, or equipment may be imported or moved into the control area if they are first cleaned and sterilized to the satisfaction of and with the prior approval of the Department. The cleaning shall include the thorough removal of all dirt by the use of steam under pressure. Sterilization shall be accomplished by the use of steam. For the purposes of this subsection, "machinery, tools, or equipment" includes, but is not limited to, farm trucks, harvesters, and tillage equipment;

(e) Machinery, tools, or equipment utilized in the adjacent Idaho Counties covered by the Idaho Rules Governing White-Rot Disease of Onion in Ada, Bingham, Blaine, Boise, Bonneville, Canyon, Cassia, Elmore, Gem, Gooding, Jefferson, Jerome, Lincoln, Madison, Minidoka, Owyhee, Payette, Power, Twin Falls, and Washington counties are exempt from the prohibitions in subsection (d) of this section;

(f) The Department may stop the movement into or within the control area of any machinery, tools, or equipment, which have not been cleaned and sterilized as provided in this subsection, until such machinery, tools, or equipment are so cleaned and sterilized.

(3) Culls and waste from onions imported from outside of the control area must be disposed of in an approved landfill or must be treated in a manner that the Department has determined will render S. cepivorum sclerotia non-viable.

(4)(a) The Department may inspect any onions or onion planting areas within the control area during any time of the year to determine whether the disease organism is present therein. If the Department finds that any onions, whether or not being transported, or any fields are infested with the disease organism, it shall by written order, delivered or mailed to the onion grower or field owner, direct the control and eradication of the infestation, and may prior to issuance of the order, seize any infected onions which are separated from the land on which grown;

(b) Movement of such onions within the control area or removal of such from the control area may be carried out only with the Department's prior approval and under its supervision.

(5) Control and eradication methods used shall only be those approved by the Department and will be based on the best available science. These methods may include:

(a) The destruction of any infected onions;

(b) A directive specifying implementation of Departmentally approved mitigation measures to prevent the spread of S. cepivorum;

(c) Prohibit the pasturing of animals on any infested area;

(d) A directive that equipment, tools, and machinery used on an infested area be cleaned and sterilized as described in section (3) of this rule prior to removal from said area.

(6) The Department may, with the consent of the owner, allow use of an infested growing area as an experimental plot by Oregon State University for onion white-rot research. Such use shall be subject to the prior approval of, and supervised by the Department.

(7) The Department, upon receipt of an application in writing, may issue a Special Permit allowing movement into or within this control area of regulated commodities not otherwise eligible for movement under the provisions of this control area order. An advisory committee consisting of Malheur County onion growers, packers, and processors shall review each application and provide input to the Director of the Department of Agriculture. Membership on the advisory committee shall be approved by the Department and the committee shall consist of three growers, two packers, and one processor. The committee must provide input to the Director within thirty (30) days of receipt of the application for review. The Director retains the final authority to approve or deny Special Permit requests. Movement of such commodities will be subject to any conditions or restrictions stipulated in the Special Permit, and these conditions and restrictions may vary depending upon the intended use of the commodity and the potential risk of escape or spread of S. cepivorum.

(8) The Department and other interested parties shall review the control area requirements biennially for accuracy and effectiveness.

Stat. Auth.: ORS 561 & 570
Stats. Implemented: ORS 561.190, 561.510 - 561.600, 570.305, 570.405 & 570.410 - 570.415
Hist.: AD 2-1977, f. 2-9-77, ef. 3-1-77; DOA 4-2008, f. & cert. ef. 1-11-08; DOA 12-2009, f. & cert. ef. 8-21-09; DOA 20-2010, f. & cert. ef. 11-23-10; DOA 7-2013, f. & cert. ef. 4-26-13; DOA 3-2015, f. & cert. ef. 2-12-16

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Rule Caption: Harmonizes the Malheur County Bean Control Area with Idaho's rules for Phaseolus and non-Phaseolus beans.
Adm. Order No.: DOA 4-2016
Filed with Sec. of State: 2-12-2016
Certified to be Effective: 2-12-16
Notice Publication Date: 1-1-2016
Rules Amended: 603-052-0385
Subject: The amendments to OAR 603-052-0385 harmonize the regulatory language in Oregon's Malheur County Bean Control Area with Idaho's IDAPA 02.06.06 and 02.06.25. The amendments: 1) harmonize the scientific names for the diseases of concern; 2) harmonize eradication methods by amending Section 4(b) to add "Seed harvested from any commercial or garden beans first found infected during windrow inspection shall not be eligible for certification for replanting"; 3) delete Section 5(a) as this control method was determined to be impractical; and 4) harmonize phytosanitary requirements for imported non-Phaseolus bean seed for planting by adding a soil tolerance.
Rules Coordinator: Sue Gooch—(503) 986-4583

603-052-0385

Malheur County Bean Disease Control Area and Procedures

(1) As authorized by ORS 570.405 to 570.435, a control area is established for the protection of the bean seed industry in the following described area through the eradication or control of seedborne bacterial diseases, specifically: Halo Blight caused by Pseudomonas savastanoi pv. phaseolicola (= P. phaseolicola); Common Bean Blight caused by Xanthomonas axonopodis pv. phaseoli (= X. phaseoli and X. phaseoli var. fuscans); Bacterial Brown Spot caused by Pseudomonas syringae pv. syringae (only strains virulently pathogenic to Phaseolus sp.); Bacterial Wilt caused by Curtobacterium flaccumfaciens pv. flaccumfaciens (= Corynebacterium flaccumfaciens); Anthracnose caused by Colletotrichum lindemuthianum (teleomorph = Glomerella lindemuthiana), soybean cyst nematode caused by Heterodera glycines, Asian soybean rust caused by Phakopsora pachyrhizi, or any variations or new strains of these diseases, which are recognized as virulently pathogenic and seedborne, and/or a potential threat to seed production, all of which are hereafter referred to as diseases of beans; such control area includes all of Malheur County, Oregon.

(2) The following methods of control are declared to be the proper methods to be used in the control area described in section (1) of this rule, for the control and prevention of the introduction of diseases of beans. All non-Phaseolus species beans, from whatever source, used for planting purposes within Malheur County must meet the requirements as dictated in Section 7 of this rule. All Phaseolus species bean seed from whatever source, used for planting purposes within Malheur County are subject to the following:

(a) Phaseolus species bean seed grown in Malheur County for planting in Malheur County:

(A) Shall be certified in accordance with the procedures and provisions of section (3) of this rule;

(B) Shall have a Malheur County planting certificate number assigned by the Department;

(C) Shall have been Departmentally inspected or bear approved tags; and

(D) Shall have been grown and inspected for two consecutive preceding generations in Malheur County under rill irrigation prior to growing under sprinkler irrigation.

(b) Imported bean seed grown west of the Continental Divide in the contiguous states:

(A) May not be grown under sprinkler irrigation in Malheur County;

(B) Must have an approved phytosanitary certificate from the state of origin affirming freedom from the diseases listed in section (1) of this rule, based on growing season and windrow inspection, this seed may be planted in Malheur County only with the prior approval of the Department and provided that each field planted within Malheur county is submitted for Departmental inspections; and

(C) Shall successfully pass standard testing methods conducted by the Department from officially drawn samples; except

(D) Idaho grown bean seed shall be exempt from the requirements of this paragraph provided that:

(i) It has been certified for in-state planting by the Idaho State Department of Agriculture;

(ii) It bears Idaho State Department of Agriculture inspected or approved tags;

(iii) It is certified by the Idaho State Department of Agriculture or their official cooperator to have been grown and inspected for two consecutive preceding generations in Idaho under rill irrigation prior to planting for growing under sprinkler irrigation in Malheur County;

(iv) Imported bean seed grown east of the Continental Divide in the contiguous states or in foreign countries or otherwise ineligible for planting in Malheur County may be planted in Malheur County only on Departmentally approved Trial Grounds, and are subject to the provisions of section (6) of this rule.

(3) All bean fields in Malheur County shall be subject to entry and inspection by the Department. Growing season inspections of all bean fields shall be done as many times as deemed necessary by the Department, in accordance with the following:

(a) Bean fields grown for seed to be certified for planting in Malheur County shall be inspected by the Department during the growing season and in the windrow, including:

(A) Such bean fields grown under rill irrigation shall be inspected a minimum of one time during the growing season before plants mature seed, and again in the windrow;

(B) Such bean fields grown under sprinkler irrigation shall be inspected a minimum of two times during the growing season before plants mature seed, and once in the windrow; and,

(C) The tolerance for the diseases (identified in section (1) of this rule) in any field or part thereof for seed to be certified for planting in Malheur County shall be zero.

(b) Bean crops requiring field inspections to qualify for phytosanitary certifications shall be subject to the same inspection requirements and tolerances as set forth in subsection (a) of this section;

(c) Oregon State University certification inspections may replace the Departmental inspections for certification of seed for planting in Malheur County, if appropriate growing season and windrow inspection requirements as set forth in subsection (a) of this section are met;

(d) Every grower, seed company, or handler of bean seed for planting crops to be grown in Malheur County shall submit his written request to the Department to make the inspections required under this Bean Disease Control Area Order, on or before July 1 of each year. Such written request shall include acreage, general location of field, method of irrigation, name and address and telephone number of applicant.

(4) Eradication methods used shall only be those approved by the Department, including:

(a) Any bean seed found or known to be contaminated with disease which is now within the boundaries of Malheur County shall not be planted in Malheur County;

(b) Any bean fields within the boundaries of Malheur County which show contamination of disease shall be destroyed in part or in total as may be required to eliminate the presence of disease in the field, by and at the expense of the grower, or landlord, or his authorized agents. Seed harvested from any commercial or garden beans first found infected during windrow inspection shall not be eligible for certification for replanting. The Department shall notify the grower, or landlord, or his authorized agents, of the method and extent of destruction and any safeguards to be taken against disease spread;

(c) The true identity of a regulated disease on growing plants or plants in the windrow will be based upon the observance of symptoms of a regulated disease and, when necessary to establish identity or pathogenicity, standard testing methods to be conducted by the Department, including:

(A) The definitive verification of identity or pathogenicity shall include isolation of the suspected pathogen and inoculation of seedlings of a known susceptible host;

(B) Until verification of the suspected pathogen is completed the involved planting shall be placed under quarantine for a period of 30 days subject to review or extension as determined by the Department, and entry to the quarantined area shall be restricted to the grower, his agents, the Departmental officials, or persons authorized in writing by the Department, who shall be required to take all necessary sanitary precautions, as prescribed by the quarantine order, to safeguard against the possible spread of the suspected regulated disease; and

(C) The true identity of a regulated disease when found in or on seed shall be based on standard laboratory testing methods, the positive results of which shall be conclusive that the plants are subject to this control order, unless the owner of the seed requests verification of pathogenicity to be performed at his expense.

(d) When any regulated disease is verified by the Department, the grower or seed company shall be notified by the Department of such findings, and shall have 48 hours to view the involved planting or laboratory results prior to any action being taken by the Department.

(5) Exemption and special situations to these requirements are as follows:

(a) Beans for processing or fresh consumption are exempt from destruction if the diseased portion of the field is destroyed or harvested within five days after first detection or laboratory verification of the disease, and the crop residue is promptly and completely plowed under after harvest;

(b) A field contaminated with brown spot (P. syringae pv. syringae) may be eligible for a Special Permit as dictated in Section 8 of this rule and at the discretion of the Department.

(6) Trial Grounds are defined as parcels of land approved by the Department to be set aside for research, testing, or increase of: bean seed grown on Trial Grounds in Malheur County during previous seasons; bean seed eligible for planting in Malheur County; or bean seed otherwise ineligible for planting within the Malheur County. Trial Grounds shall be utilized in accordance with the following:

(a) They shall be under the supervision of technically trained personnel approved by the Department;

(b) The land upon which they are situated shall be owned or leased by the grower and, if leased, a copy of the lease shall accompany the application for approval;

(c) Applications for approval shall be submitted to the Department prior to May 20 of any year and shall contain:

(A) The name of supervisor in charge;

(B) The location and size of the Trial Ground; and

(C) A detailed varietal planting plan (if the original planting plan is changed, the Department shall be notified).

(d) An applicant may have more than one Trial Ground approved, provided a separate application is submitted for each Trial Ground and provided it meets the requirements of this section;

(e) Any seed grown on Trial Grounds to be released to farmer growers for replanting within Malheur County or requiring phytosanitary certification shall meet the inspection requirements of section (3) of this rule;

(f) All information submitted with the approval applications shall be deemed to be confidential under ORS 192.500(1)(b) and (c);

(g) Experimental Plots are defined as subdivision areas within Trial Grounds used for the introduction of imported seed otherwise ineligible for planting in Malheur County. A maximum of one pound of bean seed per variety may be planted in an Experimental Plot without standard testing, except as noted in this section;

(h) Introduction Plots are defined as subdivision areas within Trial Grounds used for the introduction or increase of imported bean seed grown east of the Continental Divide or in foreign countries, imported bean seed from west of the Continental Divide not meeting the requirements of section (2) of this rule, any bean seed previously grown in Malheur County, or any bean seed eligible for planting in Malheur County. A maximum of two (2) acres per variety in any given year may be planted in an Introduction Plot. Imported seed shall have successfully passed standard testing methods conducted by the Department from officially drawn samples prior to planting. Only one Introduction Plot may be maintained by a holder of more than one approved Trial Ground;

(i) Trial Grounds shall be subject to the following restrictions and inspection procedures:

(A) All machinery used in production of bean seed on Trial Grounds shall be disinfected to the satisfaction of the Department prior to the movement to other bean field;

(B) There shall be a minimum of four growing season and one windrow inspection, by the Department, for which the fees and charges will be $7.50 per acre (or fraction thereof) per inspection of seed from east of the Continental Divide or foreign countries; and $3.50 per acre (or fraction thereof, see OAR 603-045-0315) per inspection of seed from west of the Continental Divide; and

(C) If disease is found on Trial Ground, none of the seed produced on that Trial Ground may be certified but shall under go one additional year of Trial Ground growing to assure that contamination did not occur.

(7) Non-Phaseolus species beans grown in Malheur County for planting must meet the following conditions:

(a) Requirements for planting non-Phaseolus species beans in Malheur County:

(A) Malheur County origin seeds are from a lot that has been inspected in accordance with these rules and has been issued official inspected or approved tags;

(B) Idaho-grown non-Phaseolus species bean seed shall be exempt from the requirements of this paragraph provided that:

(i) It has been certified for in-state planting by the Idaho State Department of Agriculture;

(ii) It bears Idaho State Department of Agriculture inspected or approved tags;

(iii) It is certified by the Idaho State Department of Agriculture or their official cooperator as having been inspected in the growing season and pre-harvest or in the windrow for diseases of bean.

(C) Imported seed from areas other than Idaho must be certified and issued official tags by the seed certification agency of the state of origin and be accompanied by an official state phytosanitary certificate verifying the seed was inspected, tested, and found free of diseases of bean and verifying the seed is free of soil.

(b) Every grower, seed company, or handler of non-Phaseolus species bean seed for planting crops to be grown in Malheur County shall submit his written request to the Department to make growing season and pre-harvest or windrow inspections on or before July 1 of each year. Such written request shall include acreage, general location of field, method of irrigation, name and address and telephone number of applicant.

(c) The tolerance for the diseases of bean in any field or part thereof for non-Phaseolus bean seed to be certified for planting in Malheur County shall be zero. Eradication of said diseases of bean shall be performed as described in section (4) of this rule.

(8) Special Permits: The Department, upon receipt of an application in writing, may issue a Special Permit allowing movement into this state, or movement within this state, of regulated commodities not otherwise eligible for movement under the provisions of this quarantine order. Movement of such commodities will be subject to any conditions or restrictions stipulated in the Special Permit, and these conditions and restrictions may vary depending upon the intended use of the commodity and the potential risk of escape or spread of the regulated pests as described in Section 1 of this rule.

(9) Review of quarantine: The Department and other interested parties shall review the quarantine requirements biennially for accuracy and effectiveness.

Stat. Auth.: ORS 561 & 570

Stats. Implemented: ORS 561.190, 561.510 - 561.600, 570.305, 570.405 & 570.410 - 570.415

Hist.: AD 5-1978, f. 5-17-78, ef. 6-10-78; DOA 9-2005, f. & cert. ef. 2-15-05; DOA 1-2006, f. & cert. ef. 1-13-06; DOA 13-2014, f. & cert. ef. 8-20-14; DOA 8-2015, f. & cert. ef. 5-29-15; DOA 4-2016, f. & cert. ef. 2-12-16

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

Rule Caption: Building official certification changes and clarifying accountability requirements for certified persons.
Adm. Order No.: BCD 1-2016(Temp)
Filed with Sec. of State: 1-26-2016
Certified to be Effective: 1-26-16 thru 7-23-16
Notice Publication Date:
Rules Amended: 918-098-1010, 918-098-1025, 918-098-1470, 918-098-1480, 918-098-1900
Subject: These rules amend the division's certification requirements for persons performing work in Oregon as a building official. These rules clarify the duties and responsibilities of building officials, inspectors, and plans examiners.
Rules Coordinator: Holly A. Tucker—(503) 378-5331

918-098-1010
Certification Requirements

(1) Unless otherwise stated in this rule, every person who performs building official duties, building code inspections, or plan reviews must possess a valid Oregon Inspector Certification and either:

(a) A valid appropriate Oregon Code Certification for the work being performed, or

(b) A valid appropriate International Code Council certification for the work being performed and the minimum level of experience as follows:

(A) Two years of construction or inspection-related experience or its equivalent;

(B) An approved one year inspection-related education program and one year of construction or inspection-related experience;

(C) A degree from an approved two year inspection-related education program or its equivalent; or

(D) Be a registered Oregon architect, a certified Oregon professional engineer, or have a Bachelor's or Master's degree in architecture or civil or structural engineering.

(2) Notwithstanding section (1)(b) of this rule, a person may perform the duties of a building official provided the person has a valid Oregon Inspector Certification and meets one of the following:

(a) Passed the International Code Council Certified Building Official Legal Management examination prior to January 1, 2016 and completes a training course for building officials administered by the division within six months of hire; or

(b) Possesses a valid Oregon Building Official Certification and completes a training course for building officials administered by the division within six months of hire; or

(c) Has applied for an Oregon Building Official Certification under OAR 918-098-1025(3).

(3) If a certified building official is appointed by the municipality to perform duties as a building official on or after April 1, 2014, the person must be enrolled in or complete a training course for building officials administered by the division within six months of appointment unless the

person has previously completed a training course for building officials administered by the division under Section 2 of this rule.

(4) Plan review certification is not required for individuals reviewing one- and two-family dwelling permit applications for the following:

(a) First floor decks attached to a dwelling that:

(A) Extend not more than 12 feet from the dwelling but not closer than three feet to a property line;

(B) Are not more than 8 feet above grade;

(C) Will not exceed a 70 PSF live load and not a combined live and dead load of 80 PSF; and

(D) Are not in excess of a 2 horizontal 1 vertical ground slope.

(b) Car ports with a single slope that:

(A) Have a rafter span extending not more than 12 feet from a dwelling;

(B) Are attached to the dwelling for the full length not to exceed 30 feet;

(C) Have a maximum overhang of two feet that is not closer than three feet to a property line; and

(D) Will not exceed a combined 80 PSF live and dead load.

(c) Patio covers that:

(A) Have a single slope roof;

(B) Have a rafter span extending not more than 12 feet from the dwelling;

(C) Are attached to the dwelling the full length not to exceed 30 feet;

(D) Have a maximum overhang of two feet that is not closer than three feet to a property line; and

(E) Will not exceed a combined 80 PSF live and dead load.

(d) Fences not greater than 8 feet in height.

(e) Garage conversions as an accessory to a one- or two-family dwelling with no new cut openings in the existing wall.

(f) Window, door, or bathroom remodels where there are no load-bearing or lateral-bracing wall penetrations.

(g) Pole or manufactured steel structures with a maximum of 3,000 square feet that:

(A) Have a maximum 14-foot eave height;

(B) Are not closer than three feet to the property line and at least 6 feet from all other buildings on the same lot; and

(C) Fully engineered, including foundation where applicable.

(h) Mechanical equipment for the purposes of determining setback requirements have been met.

(5) Plan review certification is not required for individuals reviewing permit applications for buildings or structures that have plans and specifications provided by the department or a municipality under ORS 455.062.

(6) The building official is responsible for ensuring that persons performing permit reviews under this section utilize a division-approved checklist to perform reviews.

(7) The building official may determine based on unusual features, characteristics or other complicating circumstances that a certified individual must review a permit application.

(8) Where a jurisdiction routinely performs permit reviews for a type of project determined by the building official to be similar in complexity to the types of projects listed in sections (4) and (5) of this rule, the building official may submit a checklist to the division for approval. If approved, the jurisdiction may utilize the checklist in the same manner as section (6).

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

Stat. Auth.: ORS 455.030, 455.055, 455.062, 455.110, 455.720 & 455.730

Stats. Implemented: ORS 455.030, 455.055, 455.062, 455.110, 455.720 & 455

Hist.: BCD 16-2005(Temp), f. & cert. ef. 7-7-05 thru 12-31-05; BCD 24-2005, f. 9-30-05, cert. ef. 10-1-05; BCD 4-2006, f. 3-31-06, cert. ef. 4-1-06; BCD 18-2006, f. 12-29-06, cert. ef. 1-1-07; BCD 6-2010, f. 5-14-10, cert. ef. 7-1-10; BCD 7-2011, f. & cert. ef. 3-11-11; BCD 24-2011, f. 7-26-11, cert. ef. 10-1-11; BCD 7-2013(Temp), f. 7-26-13, cert. ef. 8-1-13 thru 12-31-13; BCD 9-2013, f. 12-16-13, cert. ef. 1-1-14; BCD 5-2014, f. & cert. ef. 4-1-14; BCD 1-2016(Temp), f. & cert. ef. 1-26-16 thru 7-23-16

918-098-1025

Oregon Inspector Certification and Oregon Code Certification Application Process; Testing Procedures

(1)(a) All persons who seek certification to perform the duties of a building official, inspector, or plans examiner must apply for the Oregon Inspector Certification as follows:

(A) Submit a division-approved application with the $125 fee; and

(B) Successfully pass the Oregon Inspector Certification examination.

(b) Applicants for an Oregon Inspector Certification who fail the examination may reapply under this section to retest for a fee of $80.

(2) Persons applying for an Oregon Code Certification under these rules, or under OAR 918-281-0020 and 918-695-0400 must:

(a) Submit a division-approved application demonstrating appropriate experience, as defined in OAR chapter 918, division 281, 695, these rules, or complete a certification training course administered by the division;

(b) Pay the $80.00 fee; and

(c) Successfully pass the appropriate Oregon Code Certification exam.

(3) Applicants for certification as a building official must possess a valid Oregon Inspector Certification and must enroll in or complete a certification training course for building officials administered by the division within six months of hire. A person enrolled in a certification training course for building officials administered by the division must successfully complete this course to continue performing building official duties.

(4) Applicants for an Oregon Code Certification who fail the examination may reapply under section (2) of this rule to retest. Applicants may not retake the test for 30 days after each failed attempt.

(5) If an applicant fails to take the Oregon Inspector Certification exam or the Oregon Code Certification exam within 60 days of being approved to do so, the applicant must re-apply under section (1) or (2) of this rule.

Stat. Auth.: ORS 455.720, 455.730 & 455.735

Stats. Implemented: ORS 455.720, 455.730 & 455.735

Hist.: BCD 16-2005(Temp), f. & cert. ef. 7-7-05 thru 12-31-05; BCD 24-2005, f. 9-30-05, cert. ef. 10-1-05; BCD 4-2006, f. 3-31-06, cert. ef. 4-1-06; BCD 19-2006, f. 12-29-06, cert. ef. 1-1-07; BCD 6-2010, f. 5-14-10, cert. ef. 7-1-10; BCD 7-2011, f. & cert. ef. 3-11-11; BCD 24-2011, f. 7-26-11, cert. ef. 10-1-11; BCD 1-2016(Temp), f. & cert. ef. 1-26-16 thru 7-23-16

918-098-1470

Duties and Responsibilities of Certified Building Officials, Inspectors, and Plans Examiners

Persons who hold an Oregon Inspector Certification or an Oregon Code Certification must act in the public interest in performing their duties as a building official, inspector, or plans examiner, including but not limited to:

(1) Obtaining and maintaining any required certification prior to performing their duties;

(2) Not performing any inspections or plan reviews without holding the appropriate valid certification for the inspection or plan review being performed;

(3) Completing all required continuing education requirements and maintaining records of completion of continuing education courses required for each required certification sufficient to demonstrate compliance with OAR 918-098-1450;

(4) Administering and enforcing building inspection program requirements established in ORS Chapter 455 and rules adopted thereunder, including but not limited to:

(a) Enforcing all appropriate building code statutes and rules adopted thereunder;

(b) Enforcing specialty codes, adopted standards, and statewide code interpretations under ORS 455.110;

(c) Allowing the use of alternate method rulings under ORS 455.060, emerging technologies under ORS 455.065, and other requirements under ORS chapter 455;

(d) Following appeal decisions issued by the department or an appropriate advisory board under ORS 455.475 or 455.690;

(e) Following fee methodologies and number of inspections established under OAR chapter 918, division 50;

(f) Allowing the use of plans approved by the division under ORS 455.062 or 455.685;

(g) Following the department's direction established for an essential project and assist with any action the department determines is necessary to ensure the project proceeds in a timely manner under ORS 455.466(4) and (5);

(h) Abiding by all of the terms and conditions of any agreements entered into with the department, including but not limited to, partnership agreements entered into under ORS 455.185 and program approvals under ORS 455.148 and 455.150, and delegations under ORS 479.855;

(i) Communicating requirements to customers clearly as required under OAR 918-098-1900; and

(j) Following any directives, orders, or other building program requirements established by the department;

(5) Cooperating with the division in the course of investigations. Failure to provide information upon request may be considered a violation of an order by the Director or an advisory board and may result in action taken under ORS 455.740 or 455.895 or other appropriate sanction;

(6) Notifying the division of any changes of name or address in a manner prescribed by the division within 10 business days; and

(7) Following all licensing and other requirements under ORS 455.455 and 455.457 and rules adopted thereunder when required.

Stat. Auth.: ORS 455.720
Stats. Implemented: ORS 455.720
Hist.: BCD 16-2005(Temp), f. & cert. ef. 7-7-05 thru 12-31-05; BCD 24-2005, f. 9-30-05, cert. ef. 10-1-05; BCD 4-2006, f. 3-31-06, cert. ef. 4-1-06; BCD 5-2014, f. & cert. ef. 4-1-14; BCD 1-2016(Temp), f. & cert. ef. 1-26-16 thru 7-23-16

918-098-1480
Additional Responsibilities for Building Officials

In addition to the above responsibilities, all certified individuals who are performing the duties of the building official must also:

(1) Ensure a person is properly certified under these rules or under ORS 455.455 and 455.457 and meets the minimum experience requirements and possess appropriate knowledge prior to allowing the individual to perform plan reviews and inspections;

(2) Ensure all inspectors and plans examiners in the municipality take all required continuing education and track the continuing education in a manner that may be presented to the division upon request;

(3) Ensure that employees under the direction of the building official administering and enforcing elements of a building inspection program follow all applicable building code statutes and rules, including statewide code interpretations, directives and other building program requirements and allowing the use of statewide alternate method rulings are enforced and carried out through their certified individuals in their municipality, including items specified in OAR 918-098-1470;

(4) Enforce applicable construction trade licensing requirements issued under ORS Chapters 447, 479, 693 and 701, and

(5)(a) Ensure all building inspection program fees adopted by the municipality under ORS 455.210 and 479.855 are utilized for the administration and enforcement of the building inspection program established under ORS 455.148 or 455.150.

(b) Ensure all surcharges are properly collected and submitted to the division as required by ORS 455.210 and 455.220.

Stat. Auth.: ORS 455.720
Stats. Implemented: ORS 455.720
Hist.: BCD 16-2005(Temp), f. & cert. ef. 7-7-05 thru 12-31-05; BCD 24-2005, f. 9-30-05, cert. ef. 10-1-05; BCD 1-2016(Temp), f. & cert. ef. 1-26-16 thru 7-23-16

918-098-1900
Cite-it Write-it Requirement

In addition to any other requirements set forth in statute and rule, all building officials, inspectors and plans examiners certified under Division 098, OAR 918-225-0540, 918-281-0020, 918-695-0400, and ORS 460.055 must include an exact reference to the applicable specialty code section, Oregon administrative rule, or statute, when issuing corrective notices at construction sites or to buildings or related appurtenances during a plan review while administering or enforcing a building inspection program. The building official, inspector, or plans examiner must include a plain statement of facts upon which the citation for correction action is based.

Stat. Auth.: ORS 455.720 & 455.740
Stats. Implemented: ORS 455.720 & 455.740
Hist.: BCD 16-2005(Temp), f. & cert. ef. 7-7-05 thru 12-31-05; BCD 24-2005, f. 9-30-05, cert. ef. 10-1-05; BCD 1-2016(Temp), f. & cert. ef. 1-26-16 thru 7-23-16

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Rule Caption: Oregon Structural Specialty Code and Oregon Residential Specialty Code amendments
Adm. Order No.: BCD 2-2016
Filed with Sec. of State: 1-28-2016
Certified to be Effective: 2-1-16
Notice Publication Date: 1-1-2016
Rules Amended: 918-460-0015, 918-480-0010
Subject: These rules amend the Oregon Structural Specialty and Oregon Residential Specialty Code for low frequency single- and multiple-station smoke alarms and carbon monoxide alarms and underground gas pipe separation.
Rules Coordinator: Holly A. Tucker—(503) 378-5331

918-460-0015
Amendments to the Oregon Structural Specialty Code

(1) The **Oregon Structural Specialty Code** is amended pursuant to OAR chapter 918, division 8. Amendments adopted for inclusion into the **Oregon Structural Specialty Code** are placed in this rule, showing the section reference, a descriptive caption, and a short description of the amendment.

(2) Effective April 1, 2015 the **Oregon Structural Specialty Code** is amended according to the following:

(a) Amend Chapter 2 Definitions to include definitions related to solar photovoltaic installations;

(b) Amend Section 1008.1.10 Panic and Fire Exit Hardware by changing the ampere threshold to 800 to align with the **Oregon Electrical Specialty Code**. Clarifies that the **Oregon Electrical Specialty Code** determines what constitutes a "work space";

(c) Amend Table 1016.2 Exit Access Travel Distance by adding "Note" (d) specifying exit travel distance;

(d) Amend Section 1018.1 Corridors by adding "Exception" (6) relating to fire-resistance rating;

(e) Amend Sections 1107.5.1 Group I-1 and 1107.6.4 Group R-4 by adding an "Exception" allowing folding seats to be omitted and shower controls to be located on the side wall;

(f) Amend Section 2902.2 Separate Facilities by amending "Exception" (2), and adding "Exception" (3); and

(g) Adopt Section 3111 Solar Photovoltaic Panels/Modules.

(3) Effective February 1, 2016, the **Oregon Structural Specialty Code**, Sections 907.2.11 and 908.7, for low frequency single- and multiple-station smoke alarms and carbon monoxide alarms is amended. NFPA 72 Section 29.3.8 and NFPA 720 Section 9.4.2.2 are not adopted.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 447.231, 455.030, 455.110 & 455.496
Stats. Implemented: ORS 455.110
Hist.: BCA 18-1993, f. 8-24-93, cert. ef. 8-29-93; BCA 28-1993, f. 10-22-93, cert. ef. 1-1-94; BCD 6-1994, f. 2-25-94, cert. ef. 5-1-94; BCD 22-1994, f. 9-28-94, cert. ef. 1-1-95; BCD 31-1994(Temp), f. & cert. ef. 12-23-94; BCD 32-1994, f. & cert. ef. 12-30-94; BCD 2-1995, f. & cert. ef. 2-9-95; BCD 5-1995, f. & cert. ef. 3-15-95; BCD 2-1996, f. 2-2-96, cert. ef. 4-1-96; BCD 6-1996, f. 3-29-96, cert. ef. 4-1-96; BCD 12-1997, f. 9-10-97, cert. ef. 10-1-97; BCD 19-1998, f. 9-30-98, cert. ef. 10-1-98; BCD 24-1998(Temp), f. & cert. ef. 12-1-98 thru 5-29-99; Temporary Rule repealed by BCD 3-1999, f. 3-12-99, cert. ef. 4-1-99; BCD 5-1999, f. 6-17-99, cert. ef. 10-1-99; BCD 12-1999(Temp), f. 9-23-99, cert. ef. 11-1-99 thru 4-28-00; BCD 2-2000 f. 1-14-00, cert. ef. 4-1-00; BCD 20-2000, f. 9-15-00, cert. ef. 10-1-00; BCD 8-2001, f. 7-17-01, cert. ef. 10-1-01; BCD 18-2001, f. 12-21-01, cert. ef. 1-1-02; BCD 14-2003, f. 8-13-03, cert. ef. 10-1-03; BCD 18-2003(Temp) f. & cert. ef. 11-14-03 thru 5-11-04; BCD 5-2004,f. & cert. ef. 4-1-04; BCD 16-2004, f. 9-24-04, cert. ef. 10-1-04; BCD 21-2004, f. & cert. ef. 10-1-04; BCD 9-2005(Temp), f. & cert. ef. 4-7-05 thru 9-30-05; BCD 14-2005, f. & cert. ef. 7-5-05; BCD 18-2005(Temp), f. & cert. ef. 7-12-05 thru 9-30-05; BCD 22-2005, f. 9-29-05, cert. ef. 10-1-05; BCD 23-2005, f. 9-29-05, cert. ef. 10-1-05; BCD 1-2006, f. & cert. ef. 2-1-06; BCD 9-2006, f. 6-30-2006, cert. ef. 7-1-06; BCD 1-2007, f. 2-15-07, cert. ef. 4-1-07; BCD 9-2008(Temp), f. & cert ef. 6-25-08 thru 12-22-08; BCD 20-2008, f. 9-30-08, cert. ef. 10-1-08; BCD 4-2010, f. 5-14-10, cert. ef. 7-1-10; BCD 19-2010, f. 12-30-10, cert. ef. 1-1-11; BCD 1-2011, f. & cert. ef. 2-15-11; BCD 14-2011(Temp), f. & cert. ef. 5-13-11 thru 11-9-11; BCD 28-2011, f. 9-30-11, cert. ef. 10-1-11; BCD 30-2011, f. & cert. ef. 11-1-11; BCD 32-2011, f. 12-30-11, cert. ef. 1-1-12; BCD 1-2012, f. 1-31-12, cert. ef. 2-1-12; BCD 8-2012, f. 8-31-12, cert. ef. 9-1-12; BCD 7-2014, f. 6-20-14, cert. ef. 7-1-14; BCD 3-2015, f. 3-24-15, cert. ef. 4-1-15; BCD 2-2016, f. 1-28-16, cert. ef. 2-1-16

918-480-0010
Amendments to the Oregon Residential Specialty Code

(1) The **Oregon Residential Specialty Code** is amended pursuant to OAR chapter 918, division 8. Amendments adopted for inclusion into the **Oregon Residential Specialty Code** are placed in this rule, showing the section reference and a descriptive caption.

(2) Effective April 1, 2015 the **Oregon Residential Specialty Code** is amended according to the following:

(a) Amend Section R202 – definition for "Accessory Structure" and Section R325 Detached Group R Accessory Structures (Group U) for allowable area increases to detached Group R accessory structures; and

(b) Amend Section M2301 Solar Energy Systems specifying that residential solar photovoltaic installation requirements are now located in Section 3111 of the **Oregon Structural Specialty Code**.

(3) Effective February 1, 2016:

(a) The **Oregon Residential Specialty Code** is amended by deleting Section G2415.11 "Underground gas pipe separation." This amendment aligns the underground residential gas piping burial and separation requirements of the **Oregon Residential Specialty Code** more closely with the **Oregon Mechanical Specialty Code** and national model codes.

(b) The low-rise residential provisions in the 2014 **Oregon Structural Specialty Code**, Sections 907.2.11 and 908.7, for low frequency single- and multiple-station smoke alarms and carbon monoxide alarms is amended. NFPA 72 Section 29.3.8 and NFPA 720 Section 9.4.2.2 are not adopted.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 455.020, 455.110, 455.496, 455.610 & 455.485
Stats. Implemented: ORS 455.610
Hist.: BCA 18-1993, f. 8-24-93, cert. ef. 8-29-93; BCA 28-1993, f. 10-22-93, cert. ef. 1-1-94; BCA 29-1993, f. 11-24-93, cert. ef. 12-1-93; BCD 6-1995, f. 3-31-95, cert. ef. 4-1-95; BCD 3-1996, f. 2-2-96, cert. ef. 4-1-96; BCD 22-1996(Temp), f. 10-1-96, cert. ef. 10-4-96; BCD 5-1997, f. 3-21-97, cert. ef. 4-1-97; Administrative Reformatting 1-19-98; BCD 3-1998, f. 1-29-98, cert. ef. 4-1-98; BCD 19-1998, f. 9-30-98, cert. ef. 10-1-98; BCD 3-2000, f. 1-14-00 cert. ef. 4-1-00; BCD 19-2000(Temp), f.& cert. ef. 8-15-00 thru 2-10-01; BCD 32-2000, f. 12-27-00, cert. ef. 1-1-01; BCD 3-2001, f. 2-9-01, cert. ef. 3-1-01; BCD 2-2002, f. 3-5-02, cert. ef. 4-1-02; BCD 22-2002(Temp), f. 9-13-02 cert. ef. 10-1-02 thru 3-29-03; BCD 30-2002, f. 12-6-02, cert. ef. 1-1-03; BCD 1-2003(Temp), f. & cert. ef. 1-10-03 thru 3-31-03;

BCD 33-2002, f. 12-20-02 cert. ef. 4-1-03; BCD 15-2004, f. 9-10-04, cert. ef. 10-1-04; BCD 5-2005, f. & cert. ef. 3-28-05; BCD 9-2006, f. 6-30-06, cert. ef. 7-1-06; BCD 1-2007, f. 2-15-07, cert. ef. 4-1-07; BCD 5-2008, f. 2-22-08, cert. ef. 4-1-08; BCD 13-2008(Temp), f. & cert. ef. 7-3-08 thru 12-30-08; BCD 21-2008, f. 9-30-08, cert. ef. 10-1-08; BCD 24-2008(Temp), f. & cert. ef. 10-6-08 thru 4-1-09; BCD 1-2009, f. 1-30-09, cert. ef. 2-1-09; BCD 8-2009, f. 9-30-09, cert. ef. 10-1-09; BCD 5-2010, f. 5-14-10, cert. ef. 7-1-10; BCD 19-2010, f. 12-30-10, cert. ef. 1-1-11; BCD 1-2011, f. & cert. ef. 2-15-11; BCD 11-2011(Temp), f. & cert. ef. 4-15-11 thru 9-30-11; BCD 13-2011, f. 5-13-11, cert. ef. 7-1-11; BCD 9-2014, f. 9-25-14, cert. ef. 10-1-14; BCD 3-2015, f. 3-24-15, cert. ef. 4-1-15; BCD 2-2016, f. 1-28-16, cert. ef. 2-1-16

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Department of Consumer and Business Services, Insurance Division
Chapter 836

Rule Caption: Limited license of Vehicle Rental Company as limited license for designated agent of rental company.
Adm. Order No.: ID 1-2016
Filed with Sec. of State: 1-20-2016
Certified to be Effective: 1-20-16
Notice Publication Date: 11-1-2015
Rules Adopted: 836-071-0354
Rules Amended: 836-071-0355, 836-071-0370, 836-071-0380
Subject: Existing rules of the Department of Consumer and Business Services establish the steps that a rental company with a limited license to sell rental insurance must take to educate and monitor employees selling insurance under the limited license. Enrolled House Bill 2958 (2015 Legislative Session) allows a rental company to identify a "designated agent" to sell rental insurance under the limited license of the rental company, beginning January 1, 2016. The amendments to those rules add references to a designated agent in the rental vehicle limited license rules to reflect the changes made during the 2015 Legislative Session. The amended rules require that the rental company must provide the same training and oversight to a designated agent as the rental company provides for employees."

In addition, a new rule defines "designated agent."
Rules Coordinator: Karen Winkel—(503) 947-7694

836-071-0354
Designated Agent

As used in OAR 836-071-0355 to OAR 836-071-0400, "designated agent" means any named individual who is under contract with a vehicle rental company and who is authorized by the vehicle rental company to sell insurance under the authority of the limited license of the vehicle rental company.

Stat. Auth.: ORS 731.244, 744.852 & 744.858
Stats. Implemented: ORS 744.852, 744.856 & 744.858
Hist.: ID 19-2015, f. 12-30-15, cert. ef. 1-1-16; ID 1-2016, f. & cert. ef. 1-20-16

836-071-0355
Limited License Application, Rental Companies; Required Information

(1) On and after October 1, 2000, a rental company must hold a limited license in order to transact insurance as authorized by ORS 744.854. An applicant for a limited license as a rental company as authorized by 744.854 shall apply for a limited license to the Director of the Department of Consumer and Business Services electronically on a form established by the Director in accordance with directions set forth on the Division of Financial Regulation website of the Department of Consumer and Business Services at www.insurance.oregon.gov. The applicant shall include the following information in the application:

(a) The applicant's corporate, firm or other business entity name, the business address and telephone number of the principal place of business and the business address and telephone number of each additional location at which the applicant will transact business under the license;

(b) All assumed business names and other names under which the applicant will engage in business under the license;

(c) The names of all officers and directors or partners, or the sole proprietor or the owners if the applicant is other than a corporation or a partnership, and the name of the executive designated as the statewide filing officer as required by ORS 744.856;

(d) Whether any of the following has occurred with respect to an officer or director of the applicant, or a partner, or the sole proprietor or any of the owners if the applicant is other than a corporation or a partnership:

(A) Conviction of or indictment for a crime, including a felony involving dishonesty or a breach of trust to which 18 U.S.C. sec. 1033 applies;

(B) A judgment entered against the officer, director, partner, sole proprietor or owner if the applicant is other than a corporation or a partnership, for fraud;

(C) A claim of indebtedness by an insurer or agent, and the details of any such indebtedness; or

(D) Refusal, revocation or suspension of any license to act in any occupational or professional capacity in this or any other state;

(e) All states and provinces of Canada in which the applicant or an officer, director or partner of the applicant, or a sole proprietor or owner if the applicant is other than a corporation or a partnership, currently holds a license to engage in the transaction of insurance, or has held such a license within ten years prior to the date of the application;

(f) Whether any firm or corporation of which an officer, director or partner of the applicant, or the sole proprietor or an owner if the applicant is other than a corporation or a partnership, is or has been an officer, director, partner, sole proprietor or owner has ever filed for bankruptcy or been adjudged a bankrupt; and

(g) Any other information requested by the Director in the license application form.

(2) The applicant shall include with the application the following:

(a) The course of study to be used by the applicant for the training program for employees and designated agents concerning the kinds of coverage offered under the license;

(b) A certification by the applicant that all employees and designated agents to be involved in the sale or offer of coverage to members of the public have completed or will complete the training program prior to conducting the sales or offers; and

(c) A certification by the applicant that all employees and designated agents to be involved in the sale or offer of coverage to members of the public will receive continuing education on a regular basis concerning the topics covered in the training program.

(d) A copy of the insurance sales material to be made available to renters of vehicles through the licensee.

(3) Each application shall be accompanied by a $200 fee.

(4) During the review of an application, the Director may require any other information that the Director determines will assist consideration of the application.

Stat. Auth.: ORS 731.244, 731.804, 744.852 & 744.858
Stats. Implemented: ORS 744.852, 744.856 & 744.858
Hist.: ID 8-2000, f. & cert. ef. 7-24-00; ID 12-2012(Temp), f. 6-19-12, cert. ef. 8-1-12 thru 1-25-12; ID 18-2012, f. & cert. ef. 11-7-12; ID 9-2015(Temp), f. & cert. ef. 9-15-15 thru 3-4-16; ID 19-2015, f. 12-30-15, cert. ef. 1-1-16; ID 1-2016, f. & cert. ef. 1-20-16

836-071-0370
List of Employees and Designated Agents Selling Coverage; Continuing Education

(1) A limited licensee shall maintain at all times a current list of all employees and designated agents who are authorized by the limited licensee to offer and sell the insurance coverage for the limited licensee. The limited licensee must provide the list to the Director upon request and the list must otherwise be available and accessible to the Director at all reasonable hours at the principal place of business of the licensee in this state.

(2) For the purpose of complying with the education filing and certification requirements of ORS 744.856, not later than March 1 of each year, a limited licensee shall:

(a) File the syllabus for the training program with the Director; and

(b) Certify to the Director that all employees and designated agents involved in the sale or offer of coverage to members of the public have completed or will complete the training program prior to conducting such sales or offers and will receive continuing education on a regular basis concerning the topics covered in the training program.

(3) For the purpose of the requirement in ORS 744.856 that employees and designated agents of a limited licensee shall receive continuing education on a regular basis, a "regular basis" is at least once every 12 months.

Stat. Auth.: ORS 744.852 & 744.858
Stats. Implemented: ORS 744.856
Hist.: ID 8-2000, f. & cert. ef. 7-24-00; ID 9-2015(Temp), f. & cert. ef. 9-15-15 thru 3-4-16; ID 19-2015, f. 12-30-15, cert. ef. 1-1-16; ID 1-2016, f. & cert. ef. 1-20-16

836-071-0380
Course of Training for Training Program and for Continuing Education

A limited licensee must include at least the following information in the training program for new employees and designated agents who will be

offering the insurance coverage and in the continuing education program for current employees and designated agents offering the insurance coverage, as required by ORS 744.856:

(1) Materials for the purpose of facilitating employee and designated agents understanding of the insurance coverages offered by the licensee.

(2) That renters of vehicles through the licensee are not required to purchase the coverage offered through the licensee as a condition of renting a vehicle.

(3) That renters must be informed that coverage offered by the licensee may duplicate existing coverage of the renter and that the renter should consult with the renter's insurance agent if the renter has any question about existing coverage.

(4) Claims procedures.

(5) The identity of the insurer of the coverage offered by the licensee.

(6) That employees and designated agents of the licensee are not authorized to evaluate a renter's existing coverages.

Stat. Auth.: ORS 744.856 & 744.858
Stats. Implemented: ORS 744.856
Hist.: ID 8-2000, f. & cert. ef. 7-24-00; ID 9-2015(Temp), f. & cert. ef. 9-15-15 thru 3-4-16; ID 19-2015, f. 12-30-15, cert. ef. 1-1-16; ID 1-2016, f. & cert. ef. 1-20-16

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Rule Caption: Adoption of Annual and Supplemental Statement Blanks and Instructions for Reporting Year 2015
Adm. Order No.: ID 2-2016
Filed with Sec. of State: 2-3-2016
Certified to be Effective: 2-3-16
Notice Publication Date: 1-1-2016
Rules Amended: 836-011-0000
Subject: This amendment to an existing rule prescribes for reporting year 2015, the required forms for the annual and supplemental financial statements required of insurers, multiple employer welfare arrangements and health care service contractors under ORS 731.574, as well as the necessary instructions for completing the forms.
Rules Coordinator: Karen Winkel—(503) 947-7694

836-011-0000
Annual Statement Blank and Instructions

(1) For the purpose of complying with ORS 731.574, every authorized insurer, including every health care service contractor and multiple employer welfare arrangement, shall file its financial statement required by 731.574 for the 2015 reporting year on the annual statement blank approved for the 2015 reporting year by the National Association of Insurance Commissioners, for the type or types of insurance transacted by the insurer.

(2) Every authorized insurer, including every health care service contractor, shall complete its annual statement blank under section (1) of this rule for the 2015 reporting year, according to the applicable instructions published for that year by the National Association of Insurance Commissioners, for completing the blank, as required by ORS 731.574.

(3) Every authorized insurer, including every health care service contractor, shall file each annual statement supplement for the 2015 reporting year, as required by the applicable instructions published for that year by the National Association of Insurance Commissioners, and shall complete the supplement according to those instructions.

(4) The applicable instructions published by the National Association of Insurance Commissioners referred to in this rules are available for inspection at the Department of Consumer and Business Services. Any person interested in inspecting those instructions should contact the Department at web.inscomp@oregon.gov.

(5) This rule is adopted under the authority of ORS 731.244, 731.574 and 733.210 for the purpose of implementing 731.574 and 733.210.

Stat. Auth.: ORS 731.244, 731.574 & 733.210
Stats. Implemented: ORS 731.574 & 733.210
Hist.: ID 8-1993, f. & cert. ef. 9-23-93; ID 10-1994, f. & cert. ef. 12-14-94; ID 7-1995, f. & cert. ef. 11-15-95; Renumbered from 836-013-0000; ID 4-1996, f. 2-28-96, cert. ef. 3-1-96; ID 16 -1996, f. & cert. ef. 12-16-96; ID 11-1997, f. & cert. ef. 10-9-97; ID 16-1998, f. & cert. ef. 11-10-98; ID 5-1999, f. & cert. ef. 11-18-99; ID 1-2001, f. & cert. ef. 2-7-01; ID 4-2002, f. & cert. ef. 1-30-02; ID 6-2003, f. & cert. ef. 12-3-03; ID 1-2006, f. & cert. ef. 1-23-06; ID 9-2007, f. & cert. ef. 11-8-07; ID 1-2009, f. & cert. ef. 1-29-09; ID 11-2009, f. & cert. ef. 12-9-09; ID 22-2010, f. 12-30-10, cert. ef. 1-1-11; ID 2-2012, f. & cert. ef. 2-7-12; ID 2-2013, f. & cert. ef. 2-6-13; ID 3-2014, f. & cert. ef. 2-14-14; ID 1-2015, f. & cert. ef. 3-10-15; ID 2-2016, f. & cert. ef. 2-3-16

Department of Corrections
Chapter 291

Rule Caption: Facilitated Dialog Program Between Victims and Inmates in DOC Facilities
Adm. Order No.: DOC 1-2016
Filed with Sec. of State: 1-21-2016
Certified to be Effective: 1-21-16
Notice Publication Date: 11-1-2015
Rules Amended: 291-205-0020, 291-205-0030, 291-205-0050
Subject: These revisions are necessary to expand the definition of crime victim to allow victims of non-adjudicated crimes to participate in the department's Facilitated Dialog Program, and clarify that in addition to legal appeals, Board of Parole administrative actions that challenge the validity of a conviction or sentence would make a request to participate in the program ineligible.
Rules Coordinator: Janet R. Worley—(503) 945-0933

291-205-0020
Definitions

(1) Crime Victim or Survivor:

(a) Any person who was subjected to direct harm or injury from a crime for which an inmate has been convicted, past or present, and is identified as a victim or survivor in records or information available to the Department of Corrections.

(b) Any spouse, significant other, domestic partner, parent, grandparent, guardian, sibling, child or other immediate family member, or any member of the household, or any other person who was impacted by the consequences of an inmate's crime even though they were not directly or immediately harmed or injured by the inmate's criminal conduct.

(c) Any person subjected to harm or injury from a crime for which an inmate has not been prosecuted or convicted, whereby the crime victim or survivor reported the crime to law enforcement or there is other information available to the Department of Corrections to identify the person as a crime victim of the inmate.

(2) Department of Corrections Facility: Any institution, facility or staff office, including the grounds, operated by the Department of Corrections.

(3) Facilitated Dialogue Meeting: One or more meetings between a crime victim(s) or survivor(s) and an inmate(s) during which the crime victim(s) or survivor(s) and the inmate(s) have the opportunity to dialogue about the crime and its impact with the support of trained facilitators.

(4) Facilitated Dialogue Process: A facilitated dialogue relating to a specific crime victim or survivor, inmate, and serious and violent crime.

(5) Facilitated Dialogue Program (FDP): A Department of Corrections program operating under the Victim Services Program that seeks to promote justice and healing for victims or survivors of serious and violent crimes and provide them with a safe and structured process to discuss the crime and its impact with the inmates that victimized them. The program also seeks to aid inmates in the process of their rehabilitation and as a way of increasing public safety. For the purposes of OAR 205-0010 to 205-0110 and unless specified otherwise, references to decisions, determinations or approvals of the Facilitated Dialogue Program shall mean a decision by the Administrator of Religious Services or his/her designee.

(6) Facilitated Dialogue Program Communications: FDP communications include, but are not limited to, all memoranda, work products, documents, records, phone calls, phone messages and other materials made in the course of or in connection with a facilitated dialogue process, to a facilitator, the Department of Corrections, a crime victim or survivor, an inmate, or any other person present. A Facilitated Dialogue Communication does not include a private written, audio, or other communication between a crime victim or survivor and an inmate that is transmitted through the FDP and that has been expressly authorized by the Administrator or designee. Disclosure of facilitated dialogue communications are governed by a Confidentiality Agreement entered into by the participants, facilitators, and the Department of Corrections, and by all applicable statutes, administrative rules and regulations, and Department of Corrections' policies.

(a) A facilitated dialogue process begins with the first contact by a crime victim or survivor with the FDP staff expressing interest in participation in the program. The process includes assessments and screening of the crime victim or survivor and inmate and all contacts and communications between any program staff, advisory committee members or program volunteers and a victim or survivor or inmate.

(b) The facilitated dialogue process ends after the facilitated dialogue meeting and any post-dialogue contacts by the program staff or volunteers with the inmate and crime victim or survivor, or when a crime victim or survivor, inmate, or the program staff or advisory committee decides that the process is terminated.

(7) Facilitator: A Department of Corrections volunteer or staff member who has had specific training in the facilitated dialogue program procedure and practices, and who has been trained and accepted by the Department as a volunteer, employee, or contractor to work in the FDP.

(8) Inmate: Any person under the supervision of Department of Corrections who is not on parole, post-prison supervision, or probation status.

(9) Support Person: A person or persons chosen by the crime victim or survivor or inmate, and approved by Facilitated Dialogue Program, to assist them during the facilitated dialogue process.

(10) Victim Services Advisory Committee: A group of community-based professionals and community members from the fields of mediation, restorative justice, psychology, victim services or other related fields and disciplines, selected by the Administrator of Religious Services or designee, who volunteer or otherwise provide their time and expertise to advise and assist the Administrator or designee in the conduct of the Victim Services Program.

(11) Victim Services Program Coordinator (VSPC): A Religious Services staff member designated by the Religious Services Administrator who coordinates the Victim Services Program.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075
Hist.: DOC 12-2008(Temp). F. & cert. ef. 5-15-08 thru 11-10-08; DOC 26-2008, f. & cert. ef. 10-6-08; DOC 1-2016, f. & cert. ef. 1-21-16

291-205-0030
Victim Services Advisory Committee

(1) The Victim Services Advisory Committee will operate under the direction of the Administrator of Religious Services or designee.

(2) The Advisory Committee will advise and assist the Administrator of Religious Services or designee with the recruitment, training, supervision and evaluation of FDP facilitators; the development and the administration of the FDP; the gathering of support and resources for the FDP; and other elements of the Victim Services Program.

(3) The Advisory Committee will also provide comment to the Administrator of Religious Services or designee regarding the department's administrative rules governing the Victim Services Program, the FDP, and individual facilitated dialogue processes.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075
Hist.: DOC 12-2008(Temp). F. & cert. ef. 5-15-08 thru 11-10-08; DOC 26-2008, f. & cert. ef. 10-6-08; DOC 1-2016, f. & cert. ef. 1-21-16

291-205-0050
General Components of the Facilitated Dialogue Program

(1) Key principles or Components that Guide the FDP.

(a) Participation in a facilitated dialogue case is voluntary for both the crime victim or survivor and for the inmate. A facilitated dialogue process can only be initiated by a crime victim or survivor.

(b) Professionally trained facilitators with a background in related fields will conduct the facilitated dialogues; the facilitated dialogue process will be confidential, unless all parties agree in writing otherwise.

(c) Pre-dialogue preparation, including careful screening of parties to ensure safety and identify appropriate support networks, is a critical part of the facilitated dialogue process and can take months or even years to complete; post-dialogue follow-up is essential to a successful process and could include assistance in accessing appropriate aftercare and therapeutic support. On-going evaluation of the dialogue process, facilitators and overall program policies and procedures is critical to ensuring a quality process for the parties involved.

(2) Crime Victim or Survivor Requests and Initiates:

(a) A crime victim or survivor must request to participate in the Department of Corrections FDP. Such a request initiates the dialogue. Inmate requests for a facilitated dialogue will not be considered by the department, except to the extent that they will be kept on file by the department in the event that an inmate's crime victim or survivor contacts the program.

(b) Crime victim or survivor requests will be considered only in relation to those crimes for which the inmate has exhausted or elected not to pursue all appeals, Board of Parole and Post-Prison Supervision administrative actions, and other legal remedies that are available to challenge the validity of his or her conviction and prison sentence.

(c) Crime victim or survivor requests may be considered for harms resulting from non-adjudicated crimes if all other eligibility criteria is met.

(3) Participation Voluntary: Participation in the FDP is completely voluntary by all participants. All participants in the program and process, the crime victim or survivor, inmate, support person, staff, or facilitators may suspend their participation in the program or in a particular facilitated dialogue process at any time for any reason.

(4) Upon Request Participants Must Consent to Disclosure of Medical/Mental Health Records:

(a) As a requirement of program participation, the crime victim or survivor and the inmate may be asked to consent in writing to the disclosure of their medical and psychological records and information related to their current psychological state, emotional strengths and weaknesses, predisposition to violence, including but not limited to any DSM-V diagnoses, to any staff, program volunteers, or advisory committee members involved in their particular facilitated dialogue process. The information will be used only to evaluate the appropriateness of the crime victim or survivor's and the inmate's participation in the program.

(b) The crime victim or survivor or inmate may withdraw their consent in writing at any time in the facilitated dialogue process by delivering their written revocation to the staff or volunteers involved in conducting a program. Such a revocation by either the crime victim or survivor or the inmate will result in the immediate termination of the facilitated dialogue process. The Consent to Disclosure of Medical/Mental Health Records shall be limited in scope to the Facilitated Dialogue Program. The Consent to Disclosure of Medical/Mental Health Records shall automatically terminate upon termination of the Facilitated Dialogue Program.

(5) FDP Not a Replacement for Professional Counseling or Treatment: The Facilitated Dialogue Program is not designed to be a replacement for professional counseling or therapy for any of the participants. Participants are encouraged to consult with a professional counselor or therapist to address any personal emotional or mental health issues.

(6) Facilitated Dialogue Participation Agreements: As a requirement of program participation any crime victim, survivor, inmate, dialogue facilitators, support and other persons who will be involved in the dialogue process must enter into and agree to abide by the terms and conditions of program participation as set forth in a Participation Agreement and Facilitated Dialogue Confidentiality Agreement that will be prepared by the FDP.

(7) Suspension/Termination of a Facilitated Dialogue Process:

(a) All program staff and volunteers will immediately suspend a facilitated dialogue process upon a decision being made by the Administrator of Religious Services or his/her designee that there has been a violation or failure to abide by the Facilitated Dialogue Program rules or agreements for any reason by any participant

(b) If a facilitated dialogue process is suspended, the crime victim or survivor and the inmate are prohibited from contacting each other while the process is suspended without the prior express approval of the FDP

(c) Termination: The FDP may terminate a facilitated dialogue process, including a process that has been suspended, for any reason. The FDP decision is final, and not subject to further review by the crime victim or survivor or by the inmate.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075
Hist.: DOC 12-2008(Temp). F. & cert. ef. 5-15-08 thru 11-10-08; DOC 26-2008, f. & cert. ef. 10-6-08; DOC 1-2016, f. & cert. ef. 1-21-16

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Department of Environmental Quality
Chapter 340

Rule Caption: Water Quality Permit Fee 2015 Update
Adm. Order No.: DEQ 1-2016
Filed with Sec. of State: 1-27-2016
Certified to be Effective: 1-27-16
Notice Publication Date: 10-1-2015
Rules Amended: 340-071-0140
Subject: DEQ is re-filing these previously adopted and filed rules only to include several tables that were erroneously omitted from the original filing. The omitted tables were not amended in this rulemaking proceeding. The omitted tables belong with OAR 340-071-0140. The omitted tables that are being included here are: 9A Site Evaluation and Existing System Evaluation Fees; 9B Permitting Fees for Systems not Subject to WPCF Permits; 9C Other Permitting Fees for Systems not Subject to WPCF Permits; 9E Sewage Disposal

Service License and Truck Inspection Fees; 9F Other Fees. Table 9D WPCF Permit Fees was amended in this rulemaking and was included with the previous filing.

These rule amendments increase water quality fees by 12 percent for individuals, businesses and government agencies that hold the following permits, effective Jan. 1, 2016:

-National Pollutant Discharge Elimination System permits

-Water Pollution Control Facility permits

-Water Pollution Control Facility permits specific to onsite septic systems

ORS 468B.051 allows water quality permit fee increases.

Oregon DEQ proposed 'two policy option packages in the 2015 Agency Request Budget. Package 120 supports replacing an outdated and inadequate wastewater permitting information management system with a commercial off-the-shelf product. Package

123 restores 6 FTE that are unaffordable due to shortfalls in federal funds and fee funds. DEQ requested a one-time 12 percent increase to support replacing the permitting information management system and to maintain the six permitting positions.

The 2015 Oregon Legislature approved the fee increase. With approval of the 12 percent increase, DEQ will forego annual permit fee increases for the 2015-17 biennium.

The proposed fee increases would affect:

-Persons that currently hold a permit

-Persons that apply for modifications to or transfer of these permits

-Any person that applies for a new permit

-Any person that needs technical assistance related to these permits

The proposed fee increases would not affect fees for the following permits:

-Suction dredge discharge: 700-PM permit fees: Statute requires DEQ to set these fees through a separate rulemakings.

-Graywater Water Pollution Control Facility permits 2401 and 2402 for graywater use: DEQ proposes to maintain permit fees for graywater reuse and disposal systems at current levels to promote individual water reuse efforts, which is of public interest during Oregon's current drought conditions.

-Small off-stream mining operations: Water Pollution Control Facility permit 600. These permits do not currently have application fees or annual fees.

Rules Coordinator: Meyer Goldstein—(503) 229-6478

340-071-0140

Onsite System Fees

(1) This rule establishes the fees for site evaluations, permits, reports, variances, licenses, and other services DEQ provides under this division.

(2) Table 9A lists the site evaluation and existing system evaluation fees. [Table not included. See ED. NOTE.]

(3) Tables 9B and 9C list the permitting fees for systems not subject to WPCF permits. Online submittals for annual report evaluation fees may apply upon DEQ implementation of online reporting. [Table not included. See ED. NOTE.]

(4) WPCF permit fees. Fees in this section apply to WPCF permits issued pursuant to OAR 340-071-0162. Table 9D lists the WPCF permit fees. [Table not included. See ED. NOTE.]

(5) Table 9F lists the innovative, Alternative Technology and Material Plan Review fees. [Table not included. See ED. NOTE.]

(6) Table 9E lists the Sewage Disposal Service License and Truck Inspection fees. [Table not included. See ED. NOTE.]

(7) Compliance Recovery Fee. When a violation results in an application in order to comply with the requirements in this division, the agent may require the applicant to pay a compliance recovery fee in addition to the application fee. The amount of the compliance recovery fee shall not exceed the application fee. Such violations include but are not limited to installing a system without a permit, performing sewage disposal services without a license, or failure to obtain an authorization notice when it is required.

(8) Land Use Review Fee. Land use review fees are listed in Table 9C and are assessed when an agent review is required in association with a land use action or building permit application and no approval is otherwise required in the division.

(9) Contract county fee schedules.

(a) Each county having an agreement with DEQ under ORS 454.725 must adopt a fee schedule for services rendered and permits issued. The county fee schedule may not include DEQ's surcharge established in section (10) of this rule unless identified as a DEQ surcharge.

(b) A copy of the fee schedule and any subsequent amendments to the schedule must be submitted to DEQ.

(c) Fees may not exceed actual costs for efficiently conducted services.

(10) DEQ surcharge.

(a) To offset a portion of the administrative and program oversight costs of the statewide onsite wastewater management program, DEQ and contract counties must levy a surcharge for each site evaluation, report permit, and other activity for which an application is required in this division. The surcharge fee is listed in Table 9F. This surcharge does not apply to pumper truck inspections, annual report evaluation fees, or certification of installers or maintenance providers. [Table not included. See ED. NOTE.]

(b) Proceeds from surcharges collected by DEQ and contract counties must be accounted for separately. Each contract county must forward the proceeds to DEQ in accordance with its agreement with the DEQ.

(11) Refunds. DEQ may refund all or a portion of a fee accompanying an application if the applicant withdraws the application before any field work or other substantial review of the application has been done.

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

Stat. Auth.: ORS 454.625, 468.020 & 468.065(2)

Stats. Implemented: ORS 454.745, 468.065 & 468B.050

Hist.: DEQ 10-1981, f. & ef. 3-20-81; DEQ 19-1981, f. 7-23-81, ef. 7-27-81; DEQ 5-1982, f. & ef. 3-9-82; DEQ 8-1983, f. & ef. 5-25-83; DEQ 9-1984, f. & ef. 5-29-84; DEQ 13-1986, f. & ef. 6-18-86; DEQ 15-1986, f. & ef. 8-6-86; DEQ 6-1988, f. & cert. ef. 3-17-88; DEQ 11-1991, f. & cert. ef. 7-3-91; DEQ 18-1994, f. 7-28-94, cert. ef. 8-1-94; DEQ 27-1994, f. & cert. ef. 11-15-94; DEQ 12-1997, f. & cert. ef. 6-19-97; Administrative correction 1-28-98; DEQ 8-1998, f. & cert. ef. 6-5-98; DEQ 16-1999, f. & cert. ef. 12-29-99; Administrative correction 2-16-00; DEQ 9-2001(Temp), f. & cert. ef. 7-16-01 thru 12-28-01; DEQ 14-2001, f. & cert. ef. 12-26-01; DEQ 2-2002, f. & cert. ef. 2-12-02; DEQ 11-2004, f. 12-22-04, cert. ef. 3-1-05; DEQ 7-2008, f. 6-27-08, cert. ef. 7-1-08; DEQ 10-2009, f. 12-28-09, cert. ef. 1-4-10; DEQ 7-2010, f. 8-27-10, cert. ef. 9-1-10; DEQ 9-2011, f. & cert. ef. 6-30-11; DEQ 6-2012, f. 10-31-12, cert. ef. 11-1-12; DEQ 8-2013, f. 10-23-13, cert. ef. 11-1-13; DEQ 14-2013, f. 12-20-13, cert. ef. 1-2-14; DEQ 11-2014, f. & cert. ef. 10-15-14; DEQ 13-2014, f. 11-14-14, cert. ef. 12-1-14; DEQ 4-2015, f. & cert. ef. 2-3-15; DEQ 16-2015, f. 12-10-15, cert. ef. 1-1-16; DEQ 1-2016, f. & cert. ef. 1-27-16

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Rule Caption: Solid Waste Fee and Grants Rulemaking
Adm. Order No.: DEQ 2-2016
Filed with Sec. of State: 2-4-2016
Certified to be Effective: 2-4-16
Notice Publication Date: 11-1-2015
Rules Adopted: 340-083-0500, 340-083-0510, 340-083-0520, 340-083-0530
Rules Amended: 340-083-0010, 340-083-0020, 340-083-0030, 340-083-0040, 340-083-0050, 340-083-0070, 340-083-0080, 340-083-0090, 340-083-0100, 340-097-0001, 340-097-0110, 340-097-0120
Subject: DEQ proposes to:

- Increase the per-ton solid waste disposal permit and tipping fees to adequately fund implementation of Materials Management in Oregon: 2050 Vision and Framework for Action, including oversight of permitted solid waste disposal facilities and reuse, waste prevention and recovery, toxic reduction, product stewardship and other work to reduce impacts of materials;

- Apply tipping fees and orphan site fees to construction/demolition and tire landfills;

- Define a mechanism for reimbursing a portion of the tipping fee increase to distressed counties;

- Update solid waste planning and recycling (materials management) grant rules to expand allowed uses for grant funds; allow businesses, non-profits and other entities as well as local governments to receive grant awards; and to conform to other statutory changes.

Rules Coordinator: Meyer Goldstein—(503) 229-6478

340-083-0010

Purpose and Scope

These rules implement:

(1) ORS 459A.120(2) as amended by Section 7, Chapter 662, Oregon Laws 2015, to provide grants for activities to reduce the environmental and human health impacts of materials at all stages of their life cycles; and

(2) ORS 459A.110 as amended by Section 6a, Chapter 662, Oregon Laws 2015 to provide partial rebates of solid waste tipping fees to distressed counties.

Stat. Auth.: ORS 45A.025 & 468.020
Stats. Implemented: ORS 459A.120
Hist.: DEQ 6-1991, f. & cert. ef. 5-2-91; DEQ 7-2000, f. & cert. ef. 6-2-00; DEQ 2-2016, f. & cert. ef. 2-4-16

340-083-0020
Definitions

The definitions in ORS 459.005 and this rule apply to this division. If the same term is defined in this rule and ORS 459.005, the definition in this rule applies to this division.

(1) "Applicant" — The person applying for a grant.

(2) "DEQ" — The Department of Environmental Quality.

(3) "Director" — the Director of DEQ.

(4) "Grant round" — The period of time that starts when DEQ begins accepting new applications for funding and ends when DEQ disburses grant awards from available funds.

(5) "Permit" — A document DEQ issues, bearing the signature of the Director or the Director's authorized representative, which by its conditions may authorize the permittee to construct, install, modify, operate or close a disposal site in accordance with specified limitations.

(6) "Person" — the United States, the state or a public or private corporation, local government unit, public agency, individual, partnership, association, firm, trust, estate or any other legal entity.

(7) "Rolling stock" — Motorized vehicles on tires or wheels that have generalized usage such as garbage collection trucks, roll-off trucks, forklifts, trailers, tractors.

Stat. Auth.: ORS 45A.025 & 468.020
Stats. Implemented: ORS 459A.120
Hist.: DEQ 6-1991, f. & cert. ef. 5-2-91; DEQ 7-2000, f. & cert. ef. 6-2-00; DEQ 2-2016, f. & cert. ef. 2-4-16

340-083-0030
Eligible Applicants

Any person may apply for a materials management grant.

Stat. Auth.: ORS 45A.025 & 468.020
Stats. Implemented: ORS 459A.120
Hist.: DEQ 6-1991, f. & cert. ef. 5-2-91; DEQ 7-2000, f. & cert. ef. 6-2-00; DEQ 2-2016, f. & cert. ef. 2-4-16

340-083-0040
Eligible Projects

DEQ may award grants for any of the following activities:

(1) Activities to reduce the environmental and human health impacts of materials at all stages of their life cycles, such as:

(a) Promoting and enhancing waste reuse and prevention, recycling and other waste recovery activities;

(b) Collecting data;

(c) Researching, planning, developing and applying performance measures;

(d) Developing standards and educational and promotional activities;

(e) Supporting markets;

(f) Demonstrating activities; or

(g) Managing household hazardous wastes and materials.

(2) Solid waste and other materials management planning activities by counties and metropolitan service districts, as approved by DEQ.

Stat. Auth.: ORS 45A.025 & 468.020
Stats. Implemented: ORS 459A.120
Hist.: DEQ 6-1991, f. & cert. ef. 5-2-91; DEQ 2-2016, f. & cert. ef. 2-4-16

340-083-0050
Ineligible Activities and Costs

Grant funds may not be used for:

(1) Disposal site engineering, design or hydrogeologic study required by DEQ permit or enforcement action.

(2) Costs for which payment has been or will be received under another financial assistance program.

(3) Capital asset expenditures for solid waste or materials management planning, including the purchase or upgrade of computers, other office equipment, or other asset that has an initial estimated useful life beyond a single year.

(4) Costs incurred before DEQ issues a grant agreement.

(5) Costs incurred after the expiration date of the grant agreement.

(6) License applications or permit fees.

(7) Ordinary operating expenses of the grant applicant that are not directly related to the project.

(8) Costs incurred for permitted facility closures.

Stat. Auth.: ORS 45A.025 & 468.020
Stats. Implemented: ORS 459A.120
Hist.: DEQ 6-1991, f. & cert. ef. 5-2-91; DEQ 7-2000, f. & cert. ef. 6-2-00; DEQ 2-2016, f. & cert. ef. 2-4-16

340-083-0070
Procedures for Awarding Grants

(1) DEQ shall determine the amount of funds available for grants, if any, at least once per biennium.

(2) DEQ shall establish and publish notice of deadlines to submit grant applications, including the criteria for their evaluation. The announcement may limit the request for applications to specific projects or project areas.

(3) DEQ will develop criteria to use in evaluating and awarding grants that may include but are not limited to the following:

(a) Minimum qualifying score;

(b) Ability of applicant to perform;

(c) Potential to reduce the adverse environmental and human health impacts of materials;

(d) Potential to reduce solid waste generation and exceed the requirements of ORS Chapter 459A;

(e) Potential for ongoing benefits;

(f) Level of commitment to the project; and

(g) Cost of project.

Stat. Auth.: ORS 45A.025 & 468.020
Stats. Implemented: ORS 459A.120
Hist.: DEQ 6-1991, f. & cert. ef. 5-2-91; DEQ 7-2000, f. & cert. ef. 6-2-00; DEQ 2-2016, f. & cert. ef. 2-4-16

340-083-0080
Application Procedures

An applicant must provide a complete application for each grant applied for. Application must be made on a form DEQ provides. Each application must include:

(1) Applicant's contact information;

(2) Description of the project and the expected outcomes;

(3) Workplan and schedule for project completion;

(4) Complete budget, including breakdown of costs;

(5) Signature of applicant's responsible official;

(6) Any other information DEQ requires.

Stat. Auth.: ORS 45A.025 & 468.020
Stats. Implemented: ORS 459A.120
Hist.: DEQ 6-1991, f. & cert. ef. 5-2-91; DEQ 7-2000, f. & cert. ef. 6-2-00; DEQ 2-2016, f. & cert. ef. 2-4-16

340-083-0090
Review and Approval

(1) DEQ shall review and approve or deny each grant application that meets the following criteria:

(a) Application must be complete and submitted by the application deadline; and

(b) Project must be eligible under these rules.

(2) DEQ will award grants for approved applications based on their ranking using the evaluation criteria.

(3) DEQ may award some, none or all of the grant funds available in any grant round.

(4) DEQ may award all or part of the grant amount the applicant requests. DEQ shall make that determination based on the application's merits, the project proposed, and the availability of grant funds.

Stat. Auth.: ORS 45A.025 & 468.020
Stats. Implemented: ORS 459A.120
Hist.: DEQ 6-1991, f. & cert. ef. 5-2-91; DEQ 7-2000, f. & cert. ef. 6-2-00; DEQ 2-2016, f. & cert. ef. 2-4-16

340-083-0100
Grant Agreements and Conditions

(1) Following approval and selection of the application, DEQ and the applicant shall enter into an agreement. The agreement must include but is not limited to the following:

(a) Statement of work and schedule;

(b) Requirements of progress reports;

(c) Project management requirements as DEQ specifies;

(d) Statement of authorized activities for rolling stock, purchased in whole or in part with grant funding, during its expected service life;

(e) End date — term of project and grant;

(f) Method of payment;

(g) Terms and conditions of the grant;

(h) Requirements for sharing of information resulting from project; and

(i) Requirements of a project completion report.

(2) DEQ may allow an extension of time for a grantee to complete a project, upon written request by the grantee made prior to the agreement expiration date and receipt of acceptable documentation of need.

(3) DEQ may at any time review and audit requests for payment and make adjustments for, but not limited to, math errors, items not built or bought, unacceptable constructions or lack of progress under the grant.

Stat. Auth.: ORS 45A.025 & 468.020
Stats. Implemented: ORS 459A.120
Hist.: DEQ 6-1991, f. & cert. ef. 5-2-91; DEQ 7-2000, f. & cert. ef. 6-2-00; DEQ 2-2016, f. & cert. ef. 2-4-16

340-083-0500
Rebates to Distressed Counties

(1) By September 30 of each year beginning in 2016, DEQ shall provide a partial rebate of the fees authorized under ORS 459A.110 to the nine most economically-distressed counties in Oregon.

(2) DEQ shall annually identify the counties that will receive the rebate provided for under section (1) and, no later than January 31 of each year, provide notice to:

(a) Each of the economically distressed counties DEQ identifies that will receive a rebate under section (1), and,

(b) Each of the counties that received a rebate during the previous calendar year.

Stat. Auth.: Sec. 6a, Ch. 662, OL 2015
Stats. Implemented: Sec. 6a, Ch. 662, OL 2015
Hist.: DEQ 2-2016, f. & cert. ef. 2-4-16

340-083-0510
Distressed County Index

(1) The Distressed County Index is calculated by multiplying together the following four composite factors using the latest data available on the date of calculation:

(a) The state's unemployment rate divided by the county's unemployment rate (U.S. Department of Labor Bureau of Labor Statistics);

(b) The county's per capita personal income divided by the state's per capita personal income (U.S Department of Commerce Bureau of Economic Analysis);

(c) The percent change in the county's average covered payroll per worker over a two year period (U.S. Department of Labor Bureau of Labor Statistics); and

(d) The percent change in the county's employment over a two year period (U.S. Department of Labor Bureau of Labor Statistics).

(2) The nine most distressed counties are the nine counties with the lowest distressed county index values.

Stat. Auth.: Sec. 6a, Ch. 662, OL 2015
Stats. Implemented: Sec. 6a, Ch. 662, OL 2015
Hist.: DEQ 2-2016, f. & cert. ef. 2-4-16

340-083-0520
Tonnage Calculation

(1) As used in this rule and OAR 340-083-0530, "solid waste disposed" means the total weight of solid waste received for final disposal or destruction other than the following:

(a) Sewage sludge or septic tank and cesspool pumpings;

(b) Waste disposed of at an industrial waste disposal site;

(c) Industrial waste, ash, rock, dirt, plaster, asphalt and similar material if delivered to a municipal solid waste disposal site or demolition disposal site;

(d) Waste received at an ash monofill from an energy recovery facility;

(e) Solid waste not generated within this state; and

(f) Solid waste not subject to the fee established in ORS 459A.110(1).

(2) For Umatilla County, the "tonnage disposed" for the county is equal to the solid waste disposed in the previous calendar year that was generated in either the Umatilla or the Milton Freewater wastesheds.

(3) For all other counties, the "tonnage disposed" for each county is calculated by multiplying the solid waste disposed in the previous calendar year that was generated within the wasteshed that contains the majority of the county population, multiplied by the ratio of the county population to the wasteshed population.

(4) The "economically-distressed tonnage disposed" is equal to the sum of "tonnage disposed" for the nine most economically-distressed counties as identified in OAR 340-083-0510.

(5) The "Oregon tonnage disposed" is the sum of the tonnage disposed as calculated in sections (2) and (3) for all Oregon counties combined.

(6) The "tonnage adjustment factor" is calculated as follows:

(a) If the "economically-distressed tonnage disposed" is less than or equal to ten percent of the "Oregon tonnage disposed," then the "tonnage adjustment factor" is equal to 1.

(b) If the "economically-distressed tonnage disposed" is greater than ten percent of the "Oregon tonnage disposed," then the "tonnage adjustment factor" is equal to ten percent of the "Oregon tonnage disposed" divided by the "economically-distressed tonnage disposed."

(7) For each county, the "adjusted tonnage disposed" for each year is equal to the "tonnage disposed" for that county multiplied by the "tonnage adjustment factor."

Stat. Auth.: Sec. 6a, Ch. 662, OL 2015
Stats. Implemented: Sec. 6a, Ch. 662, OL 2015
Hist.: DEQ 2-2016, f. & cert. ef. 2-4-16

340-083-0530
Payments to Economically-Distressed Counties

(1) For the nine most economically-distressed counties identified in OAR 340-083-0510, the rebate paid to the county as specified in OAR 340-083-0500 (1) is $0.28 multiplied by the "adjusted tonnage disposed" for that county calculated under OAR 340-083-0520.

(2) If a city within one of the nine most economically-distressed counties owns or operates a land disposal site, energy-recovery facility or incinerator, DEQ shall distribute to the city instead of the county the portion of the rebate based on tons of solid waste disposed that was generated in the county and disposed of at the land disposal site or energy recovery facility or incinerator owned by the city.

(3) Moneys a city or county receives through the rebate program may be used only for:

(a) Purposes authorized in ORS 459A.120;

(b) Operating solid waste disposal facilities; or

(c) Reducing disposal fees.

Stat. Auth.: Sec. 6a, Ch. 662, OL 2015
Stats. Implemented: Sec. 6a, Ch. 662, OL 2015
Hist.: DEQ 2-2016, f. & cert. ef. 2-4-16

340-097-0001
Applicability

This division applies to persons owning or operating or applying to DEQ to own or operate, a municipal solid waste landfill, a non-municipal land disposal site, an energy recovery facility or an incinerator receiving solid waste delivered by the public or by a solid waste collection service, a composting facility, a sludge disposal site, a land application disposal site, a transfer station, a material recovery facility, a solid waste treatment facility, a solid waste conversion technology facility or any other solid waste disposal site required to obtain a solid waste permit from DEQ. It also applies to persons who transport solid waste out of Oregon for final disposal or destruction at a disposal site that receives domestic solid waste. Beginning April 1, 2019, it also applies to persons who transport solid waste out of Oregon for final disposal or destruction at a disposal site that receives construction and demolition waste, land clearing debris, or waste tires for final disposal or destruction.

Stat. Auth.: ORS 459.045, 459A.100 - 459A.120 & 468.020
Stats. Implemented: ORS 459.235
Hist.: DEQ 5-1993, f. & cert. ef. 3-10-93; DEQ 10-1994, f. & cert. ef. 5-4-94; DEQ 7-2013, f. & cert. ef. 8-29-13; DEQ 2-2016, f. & cert. ef. 2-4-16

340-097-0110
Solid Waste Permit and Disposal Fees

(1) Each person required to have a solid waste disposal permit is subject to the following fees:

(a) An application processing fee for new facilities which must be submitted with the application for a new permit as specified in OAR 340-097-0120(2); and

(b) A solid waste permit compliance fee as listed in OAR 340-097-0120(6).

(2) Each disposal site receiving domestic solid waste for final disposal or destruction must pay the per-ton solid waste disposal fees on solid waste as specified in OAR 340-097-0120(7). Beginning April 1, 2019, and first payable beginning July 1, 2019, land disposal sites receiving construction and demolition wastes, land clearing debris, or tires for final disposal or destruction must also pay this fee.

(3) Oregon solid waste disposed of out-of-state. A person who transports solid waste, generated in Oregon, for final disposal or destruction at a disposal site located outside of Oregon that receives domestic solid waste, or beginning April 1, 2019, a land disposal site that receives construction and demolition waste, land clearing debris, or waste tires for final disposal or destruction, must pay the per-ton solid waste disposal fees as specified in OAR 340-097-0120(7).

(a) For purposes of this rule and OAR 340-097-0120(7), a person is the transporter if the person transports or arranges for the transport of solid waste out of Oregon for final disposal or destruction at a disposal site that receives domestic solid waste, or beginning April 1, 2019, a land disposal site that receives construction and demolition waste, land clearing debris, or waste tires for final disposal or destruction, and is:

(A) A solid waste collection service or any other person who hauls, under an agreement, solid waste out of Oregon;

(B) A person who hauls his or her own industrial, commercial or institutional waste or other waste such as cleanup materials contaminated with hazardous substances;

(C) An operator of a transfer station, when Oregon waste is delivered to a transfer station located in Oregon and from there is transported out of Oregon for final disposal or destruction;

(D) A person who authorizes or retains the services of another person for disposal of cleanup materials contaminated with hazardous substances; or

(E) A person who transports infectious waste.

(b) Notification requirement:

(A) Before transporting or arranging for transport of solid waste for final disposal or destruction out of Oregon to a disposal site that receives domestic solid waste, or beginning April 1, 2019, to a land disposal site that receives construction and demolition wastes, land clearing debris, or waste tires, the person identified in subsection (3)(a) must notify DEQ in writing on a form DEQ provides.

(B) The notification must state whether the person will transport the waste on an on-going basis.

(c) As used in this section, "person" does not include an individual transporting only the individual's own residential solid waste to a disposal site located out of the state.

(4) Fees. The solid waste permit compliance fee must be paid for each year a disposal site requiring a solid waste permit is in operation or under permit. The fee period is prospective and is as follows:

(a) New sites requiring a solid waste permit:

(A) Any new disposal site must pay a solid waste permit compliance fee 30 days after the end of the calendar quarter in which solid waste is received at the facility, except as specified in paragraph (4)(a)(B), (C) and (D);

(B) A new disposal site that receives less than 1,000 tons of solid waste per year, other than a transfer station, material recovery facility or composting facility, must pay the entire permit compliance fee for the first year's operation if the facility is placed into operation on or before September 1. A new facility placed into operation after September 1 will not owe a permit compliance fee until the following January 31. An application for a new disposal site receiving less than 1,000 tons of solid waste a year must include the applicable permit compliance fee for the first year of operation;

(C) A new industrial solid waste disposal site, sludge or land application disposal site or solid waste treatment facility receiving more than 1,000 but less than 20,000 tons of solid waste a year must pay a solid waste permit compliance fee on January 31 following the calendar year in which the facility is placed into operation;

(D) A new transfer station, material recovery facility or composting facility must pay the entire permit compliance fee for the first fiscal year's operation, based on the state's fiscal year, if the facility is placed into operation on or before April 1. Any new facility placed into operation after April 1 will not owe a permit compliance fee until DEQ's annual billing for the next fiscal year. An application for a new transfer station, material recovery facility or composting facility must include the applicable permit compliance fee for the first year of operation.

(b) Existing permitted sites. Any existing disposal site that is in operation and is permitted to receive or receives solid waste in a calendar year must pay the solid waste permit compliance fee for that year as specified in OAR 340-097-0120(6)(a), (b), and (c). A facility is deemed to be an "existing permitted site" from the time of permit issuance;

(c) Closed sites. If a land disposal site stops receiving waste before April 1 of the fiscal year in which the site permanently ceases active operations, based on the state's fiscal year, the permittee must pay the solid waste permit compliance fee for the "year of closure" OAR 340-097-0120(6)(d)(A) specifies as well as the permit compliance fee the permittee pays quarterly based on the waste received in the previous calendar quarters. If a land disposal site has permanently ceased receiving waste and the site is closed, a solid waste permittee must pay the solid waste permit compliance fee for closed sites as specified in OAR 340-097-0120(6)(d);

(d) DEQ may alter the due date for the solid waste permit compliance fee upon receipt of a justifiable request from a permittee.

(5) Tonnage reporting. The permit compliance fee and per-ton solid waste disposal fees, if applicable, must be submitted together with a form DEQ approves. Information reported must include the amount and type of solid waste and any other information DEQ requires to substantiate the tonnage or to calculate the state material recovery rate.

(6) Calculation of tonnage. Permittees and registrants are responsible for accurately calculating solid waste tonnage. For purposes of determining appropriate fees under OAR 340-097-0120(6) and (7), annual tonnage of solid waste received must be calculated as follows:

(a) Municipal solid waste facilities. Annual tonnage of solid waste received at municipal solid waste facilities, including construction and demolition sites and municipal solid waste composting facilities, receiving 50,000 or more tons annually must be based on weight from certified scales. When certified scales are required, all solid waste received at the facility for disposal must be weighed at the facility's scales, except as DEQ otherwise approves in writing. If certified scales are required but are temporarily not functioning, all solid waste received at the facility must either use other certified scales in the area or estimate tonnage as specified in this section. If certified scales are not required, estimated annual tonnage for municipal solid waste, including that at municipal solid waste composting facilities, will be based upon 300 pounds per cubic yard of uncompacted waste received, and 700 pounds per cubic yard of compacted waste received. If yardage is not known, the solid waste facility may use one ton per resident in the service area of the disposal site, unless the permittee demonstrates a more accurate estimate. For other types of wastes received at municipal solid waste sites and where certified scales are not required or not available, the conversions and provisions in subsection (b) must be used;

(b) Industrial facilities. Annual tonnage of solid waste received at industrial facilities receiving 50,000 or more tons annually must be based on weight from certified scales. When certified scales are required, all solid waste received at the facility must be weighed at the facility's scales, except as DEQ otherwise approves in writing. If certified scales are required but are temporarily not functioning, all solid waste received at the facility must either use other certified scales in the area or estimate tonnage as specified in this section. If certified scales are not required, industrial sites must use the following conversion factors to determine tonnage of solid waste disposed. Composting facilities must use the following conversion factors for those materials appropriate for composting:

(A) Asbestos: 500 pounds per cubic yard;

(B) Pulp and paper waste other than sludge: 1,000 pounds per cubic yard;

(C) Construction, demolition and land clearing wastes: 1,100 pounds per cubic yard;

(D) Wood waste:

(i) Wood waste, mixed, including log sort waste (as defined in OAR 340-093-0030): 1,200 pounds per cubic yard;

(ii) Wood waste including scrap lumber, pallets, wood from construction and demolition activities: 250 pounds per cubic yard;

(iii) Wood chips, green: 473 pounds per cubic yard;

(iv) Wood chips, dry: 243 pounds per cubic yard;

(v) Sawdust, wet: 530 pounds per cubic yard;

(vi) Sawdust, bone dry: 275 pounds per cubic yard.

(E) Yard debris:

(i) Grass clippings: 950 pounds per cubic yard;

(ii) Leaves: 375 pounds per cubic yard;

(iii) Compacted yard debris: 640 pounds per cubic yard; and

(iv) Uncompacted yard debris: 250 pounds per cubic yard.

(F) Manure, sludge, septage, grits, screenings and other wet wastes: 1,600 pounds per cubic yard;

(G) Food waste: 700 pounds per cubic yard;

(H) Ash and slag: 2,000 pounds per cubic yard;

(I) Contaminated soils: 2,400 pounds per cubic yard;

(J) Asphalt, mining and milling wastes, foundry sand, silica: 2,500 pounds per cubic yard;

(K) For wastes other than the above, the permittee or registrant must determine the density of the wastes subject to DEQ's written approval;

(L) As an alternative to the above conversion factors, the permittee or registrant may determine the density of their own waste, subject to DEQ's written approval.

(7) DEQ may refund the application processing fee, in whole or in part, after taking into consideration any costs DEQ may have incurred in

processing the application, when submitted with an application if either of the following conditions exists:

(a) DEQ determines that no permit is required;

(b) The applicant withdraws the application before DEQ has granted or denied preliminary approval or, if no preliminary approval has been granted or denied, DEQ has approved or denied the application.

(8) Exemptions:

(a) Persons treating petroleum contaminated soils are exempt from the application processing and renewal fees for a Letter Authorization if the following conditions are met:

(A) The soil is being treated as part of a site cleanup authorized under ORS Chapters 465 or 466; and

(B) DEQ and the applicant for the Letter Authorization have entered into a written agreement under which the applicant must pay for costs DEQ incurred for oversight of the cleanup and for processing of the Letter Authorization.

(b) Persons to whom a Letter Authorization has been issued are not subject to the solid waste permit compliance fee.

(9) All fees must be made payable to the Department of Environmental Quality.

(10) Submittal schedule:

(a) DEQ bills the solid waste permit compliance fee to the holder of the following permits: transfer station, material recovery facility, composting facility and closed solid waste disposal site. The fee period is the state's fiscal year, July 1 through June 30, and the fee is due annually by the date indicated on the invoice. Any "year of closure" pro-rated fee will be billed to the permittee of a closed site together with the site's first regular billing as a closed site;

(b) For solid waste disposal site permit holders other than those in subsection (10)(a), DEQ does not bill the solid waste permit compliance fee to the permittee. The permittee must self-report these fees to DEQ, under sections (4) and (5). The fee period is either the calendar quarter or the calendar year, and the fees are due to DEQ as follows:

(A) For any disposal site required to pay the per-ton fee on any solid waste as specified in OAR 340-097-0120(7) (e.g., landfills, municipal waste incinerators, municipal energy recovery facilities, conversion technology facilities, and solid waste treatment facilities that receive domestic solid waste for final disposal or destruction), plus construction and demolition and tire landfills: on the same schedule as specified in subsection (10)(c);

(B) For industrial solid waste disposal sites, sludge or land application disposal sites and other disposal sites not required to pay the per-ton fee on solid waste as specified in OAR 340-097-0120(7), except construction and demolition and tire landfills:

(i) For sites receiving over 20,000 tons of waste a year: quarterly, on the 30th day of the month following the end of the calendar quarter; or

(ii) For sites receiving 20,000 tons of waste a year or less: annually, on the 31st day of January;

(iii) For a site that has received less than 20,000 tons of waste in past years but exceeds that amount in a given year, DEQ will in general grant a one-year delay before the site is required to begin submitting permit fees on a quarterly basis. If the site appears likely to continue to exceed the 20,000 annual ton limit, then DEQ will require the site to report tonnage and submit applicable permit fees on a quarterly basis.

(c) DEQ does not bill the per-ton solid waste disposal fees on solid waste and the Orphan Site Account fee. They must be paid on the following schedule:

(A) Quarterly, on the 30th day of the month following the end of the calendar quarter; or

(B) Annually, on the 31st day of January, for solid waste disposal site permit holders for sites receiving less than 1,000 tons of solid waste a year.

(d) The fees on Oregon solid waste disposed of out-of-state must be paid to DEQ quarterly on the 30th day of the month following the end of the calendar quarter or on the schedule specified in OAR 340-097-0120(7)(d)(C). The fees must be submitted together with a form DEQ approves, which must include the amount of solid waste, type, county of origin of the solid waste, and state to which the solid waste is being transported for final disposal.

Stat. Auth.: ORS 459.045, 459.235, 459.236, 459A.025, 459A.110, 459A.115 , 468.065

Stats. Implemented: ORS 459.235, 459.236, 459A.110 & 459A.115

Hist.: DEQ 3-1984, f. & ef. 3-7-84; DEQ 45-1990, f. & cert. ef. 12-26-90; DEQ 12-1991(Temp), f. & cert. ef. 8-2-91; DEQ 28-1991, f. & cert. ef. 12-18-91; DEQ 8-1992, f. & cert. ef. 4-30-92; DEQ 5-1993, f. & cert. ef. 3-10-93, Renumbered from 340-061-0115; DEQ 23-1993, f. 12-16-93, cert. ef. 1-1-94; DEQ 10-1994, f. & cert. ef. 5-4-94; DEQ 9-1996, f. & cert. ef. 7-10-96; DEQ 17-1997, f. & cert. ef. 8-14-97; DEQ 27-1998, f. & cert. ef. 11-13-98; DEQ 6-2009, f. & cert. ef. 9-14-09; DEQ 7-2013, f. & cert. ef. 8-29-13; DEQ 2-2016, f. & cert. ef. 2-4-16

340-097-0120

Permit/Registration Categories and Fee Schedule

(1) For purposes of OAR chapter 340, division 97:

(a) A "new facility" means a facility at a location not previously used or permitted, and does not include an expansion to an existing permitted site;

(b) An "off-site industrial facility" means all industrial solid waste disposal sites other than a "captive industrial facility;"

(c) A "captive industrial facility" means an industrial solid waste disposal site where the permittee is the owner and operator of the site and is the generator of all the solid waste received at the site.

(d) As used in this rule, the term "mixed solid waste" means solid wastes that include paper, plastic, and other materials at least partly made up of domestic waste, where the materials have not been separated from each other.

(2) Application Processing Fee. Except as provided in sections (3), (4), and (5) with respect to composting facilities, an application processing fee must be submitted with each application for a new facility, including application for preliminary approval pursuant to OAR 340-093-0090. The amount of the fee depends on the type of facility and the required action as follows:

(a) A new municipal solid waste landfill facility, construction and demolition landfill, incinerator, energy recovery facility, solid waste treatment facility, off-site industrial facility or sludge disposal facility:

(A) Designed to receive over 7,500 tons of solid waste per year: $10,000;

(B) Designed to receive 7,500 tons and less of solid waste per year: $5,000.

(b) A new captive industrial facility, other than a transfer station or material recovery facility: $1,000;

(c) A new transfer station or material recovery facility:

(A) Receiving over 50,000 tons of solid waste per year: $500;

(B) Receiving over 10,000 and less than or equal to 50,000 tons of solid waste per year: $200;

(C) Receiving 10,000 tons and less of solid waste per year: $100.

(d) Letter Authorization underto OAR 340-093-0060:

(A) New site: $500;

(B) Renewal: $500.

(e) Permit Exemption Determination under OAR 340-093-0080(2): $500.

(f) Beneficial use of solid waste application and reporting fees punder OAR 340-093-0260 through 340-093-0290:

(A) The review of an annual or other report required under a beneficial use determination: $250;

(B) A Tier One beneficial use determination: $1,000;

(C) A Tier Two beneficial use determination: $2,000;

(D) A Tier Three beneficial use determination: $5,000;

(E) Annual extension to a demonstration project authorization: $1,000.

(g) A new conversion technology facility:

(A) Designed to receive over 7,500 tons of feedstocks per year: $2,000;

(B) Designed to receive 7,500 tons or less of feedstocks per year: $1,500.

(3) Composting Facility Screening Fee. Every composting facility that is required to comply with OAR 340-096-0080 must pay a screening fee of $150. The fee must be submitted with the application for screening, as provided in OAR 340-096-0080(1).

(4) Facility Plan Review and Approval Fee.

(a) Every composting facility that is required to comply with OAR 340-096-0090 must pay an Operations Plan Approval fee as provided below. The fee must be submitted with the proposed Operations Plan, as provided in OAR 340-096-0090(1). Agricultural composting facilities for which the Oregon Department of Agriculture is providing facility plan review and approval are not required to pay this fee.

(A) For facilities composting over 100 tons and less than or equal to 3,500 tons of feedstocks per year: $500;

(B) For facilities composting over 3,500 tons and less than or equal to 7,500 tons of feedstocks per year: $750;

(C) For facilities composting over 7,500 tons and less than or equal to 10,000 tons of feedstocks per year: $1000;

(D) For facilities composting over 10,000 tons and less than or equal to 50,000 tons of feedstocks per year: $2,000;

(E) For facilities composting over 50,000 tons of feedstocks per year: $5,000.

(b) Every conversion technology facility that is required to comply with OAR 340-096-0180 must pay a fee as provided below. The fee must be submitted with the proposed Operations Plan, as provided in OAR 340-096-0180.

(A) For facilities designed to receive 3,500 tons of feedstocks or less per year: $1,000;

(B) For facilities designed to receive over 3,500 tons but no more than 7,500 tons of feedstocks per year: $1,500;

(C) For facilities designed to receive over 7,500 tons but no more than 20,000 tons of feedstocks per year: $2,200;

(D) For facilities designed to receive over 20,000 tons but no more than 50,000 tons of feedstocks per year: $3,000;

(E) For facilities designed to receive over 50,000 tons of feedstocks per year: $5,000.

(5) Composting Facility Engineering Review Fee. Every composting facility that requires DEQ review of engineering plans and specifications under OAR 340-096-0130 must pay a fee of $500. This fee is in addition to the fee required by section (4). Agricultural composting facilities for which the Oregon Department of Agriculture provides review of engineering plans and specifications are not required to pay this fee.

(6) Solid Waste Permit Compliance Fee. The following is the fee schedule including base per-ton rates to be used to determine the solid waste permit compliance fee. The per-ton rates are based on the estimated solid waste to be received at all permitted solid waste disposal sites and on DEQ's Legislatively Approved Budget. DEQ reviews annually the amount of revenue generated by this fee schedule. To determine the solid waste permit compliance fee, DEQ may use the base per-ton rates or any lower rates if the rates generate more revenue than provided in DEQ's Legislatively Approved Budget. Any increase in the base rates must be established by rule. In any case where a facility fits into more than one category, the permittee must pay only the highest fee:

(a) All facilities accepting or permitted to accept solid waste for final disposal or destruction, excluding transfer stations, material recovery facilities and composting facilities:

(A) The greater of $200; or

(B) A solid waste permit compliance fee based on the total amount of solid waste received at the facility in the previous calendar quarter or year, as applicable, at the following rate:

(i) All municipal landfills, construction and demolition landfills, industrial landfills, sludge disposal facilities, incinerators and solid waste treatment facilities: $.21 per ton through June 30, 2016, and $.58 per ton beginning July 1, 2016;

(ii) Energy recovery facilities. $.13 per ton through June 30, 2016, and $.58 per ton beginning July 1, 2016; and

(iii) Conversion technology facilities: $.10 per ton through June 30, 2016, and $.58 per ton beginning July 1, 2016.

(C) If DEQ does not require a disposal site, other than a municipal solid waste facility, to monitor and report volumes of solid waste collected, the solid waste permit compliance fee may be based on the estimated tonnage received in the previous quarter or year.

(D) Ash or residue received by a landfill from an energy recovery facility, incinerator, or conversion technology facility is not subject to the solid waste permit compliance fee paid on a per-ton basis under paragraph (B) if the energy recovery facility, incinerator, or conversion technology facility has paid this fee on all incoming waste. Alternatively, DEQ can make arrangements to split this fee between a landfill and an energy recovery facility, incinerator, or conversion technology facility, based on the proportion by weight of the ash and residue received by the landfill and the total weight of incoming waste received by the energy recovery facility, incinerator, or conversion technology facility.

(b) Transfer stations and material recovery facilities:

(A) Facilities accepting over 50,000 tons of solid waste per year: $1,000;

(B) Facilities accepting over 10,000 and less than or equal to 50,000 tons of solid waste per year: $500;

(C) Facilities accepting 10,000 tons or less of solid waste per year: $50.

(c) Composting facilities with a composting permit, except agricultural composting facilities for which the Oregon Department of Agriculture is providing facility oversight:

(A) Utilizing over 50,000 tons of feedstocks for composting per year: $5,000;

(B) Utilizing over 7,500 and less than or equal to 50,000 tons of feedstocks for composting per year: $1,000;

(C) Utilizing over 3,500 and less than or equal to 7,500 tons of feedstocks for composting per year: $500;

(D) Utilizing over 100 tons and less than or equal to 3,500 tons of feedstocks for composting per year: $100.

(d) Closed Disposal Sites:

(A) Year of closure. If a land disposal site stops receiving waste before April 1 of the fiscal year in which the site permanently ceases active operations, DEQ will determine a pro-rated permit compliance fee for those quarters of the fiscal year not covered by the permit compliance fee paid on solid waste received at the site. The pro-rated fee for the quarters the site was closed is based on the calculation in paragraph (B);

(B) Each land disposal site that closes after July 1, 1984: $150 or the average tonnage of solid waste received in the three most active years of site operation multiplied by $.025 per ton, whichever is greater; but the maximum permit compliance fee is $2,500.

(7) Per-ton solid waste disposal fees on solid waste. Each solid waste disposal site that receives domestic solid waste for final disposal or destruction, and each person transporting solid waste out of Oregon for disposal at a disposal site that receives domestic solid waste, except as excluded under OAR 340-097-0110(3)(c), must submit fees to DEQ for solid waste received at the disposal site or transported out of Oregon. Beginning April 1, 2019, each solid waste land disposal site that receives construction or demolition waste, land clearing debris, or tires for final disposal or destruction, and each person transporting solid waste out of Oregon for disposal at a land disposal site that receives construction or demolition waste, land clearing debris, or tires for final disposal or destruction, except as excluded under OAR 340-097-0110(3)(c), must also submit fees to DEQ for solid waste received at the disposal site or transported out of Oregon.

(a) These fees include:

(A) A fee of $.81 per ton through March 31, 2016, raised to $1.11 per ton beginning April 1, 2016, through March 31, 2019, and raised to $1.18 per ton beginning April 1, 2019;

(B) An additional per-ton fee of $.13 for the Orphan Site Account.

(b) Tons subject to these fees include:

(A) All solid wastes landfilled, incinerated without energy recovery or treated for disposal by an Oregon disposal site that receives domestic solid waste, except as excluded in subsections (c) and (f);

(B) All Oregon solid wastes that are transported out-of-state for disposal or destruction at a disposal site that receives domestic solid waste, except as excluded under OAR 340-097-0110(3)(c) and subsections (c) and (f);

(C) Mixed solid wastes that are processed by a conversion technology facility, burned for energy recovery, or composted by an Oregon disposal site that receives domestic waste;

(D) Mixed solid waste that includes at least some domestic solid waste, that has been processed into refuse-derived fuel to be burned for energy recovery by a facility that does not have a solid waste permit, or that does not pay per-ton fees as specified in this section;

(E) Beginning April 1, 2019, all solid wastes landfilled at an Oregon land disposal site that receives construction or demolition waste, land clearing debris, or tires for final disposal or destruction, except as excluded in subsections (c) and (f); and

(F) Beginning April 1, 2019, all Oregon solid wastes that are transported out-of-state for disposal at a land disposal site that receives construction or demolition waste, land clearing debris, or tires for final disposal or destruction, except as excluded in subsections (c) and (f).

(c) Tons not subject to these fees include:

(A) Through March 31, 2019, all solid wastes received at a facility that does not receive domestic solid waste;

(B) Beginning April 1, 2019, all solid wastes received at a facility that does not receive domestic solid waste or construction or demolition waste, land clearing debris, or tires;

(C) Source-separated recyclables or other materials separated and recycled from mixed solid waste, including separated organics that are composted;

(D) Construction and demolition wastes and industrial wastes that are processed by a material recovery facility or a conversion technology facility to make a fuel to be burned off-site for energy recovery (e.g., in a wood fuel boiler);

(E) All solid wastes sent by a disposal site to another disposal site, where the per-ton fees are paid by a disposal site that subsequently receives that waste;

(F) Solid waste used as daily cover at a landfill as described in subsection (f);

(G) Ash from an energy recovery facility or incinerator that has paid these fees; and

(H) Sewage sludge or septic tank and cesspool pumpings.

(d) Submittal schedule:

(A) These per-ton fees must be submitted to DEQ quarterly. Quarterly remittals are due on the 30th day of the month following the end of the calendar quarter;

(B) Disposal sites receiving less than 1,000 tons of solid waste per year must submit the fees annually on January 31. If DEQ does not require the disposal site to monitor and report volumes of solid waste collected, the disposal site must submit with the fees an estimate of the population the disposal site serves;

(C) For solid waste transported out-of-state for disposal, the per-ton fees must be paid to DEQ quarterly. Quarterly remittals are due on the 30th day of the month following the end of the calendar quarter in which the disposal occurred. If the transportation is not on-going, the fee must be paid to DEQ within 60 days after the disposal occurs.

(e) Solid waste that is used as daily cover at a landfill in place of virgin soil is not subject to the per-ton solid waste fees in this section, provided that:

(A) The amount of solid waste used as daily cover does not exceed the amount needed to provide the equivalent of six inches of soil used as daily cover;

(B) If disposed of in Oregon, the solid waste is not being used on a trial basis, but instead has received necessary approvals from DEQ for use as daily cover; and

(C) If disposed of in a landfill outside of Oregon, the solid waste has received final approval from the appropriate state or local regulatory agency that regulates the landfill.

(f) For solid waste delivered to disposal facilities owned or operated by a Metropolitan Service District, the fees established in this section are levied on the district, not on the disposal site.

(8) 1991 Recycling Act Permit Fee

(a) Through June 30, 2016, a 1991 Recycling Act permit fee of $.09 per ton must be submitted by each solid waste permittee which received solid waste in the previous calendar quarter or year, as applicable, except transfer stations, material recovery facilities, composting facilities, conversion technology facilities that process only separated solid wastes, industrial facilities that do not receive wastes from off-site, and persons with letter authorizations. The fee must be paid along with the solid waste permit compliance fee as specified in OAR 340-097-0110. Disposal sites that receive less than 1,000 tons per year of solid waste for final disposal are exempt from paying the 1991 Recycling Act permit fee for 2016.

(b) Effective July 1, 2016, the 1991 Recycling Act permit fee is eliminated.

Stat. Auth.: ORS 459.045, 459.235 & 468.065

Stats. Implemented: ORS 459.235, 459.236, 459A.110 & 459A.115

Hist.: DEQ 3-1984, f. & ef. 3-7-84; DEQ 12-1988, f. & cert. ef. 6-14-88; DEQ 14-1990, f. & cert. ef. 3-22-90; DEQ 45-1990, f. & cert. ef. 12-26-90; DEQ 12-1991(Temp), f. & cert. ef. 8-2-91; DEQ 28-1991, f. & cert. ef. 12-18-91; DEQ 8-1992, f. & cert. ef. 4-30-92; DEQ 5-1993, f. & cert. ef. 3-10-93, Renumbered from 340-061-0120; DEQ 23-1993, f. 12-16-93, cert. ef. 1-1-94; DEQ 10-1994, f. & cert. ef. 5-4-94; DEQ 9-1996, f. & cert. ef. 7-10-96; DEQ 17-1997, f. & cert. ef. 8-14-97; DEQ 27-1998, f. & cert. ef. 11-13-98; DEQ 6-2009, f. & cert. ef. 9-14-09; DEQ 4-2010, f. & cert. ef. 5-14-10; DEQ 7-2013, f. & cert. ef. 8-29-13; DEQ 2-2016, f. & cert. ef. 2-4-16

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Department of Fish and Wildlife
Chapter 635

Rule Caption: Establish Average Market Value of Food Fish for Determining Damages Related to Commercial Fishing Violations.
Adm. Order No.: DFW 2-2016
Filed with Sec. of State: 1-19-2016
Certified to be Effective: 1-19-16
Notice Publication Date: 12-1-2015
Rules Amended: 635-006-0232
Subject: Amended rule to establish the average market value of food fish species used to determine damages for commercial fishing violations.
Rules Coordinator: Michelle Tate—(503) 947-6044

635-006-0232
Damages for Commercial Fishing Violations

(1) For purposes of ORS 506.720 the following shall be the 2015 average market value for each species of food fish for 2016. For species not listed, the average market value shall be the price per pound paid to law enforcement officials for any fish or shellfish confiscated from the person being assessed damages, or the average price per pound paid for that species during the month in which the violation occurred, whichever is greater. Unless otherwise noted, the amount given is the price per pound and is based on round weight.

(a) FISH:

(A) Anchovy, Northern $0.10.

(B) Cabezon $4.34.

(C) Carp $0.50.

(D) Cod, Pacific $0.57.

(E) Flounder, arrowtooth $0.09.

(F) Flounder, starry $0.42.

(G) Greenling $4.47.

(H) Grenadier, Pacific $0.04.

(I) Hagfish, $0.83.

(J) Hake, Pacific (Whiting) $0.07.

(K) Halibut, Pacific $3.86.

(L) Herring, Pacific $1.18.

(M) Lingcod $1.52.

(N) Mackerel, jack $0.04; Pacific $0.12.

(O) Opah $2.98.

(P) Pacific ocean perch, $0.47.

(Q) Pollock, Walleye $0.05.

(R) Rockfish:

(i) Black, $2.11.

(ii) Blue (including Deacon rockfish), $1.44.

(iii) Canary, $0.53.

(iv) Darkblotched, $0.45.

(v) Black and yellow, $5.42.

(vi) Brown, $3.67.

(vii) China, $6.24.

(viii) Copper, $3.43.

(ix) Gopher, $4.27.

(x) Grass, $6.79.

(xi) Quillback, $3.83.

(xii) Rougheye/blackspotted, $0.61.

(xiii) Shelf, $0.23.

(xiv) Shortbelly, using trawl gear $0.03, using line and pot gear $1.96.

(xv) Shortraker, $0.56.

(xvi) Slope, using trawl gear, $0.36, using line and pot gear $1.04.

(xvii) Tiger, $4.32.

(xviii) Vermilion, $1.96.

(xix) Widow, $0.42.

(xx) Yelloweye, using trawl gear $0.55, using line and pot gear $1.00.

(xxi) Yellowtail, $0.51.

(S) Sablefish, $2.57.

(T) Salmon eggs, $2.99.

(U) Salmon, Chinook, ocean mixed size, $6.06.

(V) Salmon, coho, ocean dressed weight: mixed size, $1.87.

(W) Salmon, pink, ocean, dressed weight: ungraded, $1.60.

(X) Sanddab, Pacific $0.51.

(Y) Sardine, Pacific $0.13.

(Z) Scuplin, buffalo $2.20.

(AA) Shad, American:

(i) Coast, ungraded, midwater trawl, $0.22.

(ii) Columbia, ungraded, gillnet, setnet, and dipnet, $0.05.

(BB) Shark, blue $0.07, Pacific sleeper $0.03, shortfin mako $1.25, sixgill $0.05, soupfin $0.20, spiny dogfish $0.06, scalloped hammerhead $0.12, silky $0.18, thresher dressed weight $1.50 and round weight $0.60, and other species $0.02.

(CC) Skate, longnose $0.43.

(DD) Skates and Rays $0.33.

(EE) Skates, unsp. $0.32.

(FF) Smelt, Eulachon (Columbia River), $2.86 and other species $0.20.

(GG) Sole, butter $0.17, curlfin (turbot) $0.22, Dover $0.44, English $0.32, flathead $0.28, petrale $1.26, rex $0.34, rock $0.33 and sand $0.81.

(HH) Steelhead $2.32.

(II) Sturgeon, green $0.98 and white $3.07.

(JJ) Surfperch $1.40.

(KK) Swordfish $4.00.

(LL) Thornyhead (Sebastolobus), longspine $0.34 and shortspine $0.60.

(MM) Tuna, albacore $1.32, bluefin $5.72, bigeye $4.00, and yellowfin $2.00.

(NN) Walleye $1.50.

(OO) Wolf-eel $1.45.
(PP) Wrymouth $0.11.
(QQ) Yellowtail $1.18.
(b) CRUSTACEANS:
(A) Crab: box $1.28, Dungeness bay $4.67 and ocean $5.38, rock $1.50 and Tanner $1.00.
(B) Crayfish $2.47.
(C) Shrimp: brine $1.00, coonstripe $8.00, ghost (sand) $2.51, mud $1.37, pink $0.80 (applied to the gross round weight of the confiscated pink shrimp reported on the fish receiving ticket) and spot $11.32.
(D) Water flea (Daphnia) $0.65.
(c) MOLLUSKS:
(A) Abalone, flat $21.09.
(B) Clams: butter $0.89, cockle $0.71, gaper $0.83, Manila littleneck $2.00, Nat. littleneck $0.63, razor $2.35, and softshell $0.50.
(C) Mussels, ocean $0.90.
(D) Octopus $1.25.
(E) Scallop, rock $0.70.
(F) Scallop, weathervane dressed weight (shucked) $5.73 and round weight $0.55.
(G) Squid, market $0.20.
(H) Squid, other species $0.12.
(d) OTHER INVERTEBRATES:
(A) Jellyfish $10.00.
(B) Sea anemone $0.83.
(C) Sea cucumber $1.00.
(D) Sea urchin, red $0.60 and purple $0.50.
(E) Sea stars $1.00.
(2) The Department may initiate civil proceedings to recover damages as authorized by ORS 506.720 where the value of any food fish unlawfully taken exceeds $300, except for food fish taken by trawl in the groundfish fishery where the trip limit has not been exceeded by more than 15%.

Stat. Auth.: ORS 506.119
Stats. Implemented: ORS 506.109 & 506.720
Hist.: FWC 160, f. & ef. 11-25-77; FWC 18-1978, f. & ef. 4-7-78, Renumbered from 635-036-0605; FWC 33-1982, f. & ef. 6-2-82; FWC 9-1988, f. & cert. ef. 3-3-88; DFW 6-2003, f. 1-21-03, cert. ef. 2-1-03; DFW 3-2004, f. 1-14-04, cert. ef. 2-1-04; DFW 1-2005, f. & cert. ef. 1-7-05; DFW 1-2005, f. & cert. ef. 1-7-05; DFW 1-2006, f. & cert. ef. 1-9-06; DFW 1-2007, f. & cert. ef. 1-12-07; DFW 2-2008, f. & cert. ef. 1-15-08; DFW 3-2009, f. & cert. ef. 1-13-09; DFW 5-2010, f. & cert. ef. 1-13-10; DFW 1-2011, f. & cert. ef. 1-10-11; DFW 162-2011(Temp), f. 12-22-11, cert. ef. 1-1-12 thru 2-29-12; DFW 11-2012, f. & cert. ef. 2-7-12; DFW 3-2013, f. & cert. ef. 1-14-13; DFW 1-2014, f. & cert. ef. 1-13-14; DFW 3-2015, f. & cert. ef. 1-13-15; DFW 2-2016, f. & cert. ef. 1-19-16

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Rule Caption: Amendments to Rules for Commercial and Recreational Groundfish Fisheries.
Adm. Order No.: DFW 3-2016
Filed with Sec. of State: 1-19-2016
Certified to be Effective: 1-19-16
Notice Publication Date: 12-1-2015
Rules Amended: 635-004-0215, 635-004-0275, 635-004-0295, 635-004-0300, 635-004-0340, 635-004-0350, 635-004-0355, 635-004-0360, 635-039-0080, 635-039-0090
Subject: These amended rules for marine recreational and commercial groundfish, including changes to species defined as groundfish based on the federal definition and the addition of the newly recognized species Deacon Rockfish. Housekeeping and technical corrections to the regulations were made to ensure rule consistency.
Rules Coordinator: Michelle Tate—(503) 947-6044

635-004-0215
Definitions

As used in Division 004 regulations:
(1) "Animals living intertidally on the bottom" means any benthic animal with a natural range that includes intertidal areas, regardless of where harvest occurs, and includes but is not limited to, starfish, sea urchins, sea cucumbers, snails, bivalves, worms, coelenterates, and crabs except Dungeness crab.
(2) "Board" means the Commercial Fishery Permit Board.
(3) "Buy" includes offer to buy, barter, exchange or trade.
(4) "Coastal Pelagic Species" means all species of ocean food fish and shellfish defined as Coastal Pelagic Species in the Fishery Management Plan for U.S. West Coast Fisheries for Coastal Pelagic Species and in the Federal Coastal Pelagic Species Regulations, Title 50, Part 660, and include:
(a) Jack mackerel (Trachurus symmetricus);
(b) Jack smelt (Atherinopsis californiensis);
(c) Krill (all species in order Euphausiacea);
(d) Market squid (Loligo opalescens);
(e) Northern anchovy (Engraulis mordax);
(f) Pacific herring (Clupea harengus pallasi);
(g) Pacific mackerel (Scomber japonicus); and
(h) Pacific sardine (Sardinops sagax).
(5) "Commercial harvest cap" means the total fishery-related mortality for a given species, or species group, that may occur in a single calendar year in Oregon commercial fisheries.
(6) "Commercial landing cap" means the total landed catch of a given species, or species group, that may be taken in a single calendar year in Oregon commercial fisheries.
(7) "Commercial purposes" means taking food fish with any gear unlawful for angling, or taking or possessing food fish in excess of the limits permitted for personal use, or taking, fishing for, handling, processing, or otherwise disposing of or dealing in food fish with the intent of disposing of such food fish or parts thereof for profit, or by sale, barter or trade, in commercial channels, as specified in ORS 506.006.
(8) "Commission" means the State Fish and Wildlife Commission created by ORS 496.090.
(9) "Department" means the State Department of Fish and Wildlife.
(10) "Director" means the Director of the Oregon Department of Fish and Wildlife appointed pursuant to ORS 496.112.
(11) "Dive gear" means gear used while a fisher is submerged underwater in order to take food fish, and includes but is not limited to one or more of the following pieces of equipment: SCUBA or other surface supplied air source (hookah gear), dive mask, snorkel, air cylinders, weight belt, wetsuit and fins.
(12) "Exclusive Economic Zone" means the zone between 3-200 nautical miles offshore of the United States.
(13) "Fishing gear" means, as specified in ORS 506.006, any appliance or device intended for or capable of being used to take food fish for commercial purposes, and includes:
(a) "Fixed gear" means longline, trap or pot, set net, and stationary hook-and-line gears;
(b) "Gillnet" has the meaning as set forth in OAR 635-042-0010;
(c) "Hook-and-line" means one or more hooks attached to one or more lines;
(d) "Lampara net" means a surrounding or seine net with the sections of netting made and joined to create bagging, and is hauled with purse rings;
(e) "Longline" means a stationary buoyed, and anchored groundline with hooks attached;
(f) "Mesh size" means the opening between opposing knots. Minimum mesh size means the smallest distance allowed between the inside of one knot to the inside of the opposing knot regardless of twine size;
(g) "Pot or trap" means a portable, enclosed device with one or more gates or entrances and one or more lines attached to surface floats;
(h) "Purse seine" means an encircling net that may be closed by a purse line threaded through the bottom of the net. Purse seine gear includes ring net, drum purse seine, and lampara nets;
(i) "Seine" means any non-fixed net other than a trawl net or gillnet and includes all types of purse seines;
(j) "Setline" means a bottom longline used in rivers and estuaries for targeting white sturgeon;
(k) "Set net" means a stationary, buoyed and anchored gillnet or trammel net which takes fish commonly by gilling and is not free to move or drift with the current or tide;
(l) "Spear" means a sharp, pointed, or barbed instrument on a shaft;
(m) "Trammel net" means a gillnet made with two or more walls joined to a common float line;
(n) "Trawl gear" means a cone or funnel-shaped net which is towed or drawn through the water by one or two vessels, and includes but is not limited to beam trawl, bobbin or roller trawl, bottom trawl, pelagic trawl and Danish and Scottish seine gear;
(o) "Troll" means fishing gear that consists of 1 or more lines that drag hooks with bait or lures behind a moving fishing vessel, and which lines are affixed to the vessel and are not disengaged from the vessel at any time during the fishing operation; and
(p) "Vertical hook and line" means a line attached to the vessel or to a surface buoy vertically suspended to the bottom by a weight or anchor, with hooks attached between its surface and bottom end.

(14) "Fishing trip" means a period of time between landings when fishing is conducted.

(15) "Food Fish" means any animal over which the State Fish and Wildlife Commission has jurisdiction, pursuant to ORS 506.036.

(16) "Groundfish" means all species of ocean food fish defined as groundfish in the Pacific Coast Groundfish Fishery Management Plan and in the Federal Groundfish Regulations, Title 50, Part 660 and includes:

(a) All species of rockfish, thornyheads, and scorpionfish that occur off Washington, Oregon, or California (genera Sebastes, Scorpaena, Scorpaenodes, and Sebastolobus);

(b) All species of grenadiers in the family Macrouridae that occur off Washington, Oregon, or California, including but not limited to Giant grenadier, (Albatrossia pectoralis) and Pacific grenadier (Coryphaenoides acrolepis);

(c) All species of skates in the family Arhynchobatidae that occur off Washington, Oregon, or California, including but not limted to Aleutian skate (Bathyraja aleutica), Bering/sandpaper skate (B. interrupta), big skate (Raja binoculata), California skate (R. inornata), longnose skate (R. rhina), and roughtail/black skate (B. trachura);

(d) Arrowtooth flounder (Atheresthes stomias);

(e) Butter sole (Isopsetta isolepis);

(f) Cabezon (Scorpaenichthys marmoratus);

(g) Curlfin sole (Pleuronichthys decurrens);

(h) Dover sole (Microstomus pacificus);

(i) English sole (Parophrys vetulus);

(j) Finescale codling (Antimora microlepis);

(k) Flathead sole (Hippoglossoides elassodon);

(l) Kelp greenling (Hexagrammos decagrammus);

(m) Leopard shark (Triakis semifasciata);

(n) Lingcod (Ophiodon elongatus);

(o) Pacific cod (Gadus macrocephalus);

(p) Pacific sanddab (Citharichthys sordidus);

(q) Pacific whiting (Merluccius productus);

(r) Petrale sole (Eopsetta jordani);

(s) Ratfish (Hydrolagus colliei);

(t) Rex sole (Glyptocephalus zachirus);

(u) Rock sole (Lepidopsetta bilineata);

(v) Sablefish (Anoplopoma fimbria);

(w) Sand sole (Psettichthys melanostictus);

(x) Soupfin shark (Galeorhinus zyopterus);

(y) Spiny dogfish (Squalus acanthias); and

(z) Starry flounder (Platichthys stellatus).

(17) "Harvest guideline" means a specified numerical harvest objective that is not a quota. Attainment of a harvest guideline does not automatically close a fishery.

(18) "Highly Migratory Species" means all species of ocean food fish defined as highly migratory species in the Fishery Management Plan for U.S. West Coast Fisheries for Highly Migratory Species and in the Federal Highly Migratory Species Regulations, Title 50, Part 660, and includes:

(a) Bigeye thresher shark (Alopias superciliosus);

(b) Bigeye tuna (Thunnus obesus);

(c) Blue shark (Prionace glauca);

(d) Common thresher shark (Alopias vulpinus);

(e) Common Mola (Mola mola);

(f) Dorado (Coryphaena hippurus);

(g) Escolar (Lepidocybium flavobrunneum);

(h) Lancetfishes (Alepisauridae species);

(i) Louvar (Luvarus imperialis);

(j) North Pacific albacore tuna (Thunnus alalunga);

(k) Northern bluefin tuna (Thunnus thynnus);

(l) Pacific swordfish (Xiphias gladius);

(m) Pelagic sting ray (Dasyetis violacea);

(n) Pelagic thresher shark (Alopias pelagicus);

(o) Shortfin mako shark (Isurus oxyrinchus);

(p) Skipjack tuna (Katsuwonus pelamis);

(q) Striped marlin (Tetrapturus audax);

(r) Wahoo (Acathocybium solandri); and

(s) Yellowfin tuna (Thunnus albacares).

(19) "Inland waters" means all waters of the state except the Pacific Ocean.(20) "Intertidal" means the area in Oregon coastal bays, estuaries, and beaches between mean extreme low water and mean extreme high water boundaries.

(21) "Land, landed, or landing" means either of the following:

(a) For fisheries where food fish were taken by use of a vessel, "land, landed or landing" means to begin transfer of food fish from a vessel. Once transfer begins, all food fish aboard the vessel are counted as part of that landing, except:

(A) Anchovies being held live on a vessel for the purpose of using for bait in that vessel's commercial fishing operation; and

(B) For vessels participating in the federal trawl rationalization program, the portion of catch that is intended to be delivered to Washington or California is not considered part of that landing.

(b) For fisheries where food fish were taken without use of any vessel, "land, landed or landing" means to begin transfer of food fish from a harvester to a wholesale fish dealer, wholesale fish bait dealer, or food fish canner, under which the following provisions apply:

(A) When the harvester and the wholesale fish dealer, wholesale fish bait dealer, or food fish canner are the same person or entity, transfer occurs when the food fish arrive at the licensed premises of the wholesale fish dealer, wholesale fish bait dealer, or food fish canner; and

(B) Once transfer begins, all food fish from the harvest area are counted as part of that landing.

(22) "Length" or "Length Overall" of a vessel means the manufacturer's specification of overall length, United States Coast Guard or Marine Board registered length documentation stating overall length or overall length as surveyed by a certified marine surveyor. In determining overall length, marine surveyors shall measure in a straight line parallel to the keel from the foremost part of the vessel to the aftermost part, excluding sheer and excluding bow sprits, boomkins, rudders aft of the transom, outboard motor brackets, or transom extensions such as a dive step or platform.

(23) "Length, total" of a fish is measured from the tip of the snout (mouth closed) to the tip of the tail (pinched together) without mutilation of the fish or the use of additional force to extend the length.

(24) "Nearshore species" includes (See ORS 506.011):

(a) Black and yellow rockfish (Sebastes chrysolmelas);

(b) Brown Irish lord (Hemilepidotus spinosus);

(c) Brown rockfish (Sebastes auriculatus);

(d) Buffalo sculpin (Enophrys bison);

(e) Cabezon (Scorpaenichthys marmoratus);

(f) Calico rockfish (Sebastes dalli);

(g) China rockfish (S. nebulosus);

(h) Copper rockfish (S. caurinus);

(i) Gopher rockfish (S. carnatus);

(j) Grass rockfish (S. rastrelliger);

(k) Kelp greenling (Hexagrammos decagrammus);

(l) Kelp rockfish (Sebastes atrovirens);

(m) Olive rockfish (S. serranoides);

(n) Painted greenling (Oxylebius pictus);

(o) Quillback rockfish (Sebastes maliger);

(p) Red Irish lord (Hemilepidotus hemilepidotus);

(q) Rock greenling (Hexagrammos lagocephalus);

(r) Tiger rockfish (Sebastes nigrocinctus);

(s) Treefish (S. serriceps);

(t) Vermillion rockfish (S. miniatus); and

(u) White spotted greenling (Hexagrammos stelleri).

(25) "Ocean food fish" means all saltwater species of food fish except salmon, halibut, and shellfish whether found in fresh or salt water.

(26) "Other nearshore rockfish" includes:

(a) Black and yellow rockfish (Sebastes chrysolmelas);

(b) Brown rockfish (S. auriculatus);

(c) Calico rockfish (S. dalli);

(d) China rockfish (S. nebulosus);

(e) Copper rockfish (S. caurinus);

(f) Gopher rockfish (S. carnatus);

(g) Grass rockfish (S. rastrelliger);

(h) Kelp rockfish (S. atrovirens);

(i) Olive rockfish (S. serranoides);

(j) Quillback rockfish (S. maliger); and

(k) Treefish (S. serriceps).

(27) "Pacific Ocean" means all water seaward of the end of the jetty or jetties of any river, bay, or tidal area, except the Columbia River boundary with the Pacific Ocean is as specified in OAR 635-003-0005, or all water seaward of the extension of the shoreline high watermark across the river, bay, or tidal area where no jetties exist.

(28) "Permit holder" means a person or entity that owns an individual permit or owns the vessel to which a vessel permit is attached. A lessee of a permit is not a permit holder.

(29) "Possession" means holding any food fish, shellfish or parts thereof in a person's custody or control.

(30) "Process or Processing" means fresh packaging requiring freezing of food fish, or any part thereof, or any type of smoking, reducing, loining, steaking, pickling or filleting.

(31) "Resident" means an actual bona fide resident of this state for at least one year, as specified in ORS 508.285.

(32) "Rockfish" includes all species in the following genera:

(a) Sebastes; and

(b) Sebastolobus.

(33) "Salmon" means all anadromous species of salmon, including but not limited to:

(a) Oncorhynchus gorbuscha, commonly known as humpback, humpies or pink salmon.

(b) Oncorhynchus keta, commonly known as chum or dog salmon.

(c) Oncorhynchus kisutch, commonly known as coho or silver salmon.

(d) Oncorhynchus nerka, commonly known as sockeye, red or blueback salmon.

(e) Oncorhynchus tshawytscha, commonly known as Chinook salmon.

(34) "Security interest" means an interest in a vessel or permit granted by the owner of the vessel or permit to a third party under a security agreement, pursuant to ORS chapter 79, another state's laws enacted to implement Article 9 of the Uniform Commercial Code or equivalent federal statutory provisions for federally documented vessels.

(35) "Sell" includes to offer or possess for sale, barter, exchange or trade.

(36) "Smelt" means all species in the family Osmeridae.

(37) "Take" means fish for, hunt, pursue, catch, capture or kill or attempt to fish for, hunt, pursue, catch, capture or kill.

(38) "Transport" means transport by any means, and includes offer or receive for transportation.

(39) "Trip limit" means the total amount of fish that may be taken and retained, possessed, or landed per vessel from a single fishing trip or cumulatively per unit of time. A vessel which has landed its cumulative or daily limit may continue to fish on the limit for the next legal period as long as the fish are not landed until the next period. Trip limits may be:

(a) "Bi-monthly cumulative trip limit" means the maximum amount of fish that may taken and retained, possessed or landed per vessel in specified bi-monthly periods. There is no limit on the number of landings or trips in each period, and periods apply to calendar months. The specified periods are as follows:

(A) Period 1: January through February;

(B) Period 2: March through April;

(C) Period 3: May through June;

(D) Period 4: July through August;

(E) Period 5: September through October; and

(F) Period 6: November through December.

(b) "Daily trip limit" means the maximum amount of fish that may be taken and retained, possessed or landed per vessel in 24 consecutive hours, starting at 00:01 hours local time. Only one landing of groundfish may be made in that 24-hour period;

(c) "Monthly trip limit" means the maximum amount of fish that may be taken and retained, possessed or landed per vessel during the first day through the last day of any calendar month.

(d) "Weekly trip limit" means the maximum amount of fish that may be taken and retained, possessed or landed per vessel in seven (7) consecutive days, starting at 00:01 hours local time on Sunday and ending at 24:00 hours local time on Saturday. Weekly trip limits may not be accumulated during multiple week trips. If a calendar week falls within two different months or two different cumulative limit periods, a vessel is not entitled to two separate weekly limits during that week.

(40) "Undue hardship" means death, serious illness requiring extended care by a physician, permanent disability, or other circumstances beyond the individual's control.

(41) "Unlawful to buy" means that it is unlawful to buy, knowing or having reasonable cause to believe that the fish have been illegally taken or transported within this state, or unlawfully imported or otherwise unlawfully brought into this state.

(42) "Vessel" means any floating craft, powered, towed, rowed or otherwise propelled which is used for landing or taking food fish for commercial purposes, and has the same meaning as 'boat' as specified in ORS 506.006.

(43) "Vessel operator" means the person onboard a fishing vessel who is responsible for leading a fishing vessel in fishing or transit operations, and who signs the corresponding fish ticket from that fishing trip. A vessel operator may be a vessel owner or permit holder or both, individual hired to operate a vessel, or lessee of a vessel, permit or both. Although more than one person may physically operate a vessel during a fishing trip or transit, there may only be one person identified as a vessel operator (commonly referred to as a captain or skipper) on a fishing vessel during any one fishing trip or transit.

(44) "Vessel owner" means any ownership interest in a vessel, including interests arising from partnerships, corporations, limited liability corporations, or limited liability partnerships. A vessel owner does not include a leasehold interest.

(45) "Waters of this state" means all waters over which the State of Oregon has jurisdiction, or joint or other jurisdiction with any other state or government, including waters of the Pacific Ocean and all bays, inlets, lakes, rivers and streams within or forming the boundaries of this state.

(46) "Week" means the period beginning at 00:01 hours local time on Sunday and ending at 24:00 hours local time on the following Saturday.

Stat. Auth.: ORS 496.138, 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 496.162, 506.109 & 506.129
Hist.: FC 246, f. 5-5-72, ef. 5-15-72; FWC 37, f. & ef. 1-23-76, Renumbered from 625-010-0545; FWC 49-1979, f. & ef. 11-1-79, Renumbered from 635-036-0270; FWC 10-1983, f. & ef. 3-1-83; FWC 1-1985(Temp), f. & ef. 1-4-85; FWC 5-1985, f. & ef. 2-19-85; FWC 17-1987(Temp), f. & ef. 5-7-87; FWC 103-1988, f. 12-29-88, cert. ef. 1-1-89; FWC 28-1989(Temp), f. 4-25-89, cert. ef. 4-26-89; FWC 130-1990, f. 12-31-90, cert. ef. 1-1-91; FWC 67-1991, f. 6-25-91, cert. ef. 7-1-91; FWC 21-1992(Temp), f. 4-7-92, cert. ef. 5-1-92; FWC 141-1991, f. 12-31-91, cert. ef. 1-1-92; FWC 21-1992(Temp), f. 4-7-92, cert. ef. 5-1-92; FWC 36-1992, f. 5-26-92, cert. ef. 5-27-92; FWC 6-1993, f. 1-28-93, cert. ef. 2-1-93; FWC 95-1994, f. 12-28-94, cert. ef. 1-1-95; FWC 45-1995, f. & cert. ef. 6-1-95; FWC 71-1996, f. 12-31-96, cert. ef. 1-1-97; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 32-2005(Temp), f. 4-29-05, cert. ef. 5-1-05 thru 10-27-05; DFW 70-2005, f. & cert. ef. 7-8-05; DFW 142-2008, f. & cert. ef. 11-21-08; DFW 156-2009, f. 12-29-09, cert. ef. 1-1-10; Renumbered from 635-004-0020, DFW 75-2012, f. 6-28-12; DFW 32-2013, f. & cert. ef. 5-14-13; DFW 136-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 4-2015, f. 1-13-15, cert. ef. 1-15-15; DFW 3-2016, f. & cert. ef. 1-19-16

635-004-0275
Scope, Inclusion, and Modification of Rules

(1) The commercial groundfish fishery in the Pacific Ocean off Oregon is jointly managed by the state of Oregon and the federal government through the Pacific Fishery Management Council process. The Code of Federal Regulations provides federal requirements for this fishery, including but not limited to the time, place, and manner of taking groundfish. However, additional 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, Subparts C, D, E and F (October 1, 2015 ed.) as amended;

(b) Federal Register Vol. 80, No. 46, dated March 10, 2015 (80 FR 12567);

(c) Federal Register Vol. 80. No. 222, dated November 18, 2015 (80 FR 71975)

(d) Federal Register Vol. 80. No. 239, dated December 14, 2015 (80 FR 77267.

(2) Persons must consult the federal regulations in addition to Division 004 to determine all applicable groundfish fishing requirements. Where federal regulations refer to the fishery management area, that area is extended 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. See OAR 635-004-0205 through 635-004-0235 and 635-004-0280 through 635-004-0365 for additions or modifications to federal groundfish regulations.

[Publications: Publications referenced are available from the Department.]
Stat. Auth.: ORS 496.138, 496.162, 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 496.162, 506.109 & 506.129
Hist.: DFW 75-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 78-2012(Temp), f. 6-28-12, cert. ef. 7-1-12 thru 10-27-12; DFW 106-2012(Temp), f. 8-15-12, cert. ef. 9-1-12 thru 12-31-12; DFW 1-2013, f. & cert. ef. 1-3-13; DFW 96-2013(Temp), f. 8-27-13, cert. ef. 9-1-13 thru 12-31-13; DFW 132-2013(Temp), f. & cert. ef. 12-9-13 thru 6-7-14; DFW 136-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 34-2014(Temp), f. & cert. ef. 4-23-14 thru 9-30-14; DFW 109-2014(Temp), f. & cert. ef. 8-4-14 thru 12-31-14; DFW 163-2014(Temp), f. 12-15-14, cert. ef. 1-1-15 thru 6-29-15; DFW 18-2015, f. & cert. ef. 3-10-15; DFW 68-2015(Temp), f. 6-11-15, cert. ef. 6-12-15 thru 12-8-15; DFW 111-2015(Temp), f. & cert. ef. 8-19-15 thru 2-14-16; DFW 151-2015(Temp), f. & cert. ef. 11-2-15 thru 4-29-15; DFW 159-2015(Temp), f. & cert. ef. 11-25-15 thru 5-22-16; DFW 3-2016, f. & cert. ef. 1-19-16

635-004-0295
Fishery Defined

"Black Rockfish/Blue Rockfish/Nearshore Fishery" means the commercial fishery for black rockfish (Sebastes melanops), blue rockfish

(Sebastes mystinus), deacon rockfish (Sebastes diaconus) and nearshore species as defined in OAR 635-004-0215.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.129, 506.450 through 506.465
Hist.: DFW 112-2003, f. & cert. ef. 11-14-03; Renumbered from 635-004-0160, DFW 75-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 3-2016, f. & cert. ef. 1-19-16

635-004-0300
Requirement for Black Rockfish/Blue Rockfish/Nearshore Fishery Permit

(1) Except as provided in OAR 635-004-0360, it is unlawful to take, land or possess black rockfish, blue rockfish, or deacon rockfish without a Black Rockfish/Blue Rockfish Permit or black rockfish, blue rockfish, deacon rockfish, or nearshore species without a Black Rockfish / Blue Rockfish or Black Rockfish/Blue Rockfish with a Nearshore Endorsement Permit pursuant to ORS 508.945.

(2) It is unlawful for a wholesaler, canner or buyer to buy or receive black rockfish, blue rockfish, deacon rockfish, or other nearshore species taken in the Black Rockfish/Blue Rockfish/Nearshore Fishery from a vessel for which the permit required by section (1) of this rule has not been issued.

(3) A Black Rockfish/Blue Rockfish/Nearshore Fishery Permit required by section (1) of this rule is in addition to and not in lieu of the commercial fishing and vessel license required by ORS 508.235 and ORS 508.260.

(4) No vessel may hold more than one Black Rockfish/Blue Rockfish / Nearshore Fishery Permit at any one time.

(5) Unless otherwise provided, Black Rockfish/Blue Rockfish/Nearshore Permits must be purchased by January 1 of the year the permit is sought for renewal.

(6) Applications for Black Rockfish/Blue Rockfish/Nearshore Fishery Permits shall be in such form and contain such information as the Department may prescribe. Proof of length of vessel may be required at the time of application.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109, 506.129, 506.306 & 508.945
Hist.: DFW 75-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 3-2016, f. & cert. ef. 1-19-16

635-004-0340
Fishing Gear

(1) Except as provided in OAR 635-004-0360, it is unlawful to take Black Rockfish/Blue Rockfish/Nearshore Fishery species by any means other than:

(a) Hook-and-line gear; or

(b) Pot gear may be used if a Developmental Fisheries Permit for nearshore species using pot gear was issued in 2003. Pot gear shall be limited to a maximum of 35 pots.

(2) It is *unlawful* to take black rockfish, blue rockfish, deacon rockfish, or nearshore species using dive gear.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109, 506.129 & 506.306
Hist.: DFW 112-2003, f. & cert. ef. 11-14-03; Renumbered from 635-004-0165, DFW 75-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 3-2016, f. & cert. ef. 1-19-16

635-004-0350
Harvest Guidelines and Landing Caps

(1) Upon attainment of a harvest guideline in the Black Rockfish/Blue Rockfish/Nearshore Fishery, the Department shall initiate consultation to determine if additional regulatory actions are necessary to achieve management objectives.

(2) The following commercial harvest guidelines include the combined landings and other fishery related mortality by all Oregon commercial fisheries in a single calendar year:

(a) Black rockfish: 139.2 metric tons;

(b) Cabezon: 30.2 metric tons; and

(c) Blue rockfish, deacon rockfish and other nearshore rockfish combined: 10.4 metric tons.

(3) The following commercial harvest guidelines include landings by all Oregon commercial fisheries in a single calendar year: Greenling, 23.4 metric tons.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109 & 506.129
Hist.: DFW 75-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 151-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 136-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 4-2015, f. 1-13-15, cert. ef. 1-15-15; DFW 3-2016, f. & cert. ef. 1-19-16

635-004-0355
Trip Limits

(1) The trip limits outlined in this rule are set at the beginning of each calendar year based on commercial harvest caps and projected fishing effort, and are subject to in-season adjustments and closures. Fishers should refer to Nearshore Commercial Fishery Industry Notices on the Marine Resources Program Commercial Fishing Rules and Regulations webpage for the most up-to-date information regarding trip limits and other regulations affecting the Nearshore Commercial Fishery.

(2) Vessels with a Black Rockfish / Blue Rockfish / Nearshore Fishery Permit, with or without a Nearshore Endorsement, may land no more than the following cumulative trip limits:

(a) Black rockfish:

(A) 1200 pounds in period 1;

(B) 1400 pounds in period 2;

(C) 1700 pounds in period 3;

(D) 1600 in period 4;

(E) 1400 pounds in period 5;

(F) 1000 pounds in period 6; and

(b) 30 pounds of blue rockfish and deacon rockfish combined in each period.

(3) For all other nearshore species, vessels with a Black Rockfish / Blue Rockfish / Nearshore Fishery Permit with Nearshore Endorsement may land no more than the following cumulative trip limits in each period:

(a) 200 pounds of other nearshore rockfish combined;

(b) 1,500 pounds of cabezon; and

(c) 400 pounds of greenling species.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109 & 506.129
Hist.: DFW 75-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 79-2012(Temp), f. 6-28-12, cert. ef. 7-1-12 thru 12-27-12; DFW 118-2012(Temp), f. 9-10-12, cert. ef. 9-11-12 thru 12-31-12; DFW 141-2012(Temp), f. 10-31-12, cert. ef. 11-1-12 thru 12-31-12; DFW 151-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 99-2013(Temp), f. & cert. ef. 9-9-13 thru 12-31-13; Administrative correction, 2-5-14; DFW 101-2014(Temp), f. 7-23-14, cert. ef. 8-1-14 thru 12-31-14; DFW 147-2014(Temp), f. & cert. ef. 10-13-14 thru 12-31-14; DFW 164-2014(Temp), f. 12-15-14, cert. ef. 1-1-15 thru 1-16-15; DFW 4-2015, f. 1-13-15, cert. ef. 1-15-15; DFW 82-2015(Temp), f. 7-1-15, cert. ef. 7-5-15 thru 12-31-15; DFW 114-2015(Temp), f. 8-27-15, cert. ef. 9-1-15 thru 12-31-15; Administrative correction, 1-22-16; DFW 3-2016, f. & cert. ef. 1-19-16

635-004-0360
Incidental Catch in Other Fisheries

A vessel may land black rockfish, blue rockfish, and nearshore species without a permit or endorsement required by OAR 635-004-0300 if the vessel operator:

(1) For only one landing per day, lands no more than 15 pounds of a combination of black rockfish, blue rockfish, deacon rockfish and nearshore species, as defined in OAR 635-004-0215, and if the black rockfish, blue rockfish, deacon rockfish and nearshore species:

(a) Make up 25 percent or less of the total poundage of the landing; and

(b) Are taken with legal groundfish fishing gear.

(2) Operates a vessel that holds a valid Black Rockfish/Blue Rockfish Permit without a Nearshore Endorsement and:

(a) For only one landing per day, lands no more than 15 pounds of nearshore species, as defined in OAR 635-004-0215;

(b) The nearshore species make up 25 percent or less of the total poundage of the landing; and

(c) The nearshore species are taken with gear that is legal to use in the Black Rockfish / Blue Rockfish / Nearshore Fishery.

(3) Operates a vessel in the ocean troll salmon fishery pursuant to ORS 508.801 to 508.825 and the vessel lands black rockfish, blue rockfish, deacon rockfish or a combination of black rockfish, blue rockfish, and deacon rockfish in the same landing in which the vessel lands a salmon under the permit required by ORS 508.801 to 508.825. The black rockfish, blue rockfish, and deacon rockfish landed under this subsection must be landed dead. A vessel that lands black rockfish, blue rockfish, or deacon rockfish under this section may land up to 100 pounds of black rockfish, blue rockfish, and deacon rockfish in aggregate, per landing. When the aggregate incidental catch of black rockfish, blue rockfish, and deacon rockfish in the salmon troll fishery reaches 3,000 pounds in a calendar year, a vessel that lands black rockfish, blue rockfish, or deacon rockfish under this section may not land more than 15 pounds of black rockfish, blue rockfish, and deacon rockfish in aggregate, per trip.

(4) Operates a vessel in the west coast groundfish trawl fishery pursuant to federal regulations and lands no more than 1,000 pounds of black rockfish, blue rockfish, and deacon rockfish in aggregate per calendar year, and if the black rockfish, blue rockfish, and deacon rockfish:

(a) Make up 25 percent or less of the total poundage of each landing; and

(b) Are landed dead.

(5) Is a nonprofit aquarium or has contracted with a nonprofit aquarium to land black rockfish, blue rockfish, deacon rockfish or nearshore fish for the purpose of displaying or conducting research on the black rockfish, blue rockfish, deacon rockfish or nearshore fish.

(6) Does not exceed trip limits as established in OAR 635-004-0355 and OAR 635-004-0365.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109 & 506.129
Hist.: DFW 112-2003, f. & cert. ef. 11-14-03; DFW 138-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 123-2007(Temp), f. 11-26-07, cert. ef. 11-28-07 thru 12-31-07; DFW 128-2007, f. 12-13-07, cert. ef. 1-1-08; DFW 142-2008, f. & cert. ef. 11-21-08; Renumbered from 635-004-0170, DFW 75-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 136-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 3-2016, f. & cert. ef. 1-19-16

635-039-0080
Purpose and Scope

(1) The purpose of Division 039 is to provide for management of sport fisheries for marine fish, shellfish, and marine invertebrates in the Pacific Ocean, coastal bays, and beaches over which the State has jurisdiction.

(2) Division 039 incorporates into Oregon Administrative Rules, by reference:

(a) The sport fishing regulations of the State, included in the document entitled 2016 Oregon Sport Fishing Regulations;

(b) **Title 50 of the Code of Federal Regulations**, Part 300, Subpart E (October 1, 2015 ed.), as amended;

(c) **Title 50 of the Code of Federal Regulations**, Part 660, Subpart G (October 1, 2015 ed.), as amended; and

(d) **Federal Register Vol. 80, No. 46, dated March 10, 2015 (80 FR 12567)**.

(3) Therefore, persons must consult all publications referenced in this rule in addition to Division 011 and Division 039 to determine all applicable sport fishing requirements for marine fish, shellfish and marine invertebrates.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 496.138, 496.146, 506.119
Stats. Implemented: ORS 496.162 & 506.129
Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; Renumbered from 635-39-105 - 635-39-135; 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 25-1997, f. 4-22-97, cert. ef. 5-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 91-1998, f. & cert. ef. 11-25-98; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 98-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 81-2000, f. 12-22-00, cert. ef. 1-1-01; 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 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 120-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 33-2005(Temp), f. 4-29-05, cert. ef. 5-1-05 thru 10-27-05; DFW 54-2005(Temp), f. 6-10-05, cert. ef. 6-12-05 thru 11-30-05; DFW 56-2005, f. 6-21-05, cert. ef. 7-1-05; DFW 71-2005(Temp), f. & cert. ef. 7-7-05 thru 11-30-05; DFW 89-2005(Temp), f. & cert. ef. 8-12-05 thru 12-12-05; 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 79-2006, f. 8-11-06, cert. ef. 1-1-07; 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 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 39-2009, f. & cert. ef. 4-27-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 32-2010, f. & cert. ef. 3-15-10; DFW 37-2010, f. 3-30-10, cert. ef. 4-1-10; DFW 157-2010, f. 12-6-10, cert. ef. 1-1-11; DFW 24-2011, f. & cert. ef. 3-22-11; DFW 164-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 39-2012, f. & cert. ef. 4-24-12; DFW 1-2013, f. & cert. ef. 1-3-13; DFW 25-2013(Temp), f. 4-2-13, cert. ef. 5-1-13 thru 5-31-13; DFW 32-2013, f. & cert. ef. 5-14-13; DFW 136-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 36-2014, f. 4-29-14, cert. ef. 5-1-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 18-2015, f. & cert. ef. 3-10-15; DFW 167-2015, f. 12-29-15, cert. ef. 1-1-16; DFW 3-2016, f. & cert. ef. 1-19-16

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 chrysolmelas); 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 north of Humbug Mountain. 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)(a) and (4)(d), and 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. 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.

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 496.138, 496.146, 497.121 & 506.119
Stats. Implemented: ORS 496.004, 496.009, 496.162 & 506.129

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 22-1994, f. 4-29-94, cert. ef. 5-2-94; FWC 29-1994(Temp), f. 5-20-94, cert. ef. 5-21-94; FWC 31-1994, f. 5-26-94, cert. ef. 6-20-94; FWC 43-1994(Temp), f. & cert. ef. 7-19-94; FWC 83-1994(Temp), f. 10-28-94, cert. ef. 11-1-94; FWC 95-1994, f. 12-28-94, cert. ef. 1-1-95; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 25-1995, f. 3-29-95, cert. ef. 4-1-95; FWC 26-1995, 3-29-95, cert. ef. 4-2-95; FWC 36-1995, f. 5-3-95, cert. ef. 5-5-95; FWC 43-1995(Temp), f. 5-26-95, cert. ef. 5-28-95; FWC 46-1995(Temp), f. & cert. ef. 6-2-95; FWC 58-1995(Temp), f. 7-3-95, cert. ef. 7-5-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 28-1996(Temp) , f. 5-24-96, cert. ef. 5-26-96; FWC 30-1996(Temp), f. 5-31-96, cert. ef. 6-2-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 68-1999(Temp), f. & cert. ef. 9-17-99 thru 9-30-99; administrative correction 11-17-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 118-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 35-2003, f. 4-30-03, cert. ef. 5-1-03; DFW 114-2003(Temp), f. 11-18-03, cert. ef. 11-21-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 128-2003, f. 12-15-03, cert. ef. 1-1-04; DFW 83-2004(Temp), f. 8-17-04, cert. ef. 8-18-04 thru 12-31-04; DFW 91-2004(Temp), f. 8-31-04, cert. ef. 9-2-04 thru 12-31-04; DFW 97-2004(Temp), f. 9-22-04, cert. ef. 9-30-04 thru 12-31-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 34-2005(Temp), f. 4-29-05, cert. ef. 5-1-05 thru 10-27-05; DFW 75-2005(Temp), f. 7-13-05, cert. ef. 7-16-05 thru 12-31-05; DFW 87-2005(Temp), f. 8-8-05, cert. ef. 8-11-05 thru 12-31-05; DFW 121-2005(Temp), f. 10-12-05, cert. ef. 10-18-05 thru 12-31-05; DFW 129-2005(Temp), f. & cert. ef. 11-29-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 138-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 141-2005(Temp), f. 12-12-05, cert. ef. 12-30-05 thru 12-31-05; Administrative correction 1-19-06; DFW 61-2006, f. 7-13-06, cert. ef. 10-1-06; DFW 65-2006(Temp), f. 7-21-06, cert. ef. 7-24-06 thru 12-31-06; DFW 105-2006(Temp), f. 9-21-06, cert. ef. 9-22-06 thru 12-31-06; DFW 134-2006(Temp), f. 12-21-06, cert. ef. 1-1-07 thru 6-29-07; DFW 3-2007, f. & cert. ef. 1-12-07; DFW 10-2007, f. & cert. ef. 2-14-07; DFW 66-2007(Temp), f. 8-6-07, cert. ef. 8-11-07 thru 12-31-07; 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

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Rule Caption: Electronic Fish Tickets Reporting Commercial Sales of Salmon, Sturgeon, Smelt and Shad Required.
Adm. Order No.: DFW 4-2016(Temp)
Filed with Sec. of State: 1-26-2016
Certified to be Effective: 2-1-16 thru 7-29-16
Notice Publication Date:
Rules Amended: 635-006-0210
Subject: This amended rule requires, by way of electronic fish receiving tickets (e-ticket), the reporting of commercial sales of salmon, sturgeon, smelt and shad landed downstream of Bonneville Dam and purchased by wholesale fish dealers, wholesale fish bait dealers, and food fish canners. Modifications also require e-tickets be submitted within 24 hours of the closure of a fishing period or within 24 hours of the landing when fishing periods are longer than 24 hours.
Rules Coordinator: Michelle Tate—(503) 947-6044

635-006-0210
Fish Receiving Ticket — All Fish

(1) Except as provided in OAR 635-006-0211, for each purchase of food fish or shellfish by a licensed wholesale fish dealer, wholesale fish bait dealer, food fish canner, or shellfish canner from a commercial fisher or commercial bait fisher, the dealer or canner shall prepare at the time of landing a Fish Receiving Ticket, or a separate document in lieu of a Fish Receiving Ticket provided the original dock ticket is attached to the completed dealer copy of the Fish Receiving Ticket and kept on file for inspection by the Director, the Director's authorized agent, or by the Oregon State Police. Fish Receiving Tickets shall be issued in numerical sequence.

(2) Fish Receiving Tickets shall include the following:

(a) Fish dealer's name and license number, including the buying station and location if the food fish or shellfish were received at any location other than the licensed premises of the fish dealer;

(b) Date of landing;

(c) His or her name from whom purchase is made. If not landed from a vessel, then his or her commercial license number shall be added. If received from a Columbia River treaty Indian, his or her tribal affiliation and enrollment number as shown on the official identification card issued by the U.S. Department of Interior, Bureau of Indian Affairs, or tribal government, shall be used in lieu of an address or commercial fishing license;

(d) Boat name, boat license number, and federal document or State Marine Board number from which catch made;

(e) For groundfish harvested in the limited entry fixed gear fishery, the federal limited entry fixed gear permit number associated with the landing or portion of landing, which shall be provided by the vessel operator to the preparer of the fish ticket;

(f) Port of first landing. The port of first landing will be recorded as where a vessel initially crosses from the Pacific Ocean to inland waters, or is physically removed from the Pacific Ocean, for the purposes of ending a fishing trip;

(g) Fishing gear used by the fisher;

(h) For salmon and Dungeness crab, zone or area of primary catch;

(i) Species or species group, as determined by the Department, of food fish or shellfish received;

(j) Pounds of each species or species group, as determined by the Department, received:

(A) Pounds must be determined and reported based on condition of the fish when landed, either dressed or round. Dressed pounds may only be used for species with a conversion factor listed at OAR 635-006-0215(3)(g). Measures must be taken using a certified scale.

(B) Pounds shall include "weighbacks" by species. "Weighbacks" are those fish or shellfish with no commercial value. The following species or species groups are exempt from fish ticket requirements when considered "weighbacks":

(i) Sponges;
(ii) Sea Pens;
(iii Sea Whips;
(iv) Black Corals;
(v) Sea Fans;
(vi) Anemone;
(vii) Jellyfish;
(viii) Whelks;
(ix) Squids other than Humboldt and market;
(x) Octopus other than Pacific giant octopus;
(xi) Mysids;
(xii) Shrimps other than pink shrimp, coonstripe prawns, and spot prawns;
(xiii) Crabs other than Dungeness, tanner, box, Oregon hair, and red rock crabs;
(xiv) Sea Stars including Brittle Stars;
(xv) Urchins;
(xvi) Sand dollars;
(xvii) Sea cucumbers;
(xviii) Eels other than hagfish;
(xix) Blacksmelts;
(xx) Spookfish;
(xxi) Stomiformes including Viperfish and Blackdragons;
(xxii) Slickheads;
(xxiii) Flatnoses;
(xxiv) Lancetfishes;
(xxv) Barricudinas;
(xxvi) Myctophids;
(xxvii) Tomcod;
(xxviii) Eelpouts including Bigfin, Two line, Black, and Snakehead;
(xxix) Dreamers;
(xxx) Anglerfish;
(xxxi) King of the Salmon;
(xxxii) Melamphids;
(xxxiii) Whalefish;
(xxxiv) Oxeye oreo;
(xxxv) Sculpins other than cabezon, buffalo sculpin, red Irish lord, and brown Irish lord;
(xxxvi) Poachers;
(xxxvii) Snailfish;
(xxxviii) Pricklebacks;
(xxxix) Gunnels;
(xl) Scabbardfish;
(xli) Lancetfish;
(xlii) Ragfish;
(xliii) Slender sole;
(xliv) Deepsea sole;

(xlv) Rays including Pacific and electric Rays and Devilfish;

(xlvi) Wolffishes including wolf eels.

(k) For Columbia River sturgeon the exact number of fish received and the actual round weight of that number of fish;

(l) Price paid per pound for each species received;

(m) Signature of the individual preparing the Fish Receiving Ticket;

(n) Signature of the vessel operator making the landing;

(o) Species name, pounds and value of fish retained by fisher for take home use.

(3) Except as provided in OAR 635-006-0212 and OAR 635-006-0213, the original of each Fish Receiving Ticket covering food fish and shellfish received shall be forwarded within five working days of the date of landing to the Oregon Department of Fish and Wildlife, 4034 Fairview Industrial Drive SE, Salem, OR 97302 or through the Pacific States Marine Fisheries Commission West Coast E Ticket system or as required by Title 50 of the Code of Federal Regulations, part 660 Subpart C. All fish dealer amendments must be conducted in the same system in which the ticket was initially submitted.

(4) For Columbia River non-treaty mainstem and Select Area commercial fisheries downstream of Bonneville Dam, each licensed wholesale fish dealer, wholesale fish bait dealer, and food fish canner must submit fish receiving tickets electronically through the Pacific States Marine Fisheries Commission (PSMFC) West Coast E Ticket System for all salmon, sturgeon, smelt and shad landed. Electronic fish tickets (e tickets) must be submitted within 24 hours of closure of the fishing period, or within 24 hours of landing for fishing periods lasting longer than 24 hours. All fish dealer amendments to electronic fish tickets must be conducted in the same system in which the tickets were initially submitted.

(5) Wholesale fish bait dealers landing small quantities of food fish or shellfish may request authorization to combine multiple landings on one Fish Receiving Ticket and to deviate from the time in which Fish Receiving Tickets are due to the Department. Such request shall be in writing, and written authorization from the Department shall be received by the wholesale fish bait dealer before any such deviations may occur.

Stat. Auth.: ORS 496.138, 496.146, 496.162, 506.036, 506.109, 506.119, 506.129, 508.530 & 508.535

Stats. Implemented: ORS 506.109, 506.129, 508.025, 508.040 & 508.550

Hist.: FC 246, f. 5-5-72, ef. 5-15-72; FC 274(74-6), f. 3-20-74, ef. 4-11-74; FWC 28, f. 11-28-75, ef. 1-1-76, Renumbered from 625-040-0135, Renumbered from 635-036-0580; FWC 1-1986, f. & ef. 1-10-86; FWC 99-1987, f. & ef. 11-17-87; FWC 142-1991, f. 12-31-91, cert. ef. 1-1-92; FWC 22-1992(Temp), f. 4-10-92, cert. ef. 4-13-91; FWC 53-1992, f. 7-17-92, cert. ef. 7-20-92; FWC 16-1995(Temp), f. & cert. ef. 2-16-95; FWC 23-1995, f. 3-29-95, cert. ef. 4-1-95; DFW 63-2003, f. & cert. ef. 7-17-03; DFW 117-2003(Temp), f. 11-25-03, cert. ef. 12-1-03 thru 2-29-04; DFW 10-2004, f. & cert. ef. 2-13-04; DFW 142-2008, f. & cert. ef. 11-21-08; DFW 164-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 77-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 151-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 136-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 100-2015(Temp), f. & cert. ef. 8-4-15 thru 12-31-15; Administrative correction, 1-22-16; DFW 4-2016(Temp), f. 1-26-16, cert. ef. 2-1-16 thru 7-29-16

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Rule Caption: 2016 Commercial Smelt Season Set for the Columbia River.
Adm. Order No.: DFW 5-2016(Temp)
Filed with Sec. of State: 1-28-2016
Certified to be Effective: 2-1-16 thru 2-29-16
Notice Publication Date:
Rules Amended: 635-042-0130
Subject: This amended rule sets a commercial gill net fishing season for smelt in Zones 1-3 of the Columbia River. The fishery consists of 7-hour fishing periods beginning 7:00 a.m. through 2:00 p.m., Mondays and Thursdays of each week from February 2 through February 25, 2016. Revisions are consistent with the action taken January 27, 2016 by the Oregon and Washington Departments of Fish and Wildlife in a meeting of the Columbia River Compact.
Rules Coordinator: Michelle Tate—(503) 947-6044

635-042-0130
Smelt Season

(1) Smelt may be taken for commercial purposes from the Columbia River in Zones 1 through 3, Mondays and Thursdays from 7:00 a.m. to 2:00 p.m. (7 hrs.) during the period from February 1 through February 25, 2016.

(2) It is *unlawful* to use any gear other than gill nets for the taking of smelt in the Columbia River. Mesh size may not exceed two inches stretched. Nets may consist of, but are not limited to, monofilament webbing.

Stat. Auth.: ORS 183.325, 506.109 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 2-1985, f. & ef. 1-30-85; FWC 79-1986(Temp), f. & ef. 12-22-86; FWC 2-1987, f. & ef. 1-23-87; FWC 9-1994, f. 2-14-94, cert. ef. 2-15-94; FWC 15-1995, f. & cert. ef. 2-15-95; DFW 82-1998(Temp), f. 10-6-98, cert. ef. 10-7-98 thru 10-23-98; DFW 95-1999(Temp), f. 12-22-99, cert. ef. 12-26-99 thru 1-21-00; DFW 3-2000, f. & cert. ef. 1-24-00; DFW 8-2000(Temp), f. 2-18-00, cert. ef. 2-20-00 thru 2-29-00; Administrative correction 3-17-00; DFW 80-2000(Temp), f, 12-22-00, cert. ef. 1-1-01 thru 3-31-01; DFW 10-2001(Temp), f. & cert. ef. 3-6-01 thru 3-31-01; Administrative correction 6-21-01; DFW 115-2001(Temp), f. 12-13-01, cert. ef. 1-1-02 thru 3-31-02; DFW 9-2002, f. & cert. ef. 2-1-02; DFW 11-2002(Temp), f. & cert. ef. 2-8-02 thru 8-7-02; DFW 134-2002(Temp), f. & cert. ef. 12-19-02 thru 4-1-03; DFW 131-2003(Temp), f. 12-26-03, cert. ef. 1-1-04 thru 4-1-04; DFW 21-2004(Temp), f. & cert. ef. 3-18-04 thru 7-31-04; Administrative correction 8-19-04; DFW 130-2004(Temp), f. 12-23-04, cert. ef. 1-1-05 thru 4-1-05; DFW 8-2005(Temp), f. & cert. ef. 2-24-05 thru 4-1-05; Administrative correction 4-20-05; DFW 145-2005(Temp), f. 12-21-05, cert. ef. 1-1-06 thru 3-31-06; DFW 11-2006(Temp), f. & cert. ef. 3-9-06 thru 7-31-06; Administrative correction 8-22-06; DFW 131-2006(Temp), f. 12-20-06, cert. ef. 1-1-07 thru 6-29-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; Administrative correction 9-16-07; DFW 125-2007(Temp), f. 11-29-07, cert. ef. 12-1-07 thru 5-28-08; DFW 135-2007(Temp), f. 12-28-07, cert. ef. 1-1-08 thru 6-28-08; DFW 10-2008, f. & cert. ef. 2-11-08; DFW 148-2008(Temp), f. 12-19-08, cert. ef. 1-1-09 thru 6-29-09; DFW 20-2009, f. & cert. ef. 2-26-09; DFW 151-2009(Temp), f. 12-22-09, cert. ef. 1-1-10 thru 3-31-10; DFW 10-2010(Temp), f. 2-4-10, cert. ef. 2-8-10 thru 3-31-10; DFW 28-2010(Temp), f. 3-9-10, cert. ef. 3-11-10 thru 3-31-10; Administrative correction 4-21-10; DFW 156-2010(Temp), f. 11-23-10, cert. ef. 12-1-10 thru 3-31-11; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 7-2014(Temp), f. 2-5-14, cert. ef. 2-10-14 thru 3-31-14; Administrative correction, 4-24-14; DFW 8-2015(Temp), f. 1-29-15, cert. ef. 2-2-15 thru 2-28-15; Administrative correction, 3-23-15; DFW 5-2016(Temp), f. 1-28-16, cert. ef. 2-1-16 thru 2-29-16

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Rule Caption: 2016 Treaty Indian Winter Commercial Fisheries in Zone 6 of the Columbia River Set.
Adm. Order No.: DFW 6-2016(Temp)
Filed with Sec. of State: 1-28-2016
Certified to be Effective: 2-1-16 thru 3-31-16
Notice Publication Date:
Rules Amended: 635-041-0065
Subject: This amended rule sets both the platform hook-and-line and gill net Treaty Indian winter commercial seasons for 2016. The modifications allow commercial sales, in Oregon, of fish caught in Bonneville, The Dalles, and John Day pools by tribal fishers beginning February 1, 2016. Modifications are consistent with action taken January 27, 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
Winter Salmon Season

(1) Salmon, steelhead, shad, walleye, catfish, bass, yellow perch, and carp may be taken for commercial purposes in the Columbia River Treaty Indian platform and hook-and-line fisheries from all of Zone 6.

(a) Gear used in the fisheries described above is restricted to subsistence fishing gear which includes hoopnets, dipnets, and rod and reel with hook-and-line.

(b) Salmon, steelhead, shad, yellow perch, bass, walleye, catfish and carp landed during any open fishing period may be sold at any time or retained for subsistence purposes. White sturgeon between 43 and 54 inches in fork length taken from The Dalles and John Day pools may be sold only if caught during open commercial gillnet periods for that pool or may be kept for subsistence purposes. Sturgeon landed during any open commercial gillnet period may be sold at any time. White sturgeon between 38 and 54 inches in fork length taken from the Bonneville Pool may not be sold but may be kept for subsistence purposes.

(2) Salmon, steelhead, shad, walleye, catfish, bass, yellow perch, carp and white sturgeon may be taken for commercial purposes in the following Columbia River Treaty Indian gill net fisheries:

(a) The Dalles and John Day pools beginning 6:00 a.m. Monday, February 1 through 6:00 p.m. Saturday, February 13, 2016.

(b) Gear is restricted to gill nets. There are no mesh size restrictions.

(c) Salmon, steelhead, shad, yellow perch, bass, walleye, catfish and carp; and white sturgeon between 43-54 inches in fork length that are caught in The Dalles and John Day pools during open periods described in section (2)(a) above, may be sold or retained for subsistence purposes. Fish landed during any open fishing period may be sold after the period closes.

(3) Closed areas as set forth in OAR 635-041-0045 are in effect.

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, ef. 2-1-83; FWC 4-1984, f. & ef. 1-31-84; FWC 2-1985, f. & ef. l-30-85; FWC 4-1986(Temp), f. & ef. 1-28-86; FWC 79-1986(Temp), f. & ef. 12-22-86; FWC 2-1987, f. & ef. 1-23-87; FWC 3-1988(Temp), f. & cert. ef. 1-29-88;

FWC 10-1988, f. & cert. ef. 3-4-88; FWC 5-1989, f. 2-6-89, cert. ef. 2-7-89; FWC 13-1989(Temp), f. & cert. ef. 3-21-89; FWC 15-1990(Temp), f. 2-8-90, cert. ef. 2-9-90; FWC 20-1990, f. 3-6-90, cert. ef. 3-15-90; FWC 13-1992(Temp), f. & cert. ef. 3-5-92; FWC 7-1993, f. & cert. ef. 2-1-93; FWC 12-1993(Temp), f. & cert. ef. 2-22-93; FWC 18-1993(Temp), f. & cert. ef. 3-2-93; FWC 7-1994, f. & cert. ef. 2-1-94; FWC 11-1994(Temp), f. & cert. ef. 2-28-94; FWC 9-1995, f. & cert. ef. 2-1-95; FWC 19-1995(Temp), f. & cert. ef. 3-3-95; FWC 5-1996, f. & cert. ef. 2-7-96; FWC 4-1997, f. & cert. ef. 1-30-97; DFW 8-1998(Temp), f. & cert. ef. 2-5-98 thru 2-28-98; DFW 14-1998, f. & cert. ef. 3-3-98; DFW 20-1998(Temp), f. & cert. ef. 3-13-98 thru 3-20-98; DFW 23-1998(Temp), f. & cert. ef. 3-20-98 thru 6-30-98; DFW 2-1999(Temp), f. & cert. ef. 2-1-99 through 2-19-99; DFW 9-1999, f. & cert. ef. 2-26-99; DFW 14-1999(Temp), f. 3-5-99, cert. ef. 3-6-99 thru 3-20-99; Administrative correction 11-17-99; DFW 6-2000(Temp), f. & cert. ef. 2-1-00 thru 2-29-00; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 19-2000, f. 3-18-00, cert. ef. 3-18-00 thru 3-21-00; DFW 26-2000(Temp), f. 5-4-00, cert. ef. 5-6-00 thru 5-28-00; Administrative correction 5-22-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 14-2001(Temp), f. 3-12-01, cert. ef. 3-14-01 thru 3-21-01; Administrative correction 6-20-01; DFW 9-2002, f. & cert. ef. 2-1-02; DFW 11-2002(Temp), f. & cert. ef. 2-8-02 thru 8-7-02; DFW 17-2002(Temp), f. 3-7-02, cert. ef. 3-8-02 thru 9-1-02; DFW 18-2002(Temp), f. 3-13-02, cert. ef. 3-15-02 thru 9-11-02; DFW 134-2002(Temp), f. & cert. ef. 12-19-02 thru 4-1-03; DFW 20-2003(Temp), f. 3-12-03, cert. ef. 3-13-03 thru 4-1-03; DFW 131-2003(Temp), f. 12-26-03, cert. ef. 1-1-04 thru 4-1-04; DFW 5-2004(Temp), f. 1-26-04, cert. ef. 2-2-04 thru 4-1-04; DFW 15-2004(Temp), f. 3-8-04, cert. ef. 3-10-04 thru 4-1-04; DFW 130-2004(Temp), f. 12-23-04, cert. ef. 1-1-05 thru 4-1-05; DFW 4-2005(Temp), f. & cert. ef 1-31-05 thru 4-1-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; DFW 3-2006(Temp), f. & cert. ef. 1-27-06 thru 3-31-06; Administrative correction 4-19-06; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 14-2007(Temp), f. & cert. ef. 3-9-07 thru 9-4-07; DFW 15-2007(Temp), f. & cert. ef. 3-14-07 thru 9-9-07; 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

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Rule Caption: Bonneville Pool White Sturgeon Recreational Fishery Closes February 8, 2016.
Adm. Order No.: DFW 7-2016(Temp)
Filed with Sec. of State: 1-28-2016
Certified to be Effective: 2-8-16 thru 8-5-16
Notice Publication Date:
Rules Amended: 635-023-0095
Subject: This amended rule closes the recreational white sturgeon retention fishery in the Bonneville Pool of the Columbia River beginning 12:01 a.m. Monday, February 8, 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 January 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) Beginning at 12:01 a.m. Monday, February 8, 2016 until further notice, retention of white sturgeon in the Columbia River from Bonneville Dam upstream to The Dalles Dam, including adjacent tributaries, is prohibited. All other limits, restrictions and regulations as described in the **2016 Oregon Sport Fishing Regulations** pamphlet remain in effect. Catch-and-release angling is allowed during periods closed to sturgeon retention.

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. 2-11-1 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

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Rule Caption: 2016 Commercial Winter, Spring, and Summer Fisheries for Columbia River Select Areas.
Adm. Order No.: DFW 8-2016(Temp)
Filed with Sec. of State: 2-1-2016
Certified to be Effective: 2-8-16 thru 7-31-16
Notice Publication Date:
Rules Amended: 635-042-0145, 635-042-0160, 635-042-0170, 635-042-0180
Subject: These amended rules set seasons, area boundaries, gear regulations and allowable sales for winter, spring, and summer commercial fisheries in the Columbia River Select Areas. Rule revisions are consistent with action taken January 27, 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 10 (15 days). Open hours are from 6:00 a.m. to 6:00 a.m. the following day (24 hours) on Mondays and Thursdays; and 6:00 a.m. to 6:00 p.m. (12 hours) on Wednesdays. Beginning March 14 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).

(B) Spring Season: Open during the following periods:Thursday April 21 7:00 p.m. - 11:00 p.m. (4 hours); Tuesday April 26 7:00 p.m. - 7:00 a.m. Friday, April 27 (12 hours); Thursday April 28 7:00 p.m. - 7:00 a.m. Friday, April 29 (12 hours); Monday May 2 4:00 p.m. - 10:00 a.m. Tuesday, May 3 (18 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).

(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) 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. 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. & cert. ef. 8-19-88; FWC 55-1989(Temp), f. 8-7-89, cert. ef. 8-20-89; FWC 82-1990(Temp), f. 8-14-90, cert. ef. 8-19-90; FWC 86-1991, f. 8-7-91, cert. ef. 8-18-91; FWC 123-1991(Temp), f. & cert. ef. 10-21-91; FWC 30-1992(Temp), f. & cert. ef. 4-27-92; FWC 35-1992(Temp), f. 5-22-92, cert. ef. 5-25-92; FWC 74-1992 (Temp), f. 8-10-92, cert. ef. 8-16-92; FWC 28-1993(Temp), f. & cert. ef. 4-26-93; FWC 48-1993, f. 8-6-93, cert. ef. 8-9-93; FWC 21-1994(Temp), f. 4-22-94, cert. ef. 4-25-94; FWC 51-1994, f. 8-19-94, cert. ef. 8-22-94; FWC 64-1994(Temp), f. 9-14-94, cert. ef. 9-15-94; FWC 66-1994(Temp), f. & cert. ef. 9-20-94; FWC 27-1995, f. 3-29-95, cert. ef. 4-1-95; FWC 48-1995(Temp), f. & cert. ef. 6-5-95; FWC 66-1995, f. 8-22-95, cert. ef. 8-27-95; FWC 69-1995, f. 8-25-95, cert. ef. 8-27-95; FWC 8-1995, f. 2-28-96, cert. ef. 3-1-96; FWC 37-1996(Temp), f. 6-11-96, cert. ef. 6-12-96; FWC 41-1996, f. & cert. ef. 8-12-96; FWC 45-1996(Temp), f. 8-16-96, cert. ef. 8-19-96; FWC 54-1996(Temp), f. & cert. ef. 9-23-96; FWC 4-1997, f. & cert. ef. 1-30-97; FWC 47-1997, f. & cert. ef. 8-15-97; DFW 8-1998(Temp), f. & cert. ef. 2-5-98 thru 2-28-98; DFW 14-1998, f. & cert. ef. 3-3-98; DFW 18-1998(Temp), f. 3-9-98, cert. ef. 3-11-98 thru 3-31-98; DFW 60-1998(Temp), f. & cert. ef. 8-7-98 thru 8-21-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 52-1999(Temp), f. & cert. ef. 8-2-99 thru 8-6-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 66-2001(Temp), f. 8-2-01, cert. ef. 8-6-01 thru 8-14-01; DFW 76-2001(Temp), f. & cert. ef. 8-20-01 thru 10-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; DFW 82-2002(Temp), f. 8-5-02, cert. ef. 8-7-02 thru 9-1-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 17-2003(Temp), f. 2-27-03, cert. ef. 3-1-03 thru 8-1-03; DFW 32-2003(Temp), f. & cert. ef. 4-23-03 thru 8-1-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 37-2003(Temp), f. & cert. ef. 5-7-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; DFW 11-2004, f. & cert. ef. 2-13-04; DFW 19-2004(Temp), f. & cert. ef. 3-12-04 thru 3-31-04; DFW 22-2004(Temp), f. & cert. ef. 3-18-04 thru 3-31-04; DFW 28-2004(Temp), f. 4-8-04 cert. ef. 4-12-04 thru 4-15-04; DFW 39-2004(Temp), f. 5-5-04, cert.ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 15-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 28-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05; DFW 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; DFW 40-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 46-2005(Temp), f. 5-17-05, cert. ef. 5-18-05 thru 10-16-05; DFW 73-2005(Temp), f. 7-8-05, cert. ef. 7-11-05 thru 7-31-05; DFW 77-2005(Temp), f. 7-14-05, cert. ef. 7-18-05 thru 7-31-05; DFW 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 14-2006(Temp), f. 3-15-06, cert. ef. 3-16-06 thru 7-27-06; DFW 15-2006(Temp), f. & cert. ef. 3-23-06 thru 7-27-06; DFW 17-2006(Temp), f. 3-29-06, cert. ef. 3-30-06 thru 7-27-06; DFW 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; DFW 52-2006(Temp), f. & cert. ef. 6-28-06 thru 7-27-06; DFW 73-2006(Temp), f. 8-1-06, cert. ef. 8-2-06 thru 12-31-06; DFW 103-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 119-2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 16-2007(Temp), f. & cert. ef. 3-14-07 thru 9-9-07; DFW 25-2007(Temp), f. 4-17-07, cert. ef. 4-18-07 thru 7-26-07; DFW 45-2007(Temp), f. 6-15-07, cert. ef. 6-25-07 thru 7-31-07; DFW 50-2007(Temp), f. 6-29-07, cert. ef. 7-4-07 thru 7-31-07; DFW 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; 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 30-2008(Temp), f. 3-27-08, cert. ef. 3-30-08 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 24-2009(Temp), f. 3-10-09, cert. ef. 3-11-09 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 17-2010(Temp), f. & cert. ef. 2-22-10 thru 7-31-10; DFW 20-2010(Temp), f. & cert. ef. 2-26-10 thru 7-31-10; DFW 30-2010(Temp), f. 3-11-10, cert. ef. 3-14-10 thru 7-31-10; DFW 35-2010(Temp), f. 3-23-10, cert. ef. 3-24-10 thru 7-31-10; 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 35-2011(Temp), f. & cert. ef. 4-28-11 thru 7-29-11; DFW 46-2011(Temp), f. & cert. ef. 5-12-11 thru 7-29-11; DFW 52-2011(Temp), f. & cert. ef. 5-18-11 thru 7-29-11; DFW 76-2011(Temp), f. 6-24-11, cert. ef. 6-27-11 thru 7-29-11; DFW 106-2011(Temp), f. 8-2-11, cert. ef. 8-3-11 thru 10-31-11; DFW 121-2011(Temp), f. 8-29-11, cert. ef. 9-5-11 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 24-2012(Temp), f. 3-15-12, cert. ef. 3-18-12 thru 7-31-12; DFW 26-2012(Temp), f. 3-20-12, cert. ef. 3-21-12 thru 7-31-12; DFW 27-2012(Temp), f. 3-27-12, cert. ef. 3-29-12 thru 7-31-12; DFW 28-2012(Temp), f. 3-30-12, cert. ef. 4-1-12 thru 7-31-12; DFW 30-2012(Temp), f. 4-4-12, cert. ef. 4-5-12 thru 7-31-12; DFW 36-2012(Temp), f. 4-16-12, cert. ef. 4-19-12 thru 7-31-12; DFW 82-2012(Temp), f. 6-29-12, cert. ef. 7-2-12 thru 7-31-12; DFW 96-2012(Temp), f. 7-30-12, cert. ef. 8-1-12 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 22-2013(Temp), f. 3-12-13, cert. ef. 3-13-13 thru 7-31-13; DFW 34-2013(Temp), f. 5-14-13, cert. ef. 5-15-13 thru 7-31-13; DFW 36-2013(Temp), f. & cert. ef. 5-22-13 thru 7-31-13; DFW 44-2013(Temp), f. & cert. ef. 5-29-13 thru 7-31-13; DFW 82-2013(Temp), f. 7-29-13, cert. ef. 7-31-13 thru 10-31-13; DFW 87-2013(Temp), f. & cert. ef. 8-9-13 thru 10-31-13; DFW 109-2013(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 18-2014(Temp), f. 3-7-14, cert. ef. 3-10-14 thru 7-30-14; DFW 25-2014(Temp), f. 3-13-14, cert. ef. 3-17-14 thru 7-31-14; DFW 32-2014(Temp), f. 4-21-14, cert. ef. 4-22-14 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 45-2014(Temp), f. 5-14-14, cert. ef. 5-20-14 thru 7-31-14; DFW 51-2014(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; DFW 104-2014(Temp), f. 8-4-14, cert. ef. 8-5-14 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 17-2015(Temp), f. 3-5-15, cert.

ef. 3-9-15 thru 7-30-15; DFW 21-2015(Temp), f. & cert. ef. 3-24-15 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 42-2015(Temp), f. & cert. ef. 5-12-15 thru 7-31-15; DFW 50-2015(Temp), f. & cert. ef. 5-27-15 thru 7-31-15; DFW 58-2015(Temp), f. & cert. ef. 6-2-15 thru 7-31-15; DFW 63-2015(Temp), f. 6-9-15, cert. ef. 6-10-15 thru 7-31-15; DFW 98-2015(Temp), f. 7-30-15, cert. ef. 8-4-15 thru 10-31-15; DFW 110-2015(Temp), f. 8-18-15, cert. ef. 8-24-15 thru 10-31-15; DFW 117-2015(Temp), f. 8-28-15, cert. ef. 8-31-15 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

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. 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 (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 Tuesday and Thursday nights beginning Thursday, April 21 through Friday, April 29 (3 nights); and

(D) Blind Slough and Knappa Slough Monday and Thursday nights beginning Monday, May 2 through Tuesday, June 14 (13 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

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 [due]westerly to a marker on the Oregon shore.

(2) South Channel area includes all waters bounded by a line from a marker on John Day Point 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 21 from 7:00 p.m. to 11:00 p.m. (4 hours);Tuesday, April 26 from 7:00 p.m. to 7:00 a.m. Wednesday, April 27 (12 hours);Thursday, April 28 from 7:00 p.m. to 7:00 a.m. Friday, April 29 (12 hours); andMonday 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 (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 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; Administrative correction 7-30-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 76-2006(Temp), f. 8-8-06, cert. ef. 9-5-06 thru 12-31-06; DFW 103-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 119-2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; DFW 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; 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

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 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:Tuesday and Thursday nights from 7:00 p.m. to 7:00 a.m. the following morning (12 hours) beginning Tuesday, April 19 through Friday, April 29, 2016 (4 nights); andMonday 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 (11 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; Administrative correction 11-23-04; 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

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Rule Caption: Columbia River Recreational Seasons for Salmon, Steelhead and Shad Set.
Adm. Order No.: DFW 9-2016(Temp)
Filed with Sec. of State: 2-1-2016
Certified to be Effective: 3-1-16 thru 6-15-16
Notice Publication Date:
Rules Amended: 635-023-0125
Subject: This amended rule sets regulations for Columbia River recreational spring Chinook, steelhead and shad seasons with descriptions of areas, dates, and bag limits for harvest of adipose fin-clipped Chinook salmon, adipose fin-clipped steelhead and shad. Revisions are consistent with action taken January 27, 2016 by the Oregon and Washington Departments of Fish and Wildlife in a meeting of the Columbia River Compact.
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 Saturday, April 9, 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.

(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 Friday, May 6, 2016 (52 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

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Rule Caption: Treaty Indian Winter Commercial Gill Net Fisheries in Zone 6 of the Columbia River Extended.
Adm. Order No.: DFW 10-2016(Temp)
Filed with Sec. of State: 2-11-2016
Certified to be Effective: 2-12-16 thru 3-31-16
Notice Publication Date:
Rules Amended: 635-041-0065
Rules Suspended: 635-041-0065(T)
Subject: This amended rule extends the ongoing Columbia River Treaty Indian commercial gill net fisheries in The Dalles and John Day pools, previously set to end at 6:00 p.m. Saturday, February 13. These fisheries are now set to run through 6:00 p.m. Monday, February 22, 2016. Modifications are consistent with action taken February 11, 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
Winter Salmon Season

(1) Salmon, steelhead, shad, walleye, catfish, bass, yellow perch, and carp may be taken for commercial purposes in the Columbia River Treaty Indian platform and hook-and-line fisheries from all of Zone 6 beginning 6:00 a.m. Monday, February 1 through 6:00 p.m. Monday, March 21, 2016.

(a) Gear used in the fisheries described above is restricted to subsistence fishing gear which includes hoopnets, dipnets, and rod and reel with hook-and-line.

(b) Salmon, steelhead, shad, yellow perch, bass, walleye, catfish and carp landed during any open fishing period may be sold at any time or retained for subsistence purposes. White sturgeon between 43 and 54 inches in fork length taken from The Dalles and John Day pools may be sold only if caught during open commercial gillnet periods for that pool or may be kept for subsistence purposes. Sturgeon landed during any open commercial gillnet period may be sold at any time. White sturgeon between 38 and 54 inches in fork length taken from the Bonneville Pool may not be sold but may be kept for subsistence purposes.

(2) Salmon, steelhead, shad, walleye, catfish, bass, yellow perch, carp and white sturgeon may be taken for commercial purposes in the following Columbia River Treaty Indian gill net fisheries:

(a) The Dalles and John Day pools beginning 6:00 a.m. Monday, February 1 through 6:00 p.m. Monday, February 22, 2016.

(b) Gear is restricted to gill nets. There are no mesh size restrictions.

(c) Salmon, steelhead, shad, yellow perch, bass, walleye, catfish and carp; and white sturgeon between 43-54 inches in fork length that are caught in The Dalles and John Day pools during open periods described in section (2)(a) above, may be sold or retained for subsistence purposes. Fish landed during any open fishing period may be sold after the period closes.

(3) Closed areas as set forth in OAR 635-041-0045 are in effect.

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, ef. 2-1-83; FWC 4-1984, f. & ef. 1-31-84; FWC 2-1985, f. & ef. l-30-85; FWC 4-1986(Temp), f. & ef. 1-28-86; FWC 79-1986(Temp), f. & ef. 12-22-86; FWC 2-1987, f. & ef. 1-23-87; FWC 3-1988(Temp), f. & cert. ef. 1-29-88; FWC 10-1988, f. & cert. ef. 3-4-88; FWC 5-1989, f. 2-6-89, cert. ef. 2-7-89; FWC 13-1989(Temp), f. & cert. ef. 3-21-89; FWC 15-1990(Temp), f. 2-8-90, cert. ef. 2-9-90; FWC 20-1990, f. 3-6-90, cert. ef. 3-15-90; FWC 13-1992(Temp), f. & cert. ef. 3-5-92; FWC 7-1993, f. & cert. ef. 2-1-93; FWC 12-1993(Temp), f. & cert. ef. 2-22-93; FWC 18-1993(Temp), f. & cert. ef. 3-2-93; FWC 7-1994, f. & cert. ef. 2-1-94; FWC 11-1994(Temp), f. & cert. ef. 2-28-94; FWC 9-1995, f. & cert. ef. 2-1-95; FWC 19-1995(Temp), f. & cert. ef. 3-3-95; FWC 5-1996, f. & cert. ef. 2-7-96; FWC 4-1997, f. & cert. ef. 1-30-97; DFW 8-1998(Temp), f. & cert. ef. 2-5-98 thru 2-28-98; DFW 14-1998, f. & cert. ef. 3-3-98; DFW 20-1998(Temp), f. & cert. ef. 3-13-98 thru 3-20-98; DFW 23-1998(Temp), f. & cert. ef. 3-20-98 thru 6-30-98; DFW 2-1999(Temp), f. & cert. ef. 2-1-99 through 2-19-99; DFW 9-1999, f. & cert. ef. 2-26-99; DFW 14-1999(Temp), f. 3-5-99, cert. ef. 3-6-99 thru 3-20-99; Administrative correction 11-17-99; DFW 6-2000(Temp), f. & cert. ef. 2-1-00 thru 2-29-00; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 19-2000, f. 3-18-00, cert. ef. 3-18-00 thru 3-21-00; DFW 26-2000(Temp), f. 5-4-00, cert. ef. 5-6-00 thru 5-28-00; Administrative correction 5-22-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 14-2001(Temp), f. 3-12-01, cert. ef. 3-14-01 thru 3-21-01; Administrative correction 6-20-01; DFW 9-2002, f. & cert. ef. 2-1-02; DFW 11-2002(Temp), f. & cert. ef. 2-8-02 thru 8-7-02; DFW 17-2002(Temp), f. 3-7-02, cert. ef. 3-8-02 thru 9-1-02; DFW 18-2002(Temp), f. 3-13-02, cert. ef. 3-15-02 thru 9-11-02; DFW 134-2002(Temp), f. & cert. ef. 12-19-02 thru 4-1-03; DFW 20-2003(Temp), f. 3-12-03, cert. ef. 3-13-03 thru 4-1-03; DFW 131-2003(Temp), f. 12-26-03, cert. ef. 1-1-04 thru 4-1-04; DFW 5-2004(Temp), f. 1-26-04, cert. ef. 2-2-04 thru 4-1-04; DFW 15-2004(Temp), f. 3-8-04, cert. ef. 3-10-04 thru 4-1-04; DFW 130-2004(Temp), f. 12-23-04, cert. ef. 1-1-05 thru 4-1-05; DFW 4-2005(Temp), f. & cert. ef 1-31-05 thru 4-1-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; DFW 3-2006(Temp), f. & cert. ef. 1-27-06 thru 3-31-06; Administrative correction 4-19-06; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 14-2007(Temp), f. & cert. ef. 3-9-07 thru 9-4-07; DFW 15-2007(Temp), f. & cert. ef. 3-14-07 thru 9-9-07; 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

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

Rule Caption: Mandatory Reporters and Criminal Immunity for Reporting Abuse
Adm. Order No.: DHSD 3-2016
Filed with Sec. of State: 2-3-2016
Certified to be Effective: 2-3-16
Notice Publication Date: 1-1-2016
Rules Amended: 407-045-0260, 407-045-0350
Subject: The 2015 Oregon Legislature, SB 622, directed this rule making by adding new, mandatory reporters and immunity for criminal liability for good faith reporting of the abuse of adults with intellectual and/or developmental disabilities who are currently receiving or previously received services from the Department of Human Services. In addition, SB 622 amended the definition of mandatory reporter. These rules implement the changes directed by SB 622.
Rules Coordinator: Jennifer Bittel—(503) 947-5250

407-045-0260
Definitions

As used in OAR 407-045-0250 to 407-045-0370, the following definitions apply:

(1) "Abuse of an adult with developmental disabilities" means:

(a) "Abandonment" including desertion or willful forsaking of an adult or the withdrawal or neglect of duties and obligations owed an adult by a caregiver or other person.

(b) Death of an adult caused by other than accidental or natural means or occurring in unusual circumstances.

(c) "Financial exploitation" including:

(A) Wrongfully taking the assets, funds or property 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 would reasonably believe that the threat conveyed would be carried out.

(C) Misappropriating, misusing or transferring without authorization any money from any account held jointly or singly by an adult.

(D) Failing to use the income or assets of an adult effectively for the support and maintenance of the adult. "Effectively" means use of income or assets for the benefit of the adult.

(d) "Involuntary seclusion" means the involuntary seclusion of an adult for the convenience of a caregiver or to discipline the adult. Involuntary seclusion may include placing restrictions on an adult's freedom of movement by restriction to his or her room or a specific area, or restriction from access to ordinarily accessible areas of the facility, residence or program, unless agreed to by the Individual Support Plan (ISP) team included in an approved Behavior Support Plan (BSP) or included in a brokerage plan's specialized support. Restriction may be permitted on an emergency or short term basis when an adult's presence would pose a risk to health or safety to the adult or others.

(e) "Neglect" including:

(A) Active or passive failure to provide the care, supervision or services necessary to maintain the physical and mental health of an adult that may result in physical harm or significant emotional harm to an adult. Services include but are not limited to the provision of food, clothing, medicine, housing, medical services, assistance with bathing or personal hygiene or any other services essential to the well-being of the adult.

(B) Failure of a caregiver to make a reasonable effort to protect an adult from abuse.

(C) Withholding of services necessary to maintain the health and well-being of an adult which leads to physical harm of an adult.

(f) "Physical abuse" means:

(A) Any physical injury by other than accidental means or that appears to be at variance with the explanation given for the injury.

(B) Willful infliction of physical pain or injury.

(C) Physical abuse is presumed to cause physical injury, including pain, to adults otherwise incapable of expressing pain.

(g) "Sexual abuse" including:

(A) An act that constitutes a crime under ORS 163.375 (rape in the first degree), 163.405 (sodomy in the first degree), 163.411 (unlawful sex-

ual penetration in the first degree), 163.415 (sexual abuse in the third degree), 163.425 (sexual abuse in the second degree), 163.427 (sexual abuse in the first degree), 163.456 (public indecency) or 163.467 (private indecency).

(B) Sexual contact with a nonconsenting adult or with an adult considered incapable of consenting to a sexual act under ORS 163.315.

(C) Sexual harassment, sexual exploitation or inappropriate exposure to sexually explicit material or language including requests for sexual favors. Sexual harassment or exploitation includes but is not limited to any sexual contact or failure to discourage sexual contact between an employee of a community facility or community program, provider or other caregiver and an adult. For situations other than those involving an employee, provider or other caregiver and an adult, sexual harassment or exploitation means unwelcome physical sexual contact and other physical conduct directed toward an adult.

(D) Any sexual contact between an employee of a facility or paid caregiver and an adult served by the facility or caregiver. Sexual abuse does not mean consensual sexual contact between an adult and a paid caregiver who is the spouse or partner of the adult.

(E) Any sexual contact that is achieved through force, trickery, threat or coercion.

(F) Any sexual contact between an adult with a developmental disability and a relative of the person with a developmental disability other than a spouse or partner. "Relative" means a parent, grandparent, children, brother, sister, uncle, aunt, niece, nephew, half-brother, half-sister, stepparent or stepchild.

(G) As defined in ORS 163.305, "sexual contact" means any touching of the sexual or other intimate parts of a person or causing such person to touch the sexual or other intimate parts of the actor for the purpose of arousing or gratifying the sexual desire of either party.

(h) "Wrongful restraint" means:

(A) A wrongful use of a physical or chemical restraint, excluding an act of restraint prescribed by a licensed physician, by any adult support team approved plan, or in connection with a court order.

(B) "Wrongful restraint" does not include physical emergency restraint to prevent immediate injury to an adult who is in danger of physically harming himself or herself or others, provided only that the degree of force reasonably necessary for protection is used for the least amount of time necessary.

(i) "Verbal abuse" includes threatening significant physical or emotional harm to an adult through the use of:

(A) Derogatory or inappropriate names, insults, verbal assaults, profanity or ridicule.

(B) Harassment, coercion, punishment, deprivation, threats, implied threats, intimidation, humiliation, mental cruelty or inappropriate sexual comments.

(C) A threat to withhold services or supports, including an implied or direct threat of termination of services. "Services" include but are not limited to the provision of food, clothing, medicine, housing, medical services, assistance with bathing or personal hygiene or any other services essential to the well-being of an adult.

(D) For purposes of this section, verbal conduct 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, or sight if gestured, regardless of their ability to comprehend. In this circumstance the assessment of the conduct is based on a reasonable person standard.

(E) The emotional harm that can result from verbal abuse may include but is not limited to anguish, distress or fear.

(j) An adult who in good faith is voluntarily under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner shall for this reason alone not be considered subjected to abuse.

(2) "Abuse Investigation and Protective Services Report" means a completed report.

(3) "Adult" means an individual who is 18 years of age or older who:

(a) Has a developmental disability and is currently receiving services from a community program or facility or was previously determined eligible for services as an adult by a community program or facility;

(b) Receives services from a community program or facility or care provider which is licensed or certified by or contracts with the Department; and

(c) Is the alleged abuse victim.

(4) "Adult protective services" means the necessary actions taken to prevent abuse or exploitation of an adult to prevent self-destructive acts and to safeguard an allegedly abused adult's person, property or funds.

(5) "Brokerage" or "Support service brokerage" means an entity, or distinct operating unit within an existing entity, that performs the functions listed in OAR 411-340-0120(1)(a) to (g) associated with planning for and implementation of support services for an adult with developmental disabilities.

(6) "Caregiver" means an individual or facility that has assumed responsibility for all or a portion of the care of an adult as a result of a contract or agreement.

(7) "Community facility" means a community residential treatment home or facility, community residential facility or adult foster home.

(8) "Community program" means the community developmental disabilities program as established in ORS 430.610 to 430.695.

(9) "Designee" means the community program.

(10) "Department" means the Department of Human Services.

(11) "Inconclusive" means there is insufficient evidence to conclude the alleged abuse occurred or did not occur by a preponderance of the evidence. The inconclusive determination may be used only in the following circumstances:

(a) After diligent efforts have been made, the protective services investigator is unable to locate the person alleged to have committed the abuse or cannot locate the alleged victim or another individual who might have information critical to the investigation; or

(b) Relevant records or documents are unavailable or there is conflicting or inconsistent information from witnesses, documents or records with the result that after the investigation is complete, there is insufficient evidence to support a substantiated or not substantiated conclusion.

(12) "Law enforcement agency" means any city or municipal police department, county sheriff's office, the Oregon State Police or any district attorney.

(13) "Mandatory reporter" means any public or private official who, while acting in an official capacity, comes in contact with and has reasonable cause to believe that an adult has suffered abuse or that any individual with whom the official comes in contact while acting in an official capacity has abused an adult. Pursuant to ORS 430.765(2), psychiatrists, psychologists, clergy and attorneys are not mandatory reporters with regard to information received through communications that are privileged under ORS 40.225 to 40.295.

(14) "Not substantiated" means the preponderance of evidence establishes the alleged abuse did not occur.

(15) "OIT" means the Department's Office of Investigations and Training.

(16) "Provider agency" means an entity licensed or certified to provide services or which is responsible for the management of services to clients.

(17) "Public or private official" means:

(a) Physician, naturopathic physician, osteopathic physician, psychologist, chiropractor or podiatrist, including any intern or resident;

(b) Licensed practical nurse, registered nurse, nurse's aide, home health aide or employee of an in-home health services organization;

(c) Employee of the Department, Oregon Health Authority, county health department, community mental health program or community developmental disabilities program or private agency contracting with a public body to provide any community mental health service;

(d) Peace officer;

(e) Member of the clergy;

(f) Licensed clinical social worker;

(g) Physical, speech or occupational therapist;

(h) Information and referral, outreach or crisis worker;

(i) Attorney;

(j) Licensed professional counselor or licensed marriage and family therapist;

(k) Firefighter or emergency medical technician; or

(l) Any public official;

(m) Member of the Legislative Assembly;

(n) Personal support worker, as defined in ORS 410.600; or

(o) Homecare worker, as defined in ORS 410.600.

(18) "Substantiated" means that the preponderance of evidence establishes the abuse occurred.

(19) "Unbiased investigation" means an investigation that is conducted by a community program that does not have an actual or potential conflict of interest with the outcome of the investigation.

Stat. Authority: ORS 179.040 & 409.050

Stats. Implemented: ORS 430.735 - 430.765, 443.400 - 443.460 & 443.705 - 443.825 & 410.600

Hist.: MHD 5-1994, f. 8-22-94 & cert. ef. 9-1-94; Renumbered from 309-040-0210, OMAP 87-2004, f. 11-10-04, cert. ef. 12-1-04; Renumbered from 410-009-0060, DHSD 5-2007, f. 6-29-07, cert. ef. 7-1-07; DHSD 3-2009, f. & cert. ef. 5-1-09; DHSD 12-2009(Temp), f. 12-

31-09, cert. ef. 1-1-10 thru 6-29-10; DHSD 4-2010, f. & cert. ef. 6-29-10; DHSD 7-2010(Temp), f. & cert. ef. 8-5-10 thru 1-31-11; DHSD 11-2010, f. 12-30-10, cert. ef. 1-1-11; DHSD 9-2011, f. 12-1-11, cert. ef. 12-5-11; DHSD 3-2016, f. & cert. ef. 2-3-16

407-045-0350
Immunity of Individuals Making Reports in Good Faith

(1) Any individual who makes a good faith report and who had reasonable grounds for making the report shall have immunity from civil and criminal liability with respect to having made the report.

(2) The reporter shall have the same immunity in any judicial proceeding resulting from the report as may be available in that proceeding.

(3) An individual who has personal knowledge that an employee or former employee of the adult was found to have committed abuse is immune from civil liability for the disclosure to a prospective employer of the employee of known facts concerning the abuse.

Stat. Authority: ORS 179.040 & 409.050
Stats. Implemented: ORS 430.735–430.765, 443.400–443.460, 443.705–443.825, Section 6, Chapter 179, Oregon Laws 2015
Hist.: OMAP 87-2004, f. 11-10-04, cert. ef. 12-1-04; Renumbered from 410-009-0150, DHSD 5-2007, f. 6-29-07, cert. ef. 7-1-07; DHSD 3-2009, f. & cert. ef. 5-1-09; DHSD 12-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-29-10; DHSD 4-2010, f. & cert. ef. 6-29-10; DHSD 3-2016, f. & cert. ef. 2-3-16

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Department of Human Services, Child Welfare Programs
Chapter 413

Rule Caption: Amending child welfare rules
Adm. Order No.: CWP 2-2016
Filed with Sec. of State: 2-1-2016
Certified to be Effective: 2-1-16
Notice Publication Date: 1-1-2016
Rules Amended: 413-010-0000, 413-010-0035, 413-030-0400, 413-040-0010, 413-070-0551, 413-090-0400
Rules Repealed: 413-030-0400(T), 413-040-0010(T), 413-070-0551(T), 413-090-0410, 413-090-0420, 413-090-0430
Subject: The Department of Human Services, Office of Child Welfare Programs, is amending rules relating to the confidentiality of client records being made to comply with HB 2365 (Oregon Laws 2015, chapter 511). Specifically, a definition of "Department adoption records" is being added to OAR 413-010-0000 and OAR 413-010-0035 relating to prohibited disclosures is being amended to clarify that adoption records must be sealed in accordance with ORS 109.319 and that the county in which an adoption was finalized and the case number of the adoption proceeding may be disclosed in accordance with ORS 109.329 as amended by Oregon Laws 2015, chapter 511.

The Department is also permanently adopting temporary rules that became effective November 24, 2015. The changes make language clarifications related to the implementation of the Preventing Sex Trafficking and Strengthening Families Act of 2014 and are needed to achieve state plan compliance. Specifically, "independent living" is being changed to "successful adulthood" in OAR 413-030-0400, 413-040-0010, and 413-070-0551.

The Department is also amending and consolidating rules that describe when the Department may pay reasonable and appropriate funeral and burial expenses for a child or young adult who dies while in the care and custody of the Department. The primary change is to increase the allowable reimbursement for expenses from $2,500 to $4,500. Additional non-substantive edits are being made to consolidate the rules for improved clarity and readability. (OAR 413-090-0410, 413-090-0420, and 413-090-0430 are being repealed and consolidated into OAR 413-090-0400.)

Additional non-substantive edits were made to these rules to make general updates and corrections to ensure accuracy and improve clarity and readability.
Rules Coordinator: Kris Skaro—(503) 945-6067

413-010-0000
Definitions

The following definitions apply to OAR chapter 413, division 10.

(1) "Adoption assistance" means assistance provided on behalf of an eligible child or young adult to offset the costs associated with adopting and meeting the ongoing needs of the child or young adult. "Adoption assistance" may be in the form of payments, medical coverage, reimbursement of nonrecurring expenses, or special payments.

(2) "Adoption records, papers, and files" means all documents, writings, information, exhibits, and other filings retained in the court's record of an adoption case pursuant to ORS 109.319 and includes but is not limited to the Adoption Summary and Segregated Information Statement described in ORS 109.317 and exhibits attached to the statement, the petition and exhibits attached to the petition pursuant to ORS 109.315, and any other motion, judgment, document, writing, information, exhibit, or filing retained in the court's record of the adoption case.

(3) "Adoptive family" means an individual or individuals who have legalized a parental relationship to the child who joined the family through a judgment of the court.

(4) "Adult" means a person 18 years of age or older.

(5) "Base rate payment" means a payment to the foster parent or relative caregiver at a rate established by the Department for the costs of providing the child or young adult with the following:

(a) Food, including the special or unique nutritional needs of the child or young adult;

(b) Clothing, including purchase and replacement;

(c) Housing, including maintenance of household utilities, furnishings, and equipment;

(d) Daily supervision, including teaching and directing to ensure safety and well-being at a level appropriate for the chronological age of the child or young adult;

(e) Personal incidentals, including personal care items, entertainment, reading materials, and miscellaneous items; and

(f) Transportation, including gas, oil, and vehicle maintenance and repair costs for local travel associated with providing the items listed above, and transportation to and from extracurricular, child care, recreational, and cultural activities.

(6) "Case plan" means a written, goal oriented, and time-limited individualized plan for the child and the child's family, developed by the Department and the parents or guardians, to achieve the child's safety, permanency, and well-being.

(7) "Central Office CPS Founded Disposition Review" means a process wherein a Central Office CPS Founded Disposition Review Committee reviews a founded disposition, makes recommendations to the CPS Program Manager or designee, and the CPS Program Manager or designee makes a decision to uphold, overturn, or change the abuse type of the founded disposition.

(8) "Central Office CPS Founded Disposition Review Committee" means a group of two child welfare employees who make a recommendation or recommendations to the Child Protective Services Program Manager or designee regarding the CPS founded disposition. No one may serve on the "Central Office CPS Founded Disposition Review Committee" who participated in or observed the Local Child Welfare Office CPS Founded Disposition Review or had a role in the CPS assessment, including having participated in a staffing, that resulted in the CPS founded disposition under review. Further requirements of the "Central Office CPS Founded Disposition Review Committee" are found in OAR 413-010-0745 and 413-010-0746. The two child welfare staff on the committee must include any two of the following:

(a) Either the Program Manager for CPS or a designee;

(b) A CPS program coordinator;

(c) A CPS consultant; or

(d) A Department supervisor.

(9) "Certificate of Approval" means a document that the Department issues to approve the operation of a child-specific relative caregiver home, child-specific foster home, pre-adoptive home, or a regular foster home.

(10) "Certified family" means an individual or individuals who hold a current Certificate of Approval from the Department to operate a home to provide care, in the home in which they reside, to a child or young adult in the care or custody of the Department.

(11) "Child" means a person under 18 years of age.

(12) "Child Protective Services (CPS)" means a specialized social service program that the Department provides on behalf of children who may be unsafe after a report of child abuse or neglect is received.

(13) "Client" means any individual receiving services from the Department, including the parent or legal guardian of a child or young adult, or the custodian of an unemancipated minor client.

(14) "Client file" means an electronic or paper file that the Department marks with the names of one or more clients, into which the Department places all of the named clients' records. A "client file" may

contain confidential information about other clients and persons who are not clients.

(15) "Client information" means confidential information about a client or identified with a client.

(16) "Client record" means any record that includes client information and is created, requested, or held by the Department. A "client record" does not include general information, policy statements, statistical reports, or similar compilations of data which are not identified with an individual child, family or other recipient of services.

(17) "Confidential information" means information that is unavailable to the public by statute, rule, or court order.

(18) "Contract Provider" means any individual or organization that provides services to a Child Welfare client pursuant to a contract or agreement with Child Welfare.

(19) "Court Appointed Special Advocate (CASA)" means a volunteer who is appointed by the court, is a party to the juvenile proceeding, and advocates for the child pursuant to ORS 419A.170.

(20) "CPS Disposition" means a determination that completes a CPS assessment. Dispositions are discussed in OAR 413-015-1000 and include founded, unfounded, and unable to determine.

(21) "Department" means the Department of Human Services, Child Welfare.

(22) "Department adoption records" means all documents, writings, and information required to be retained in the Department's Central Office adoption file including, but not limited to:

(a) Adoption records, papers, and files;

(b) Records and information created, generated, produced, or submitted for purposes of selecting the adoptive family for the child;

(c) Documents, writings and information obtained, created, or submitted by the Department Child Permanency Program staff for the purposes of finalizing the child's adoption;

(d) Records and information obtained or created by the Department for the purposes of determining eligibility or making payment for adoption assistance;

(e) Any medical, psychiatric, or psychological records of the child received by the Child Permanency Program staff for retention as part of the Child Permanency Program adoption file of the child;

(f) The names, address, or other identifying information of the adoptive family of the child; and

(g) The birth certificate of the child.

(23) "Discipline" means a training process a family uses to help a child or young adult develop the self-control and self-direction necessary to assume responsibilities, make daily living decisions, and learn to conform to accepted levels of social behavior.

(24) "Disclose" means reveal or provide client information to a person, agency, organization, or other entity outside of the Department of Human Services. Disclosing includes, but is not limited to:

(a) Showing or providing a client record or copy of a client record; and

(b) Orally transmitting client information.

(25) "Foster parent" means an individual who operates a home that has been approved by the Department to provide care for an unrelated child or young adult placed in the home by the Department.

(26) "Guardian" means an individual who has been granted guardianship of a child through a judgment of the court.

(27) "Guardianship assistance" means assistance provided by the Department to the guardian on behalf of an eligible child or young adult to offset costs associated with meeting the ongoing needs of the child or young adult. "Guardianship assistance" may be in the form of a payment, medical coverage, or reimbursement of guardianship expenses.

(28) "Indian child" means an unmarried person who is under 18 years of age and who is either a member of an Indian tribe or is eligible for membership in an Indian tribe and who is the biological child of a member of an Indian tribe.

(29) "Juvenile" means a person younger than the age of 18 years who is identified as a perpetrator. OAR 413-010-0716 provides specific requirements regarding application of these rules to juveniles.

(30) "Legal finding" means a court or administrative finding, judgment, order, stipulation, plea, or verdict that determines who was responsible for the child abuse that is the subject of a CPS founded disposition.

(31) "Legal proceeding" means a court or administrative proceeding that may result in a legal finding.

(32) "Legally emancipated " means a person under 18 years of age who is married or has been emancipated by the court in accordance with the requirements of ORS 419B.558.

(33) "Level of care payment" means the payment provided to an approved or certified family, a guardian, a pre-adoptive family, or an adoptive family based on the need for enhanced supervision of a child or young adult as determined by applying the CANS algorithm to the results of the CANS screening.

(34) "Level of personal care payment" means the payment to a qualified provider for performing the personal care services for an eligible child or young adult based on the child's or young adult's need for personal care services as determined by applying the personal care services algorithm to the results of the personal care services rating scale.

(35) "Licensee" means a private child-caring agency or an organization or school that offers a residential program for children (regulated pursuant to ORS 418.327) and holds a license issued by the Department.

(36) "Local Child Welfare Office CPS Founded Disposition Review" means a process wherein a Local Child Welfare Office CPS Founded Disposition Review Committee reviews a founded disposition, makes recommendations to a Child Welfare program manager or designee, and the Child Welfare program manager or designee makes a decision to uphold, overturn, or change the abuse type of the founded disposition.

(37) "Local Child Welfare Office CPS Founded Disposition Review Committee" means a group of two child welfare employees who make a recommendation or recommendations to a Child Welfare Program Manager or designee regarding a CPS founded disposition. One of the members must be a manager and one must be staff trained in CPS assessment and dispositions. No one may serve on the "Local Child Welfare Office CPS Founded Disposition Review Committee" in the review of an assessment in which he or she had a role in the CPS assessment, including having participated in a staffing, that resulted in the CPS founded disposition under review. Further requirements of the "Local Child Welfare Office CPS Founded Disposition Review Committee" are found in OAR 413-010-0735 and 413-010-0738.

(38) "Parent" means the biological or adoptive mother or the legal father of the child. A legal father is a man who has adopted the child or whose paternity has been established or declared under ORS 109.070, 416.400 to 416.465, or by a juvenile court. In cases involving an Indian child under the Indian Child Welfare Act (ICWA), a legal father includes a man who is a father under applicable tribal law. "Parent" also includes a putative father who has demonstrated a direct and significant commitment to the child by assuming or attempting to assume responsibilities normally associated with parenthood unless a court finds that the putative father is not the legal father.

(39) "Participating tribe" means a federally recognized Indian tribe in Oregon with a Title IV E agreement with the Department.

(40) "Party" means a person entitled to a contested case hearing under these rules.

(41) "Perpetrator" means the person the Department has reasonable cause to believe is responsible for child abuse in a CPS founded disposition.

(42) "Person Requesting Review" or "Requestor" means a perpetrator, his or her attorney, or, if a juvenile is identified as the perpetrator, the person who may request a review on behalf of the juvenile, who requests a review of the founded disposition.

(43) "Potential guardian" means an individual who:

(a) Has been approved by the Department or participating tribe to be a child's guardian; and

(b) Is in the process of legalizing the relationship to the child through the judgment of the court.

(44) "Pre-adoptive family" means an individual or individuals who:

(a) Has been selected to be a child's adoptive family; and

(b) Is in the process of legalizing the relationship to the child through the judgment of the court.

(45) "Private child-caring agency" is defined by the definitions in ORS 418.205, and means a "child-caring agency" that is not owned, operated, or administered by any governmental agency or unit.

(a) A "child-caring agency" means an agency or organization providing:

(A) Day treatment for children with emotional disturbances;

(B) Adoption placement services;

(C) Residential care, including, but not limited to, foster care or residential treatment for children;

(D) Outdoor youth programs (defined at OAR 413-215-0911); or

(E) Other similar services for children.

(b) A child-caring agency does not include residential facilities or foster care homes certified or licensed by the Department under ORS 443.400

to 443.455, 443.830, and 443.835 for children receiving developmental disability services.

(46) "Record" means a record, file, paper, or communication and includes, but is not limited to, any writing or recording of information including automated records and printouts, handwriting, typewriting, printing, photostating, photographing, magnetic tapes, videotapes, or other documents. "Record" includes records that are in electronic form.

(47) "Registered domestic partner" means an individual joined in a domestic partnership that has been registered by a county clerk in accordance with ORS 106.300 to 106.340.

(48) "Relative" means any of the following:

(a) An individual with one of the following relationships to the child or young adult through the parent of the child or young adult unless the relationship has been dissolved by adoption of the child, young adult, or parent:

(A) Any blood relative of preceding generations denoted by the prefixes of grand, great, or great-great.

(B) Any half-blood relative of preceding generations denoted by the prefixes of grand, great, or great-great. Individuals with one common biological parent are half-blood relatives.

(C) An aunt, uncle, nephew, niece, first cousin, and first cousin once removed.

(D) A spouse of anyone listed in paragraphs (A) to (C) of this subsection, even if a petition for annulment, dissolution, or separation has been filed or the marriage is terminated by divorce or death. To be considered a "relative" under this paragraph, the child or young adult must have had a relationship with the spouse prior to the most recent episode of Department custody.

(b) An individual with one of the following relationships to the child or young adult:

(A) A sibling, also to include an individual with a sibling relationship to the child or young adult through a putative father.

(B) An individual defined as a relative by the law or custom of the tribe of the child or young adult if the child or young adult is an Indian child under the Indian Child Welfare Act or in the legal custody of a tribe.

(C) An individual defined as a relative of a refugee child or young adult under OAR 413-070-0300 to 413-070-0380.

(D) A stepparent or former stepparent if the child or young adult had a relationship with the former stepparent prior to the most recent episode of Department custody; a stepbrother; or a stepsister.

(E) A registered domestic partner of the parent of the child or young adult or a former registered domestic partner of the parent of the child or young adult if the child or young adult had a relationship with the former domestic partner prior to the most recent episode of Department custody.

(F) The adoptive parent or an individual who has been designated as the adoptive resource of a sibling of the child or young adult.

(G) An unrelated legal or biological father or mother of a half-sibling of the child or young adult when the half-sibling of the child or young adult is living with the unrelated legal or biological father or mother.

(c) An individual identified by the child or young adult or the family of the child or young adult, or an individual who self-identifies, as being related to the child or young adult through the parent of the child or young adult by blood, adoption, or marriage to a degree other than an individual specified as a "relative" in paragraphs (A) to (C) of subsection (a) of this section unless the relationship has been dissolved by adoption of the child, young adult, or parent.

(d) An individual meeting the requirements of at least one of the following:

(A) An individual not related to the child, young adult, or parent by blood, adoption, or marriage:

(i) Who is identified as a member of the family by the child or young adult or by the family of the child or young adult; and

(ii) Who had an emotionally significant relationship with the child or young adult or the family of the child or young adult prior to the most recent episode of Department custody.

(B) An individual who has a blood relationship to the child or young adult as described in paragraphs (A) to (C) of subsection (a) of this section through the birth parent of the child or young adult, but the prior legal relationship has been dissolved by adoption of the child, young adult, or birth parent, and who is identified as a member of the family by the child or young adult or who self-identifies as a member of the family.

(e) For eligibility for the guardianship assistance program:

(A) A stepparent is considered a parent and is not a "relative" for the purpose of eligibility for guardianship assistance unless a petition for annulment, dissolution, or separation has been filed, or the marriage to the adoptive or biological parent of the child has been terminated by divorce or death.

(B) A foster parent may only be considered a "relative" for the purpose of eligibility for guardianship assistance when:

(i) There is a compelling reason why adoption is not an achievable permanency plan;

(ii) The foster parent is currently caring for a child, in the care or custody of the Department or a participating tribe, who has a permanency plan or concurrent permanent plan of guardianship;

(iii) The foster parent has cared for the child for at least 12 of the past 24 months; and

(iv) The Department or tribe has approved the foster parent for consideration as a guardian.

(49) "Relative caregiver" means an individual who operates a home that has been approved by the Department to provide care for a related child or young adult placed in the home by the Department.

(50) "Request for a Central Office CPS Founded Disposition Review" means a written request for a Central Office CPS Founded Disposition Review from a requestor who has received a Local Child Welfare Office CPS Founded Disposition Review Decision (Form CF 314) to retain a founded disposition. The specific requirements for a request for review by Central Office are described in OAR 413-010-0740.

(51) "Safety service provider" means a participant in a protective action plan, initial safety plan, or ongoing safety plan whose actions, assistance, or supervision help a family in managing a child's safety.

(52) "Service" means assistance that the Department provides clients.

(53) "Sibling" means one of two or more children or young adults who are related, or would be related but for a termination or other disruption of parental rights, in one of the following ways:

(a) By blood or adoption through a common parent;

(b) Through the marriage of the legal or biological parents of the children or young adults; or

(c) Through a legal or biological parent who is the registered domestic partner of the legal or biological parent of the children or young adults.

(54) "Substitute care" means the out-of-home placement of a child or young adult who is in the legal or physical custody and care of the Department.

(55) "Substitute caregiver" means a relative caregiver, foster parent, or provider authorized to provide care to a child or young adult in the legal or physical custody of the Department.

(56) "Voluntary services" means services that the Department provides at the request of a person or persons and there is no open and related juvenile court proceeding.

(57) "Young adult" means a person 18 through 20 years of age.

Stat Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 409.225, 419A.255

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 9-1999, f. 5-24-99, cert. ef. 6-1-99; CWP 18-2011, f. & cert. ef. 9-2-11; CWP 12-2013, f. 12-31-13, cert. ef. 1-1-14; CWP 13-2015, f. & cert. ef. 8-4-15; CWP 22-2015, f. & cert. ef. 10-6-15; CWP 2-2016, f. & cert. ef. 2-1-16

413-010-0035
Prohibited Disclosures

(1) If a court order or a specific statute requires the Department to disclose information that this rule protects, the Department must disclose the information.

(2) The Department may not disclose client information:

(a) For purposes not directly connected with the administration of child welfare laws; or

(b) When disclosure is not required nor authorized by:

(A) ORS 419B.035 (governing confidentiality of child abuse records), set out in section (11) of this rule;

(B) ORS 419A.255 (governing confidentiality of juvenile court records) set out in section (12) of this rule; or

(C) Another statute.

(3) The Department may not disclose investigatory information compiled for criminal law purposes, including the record of an arrest or a report of a crime, unless law enforcement explicitly authorizes the Department to disclose such information.

(4) Department employees may not disclose the information described in section (3) of this rule unless authorized to do so by the branch manager or designee.

(5) A person authorized to review client records may not review the complete case file if the complete file contains confidential information about other persons, including, but not limited to other clients, ex-spouses, battering partners, housemates, and half-siblings unless the other person

provides written consent that meets the requirements of OAR 413-010-0045(2)(a).

(6) The Department may not disclose the records of a patient at a drug and alcohol abuse treatment facility to any person without the consent of the patient.

(7) The Department may not disclose client information contained in a record sealed by a court order of expunction or any part of the expunged record.

(8) Department Adoption Records.

(a) The Department must seal Department adoption records in its possession consistent with ORS 109.319.

(b) The Department may not access, use, or disclose Department adoption records in its possession except as provided in ORS 109.319.

(c) Subject to subsection (d) of this section, the Department may, without a court order, access, use, or disclose Department adoption records in its possession for the purpose of providing adoption services or administering child welfare services that the Department is authorized to provide under federal or state law.

(d) The Child Permanency or Post-Adoption Program Manager, or their designee, must authorize the unsealing of and access to, use of, or disclosure of Department adoption records by other Department employees.

(e) The Department may, upon request and if available, disclose the county in which an adoption was finalized and the case number of the adoption proceeding as provided in section 6 of HB 2365 (2015).

(9) Reporter of Abuse. The identity of the person making a report of suspected child abuse, and any identifying information about the reporting person, must be removed from the records or shielded from view before records are viewed or copied. The name, address or other identifying information may only be disclosed to a law enforcement officer or district attorney in order to complete an investigation report of child abuse.

(10) Reports and Records Compiled Pursuant to the Child Abuse Reporting Law.

(a) Each report of suspected child abuse must be immediately reported to a law enforcement agency.

(b) The Department must assist in the protection of a child who is believed to have been abused or neglected by providing information as needed to:

(A) The juvenile court;

(B) The district attorney;

(C) Any law enforcement agency or a child abuse registry in another state investigating a child abuse report;

(D) Members of a child protection team or consultants involved in assessing whether or not abuse occurred and determining appropriate treatment for the child and family;

(E) A physician who is examining a child or providing care or treatment, and needs information about the child's history of abuse; and

(F) A non-abusing parent, foster parent, or other non-abusing person responsible for the care of the child.

(c) A report, record, or findings of an assessment of child abuse may not be disclosed until the assessment is completed, except for the reasons stated in paragraphs (e)(A) and (B) of this section. An assessment will not be considered completed while either a protective service assessment or a related criminal investigation is in process. The Department determines when the protective service assessment is completed. The district attorney determines when a criminal investigation is completed.

(d) Records or findings of completed child abuse assessments must be released upon request to the following:

(A) Attorneys of record for the child or child's parent or guardian in a juvenile court proceeding for use in that proceeding; and

(B) A citizen review board established by the Department or by a juvenile court to review the status of children under the jurisdiction of the court for the purpose of completing a case review. Before providing information to a citizen review board, the Department must assure that the board has informed participants of their statutory responsibility to keep the information confidential, and will maintain records in an official, confidential file.

(e) Records or information from records of abuse and neglect assessments may be disclosed to other interested parties if the Department determines that disclosure to a person or organization is necessary to:

(A) Administer child welfare services and is in the best interests of the affected child. When disclosure is made for the administration of child welfare services, the Department will release only the information necessary to serve its purpose; and

(B) Prevent abuse and neglect, assess reports of abuse or neglect, or protect children from further abuse or neglect.

(11) Juvenile Court Records in Department Files.

(a) The Department may not disclose records and information in its possession that are also contained in the juvenile court's record of the case or supplemental confidential file, defined in subsections (b) and (c) of this section, except as provided in ORS 419A.255 and other federal and state confidentiality laws pertaining to client records.

(b) Record of the Case.

(A) The juvenile court's "record of the case", as defined in ORS 419A.252, includes but is not limited to the summons, the petition, papers in the nature of pleadings, answers, motions, affidavits, and other papers filed with the court, orders and judgments, including supporting documentation, exhibits and materials offered as exhibits whether or not received in evidence, and other records listed in ORS 419A.252.

(B) The record of the case is unavailable for public inspection, but is open to inspection and copying as provided in ORS 419A.255.

(c) Supplemental Confidential File.

(A) The juvenile court's "supplemental confidential file", as defined in ORS 419A.252, includes reports and other material relating to the child's history and prognosis, including but not limited to reports filed under ORS 419B.440, that are not or do not become part of the record of the case and are not offered or received as evidence in the case.

(B) The supplemental confidential file is unavailable for public inspection, but is open to inspection and copying as provided in ORS 419A.255.

(C) The Department is entitled to copies of material maintained in the supplemental confidential file and if such material is obtained, the Department must ensure the confidentiality of that material as provided in ORS 419A.255.

(d) Reports and other materials relating to the child's history and prognosis in the record of the case or in the supplemental confidential file are privileged and except at the request of the child, are unavailable for public inspection but are open to inspection and copying as provided in ORS 419A.255.

(e) When the Department inspects or obtains copies of reports, materials, or documents pursuant to ORS 419A.255(4), the Department may not use or disclose the reports, materials, or documents except as provided in ORS 419A.255.

(12) Records Received from the Oregon Youth Authority or the Juvenile Department. The Department must preserve the confidentiality of reports and other materials it receives from the Oregon Youth Authority or the juvenile department relating to the child, ward, youth or youth offender's history and prognosis, as provided in ORS 419A.257.

Stat. Auth.: ORS 409.050, 418.005. 418.340
Stats. Implemented: ORS 109.319, 109.329, 409.010, 409.194, 409.225, 418.005, 419A.102, 419A.252, 419A.255, 419A.263, 419B.035, 432.420, OLs 2015, ch 511
Hist.: SOSCF 9-1999, f. 5-24-99, cert. ef. 6-1-99; CWP 18-2011, f. & cert. ef. 9-2-11; CWP 12-2013, f. 12-31-13, cert. ef. 1-1-14; CWP 2-2016, f. & cert. ef. 2-1-16

413-010-0400
Purpose

The purpose of OAR 413-030-0400 to 413-030-0460 is to describe the responsibilities of the Department for comprehensive transition planning with and providing services to a child or young adult to:

(1) Obtain personal and emotional support and promote healthy relationships that can be maintained into adulthood;

(2) Develop the personal life management skills necessary to function independently;

(3) Receive education, training, and services necessary to lead to employment;

(4) Attain academic or vocational education and prepare for post-secondary education or training;

(5) Gain experience in taking responsibility and exercising decision-making control; and

(6) Transition to successful adulthood.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005, 418.475, 419B.343, 419B.476(3)
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 21-2007, f. 11-30-07, cert. ef. 12-1-07; CWP 2-2016, f. & cert. ef. 2-1-16

413-040-0010
Requirements for the Case Plan

(1) The caseworker must analyze the information gathered during the protective capacity assessment to develop a case plan. The case plan must include all of the following information:

(a) Family composition, which includes the information identifying each child, each young adult, and each parent or guardian.

(b) Original impending danger safety threats identified in the CPS assessment as described in OAR 413-015-0425.

(c) The ongoing safety plan including any additional impending danger safety threats identified since the CPS assessment, as described in OAR 413-015-0450 and recorded in the Department's information system.

(d) The findings of the protective capacity assessment.

(e) Expected outcomes and actions that each parent or guardian is taking to achieve them.

(f) Services (if applicable) to the child or young adult that include:

(A) The identified needs of and services provided to any child or young adult placed in substitute care, including the results of the CANS screening, the personal care services provided to an eligible child or young adult under OAR 413-090-0100 to 413-090-0210, and other current assessments or evaluations of the child or young adult, and the reasons the substitute care placement is the least restrictive placement to meet the child or young adult's identified needs;

(B) The health information of the child or young adult, which documents the child's routine and specialized medical, dental, and mental health services;

(C) The education services of the child or young adult, the school or educational placement history of the child or young adult, high school credits earned for a child over 14 years of age or a young adult, and any special educational needs; and

(D) Services to transition the child or young adult to successful adulthood in all cases when the child is 14 years of age or older.

(g) Services the Department will provide including:

(A) Case oversight and routine contact with the parents or guardians and the child or young adult;

(B) Appropriate and timely referrals to services and service providers suitable to address identified impending danger safety threats or strengthen parental protective capacity;

(C) Appropriate and timely referrals to services and service providers suitable to address the needs of the child or young adult as identified through the CANS screening and other current assessments or evaluations of the child or young adult; and

(D) Timely preparation of reports to the court or other service providers.

(h) The date that the progress of the parents or guardians in achieving expected outcomes will be reviewed. The case plan must be reviewed with the parents or guardians every 90 days; however, the caseworker and parents or guardians may agree on a review date at any time within the 90-day period.

(i) When the child or young adult is in substitute care, the case plan must also include:

(A) Current placement information including:

(i) The location of the child or young adult and the substitute caregiver of the child or young adult, except when doing so would jeopardize the safety of the child, young adult, or the substitute caregiver, or the substitute caregiver will not authorize release of the address; and

(ii) Documentation that shows that the child or young adult is receiving safe and appropriate care in the least restrictive environment able to provide safety and well-being for the child or young adult.

(B) The child or young adult's record of visits with his or her parents and siblings.

(C) The permanency plan.

(D) The conditions for return.

(E) The concurrent permanent plan and the progress the Department has made in implementing the concurrent permanent plan.

(j) The case plan for any child or young adult in foster care who has attained 14 years of age must include:

(A) A document that describes:

(i) The rights of the child or young adult with respect to education, health, visitation, and court participation;

(ii) The right to be provided with a copy of the young adult's birth certificate, social security card, health insurance information, medical records, and a driver's license or equivalent state-issued identification card when the child leaves foster care having attained age 18 or greater; and

(iii) The right to stay safe and avoid exploitation.

(B) A signed acknowledgment by the child or young adult that the child or young adult has been provided with a copy of the document and that the rights contained in the document have been explained to the child in an age-appropriate way.

(2) As applicable, the caseworker must also include in the case plan:

(a) The goals and activities required for an Indian child under OAR 413-010-0100 to 413-010-0260 or for a refugee child under OAR 413-070-0300 to 413-070-0380.

(b) Recommendations of expert evaluations requested by the Department whenever the recommendations may impact parental protective capacities or treatment services for the child or young adult. If the recommendations are not included in the case plan, the rationale must be documented in the Department's information system.

(c) Diligent efforts to place the child or young adult with relatives and with siblings who are also in substitute care, sibling connections, and the Department's efforts to keep siblings together.

(d) Orders of the court.

(3) The persons involved with the Department in the development of the case plan include:

(a) The parents or guardians, unless their participation threatens or places other participants at risk;

(b) The child who has obtained 14 years of age or the young adult; and

(c) At the option of the child or young adult, up to two members of the case planning team chosen by the child or young adult who are not:

(A) A foster parent;

(B) A caseworker for the child or young adult; or

(C) An individual the Department has good cause to believe would not act in the best interests of the child or young adult.

(d) One of the individuals in subsection (c) of this section may be designated to be the advisor of the child or young adult, and as needed, advocate for the child or young adult with respect to the application of the reasonable and prudent parent standard to the child or young adult.

(4) Additional persons involved with the Department in the development of the case plan may include the child regardless of age or young adult, adoptive parents, an Indian custodian when applicable, other relatives, persons with significant attachments to the child or young adult, the substitute caregiver, and other professionals when appropriate.

(5) The case plan must include the signature of the caseworker and each parent or guardian, unless subsections (7)(a) or (7)(b) of this rule apply.

(6) Approval and distribution of the case plan.

(a) The Child Welfare supervisor must approve and sign the case plan.

(b) The caseworker must give a copy of the case plan to the parents or guardians of the child or young adult, and the Indian child's tribe when applicable, as soon as possible but no later than seven working days after the case plan is approved by the supervisor, except when doing so would provide information that places another person at risk.

(7) Exceptions and exemptions to the required case plan.

(a) A court may authorize an exception to the involvement of the parents or guardians when it determines that reasonable efforts to return the child home are not required, as described in OAR 413-070-0515.

(b) When the Department has custody of a child or young adult in substitute care and is unable to obtain the signature of a parent or guardian, the caseworker must prepare and send a letter of expectations and a copy of the case plan to the parent or guardian within seven working days after the supervisor has approved and signed the case plan. A letter of expectations means an individualized written statement for the family of the child or young adult that identifies family behaviors, conditions, or circumstances that resulted in an unsafe child; the expected outcomes; and what the Department expects each parent or guardian will do to achieve safety, permanency, and well-being of the child or young adult in the parental home.

(c) A case plan as described in sections (1) to (5) of this rule is not required if a family, child, or young adult is eligible for Family Support Services as described in OAR 413-030-0000 to 413-030-0030.

(8) Timeline for case plan development. The caseworker must develop the case plan within 60 days of a child's removal from home or within 60 days of the completion of the CPS assessment, in cases where the child remains in the home of a parent or guardian.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 8-1996(Temp), f. 11-27-96, cert. ef. 12-1-96; SCF 4-1997, f. 6-19-97, cert. ef. 6-28-97; SOSCF 15-1998, f. & cert. ef. 7-27-98; SOSCF 4-2000(Temp), f. & cert. ef. 1-31-00 thru 7-28-00; SOSCF 19-2000, f. & cert. ef. 8-8-00; CWP 31-2003, f. & cert. ef. 10-1-03; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 18-2008, f. & cert. ef. 8-1-08; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 1-2013, f. & cert. ef. 1-15-13; CWP 19-2015, f. & cert. ef. 10-1-15; CWP 25-2015(Temp), f. & cert. ef. 11-24-15 thru 5-21-16; CWP 2-2016, f. & cert. ef. 2-1-16

413-070-0551

Contents of an APPLA Case Plan

(1) When APPLA is the permanency plan for a child or young adult, the caseworker must address each of the following in the case plan of the child or young adult:

(a) Family composition, which includes the identifying information of each parent, except when parental rights have been terminated, guardian, and sibling.

(b) Except when parental rights have been terminated, the identified impending danger safety threats.

(c) Except when parental rights have been terminated, the ongoing safety plan as described in OAR 413-015-0400 to 413-015-0485 and recorded in the electronic information system of the Department.

(d) A description of how the Department determined the APPLA is the most appropriate permanency plan for the child or young adult, and each compelling reason why the more preferred permanency plan options were not selected for the child or young adult.

(e) The steps the Department has taken to ensure the substitute caregiver is applying the reasonable and prudent parent standard and the child or young adult has regular, ongoing opportunities to engage in age-appropriate or developmentally appropriate activities.

(f) A description of how the attachments and relationships of the child or young adult with each parent, sibling, other family member, advocate, substitute caregiver, and other person who provides continuity, belonging, stability, support, nurturing, and caring relationships and cultural connections for the child or young adult may be developed while the child or young adult is in substitute care and maintained when the child or young adult reaches the age of majority or the juvenile court relieves the Department of legal custody of the child or young adult. When appropriate, the description may include the following:

(A) A description of how each parent and sibling of the child or young adult may participate actively in the life of the child or young adult.

(B) For each existing relationship the child or young adult has with a permanent adult caregiver or adult parental figure who is capable of sustaining a significant relationship with the child or young adult, a description of how the relationship may be maintained.

(C) A description of how relationships with relatives and other persons involved in the child or young adult's life may be developed and maintained.

(D) Current placement information including the location of the child or young adult when the substitute caregiver authorizes release of the address, except when doing so would jeopardize the safety of the child.

(E) The record of visits between the child or young adult and his or her parents or siblings.

(g) When applicable, a description of the plan to transition a child or young adult with intellectual or developmental disabilities to an appropriate program for adults with intellectual or developmental disabilities.

(h) The comprehensive transition plan described in OAR 413-030-0400 to 413-030-0460 for any child 14 years of age or older or young adult and services that prepare the child or young adult to transition to successful adulthood.

(i) A description of the reasonable efforts made by the Department to put the services and structures described in this rule in place to meet the needs of the child or young adult and to enhance the stability of the living arrangement of the child or young adult when the child or young adult is not living with a specified adult.

(j) A description of the services the Department must provide to ensure the emotional, medical, educational, cultural, and physical needs of the child or young adult are being met, including:

(A) The health information of the child or young adult, which documents the specialized medical, dental, and mental health services of the child or young adult; and

(B) The education services of the child or young adult, including the school or educational placement history of the child or young adult, high school credits earned for a child over 14 years of age or young adult, and any special educational needs.

(k) The services required to prepare the child or young adult to live in the least restrictive setting possible at the most appropriate time.

(l) The services that may make it possible to achieve a more preferred permanency plan listed in OAR 413-070-0536(2) for the child or young adult.

(m) The services the Department may continue to make available to the parents of the child or young adult, upon request, that continue to be in the best interests of the child or young adult.

(n) For any child who has attained 14 years of age or young adult, the documents described in OAR 413-040-0010(1)(j)(A) and (B).

(2) Except when parental rights have been terminated or the Department is unable to obtain the signature of the parent or guardian, the case plan must include the signature of the caseworker, the supervisor, and each parent or guardian as described in OAR 413-040-0010.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005, 419A.004

Hist.: CWP 15-2006, f. 6-30-06, cert. ef. 7-1-06; CWP 17-2009, f. & cert. ef. 11-3-09; Renumbered from 413-070-0548, CWP 28-2010, f. & cert. ef. 12-29-10; CWP 1-2013, f. & cert. ef. 1-15-13; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15; CWP 25-2015(Temp), f. & cert. ef. 11-24-15 thru 5-21-16; CWP 2-2016, f. & cert. ef. 2-1-16

413-090-0400

Funeral and Burial Expenses

(1) The Department may pay reasonable and appropriate expenses for services listed in section (4) of this rule only when:

(a) The deceased child or young adult was in the legal custody of the Department at the time of death; and

(b) There are no other resources from parents, guardians, or relatives to pay the expenses.

(2) The maximum amount the Department may pay for expenses listed in section (4) of this rule is $4,500. Any amount over $4,000 must be approved by the district manager or designee.

(3) Payment for expenses listed in section (4) of this rule will be by reimbursement to the provider or vendor. The provider or vendor must submit to the Department an itemized statement of expenses, on the letterhead of the provider or vendor, of goods provided or services performed.

(4) Subject to the limitations of this rule, the Department may pay expenses for the cost of goods and services associated with any of the following:

(a) Preparation of the body.

(b) In-state transfer of remains.

(c) Cemetery burial.

(d) Entombment.

(e) Cremation.

(f) Disposition of the remains, including space.

(g) A casket, alternative container, burial container, or urn.

(h) A memorial or marker.

(i) A ceremony (funeral, memorial, or alternate service) and use of facilities and staff.

(j) Basic services of funeral director and staff.

Stat. Authority: ORS 409.050, 418.005

Stats. Implemented: ORS 97.170, 409.010, 409.050, 411.141, 418.005, 418.015

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 14-1999, f. 7-8-99, cert. ef. 7-12-99; CWP 11-2003, f. & cert. ef. 1-7-03; CWP 13-2015, f. & cert. ef. 8-4-15; 16; CWP 2-2016, f. & cert. ef. 2-1-16

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Department of Human Services, Self-Sufficiency Programs
Chapter 461

Rule Caption: Amending rule relating to child care provider eligibility

Adm. Order No.: SSP 3-2016(Temp)

Filed with Sec. of State: 1-20-2016

Certified to be Effective: 1-20-16 thru 7-17-16

Notice Publication Date:

Rules Amended: 461-165-0180

Subject: OAR 461-165-0180 about child care provider eligibility requirements is being amended to clarify that 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. Child care providers are placed in failed status when they do not meet eligibility requirements in OAR 461-165-0180 which include health and safety standards to keep children safe and record keeping and billing practices to ensure accurate payments. Providers who are in failed status may reapply at any time and submit required documents and information for review. The Department keeps the provider in failed status until the provider shows they meet all Department requirements.

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

461-165-0180

Eligibility of Child Care Providers

(1) The Department must approve a child care provider to receive payment for child care if information available to the Department provides no basis for denying eligibility unless the Department determines, follow-

ing a preliminary or final fitness determination (see OAR 407-007-0320) or Child Protective Service (CPS) records checks, that the provider or other subject individual (see OAR 407-007-0210(30)(a)(A), (B), (F), (I), and (P)) is not eligible for payment.

(2) Ineligibility for payment may result from any of the following:

(a) A finding of "denied". A provider may be denied under OAR 461-165-0410 and 461-165-0420. If, after conducting a weighing test as described in OAR 407-007-0210, the Department finds substantial risk to the health or safety of a child (see OAR 461-001-0000) in the care of the provider, the provider must be denied and is ineligible for payment. A provider who has been denied has the right to a hearing under OAR 407-007-0330.

(b) A finding of "failed". A provider may be failed if the Department determines, based on a specific eligibility requirement and evidence, that a provider does not meet the eligibility requirements of this rule. While the provider is in failed status:

(A) The Department does not pay any other child care provider for child care at the failed provider's site.

(B) The Department does not pay a child care provider at another site if the failed provider is involved in the child care operation unless the Department determines that the reasons the provider is in failed status are not relevant to the new site.

(c) A provider with a status of "failed" may reapply at any time by providing the required documents and information to the Department for review.

(d) The Department has referred an overpayment against the provider for collection and the claim is unsatisfied.

(3) The provider must submit a completed Child Care Provider Listing Form (DHS 7494) to the Department within 30 calendar days from the date the Department issues the listing form to the client. The provider and each individual identified under section (4) of this rule must complete and sign the authorization for a records check through the Criminal History (CH) record system maintained by the Oregon State Police (OSP), Federal Bureau of Investigation (FBI), and the Child Protective Service (CPS) record system maintained by the Department and, if necessary, an authorization to release information and fingerprint cards. The provider, each individual described in section (4) of this rule, and each subject individual described in OAR 407-007-0210(30)(a)(A), (B), (F), (I) or (P) must fully disclose all requested information as part of the records check.

(4) This rule also establishes additional requirements for the following individuals:

(a) The site director of an exempt child care facility and each employee of the facility who may have unsupervised access to a child in care.

(b) The child care provider and each individual the provider uses to supervise a child in his or her absence.

(c) In the case of a provider who provides care for a child in the provider's home:

(A) Each individual 16 years of age or older who lives in the provider's home; and

(B) Each individual who visits the home of the provider during the hours care is provided and may have unsupervised access to a child in care.

(5) To receive payment or authorization for payment, the provider must meet the requirements of either subsection (a) or (b) of this section:

(a) Currently be certified or registered with the Office of Child Care (OCC) of the Oregon Department of Education (ODE) under OAR 414-205-0000 to 414-205-0170, 414-300-0000 to 414-300-0440, or 414-350-0000 to 414-350-0250 unless legally exempt, and be in compliance with the applicable rules. The provider must also complete the Department's listing process and be approved by the Department.

(b) If legally exempt from being certified or registered with the OCC, complete the Department's background check process and be approved by the Department.

(6) Each individual described in section (4) of this rule must:

(a) Allow the Department to conduct a national criminal history records check through the Oregon State Police and the Federal Bureau of Investigation as specified in OAR 407-007-0250.

(b) Provide, in a manner specified by the Department, information required to conduct CH, FBI, OSP, and CPS records checks and determine whether the provider meets health and safety requirements.

(c) Have a history of behavior that indicates no substantial risk to the health or safety of a child in the care of the provider.

(7) Each provider must:

(a) Obtain written approval from their certifier or certifier's supervisor if the provider is also certified as a foster parent.

(b) Be 18 years of age or older and in such physical and mental health as will not affect adversely the ability to meet the needs of safety, health, and well-being of a child in care.

(c) Not be in the same filing group (see OAR 461-110-0350) as the child cared for and cannot be the parent (see OAR 461-001-0000) of a child in the filing group.

(d) Allow the Department to inspect the site of care while child care is provided.

(e) Keep daily attendance records showing the arrival and departure times for each child in care and billing records for each child receiving child care benefits from the Department. The provider must keep written records of any attendance that is not able to be recorded in the Child Care Billing and Attendance Tracking (CCBAT) system. These written records must be retained for a minimum of 12 months and provided to the Department upon request.

(f) Be the individual or facility listed as providing the child care. The provider may only use someone else to supervise a child on a temporary basis if the person was included on the most current listing form and the provider notifies the Department's Direct Pay Unit.

(g) Not bill a Department client for an amount collected by the Department to recover an overpayment or an amount paid by the Department to a creditor of the provider because of a lien, garnishment, or other legal process.

(h) Report to the Department's Direct Pay Unit within five days of occurrence:

(A) Any arrest or conviction of any subject individual or individual described in section (4) of this rule.

(B) Any involvement of any subject individual or individual described in section (4) of this rule with CPS or any other agencies providing child or adult protective services.

(C) Any change to the provider's name or address including any location where care is provided.

(D) The addition of any subject individual or individual described in section (4) of this rule.

(E) Any reason the provider no longer meets the requirements under this rule.

(i) Report suspected child abuse of any child in his or her care to CPS or a law enforcement agency.

(j) Supervise each child in care at all times.

(k) Prevent any individual who behaves in a manner that may harm children from having access to a child in the care of the provider. This includes anyone under the influence (see section (11) of this rule).

(L) Allow the custodial parent of a child in his or her care to have immediate access to the child at all times.

(m) Inform a parent of the need to obtain immunizations for a child.

(n) Take reasonable steps to protect a child in his or her care from the spread of infectious diseases.

(o) Ensure that the home or facility where care is provided meets all of the following standards:

(A) Each floor level used by a child has two usable exits to the outdoors (a sliding door or window that can be used to evacuate a child is considered a usable exit). If a second floor is used for child care, the provider must have a written plan for evacuating occupants in the event of an emergency.

(B) The home or facility has safe drinking water.

(C) The home or facility has a working smoke detector on each floor level and in any area where a child naps.

(D) Each fireplace, space heater, electrical outlet, wood stove, stairway, pool, pond, and any other hazard has a barrier to protect a child. Gates and enclosures have the Juvenile Products Manufacturers Association (JPMA) certification seal to ensure safety.

(E) Any firearm, ammunition, and other items that may be dangerous to children, including but not limited to alcohol, inhalants, tobacco and e-cigarette products, matches and lighters, any legally prescribed or over-the-counter medicine, cleaning supplies, paint, plastic bags, and poisonous and toxic materials are kept in a secure place out of a child's reach.

(F) The building, grounds, any toy, equipment, and furniture are maintained in a clean, sanitary, and hazard free condition.

(G) The home or facility has a telephone in operating condition.

(H) No one may smoke or carry any lighted smoking instrument, including e-cigarettes or vaporizers, in the home or facility or within ten feet of any entrance, exit, window that opens, or any ventilation intake that serves an enclosed area, during child care operational hours or anytime child care children are present. No one may use smokeless tobacco in the home or facility during child care operational hours or anytime child care

children are present. No one may smoke or carry any lighted smoking instrument, including e-cigarettes and vaporizers, or use smokeless tobacco in motor vehicles while child care children are passengers.

(I) No one may consume alcohol or use controlled substances (except legally prescribed and over-the-counter medications) or marijuana (including medical marijuana) on the premises (see section (11) of this rule) during child care operational hours or anytime child care children are present. No one under the influence of alcohol, controlled substances (except legally prescribed and over-the-counter medications) or marijuana (including medical marijuana) may be on the premises during child care operational hours or anytime child care children are present. No one may consume alcohol or use controlled substances (except legally prescribed and over-the-counter medications) or marijuana (including medical marijuana) in motor vehicles while child care children are passengers.

(J) Is not a half-way house, hotel, motel, shelter, or other temporary housing such as a tent, trailer, or motor home. The restriction in this paragraph does not apply to licensed (registered or certified) care approved in a hotel, motel, or shelter.

(K) Is not a structure:

(i) Designed to be transportable; and

(ii) Not attached to the ground, another structure, or to any utilities system on the same premises.

(L) Controlled substances (except lawfully prescribed and over-the-counter medications), marijuana (including medical marijuana, marijuana edibles, and other products containing marijuana), marijuana plants, derivatives, and associated paraphernalia may not be on the premises during child care operational hours or anytime child care children are present.

(p) Complete and submit a new listing form every two years, or sooner at the request of the Department, so that the Department may review the provider's eligibility.

(q) Provide evidence of compliance with the Department's administrative rules, upon request of Department staff.

(r) Complete registration for the CCBAT system within 45 days of the date of the registration notice.

(s) Comply with state and federal laws related to child safety systems and seat belts in vehicles, bicycle safety, and crib standards under 16 CFR 1219 and 1220.

(t) Place infants to sleep on their backs.

(u) Not hold a medical marijuana card; or distribute, grow, or use marijuana (including medical marijuana) or any controlled substance (except lawfully prescribed and over-the-counter medications).

(8) Child Care providers who are License Exempt or Registered Family Child Care Providers with the Office of Child Care (OCC) of the Oregon Department of Education (ODE) under OAR 414-205-0000 to 414-205-0170 must complete the "Basic Child Care Health and Safety" two-hour, web-based training or the three-hour Oregon Kids Healthy and Safe (OKHS) classroom training prior to being approved by the Department.

(a) Prior to June 16, 2014, a provider who sends the Department a Child Care Provider Listing and Provider Information Sheet (DHS 7494) with a revision date of March 2013, or those who attempt to take the web-based training but are unable due to technical difficulties at the training site, will not be failed for not meeting this training requirement.

(b) License Exempt or Registered Family Child Care Providers who are exempt from this training are those who state at least one of the following:

(A) English is a second language.

(B) No internet access is available.

(9) A child care provider not subject to certification or registration with the Office of Child Care (OCC) of the Oregon Department of Education (ODE) under OAR 414-205-0000 to 414-205-0170, 414-300-0000 to 414-300-0440, or 414-350-0000 to 414-350-0250, must complete an orientation provided by the Department or a Child Care Resource and Referral agency within 90 days of being approved by the Department if he or she:

(a) Receives funds from the Department; and

(b) Begins providing child care services after June 30, 2010, or resumes providing child care services, after a break of more than one year that began after June 30, 2010.

(10) Child care providers and any individual supervising, transporting, preparing meals, or otherwise working in the proximity of child care children and those completing daily attendance and billing records shall not be under the influence.

(11) For purposes of these rules:

(a) "Premises" means the home or facility structure and grounds, including indoors and outdoors and space not directly used for child care.

(b) "Under the influence" means observed abnormal behavior or impairments in mental or physical performance leading a reasonable person to believe the individual has used alcohol, any controlled substances (including lawfully prescribed and over-the-counter medications), marijuana (including medical marijuana), or inhalants that impairs their performance of essential job function or creates a direct threat to child care children or others. Examples of abnormal behaviors include, but are not limited to hallucinations, paranoia, or violent outbursts. Examples of impairments in physical or mental performance include, but are not limited to slurred speech as well as difficulty walking or performing job activities.

Stat. Auth.: ORS 181.537, 409.050, 411.060, 411.070

Stats. Implemented: ORS 181.537, 329A.340, 409.010, 409.050, 409.610, 411.060, 411.070, 411.122

Hist.: AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 17-1994(Temp), f. & cert. ef. 8-15-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 2-1997, f. 2-27-97, cert. ef. 3-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 12-1997, f. & cert. ef. 8-25-97; AFS 14-1999, f. & cert. ef. 11-1-99; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 12-2001, f. 6-29-01, cert. ef. 7-1-01; AFS 22-2002, f. 12-31-02, cert. ef. 1-1-03; SSP 13-2004, f. 4-29-04, cert. ef. 5-1-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 6-2005(Temp), f. & cert. ef. 4-25-05 thru 9-30-05; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 25-2012, f. 6-29-12, cert. ef. 7-1-12; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 8-2013, f. & cert. ef. 4-1-13; SSP 5-2014(Temp), f. 2-4-14, cert. ef. 3-1-14 thru 8-28-14; SSP 10-2014(Temp), f. & cert. ef. 4-1-14 thru 8-28-14; SSP 15-2014, f. & cert. ef. 7-1-14; SSP 21-2014(Temp), f. & cert. ef. 8-13-14 thru 2-9-15; SSP 6-2015, f. 1-30-15, cert. ef. 2-1-15; SSP 17-2015, f. & cert. ef. 6-30-15; SSP 3-2016(Temp), f. & cert. ef. 1-20-16 thru 7-17-16

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Rule Caption: Amending rules about the start date of some APD medical assistance benefits
Adm. Order No.: SSP 4-2016(Temp)
Filed with Sec. of State: 1-22-2016
Certified to be Effective: 1-22-16 thru 6-11-16
Notice Publication Date:
Rules Amended: 461-180-0010, 461-180-0090, 461-180-0140
Rules Suspended: 461-180-0010(T), 461-180-0090(T), 461-180-0140(T)
Subject: The Department of Human Services is adopting temporary rule changes described below to make clarifications to temporary rules originally adopted on December 15, 2015, relating to the start date for some APD assistance programs.

- OAR 461-180-0010 about the effective dates for adding a new person to an open case is being amended to state that the date benefits are requested for the individual establishes a date of request (DOR) for the individual and that the effective dates for OSIPM and General Assistance Medical (GAM) eligibility are determined in accordance with OAR 461-180-0090.

- OAR 461-180-0090 about the effective date for initial month medical benefits is being amended to clarify that if a client does not meet all eligibility requirements on the DOR but does meet all requirements within the application processing time frames in OAR 461-115-0190, then the start date for GAM, OSIPM, and Qualified Medicare Beneficiary Disabled Worker (QMB-DW) medical benefits is the first day of the month that includes the date that all eligibility requirements are met. Currently if all eligibility requirements are not met on the DOR, eligibility is effective on the date that all eligibility requirements are met. The rule is also amended to describe limitations and exceptions to the rule for certain residents of public institutions and state psychiatric institutions, inmates (including inmates with suspended benefits), and individuals moving to Oregon from another state.

- OAR 461-180-0140 about the effective dates for retroactive medical benefits is being amended to add limitations and exceptions that apply to the start date of benefits for certain inmates and individuals moving to Oregon from another state.

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

461-180-0010
Effective Dates; Adding a New Person to an Open Case

(1) In the following programs, the effective date for adding an individual (other than an assumed eligible newborn) to the benefit group (see OAR 461-110-0750) is one of the following:

(a) Effective December 1, 2015, in the GAM and OSIPM programs, the date benefits are requested for the individual establishes a date of request (see OAR 461-115-0030) for the individual. The effective date for the individual is determined in accordance with OAR 461-180-0090.

(b) In the REFM program, it is whichever occurs first:

(A) The date the individual requests benefits, if the individual was eligible as of that date.

(B) The date all eligibility requirements are met.

(c) In the SNAP program:

(A) If adding the individual increases benefits, it is the first of the month after the filing group (see OAR 461-110-0370) reports the person has joined the household group (see OAR 461-110-0210). If verification is requested, the effective date for the change is:

(i) The first of the month following the date the change was reported if verification is received by the Department no later than the due date for the verification.

(ii) The first of the month following the date the verification is received by the Department if received after the verification due date.

(B) If adding the individual reduces benefits, it is the first of the month following the month in which the notice period ends (see OAR 461-175-0050).

(c) In the GA, OSIP, REF, SFPSS, and TANF programs, it is the date on which all eligibility requirements are met and verified. If benefits have been issued for the month and adding the new person would reduce benefits, the person is added the first of the month following the month in which the notice period ends (see OAR 461-175-0050).

(d) In the QMB-BAS and QMB-DW programs, it is the first of the month after the new individual has been determined to meet all QMB eligibility criteria and the Department receives the required verification.

(e) In the QMB-SMB program, it is the first of the month in which the new individual has been determined to meet all QMB-SMB eligibility criteria and the Department receives the required verification.

(f) In the SFPSS and TANF programs, for adding a child (see OAR 461-001-0000) to be covered by a provider-direct child care payment, it is the first of the month in which the child is added to the benefit group.

(2) In the following programs, the effective date for adding an assumed eligible newborn to the benefit group is one of the following:

(a) In the GAM, OSIPM, and REFM programs, it is the date of birth if all the following paragraphs are true. If any of the following paragraphs is not true, the newborn is added to the benefit group in accordance with section (1) of this rule.

(A) A request for benefits is made within one year of the birth. For purposes of this paragraph, a telephone call from the attending physician, another licensed practitioner, a hospital, or the family is considered a request for benefits.

(B) The newborn has continuously lived with the mother since the date of birth.

(C) The mother was receiving GAM or OSIPM on the date of birth, even if she is not currently eligible for benefits.

(b) In the SFPSS and TANF programs, it is:

(A) The date of birth, if all eligibility requirements are met and verified within 45 days after the birth; or

(B) The date all eligibility factors are met and verified, if the verification is completed more than 45 days after the date of birth.

(3) In the ERDC program, the effective date for adding an individual to the need group (see OAR 461-110-0630) or benefit group is as follows:

(a) If adding the individual to the need group will decrease the copay, the effective date is the first of the month after the client reports the person has joined the household.

(b) If adding the individual to the need group increases the copay, for instance, because the individual receives income, the effective date is the first of the month following the end of the decision notice period (see OAR 461-175-0050).

(c) The effective date for adding a child to the benefit group, that is, covering the cost of the child's care--is the earliest of the following:

(A) For newborns, the date of birth, if all eligibility requirements are met and verified within 45 days after the birth.

(B) For all other children, the first of the month in which the change is reported, if all eligibility requirements are met and verified within 45 days.

(C) For newborns and other children, if eligibility cannot be verified within 45 days, the effective date is the first of the month in which all eligibility factors are met and verified.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.816, 412.049, 414.042
Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.816, 412.049, 414.042
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 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 19-1997, f. & cert. ef. 10-1-97; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 19-2013(Temp), f. 7-31-13, cert. ef. 8-1-13 thru 1-28-14; SSP 28-2013(Temp), f. & cert. ef. 10-1-13 thru 1-28-14; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 32-2015(Temp), f. & cert. ef. 12-15-15 thru 6-11-16; SSP 4-2016(Temp), f. & cert. ef. 1-22-16 thru 6-11-16

461-180-0090
Effective Dates; Initial Month Medical Benefits

The effective date for starting medical benefits is as follows:

(1) Effective December 1, 2015, in the GAM, OSIPM, and QMB-DW programs:

(a) Except as provided for in subsections (b) to (h) of this section:

(A) If the client meets all eligibility requirements on the date of request (see OAR 461-115-0030), it is the first day of the month that includes the date of request. An OSIPM program client who is assumed eligible under OAR 461-135-0010(5) meets "all eligibility requirements" for the purposes of this section as follows:

(i) Effective the first day of the month of the initial SSI payment if the client is age 21 or older.

(ii) Effective the first day of the month prior to the month of the initial SSI payment if the client is under the age of 21.

(B) If the client does not meet all eligibility requirements on the date of request, but meets all requirements after the date of request, within the application processing time frames of OAR 461-115-0190, it is the first day of the month that includes the date that all eligibility requirements are met.

(b) If the client does not complete the application within the time period described in OAR 461-115-0190 (including the authorized extension), the determination of an effective date requires a new date of request.

(c) Except as provided for in subsections (d) and (e) of this section, for a new applicant who is an inmate (see OAR 461-135-0950) on any day of the month during the month that the applicant is determined to meet all eligibility requirements, the effective date is determined in accordance with subsections (a) and (b) of this section, except that coverage is not in effect for any day during the month that the applicant is an inmate other than the date of incarceration and the date of release.

(d) The effective date for an individual residing in a public institution (see OAR 461-135-0950) meeting the requirements of OAR 461-135-0950 regarding applications received by individuals with a serious mental illness is determined in accordance with OAR 461-135-0950.

(e) The effective date for an individual meeting the eligibility requirements of OAR 461-135-0950 regarding residents of a state psychiatric institution is the date that all eligibility requirements are met, including other chapter 461 eligibility requirements, if those requirements are met within the application processing time frames of OAR 461-115-0190. Otherwise the requirements of subsection (b) of this section apply.

(f) The effective date for an inmate or a resident of state hospital with suspended benefits that will be reinstated is determined in accordance with OAR 461-135-0950. If benefits will not be reinstated the inmate is considered a new applicant and the effective date is determined in accordance with subsection (c) of this section.

(g) The effective date for a new applicant who is receiving Medicaid in another state on the date of request, but meets the requirements of OAR 461-165-0030 regarding receipt of medical benefits in another state is:

(A) The date of request if all eligibility requirements are met on the date of request or after the date of request, but during the month that includes the date of request.

(B) If all eligibility requirements are not met during the month that includes the date of request the effective date is determined in accordance with paragraph (1)(a)(B) and subsection (b) of this section.

(h) The effective date for an applicant receiving Medicaid in another state prior to the date of request, but during the month that includes the date of request, is the day following the day that Medicaid benefits end in the other state if all eligibility requirements are met during the month that includes the date of request. If all requirements are not met in the month that includes the date of request the effective date is determined in accordance with paragraph (1)(a)(B) and subsection (b) of this section.

(2) In the QMB-BAS program, it is the first of the month after the benefit group (see OAR 461-110-0750) has been determined to meet all QMB-BAS program eligibility criteria and the Department receives the required verification.

(3) In the QMB-SMB and QMB-SMF programs, it is:

(a) The first of the month in which the benefit group meets all program eligibility criteria and the Department receives the required verification; or

(b) The first of the month in which the Low Income Subsidy (LIS) information is received by the Social Security Administration (SSA), if the SMB or SMF program application was generated by the electronic transmission of LIS data from the SSA and the benefit group meets all program eligibility criteria.

(4) In the REFM program:

(a) Except as provided in subsection (b) of this section:

(A) If the individual meets all eligibility requirements on the date of request (see OAR 461-115-0030), it is the date of request.

(B) If the individual does not meet all eligibility requirements on the date of request, it is the first day following the date of request that all eligibility requirements are met.

(b) If the individual does not complete the application within the time period described in OAR 461-115-0190 (including the authorized extension), the determination of an effective date requires a new date of request.

(5) Retroactive eligibility is authorized under certain circumstances in some medical programs (see paragraph (1)(a)(A) of this rule, OAR 461-135-0875, and 461-180-0140).

Stat. Auth.: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.704, 411.706, 414.025, 414.231, 414.826, 414.831, 414.839

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.704, 411.706, 414.025, 414.231, 414.826, 414.831, 414.839

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 1-1993, f. & cert. ef. 2-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 5-2000, f. 2-29-00, cert. ef. 3-1-00; SSP 5-2003, f. 2-26-03, cert. ef. 3-1-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 1-2010(Temp), f. & cert. ef. 1-26-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 20-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 19-2013(Temp), f. 7-31-13, cert. ef. 8-1-13 thru 1-28-14; SSP 28-2013(Temp), f. & cert. ef. 10-1-13 thru 1-28-14; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 15-2014, f. & cert. ef. 7-1-14; SSP 32-2015(Temp), f. & cert. ef. 12-15-15 thru 6-11-16; SSP 4-2016(Temp), f. & cert. ef. 1-22-16 thru 6-11-16

461-180-0140

Effective Dates; Retroactive Medical Benefits

(1) Effective December 1, 2015, in the OSIPM program:

(a) If an applicant requests and is eligible for retroactive medical benefits, the earliest date the applicant may be eligible is the first day of the third month before the month that includes the date of request (see OAR 461-115-0030). For example, if the applicant requests benefits on July 10th, eligibility may begin as early as April 1.

(b) Except as provided for in subsections (c) and (d) of this section, after the earliest date is established, eligibility is determined on a month-by-month basis. The period starts on the earliest established date and ends on the last day of the month prior to the month that includes the date of request. For example, if the applicant requests benefits on August 10th, the earliest date is May 1. Eligibility is established separately for May 1 through May 31, June 1 through June 30, and July 1 through July 31.

(c) Retroactive eligibility is not available for any period that an individual is an inmate (see OAR 461-135-0950) except for the date of incarceration and the date of release, unless coverage would be available under OAR 461-135-0950 while an inmate.

(d) The earliest effective date of retroactive eligibility for an individual who was receiving medical benefits in another state during the retroactive period is the day following the date that benefits end in the other state.

(2) If an applicant requests and is eligible for retroactive QMB DW, the earliest date the applicant may be eligible is three months before the date of request.

(3) If a QMB-SMB or QMB-SMF applicant requests and is eligible for retroactive payment of Part B Medicare premiums, the earliest date the applicant may be eligible is three months before the date of request.

(4) If an applicant applying for REFM is eligible for retroactive medical benefits, the earliest the applicant may be eligible is the most recent of the following:

(a) The date the applicant arrived in the United States; or

(b) Three months before the date of request.

Stat. Auth.: ORS 409.050, 411.060, 411.404

Stats. Implemented: ORS 409.010, 411.060, 411.404

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 35-1992, f. 12-31-92, cert. ef. 1-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 32-2015(Temp), f. & cert. ef. 12-15-15 thru 6-11-16; SSP 4-2016(Temp), f. & cert. ef. 1-22-16 thru 6-11-16

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Rule Caption: Amending rule relating to determining eligibility for OSIPM

Adm. Order No.: SSP 5-2016

Filed with Sec. of State: 2-3-2016

Certified to be Effective: 2-3-16

Notice Publication Date: 11-1-2015

Rules Amended: 461-135-0780

Subject: OAR 461-135-0780 about eligibility for the so-called Pickle amendment in OSIPM (Oregon Supplemental Income Program Medical) is being amended to reflect the annual Cost of Living Adjustment (COLA). This year, there was no federal update to the COLA. However, the rule still needs to be amended to reflect that the amount used when calculating the prior year's Social Security Benefit for 2014 will be the same for 2015.

Rules Coordinator: Kris Skaro—(503) 945-6067

461-135-0780

Eligibility for Pickle Amendment Clients; OSIPM

(1) An individual is eligible for OSIPM under this rule and the so-called Pickle amendment (Pub. L. No. 94 566, § 503, title V, 90 Stat. 2685 (1976)), if the individual meets all other eligibility requirements, and:

(a) Is receiving Social Security Benefits (SSB);

(b) Was eligible for and receiving SSI or state supplements but became ineligible for those payments after April 1977; and

(c) Would be eligible for SSI or state supplement if the SSB COLA increases paid under section 215(i) of the Social Security Act, after the last month the individual was both eligible for and received SSI or a supplement and was entitled to SSB, were deducted from current SSB.

(2) The SSB amount received by the individual when the individual became ineligible for SSI or OSIP is used as the individual's countable (see OAR 461-001-0000) Social Security income, for the purposes of the Pickle Amendment. If the amount cannot be determined using the information provided by the SSA, it is calculated in accordance with sections (3) and (5) of this rule.

(3) Determine the month in which the individual was entitled to Social Security and received SSI in the same month. Use the table in section (5) of this rule to find the percentage that applies to that month. Multiply the present amount of the individual's Social Security benefits by the applicable percentage. This amount, rounded down to the next lower whole dollar, is the individual's countable Social Security for purposes of this rule and the Pickle Amendment.

(4) Add the amount determined in accordance with section (2) or (3) of this rule to any other countable unearned income plus adjusted earned income of the individual, and if the total is less than the full SSI income standard for a single individual plus the $20 unearned income deduction (OAR 461-160-0550), the individual is eligible for OSIPM for purposes of this rule and the Pickle amendment.

(a) For spouses in the same financial group (see OAR 461-110-0530), determine the spouse's SSB amount in the year the individual stopped receiving SSI or perform the above calculation for the spouse's Social Security benefit using the same multiplier, regardless of whether or not the spouse (see OAR 461-001-0000) received SSI, combine the results and add the subtotal to all other countable unearned and adjusted earned income.

(b) If the total is less than the full SSI standard for a couple plus the $20 unearned income deduction (OAR 461-160-0550), the couple is eligible for OSIPM for purposes of this rule and the Pickle amendment. All other financial and non-financial eligibility criteria must be met.

(5) The following guide contains the calculations used to determine the SSB for prior years (use this table only if you cannot determine the prior year's amount using information provided by SSA): [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 411.060, 411.070, 411.083, 411.404

Stats. Implemented: ORS 411.060, 411.070, 411.083, 411.404, 411.704

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 30, f. 12-31-90, cert. ef. 1-1-91; AFS 25-1991, f. 12-30-91, cert. ef. 1-1-92; AFS 35-1992, f. 12-31-92, cert. ef. 1-1-93; AFS 29-1993, f. 12-30-93, cert. ef. 1-1-94; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 41-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; SSP 14-2003(Temp), f. & cert. ef. 6-18-03 thru 9-30-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 17-2004, f. & cert. ef. 7-1-04;

SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 39-2012(Temp), f. 12-28-12, cert. ef. 1-1-13 thru 6-30-13; SSP 8-2013, f. & cert. ef. 4-1-13; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 4-2015, f. & cert. ef. 1-1-15; SSP 5-2016, f. & cert. ef. 2-3-16

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Rule Caption: Establishing Workfare requirements for SNAP recipients subject to ABAWD time limit
Adm. Order No.: SSP 6-2016(Temp)
Filed with Sec. of State: 2-5-2016
Certified to be Effective: 2-5-16 thru 8-2-16
Notice Publication Date:
Rules Adopted: 461-190-0500
Rules Amended: 461-135-0520
Subject: The Department of Human Services, Office of Self-Sufficiency Programs, is adopting a new rule, OAR 461-190-0500, to establish the requirements for Workfare. Workfare is an employment program open to ABAWD (able-bodied adult without dependents) clients who reside in Multnomah or Washington County. (Oregon's statewide waiver of the federal three-month time limit on SNAP benefits expired on December 31, 2015. Starting January 1, 2016, ABAWD clients in Multnomah and Washington counties who are not otherwise exempt are subject to the time limit unless they meet work participation requirements.) OAR 461-135-0520 which states the requirements for ABAWD clients is also amended to indicate that Workfare is an option open to these clients.
Rules Coordinator: Kris Skaro—(503) 945-6067

461-135-0520
Eligibility Requirements for ABAWD; SNAP

This rule establishes eligibility (see OAR 461-001-0000) 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 if the individual received food benefits for more than 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 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 (I).

(b) The individual, during a consecutive 30-day period during which the individual is ineligible, meets the requirements of subsection (3)(d) of this rule.

(A) Eligibility established under this subsection for an applicant begins on the date the individual files a new application for food benefits and continues as long as the individual meets the requirements of subsection (3)(d) of this rule 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) There is no limit to how many times an individual may regain eligibility under this subsection during January 1, 2016 to December 31, 2018. However, an individual may only receive benefits without meeting the requirements of subsection (3)(d) of this rule for a total of 6 countable months 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) 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.

(6) This section is a placeholder to establish criteria the Department will use to grant exemptions to ABAWD who are ineligible if the Department receives special exemptions from the Food and Nutrition Service.

(7) An ABAWD involved in the activities specified in subsection (3)(d) or (3)(e) of this rule 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. 12-1-999; 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

461-190-0500
Workfare; SNAP

Workfare is a voluntary employment program open to ABAWD (see OAR 461-135-0520) who reside in Multnomah or Washington County to meet the work requirements in OAR 461-135-0520.

(1) For each individual that the Department determines has a potential for locating unsubsidized employment, Workfare begins with 30 days of intensive job search or job search training. If the Department determines this labor market test is inappropriate, Workfare begins with a job site placement.

(2) After the first 30 days, individuals who are not participating in an activity listed in OAR 461-135-0520(3)(d) may continue in a Workfare job site placement.

(3) Individuals in a Workfare job site placement must complete an average of five hours per week (20 hours per month). The individual must meet the monthly requirements in order to comply with the requirements of the Workfare program, unless they have good cause under OAR 461-130-0327.

(4) Individuals in a Workfare job site placement must provide proof from the employer of Workfare hours worked each month.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.116, 411.816
Stats. Implemented: ORS 409.050, 411.060, 411.070, 411.116, 411.816
Hist.: SSP 6-2016(Temp), f. & cert. ef. 2-5-16 thru 8-2-16

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Department of Justice
Chapter 137

Rule Caption: Amends Attorney General's Model Rule Providing for Immediate Review by Chief Administrative Law Judge
Adm. Order No.: DOJ 1-2016
Filed with Sec. of State: 1-28-2016
Certified to be Effective: 2-1-16
Notice Publication Date: 1-1-2016
Rules Amended: 137-003-0640
Subject: Amends OAR 137-003-0640 to remove sunset and make permanent immediate review by Chief Administrative Law Judge of certain Administrative Law Judge rulings. Permits agencies to, by rule, elect to provide immediate review instead of Chief Administrative Law Judge. Removes agency authority to provide no immediate review process.

The agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.
Rules Coordinator: Carol Riches—(503) 378-5987

137-003-0640
Immediate Review by Chief Administrative Law Judge

(1) Before issuance of a proposed order or before issuance of a final order if the administrative law judge has authority to issue a final order, the agency or a party may seek immediate review by the Chief Administrative Law Judge of the administrative law judge's decision on any of the following:

(a) A ruling on a motion to quash a subpoena under OAR 137-003-0585;

(b) A ruling refusing to consider as evidence judicially or officially noticed facts presented by the agency under OAR 137-003-0615 that is not rebutted by a party;

(c) A ruling on the admission or exclusion of evidence based on a claim of the existence or non-existence of a privilege;

(2) The agency or a party may file a response to the request for immediate review. The response shall be in writing and shall be filed with the Chief Administrative Law Judge within five calendar days after receipt of the request for review with service on the administrative law judge, the agency representative, if any, and any other party.

(3) The mere filing or pendency of a request for the Chief Administrative Law Judge's immediate review, even if uncontested, does not alter or extend any time limit or deadline established by statute, rule, or order.

(4) The Chief Administrative Law Judge shall rule on all requests for immediate review in writing.

(5) The request and ruling shall be made part of the record of the proceeding.

(6) The Chief Administrative Law Judge may designate in writing a person to exercise his or her responsibilities under this rule.

(7) The agency may by rule elect to provide for immediate review by the agency instead of the Chief Administrative Law Judge. The agency may specify that the rule applies only to a category of cases or to all cases. Any rule adopted pursuant to this subsection must be adopted and in effect prior to issuance of the agency's notice of proposed action.

Stat. Auth.: ORS 183.341
Stats. Implemented: ORS 183.341; ORS 183.413; ORS 183.415; ORS 183.630
Hist.: DOJ 10-1999, f. 12-23-99, cert. ef. 1-1-00; DOJ 19-2003, f. 12-12-03, cert. ef. 1-1-04; DOJ 1-2012, f. 1-11-12, cert. ef. 1-31-12; DOJ 4-2014(Temp), f. 1-31-14, cert. ef. 2-1-14 thru 7-31-14; DOJ 6-2014, f. & cert. ef. 4-1-14; DOJ 1-2016, f. 1-28-16, cert. ef. 2-1-16

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Rule Caption: Incarcerated obligors; confidentiality
Adm. Order No.: DOJ 2-2016
Filed with Sec. of State: 1-29-2016
Certified to be Effective: 2-1-16
Notice Publication Date: 11-1-2015
Rules Amended: 137-055-1140, 137-055-1160, 137-055-3300, 137-055-5110
Subject: OAR 137-055-1140, 137-055-1160 and 137-055-5110 are amended to comply with the federal Office of Child Support Enforcement Security Agreement, clarifying that all child support information is confidential and may only be disclosed as necessary for the administration of the Program or when otherwise required by law.

OAR 137-055-3300 is amended to allow the Program to initiate a modification for a change in circumstances upon receipt of proof that an obligor qualifies as an incarcerated obligor under the rule.
Rules Coordinator: Carol Riches—(503) 378-5987

137-055-1140
Confidentiality of Records in the Child Support Program

(1)(a) As used in this rule, "employee" means a person employed by the Department of Justice (DOJ) or a district attorney office that provides Child Support Program services;

(b) "Party" has the meaning given in OAR 137-055-1020, or a party's attorney.

(2) For purposes of this rule, "case record" means all information residing in all Child Support Program computer systems, electronic data storage, and paper files, including but not limited to:

(a) The names of the obligor, beneficiary and obligee or other payee;

(b) The addresses of the obligor, beneficiary and obligee or other payee;

(c) The contact address and address of service of the obligee, beneficiary or obligor;

(d) The name and address of the obligor's or obligee's employer;

(e) The social security numbers of the obligor, the obligee and beneficiaries;

(f) The record of all legal and collection actions taken on the case;

(g) The record of all accrual and billings, payments, distribution and disbursement of payments;

(h) The narrative record; and

(i) The contents of any paper file relating to a child support case.

(j) All information extracted from other agencies' electronic records, as defined in ORS 84.004.

(3) Child support case records are confidential and may not be disclosed or used except for purposes directly connected to the administration of the Child Support Program.

(4) For purposes of this rule, "purposes directly connected to the administration of the Child Support Program" includes the following:

(a) The disclosure of information necessary to process a Child Support Program legal action.

(b) Information shared as provided in 45 CFR 303.21, ORS 25.260(5), OAR 137-055-1320, and 137-055-1360, or other agency rule;

(c) The disclosure of information related to an investigation, prosecution or criminal or civil proceeding conducted in connection with the administration of:

(A) Title IV-D of the Social Security Act (child support programs in Oregon and other states);

(B) Title IV-A of the Social Security Act (Temporary Assistance to Needy Families); or

(C) Title XIX of the Social Security Act (Medicaid programs).

(d) Information shared as required by state or federal statute or rule;

(e) The disclosure of information to elected federal and state legislators, the Governor, or the county commissioners to address a constituent complaint.

(A) Elected federal and state legislators and the Governor are considered to be within the chain of oversight of the Child Support Program. Information about a child support case may be shared with these elected officials and their staff in response to issues brought by constituents who are parties to the case;

(B) County commissioners serve in a representative for their constituents and are entitled to receive information necessary to respond to questions or concerns about child support cases received from their constituents. District Attorneys are DOJ sub-recipients. Therefore, Child Support Program Administration may also respond to constituent issues brought by county commissioners on District Attorney administered child support cases where the constituent is a party.

(f) The disclosure of information to a party's interpreter.

(g) The disclosure of information to the executor of an estate or personal representative of a deceased party that the deceased party would have been entitled to receive.

(h) The disclosure of information to a private industry council as provided in 42 USC 654a(f)(5).

(A) The information released under this subsection may be provided to a private industry council only for the purpose of identifying and contacting noncustodial parents regarding participation of the noncustodial parents in welfare-to-work grants under 42 USC 603(a)(5).

(B) For the purposes of this subsection, "private industry council" means, with respect to a service delivery area, the private industry council or local workforce investment board established for the service delivery area pursuant to Title I of the Workforce Investment Act (29 USC 2801, et seq.). "Private industry council" includes workforce centers and one-stop career centers.

(i) The disclosure of information about a child support case to a party to that case.

(5) Except as specifically required or authorized by statute or rule, when information about a child support case is disclosed in accordance with section (4), personal information about the parties and child must be redacted from documents before release. Information about a party need not be redacted when releasing information to that party. Personal information about the parties and child includes the following:

(a) Residence or mailing address;

(b) Social security number;

(c) Telephone number;

(d) Employer's name, address and telephone number;

(e) Financial institution account information;

(f) Driver's license number;

(g) Date of birth;

(h) Former legal names;

(i) Day care provider's name and address; and

(j) Any other information which may identify the location of the minor child or party.

(6) Case status and payment history may be provided to a party via the Child Support Program web page if appropriate personal identifiers, such as social security number, case number, or date of birth are provided in order to access such information.

(7) Where there is a finding of risk and order for nondisclosure of information pursuant to OAR 137-055-1160, all nondisclosable information must be redacted before documents are released.

(8) Requestors may be required to pay for the actual costs of staff time and materials to produce copies of case records before documents are released.

(9) Information that would normally be disclosed to a party to a child support case can be disclosed to a non-party who contacts the Child Support Program on behalf of the party if:

(a) The party has granted written consent to release the information to the person;

(b) The person is the current spouse or domestic partner of the party, who is residing with the party, or a parent or legal guardian of the party, and provides the party's Social Security number or child support case number; or

(c) The person has power of attorney for the party, the duration and scope of which authorizes release of the requested information from a case record at the time that the person requests such information. The power of attorney remains in effect until a written request to withdraw the power of attorney is submitted by the party or by the person, unless otherwise noted on the power of attorney.

(10) A child support case account balance is derived from the child support judgment, which is public information, and from the record of payments, which is not. Therefore, the case balance is not public information, is confidential and may not be released to persons not a party except as otherwise provided in this rule.

(11) Information obtained from the Internal Revenue Service and/or the Oregon Department of Revenue is subject to confidentiality rules imposed by those agencies even if those rules are more restrictive than the standards set in this rule, and may not be released for purposes other than those specified by those agencies.

(12) Criminal record information obtained from the Law Enforcement Data System or any other law enforcement source may be used for child support purposes only and may not be disclosed to parties or any other person or agency outside of the Child Support Program. Information about the prosecution of child support related crimes initiated by the administrator may be released to parties in the child support case.

(13) Employees with access to computer records or records of any other nature available to them as employees may not access such records that pertain to their own child support case or the child support case of any relative or other person with whom the employee has a personal friendship or business association. No employee may perform casework on their own child support case or the case of any relative or other person with whom the employee has a personal friendship or business association.

(14) When an employee receives information that gives reasonable cause to believe that a child has suffered abuse as defined in ORS 419B.005(1)(a) the employee must make a report to the Department of Human Services as the agency that provides child welfare services and, if appropriate, to a law enforcement agency if abuse is witnessed while providing program services.

(15) Employees who are subject to the Oregon Rules of Professional Conduct must comply with those rules regarding mandatory reporting of child abuse.

(16) If an employee discloses or uses the contents of any child support records, files, papers or communications in violation of this rule, the employee is subject to progressive discipline, up to and including dismissal from employment.

(17) To ensure knowledge of the requirements of this rule, employees with access to computer records, or records of any other nature available to them as employees, are required annually to:

(a) Review this rule and the Child Support Program's automated tutorial on confidentiality;

(b) Complete with 100 percent success the Child Support Program's automated examination on confidentiality; and

(c) Complete the certificate acknowledging confidentiality requirements. The certificate must be in the form prescribed by the Child Support Program.

(18)(a) For DOJ employees, each certificate of completion must be forwarded to DOJ Human Resources, with a copy kept in the employee's local office drop file or saved in an electronic format;

(b) For district attorney employees, each certificate of completion must be kept in accordance with county personnel practices.

(19) Notwithstanding any other provision of this rule, an employee may release a party's name and address to a local law enforcement agency when necessary to prevent a criminal act that is likely to result in death or substantial bodily harm.

Stat. Auth.: ORS 25.260, 180.345

Stats. Implemented: ORS 25.260, 127.005, 411.320

Hist.: AFS 23-1997, f. 12-29-97, cert. ef. 1-1-98; AFS 19-1998, f. 10-5-98, cert. ef. 10-7-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0291; SSP 4-2003, f. 2-25-03, cert. ef. 3-1-03; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-1160; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-1160; DOJ 2-2004, f. 1-2-04 cert. ef. 1-5-04; DOJ 12-2004, f. & cert. ef. 10-1-04; DOJ 8-2005(Temp), f. & cert. ef. 9-1-05 thru 2-17-06; DOJ 1-2006, f & cert. ef. 1-3-06; DOJ 5-2006, f. 6-29-06, cert. ef. 7-3-06; DOJ 8-2007, f. 9-28-07, cert. ef. 10-1-07; DOJ 1-2010, f. & cert. ef. 1-4-10; DOJ 11-2011(Temp), f. 12-1-11, cert. ef. 12-5-11 thru 5-29-12; DOJ 13-2011, f. 12-30-11, cert. ef. 1-3-12; DOJ 2-2016, f. 1-29-16, cert. ef. 2-1-16

137-055-1160

Confidentiality — Finding of Risk and Order for Nondisclosure of Information

(1) For the purposes of this rule in addition to the definitions found in OAR 137-055-1020, the following definitions apply:

(a) "Claim of risk for nondisclosure of information" means a claim by a party to a paternity or support case made to the administrator, an administrative law judge or the court that there is reason to not contain or disclose the information specified in OAR 137-055-1140(5) because the health, safety or liberty of a party or child would unreasonably be put at risk by disclosure of such information;

(b) "Finding of risk and order for nondisclosure of information" means a finding and order by the administrator, an administrative law judge or the court, which may be made ex parte, that there is reason to not contain or disclose the information specified in OAR 137-055-1140(5) because the health, safety or liberty of a party or child would unreasonably be put at risk by disclosure of such information.

(2) A claim of risk for nondisclosure of information may be made to the administrator by a party at any time that a child support case is open. Forms for making a claim of risk for nondisclosure of information will be available from all child support offices and be made available to other community resources. At the initiation of any legal process that would result in a judgment or administrative order establishing paternity or including a provision concerning support, the administrator will provide parties an opportunity to make a claim of risk for nondisclosure of information.

(3)(a) When a party makes a written and signed claim of risk for nondisclosure of information pursuant to section (2) of this rule, the administrator will make a finding of risk and order for nondisclosure of information unless the party does not provide a contact address pursuant to section (5) of this rule;

(b) When a party is accepted into the Address Confidentiality Program (ACP), the administrator will make a finding of risk and order for nondisclosure of information. The party's contact address will be the ACP substitute address designated by the Attorney General pursuant to OAR 137-079-0150.

(4) An administrative law judge will make a finding of risk and order for nondisclosure of information when a party makes a claim of risk for nondisclosure of information in a hearing unless the party does not provide a contact address pursuant to section (5) of this rule.

(5) A party who makes a claim of risk for nondisclosure of information under subsection (3)(a) or section (4) must provide a contact address that is releasable to the other party(ies) in legal proceedings. The claim of risk for nondisclosure of information form provided to the party by the administrator must have a place in which to list a contact address. If a requesting party does not provide a contact address, a finding of risk and order for nondisclosure of information will not be made.

(6) When an order for nondisclosure of information has been made, the administrator must redact any of the identifying information specified in section (1) from all pleadings, returns of service, orders, or any other documents that would be sent to the parties or would be available as public information in a court file. Any document sent to the court that contains any of the information specified in section (1) must be transmitted separately in a manner that notifies the court of the confidential nature of the contents or as provided by UTCR 2.130.

(7) A finding of risk and order for nondisclosure of information entered pursuant to this rule will be documented on the child support case file and will remain in force until such time as the ACP participant or party who requested a claim of risk retracts the claim or requests dismissal in writing.

(8) A party who requested a claim of risk may retract the claim on a form provided by the administrator. When a signed retraction form is received by the administrator, the administrator will enter, or will ask the court to enter, a finding and order terminating the order for nondisclosure of information.

(9) Any information previously protected under an order for nondisclosure of information will be subject to disclosure when the order for nondisclosure of information is terminated. The retraction form provided by the administrator will advise the requestor that previously protected information may be released to the other party(ies).

(10) In cases where the administrator is not involved in the preparation of the support order or judgment establishing paternity, or when child support services under ORS 25.080 are not being provided, any claim of risk for nondisclosure of information pursuant to ORS 25.020 must be made to the court.

(11) Notwithstanding section (5) of this rule, where the court has made a finding of risk and order for nondisclosure of information and the case is receiving or subsequently receives child support services pursuant to ORS 25.080, the administrator will implement the court's finding pursuant to this rule. In such a case, the administrator will use, in order of preference, the party's contact address as contained in the court file, or the party's contact address previously provided to the Child Support Program. If no contact address is available through either of these sources, the administrator will send a written request to the party, asking that the party provide a contact address. The written request from the administrator must advise the party that if no contact address is provided within 30 days, the administrator will use, in order of preference, the party's mailing or residence address as the contact address, and the new contact address may be released to the other party(ies).

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

Stat. Auth.: ORS 25.020 & 180.345

Stats. Implemented: ORS 25.020, 192.820–192.858

Hist.: AFS 23-1997, f. 12-29-97, cert. ef. 1-1-98; AFS 19-1998, f. 10-5-98, cert. ef. 10-7-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0291; SSP 4-2003, f. 2-25-03, cert. ef. 3-1-03; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-1160; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-1160; DOJ 2-2004, f. 1-2-04 cert. ef. 1-5-04; DOJ 12-2004, f. & cert. ef. 10-1-04; DOJ 8-2005(Temp), f. & cert. ef. 9-1-05 thru 2-17-06; DOJ 1-2006, f & cert. ef. 1-3-06; DOJ 1-2007, f. & cert. ef. 1-2-07; DOJ 5-2007, f. & cert. ef. 7-2-07; DOJ 8-2009, f. 7-1-09, cert. ef. 8-1-09; DOJ 12-2010(Temp), f. 7-1-10, cert. ef. 9-1-10 thru 2-25-11; DOJ 16-2010, f. & cert. ef. 10-1-10; DOJ 8-2011(Temp), f. & cert. ef. 11-2-11 thru 4-28-12; DOJ 13-2011, f. 12-30-11, cert. ef. 1-3-12; DOJ 2-2016, f. 1-29-16, cert. ef. 2-1-16

137-055-3300
Incarcerated Obligors

(1) For purposes of establishing or modifying a support order, the following definitions apply:

(a) "Correctional facility" means any place used for the confinement of persons charged with or convicted of a crime or otherwise confined under a court order, and includes but is not limited to a youth correction facility as provided in ORS 162.135.

(A) "Correctional facility" applies to a state hospital only as to persons detained therein charged with or convicted of a crime, or detained therein after having been found guilty except for insanity of a crime under ORS 161.290 to 161.370.

(B) "Correctional facility" includes alternative forms of confinement, such as house arrest or confinement, where an obligor is not permitted to seek or hold regular employment.

(b) "Incarcerated obligor" means a person who:

(A) Is or may become subject to an order establishing or modifying child support; and

(B) Is, or is expected to be, confined in a correctional facility for at least six consecutive months from the date of initiation of action to establish a support order, or from the date of a request to modify an existing order pursuant to this rule.

(2) The provisions of this rule do not apply to an obligor who is incarcerated because of nonpayment of support.

(3) For purposes of computing a monthly support obligation for an incarcerated obligor, all provisions of the Oregon child support guidelines, as set forth in OAR 137-050-0700 through 137-050-0765, will apply except as otherwise specified in this rule.

(4) The incarcerated obligor's income and assets are presumed available to the obligor, unless such income or assets are specifically restricted, assigned, or otherwise inaccessible pursuant to state or federal laws or rules regarding the income and assets of incarcerated obligors.

(5) If the incarcerated obligor has gross income less than $200 per month, the administrator shall presume that the obligor has zero ability to pay support.

(6) If the provisions of section (5) of this rule apply, the administrator will not initiate an action to establish a support obligation if the obligor is an incarcerated obligor, as defined in subsection (1)(b) of this rule, until 61 days after the obligor's release from incarceration.

(7) Upon receipt of proof that an obligor is an "incarcerated obligor" as defined in subsection (1)(b) of this rule, the Administrator will initiate a modification of the support obligation.

(8) An order entered pursuant to ORS 416.425 and this rule, that modifies a support order because of the incarceration of the obligor, is effective only during the period of the obligor's incarceration and for 60 days after the obligor's release from incarceration. The previous support order is reinstated by operation of law on the 61st day after the obligor's release from incarceration.

(a) An order that modifies a support order because of the obligor's incarceration must contain a notice that the previous order will be reinstated on the 61st day after the obligor's release from incarceration;

(b) Nothing in this rule precludes an obligor from requesting a modification based on a periodic review, pursuant to OAR 137-055-3420, or a change of circumstances, pursuant to OAR 137-055-3430.

Stat. Auth.: ORS 180.345 & 416.455

Stats. Implemented: ORS 416.425

Hist.: AFS 21-2000, f. & cert. ef. 8-1-00; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0078; AFS 4-2001, f. 3-28-01, cert. ef. 4-1-01; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-3300; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03; DOJ 7-2004, f. 3-30-04, cert. ef. 4-1-04; DOJ 12-2004, f. & cert. ef. 10-1-04; DOJ 1-2010, f. & cert. ef. 1-4-10; DOJ 6-2012(Temp), f. & cert. ef. 5-24-12 thru 11-20-12; DOJ 15-2012, f. 9-27-12, cert. ef. 10-1-12; DOJ 7-2014, f. & cert. ef. 4-1-14; DOJ 2-2016, f. 1-29-16, cert. ef. 2-1-16

137-055-5110
Child Attending School

The purpose of this rule is to provide additional information as to how the Child Support Program (CSP) will apply the provisions of ORS 107.108 when the order or modification provides for support until the child is age 21, so long as the child is a child attending school in accordance with ORS 107.108.

(1) In addition to the definitions found in ORS 107.108, as used in OAR chapter 137, division 55, the following terms have the meanings given below:

(a) "Active member of the military" means:

(A) A member of the Army, Navy, Air Force, Marine Corps, or Coast Guard (collectively known as the "armed forces"), who is serving on active duty; or

(B) A member of the National Guard who is serving full-time National Guard state or federal active duty; or

(C) A cadet at a federal service academy.

(b) "Adult child" means a child over the age of 18 and under the age of 21, who is not married or otherwise emancipated, and is not currently a child attending school.

(c) "Child attending school" has the meaning given in ORS 107.108, except a child attending school does not include an active member of the military.

(d) "Satisfactory academic progress" means:

(A) For a child attending high school who is over age 18 but under age 21, enrollment in school and meeting attendance requirements or as defined by the school; or

(B) For a child attending post high school classes, as defined by the higher educational institution.

(2) If the obligor has not provided the child attending school with an address for sending the documents required by ORS 107.108 to, the administrator, pursuant to OAR 137-055-1140(3)–(4), may release the address of the obligor to the child attending school. If the obligor has provided a contact address and that contact address remains valid, the administrator will release only that contact address to the child attending school. If the obligor does not provide an address to the CSP or to the child, the obligor's failure to receive required documents is not a basis for objecting that a child does not qualify as a child attending school.

(3) If there has been a finding and order of nondisclosure on behalf of the child attending school pursuant to ORS 25.020, the child may send the obligor's copy of any documents required by ORS 107.108 to the administrator for the administrator to forward to the obligor. The child must submit a copy of the documents to the administrator within the time periods set out in ORS 107.108. The administrator will redact the following information prior to sending a copy of the documents otherwise required to be provided to the obligor:

(a) Residence, mailing or contact address including the school name and address;

(b) Social security number;

(c) Telephone number including the school telephone number;

(d) Driver's license number;

(e) Employer's name, address and telephone number; and

(f) Name of registrar or school official.

(4) If a child attending school is in the care of the Oregon Youth Authority (OYA), any and all reporting duties of the child attending school will be the duty of OYA.

(5) The Department of Justice will distribute and disburse support directly to the child attending school, unless good cause is found to distribute and disburse support in some other manner. For purposes of this section "good cause" may include:

(a) The child is in the care of OYA;

(b) The child provides written notarized authorization for distribution and disbursement to the obligee;

(c) The court, administrative law judge or administrator orders otherwise; or

(d) The administrator is enforcing the Oregon order at the request of another state and that state has indicated they are unable to distribute and disburse support directly to the child.

(6)(a) If the administrator makes a finding that the support payment should be distributed and disbursed to the obligee under subsection (5)(b), the administrator will send a notice of redirection of support to the parties.

(b) A party may contest the administrator's finding as provided in ORS 183.484.

(7) The parent ordered to pay support can object to continuing to pay support as provided in ORS 107.108(8).

(a) Unless new supporting documentation can be provided, an objection can only be made once per semester or term as defined by the school, or three months from the date of a previous objection if the school does not have semesters or terms.

(b) Any party may contest the administrator's finding from the objection as provided in ORS 183.484.

(8) When support has been suspended under ORS 107.108, if the case has been closed pursuant to OAR 137-055-1120 and the adult child subsequently complies with the requirements for reinstatement, the adult child must submit the written confirmation of compliance, proof of written consent and an application for services as described in OAR 137-055-1060. The written confirmation and application for services may be combined as one document.

(9) When the administrator has suspended or reinstated a support obligation pursuant to ORS 107.108, a party may request an administrative review of the action within 30 days after the date of the notice of suspension or reinstatement.

(a) The only issues which may be considered in the review are whether:

(A) The child meets the requirements of a child attending school;

(B) The written notice of the child's intent to attend or continue to attend school was sent to the parent ordered to pay support;

(C) The written consent was sent or proof of written consent was received.

(b) The burden of proof for the administrative review is on the requesting party to provide documentation supporting the allegation(s).

(10) When support has been suspended under ORS 107.108, the adult child may request to receive notice of future modifications and may request to be a party to the modification as outlined in ORS 107.108 and OAR 137-055-3430. The adult child does not have any party status on the case until the request has been received by the administrator.

(11) In addition to the rights afforded under ORS 107.108, if the obligee claims good cause under OAR 137-055-1090, the child attending school may apply for services to enforce the existing support obligation on behalf of the child attending school only.

(a) The application will be handled in the same manner as outlined in OAR 137-055-1090(10)(a)–(c).

(b) If the child attending school applies for services, and services are provided under ORS 25.080, all arrears for that child will accrue to the child attending school as provided for in OAR 137-055-6021, until the child's 21st birthday or is otherwise emancipated and then will be file credited off the case.

(12) If a court orders payment from a higher education savings plan in lieu of support under ORS 107.108;

(a) The administrator will cease collection and billing actions on behalf of that child at age 18. If the support order is for a single or last remaining child the department will close the case unless there are arrears on the case.

(b) If payments are ordered from a higher education savings plan and the court has not provided for a modification of the support amount for any remaining children of the order, this is a substantial change of circumstances for purposes of modifying the support order.

(c) If payment from a higher education savings plan has been ordered, the administrator will not take action to subsequently modify the support order to include child attending school support provisions for that child.

(13) Except for support orders originally issued by a state other than Oregon and being enforced under the provisions of ORS 110.303 to 110.452, if the most recent order or modification for support cites ORS 107.108 or otherwise provides for support of a child attending school, the administrator will follow the provisions of ORS 107.108 and this rule, regardless of other child attending school provisions that may be in the support order.

Stat. Auth.: ORS 25.020, 107.108 & 180.345
Stats. Implemented: ORS 25.020, 25.080, 107.108 & 416.407
Hist.: AFS 23-2001, f. 10-2-01, cert. 10-6-01; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-5110; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-5110; DOJ 2-2004, f. 1-2-04 cert. ef. 1-5-04; DOJ 10-2004, f. & cert. ef. 7-1-04; DOJ 5-2005, f. & cert. ef. 7-15-05; DOJ 8-2005(Temp), f. & cert. ef. 9-1-05 thru 2-17-06; DOJ 1-2006, f & cert. ef. 1-3-06; DOJ 5-2006, f. 6-29-06, cert. ef. 7-3-06; DOJ 6-2006, f. & cert. ef. 10-2-06; DOJ 8-2007, f. 9-28-07, cert. ef. 10-1-07; DOJ 10-2008, f. & cert. ef. 7-1-08; DOJ 1-2010, f. & cert. ef. 1-4-10; DOJ 13-2014(Temp), f. & cert. ef. 10-1-14 thru 3-30-15; DOJ 6-2015, f. & cert. ef. 3-30-15; DOJ 2-2016, f. 1-29-16, cert. ef. 2-1-16

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Rule Caption: Updating the maximum allowable child care costs
Adm. Order No.: DOJ 3-2016(Temp)
Filed with Sec. of State: 1-29-2016

Certified to be Effective: 1-29-16 thru 7-26-16
Notice Publication Date:
Rules Amended: 137-050-0735
Subject: OAR 137-050-0735 is amended to update the maximum allowable child care costs by provider location in accordance with OAR 461-155-0150.
Rules Coordinator: Carol Riches—(503) 378-5987

137-050-0735
Child Care Costs

(1) Adjust the support obligation for child care costs paid by either parent or the child's caretaker if the child for whom support is being calculated is disabled or under the age of 13.

(2) Child care costs must be related to the parent's or caretaker's employment, job search, or training or education necessary to obtain a job. Only actual costs paid by a parent or caretaker for child care that can be documented and determined may be used to compute an adjustment under these rules.

(3) Child care costs are allowable only to the extent that they are reasonable and, except as provided in section (4), do not exceed the maximum amounts set out in Table 1. Table 1: Maximum Allowable Child Care Costs by Provider Location

(4) The maximum amounts allowed by the Department of Human Services as shown in the Employment-Related Day Care Allowance tables in OAR 461-155-0150, available on line at http://arcweb.sos.state.or.us/pages/rules/oars_400/oar_461/461_155.html or https://apps.state.or.us/cf1/caf/arm/B/461-155-0150.htm, may be used when those amounts are greater than the amounts in the abbreviated table in section (3).

(5) Each parent's obligation for child care costs is that parent's income share percentage as provided by OAR 137-050-0720 multiplied by the total allowed child care costs. A parent's child care cost obligation may not exceed the parent's available income after deducting the parent's basic support obligation.

(6) As used in section 1 of this rule, "disabled" refers to a child who has a physical or mental disability that substantially limits one or more major life activities (for example, self-care, performing manual tasks, walking, seeing, speaking, hearing, eating, sleeping, standing, lifting, bending, breathing, learning, reading, concentrating, thinking, communicating, and working).

[ED. NOTE: Table referenced is available from the agency.]
Stat. Auth.: ORS 25.270B - 25.290, 180.345
Stats. Implemented: ORS 25.270B - 25.290
Hist.: DOJ 16-2009, f. 12-1-09, cert. ef. 1-4-10; DOJ 3-2013, f. 5-15-13, cert. ef. 7-1-13; DOJ 8-2014, f. & cert. ef. 5-22-14; DOJ 3-2016(Temp), f. & cert. ef. 1-29-16 thru 7-26-16

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Rule Caption: Training guidelines for victim advocates to become certified advocates.
Adm. Order No.: DOJ 4-2016
Filed with Sec. of State: 2-3-2016
Certified to be Effective: 2-3-16
Notice Publication Date: 1-1-2016
Rules Adopted: 137-085-0060, 137-085-0070, 137-085-0080, 137-085-0090
Subject: These rules set out the guidelines for minimum training required of persons providing services to victims of domestic violence, sexual assault and stalking in order to be certified advocates for purposes of the evidentiary privilege and confidentiality requirements of HB 3476.
Rules Coordinator: Carol Riches—(503) 378-5987

137-085-0060
Purpose

These rules set out the guidelines for minimum training required of persons providing services to victims of domestic violence, sexual assault and stalking in order to be certified advocates for purposes of the evidentiary privilege and confidentiality requirements of HB 3476.

Stat. Auth.: 2015 HB 3476
Stats. Implemented: 2015 HB 3476
Hist.: DOJ 11-2015(Temp), f. & cert. ef. 10-2-15 thru 3-29-16; DOJ 4-2016, f. & cert. ef. 2-3-16

137-085-0070
Definitions

(1) "Certified advocate" means a person who:

(a) Has completed at least 40 hours of training in advocacy for victims of domestic violence, sexual assault, or stalking that meets the minimum training requirements set out in OAR 137-085-0080; and

(b) Is an employee or a volunteer of a qualified victim services program.

(2) "Qualified victim services program" means:

(a) A nongovernmental, nonprofit, community-based program receiving moneys administered by the state Department of Human Services or the Oregon or United States Department of Justice that offers safety planning, counseling, support or advocacy services to victims of domestic violence, sexual assault or stalking; or

(b) A sexual assault center, victim advocacy office, women's center, student affairs center, health center or other program providing safety planning, counseling, support or advocacy services to victims that is on the campus of or affiliated with a two- or four-year post-secondary institution that enrolls one or more students who receive an Oregon Opportunity Grant.

Stat. Auth.: 2015 HB 3476
Stats. Implemented: 2015 HB 3476
Hist.: DOJ 11-2015(Temp), f. & cert. ef. 10-2-15 thru 3-29-16; DOJ 4-2016, f. & cert. ef. 2-3-16

137-085-0080
Training Requirements

(1) For purposes of HB 3476, training that is no less than a total of 40 hours and that is substantially similar to subsections (2)–(4) of this rule is approved by the Attorney General.

(2) Training shall be comprised of a minimum of 40 hours.

(3) At least 26 hours of the training shall cover each of the following topics:

(a) Dynamics of domestic violence;
(b) Dynamics of sexual assault;
(c) Dynamics of stalking;
(d) Anti-oppression, anti-racism, cultural competency theory and practice;
(e) Effects of trauma on survivors and family members;
(f) Adults molested as children;
(g) Effects of exposure to violence on children;
(h) Dynamics of domestic violence abusers;
(i) Dynamics of sexual offenders;
(j) Vicarious traumatization and self-care;
(k) Advocacy and crisis response;
(l) Confidentiality and privilege;
(m) Advocacy skills;
(n) Working with system-based partners and other service providers.

(4) Training shall include no less than an additional 12 hours regarding SANE exams, court accompaniment, medical exam accompaniment, working with law enforcement, support group facilitation, shelter intake, working with children, campus response, or other topics as approved by the Crime Victims' Services Division of the Department of Justice.

(5) At least 2 hours of the training shall focus on confidentiality and privilege, the Violence Against Women Act and other funding requirements relating to confidentiality, the provisions set forth in HB 3476, and related matters.

(6) A person employed at or volunteering with a qualified victim services program who completed 40 hours of training before October 1, 2015, that is substantially similar to training requirements described in contracts between such programs and the Department of Justice or Department of Human Services, is a "certified advocate," at such time as the person completed an additional 2 hours of training on confidentiality, advocate privilege, and HB 3476 as described in subsection (5) of this rule.

Stat. Auth.: 2015 HB 3476
Stats. Implemented: 2015 HB 3476
Hist.: DOJ 11-2015(Temp), f. & cert. ef. 10-2-15 thru 3-29-16; DOJ 4-2016, f. & cert. ef. 2-3-16

137-085-0090
Training Records

Each qualifying victim services program shall maintain a roster of advocates who have completed the minimum training described required by OAR 137-085-0080 and who are thus "certified advocates."

Stat. Auth.: 2015 HB 3476
Stats. Implemented: 2015 HB 3476
Hist.: DOJ 11-2015(Temp), f. & cert. ef. 10-2-15 thru 3-29-16; DOJ 4-2016, f. & cert. ef. 2-3-16

Department of Revenue
Chapter 150

Rule Caption: Corporate Tax — Public Utilities: Sale of Commodities
Adm. Order No.: REV 1-2016(Temp)
Filed with Sec. of State: 1-25-2016
Certified to be Effective: 1-26-16 thru 7-23-16
Notice Publication Date:
Rules Amended: 150-314.280-(O)
Subject: This rule provides guidance for public utilities selling electricity and natural gas and other commodities. For purposes of apportioning taxable income, such sales are sourced based upon the contractually specified point of physical delivery. This amendment corrects the rule's effective date.
Rules Coordinator: Lois Williams—(503) 945-8029

150-314.280-(O)
Public Utilities: Sale of Commodities

(1) The sale of a commodity such as electricity, water, steam, oil, oil products or gas, including but not limited to natural and liquid gas, which is delivered or shipped to a purchaser with a contractually specified point of physical delivery in Oregon, is a sale in this state. It does not matter whether the purchaser uses the property in Oregon, transfers the property to another state, or resells the property in Oregon. If the contract states the point of delivery is at the Oregon border with another state, the sale is presumed to be in Oregon unless the taxpayer can demonstrate to the satisfaction of the department that delivery occurred in some other place.

Example 1: A provider of wholesale electricity enters into a contract to deliver a specified amount and duration of a supply of electricity to a purchaser who takes possession at a contractually specified point of physical delivery in Oregon. The sale is an Oregon sale.

(2) A taxpayer who contracts to sell electricity to and also buy electricity from the same entity during the same period or partial period of time will have an offsetting contractual amount, also known as a book-out transaction. The gross sales of electricity, without regard to the offsetting purchase amount, are considered to be Oregon sales if the contractually specified point of physical delivery is in Oregon.

Example 2: Company A signed a contract on January 2, 2016, to purchase 50 megawatts of electricity for a period of 10 hours starting November 15, 2016, from Company B with a delivery point of Malin, Oregon. For this same time period, Company A signed a contract on March 15, 2014, to sell 30 megawatts of electricity to Company B with a point of delivery at Malin, Oregon. The 30 megawatts of power is recorded as a book-out transaction on both companies' books for reporting to Oregon. The offsetting transaction for the 30 megawatts is deemed to be delivered in Oregon for the purposes of computing the Oregon sales factor. Company A will report the sale of 30 megawatts in its Oregon sales factor numerator and Company B will report the sale of 50 megawatts (20 megawatts to complete the sales contract plus 30 megawatts from the book-out transaction) of electricity in its Oregon sales factor numerator.

[Publications: Contact the Oregon Department of Revenue to learn how to obtain a copy of the publication referred to or incorporated by reference in this rule pursuant to ORS 183.360(2) and 183.355(1)(b).]
Stat. Auth.: ORS 305.100, 314.280
Stats. Implemented: ORS 314.280
Hist.: REV 5-2015, f. 12-23-15, cert. ef. 1-1-16; REV 1-2016(Temp), f. 1-25-16, cert. ef. 1-26-16 thru 7-23-16

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Department of State Lands
Chapter 141

Rule Caption: General Permit for Impacts to Vernal Pools and Other Waters of the State, Jackson County
Adm. Order No.: DSL 1-2016
Filed with Sec. of State: 2-8-2016
Certified to be Effective: 2-8-16
Notice Publication Date: 12-1-2015
Rules Amended: 141-093-0185, 141-093-0190
Subject: In 2012, The Department (DSL) created the Vernal Pool General Permit (GP) to coordinate with the regulatory framework established by the Biological Opinion from the United States Fish and Wildlife Service (USFWS) and the Army Corps of Engineers Regional General Permit (RGP-5) covering the same resources. These general permits will expire in early 2016; the USFWS Biological Opinion remains in effect. The Corps is finalizing a reauthorization of RGP-5 that will keep it in effect until January 1, 2021. DSL is proposing to extend the Vernal Pool GP to a new expiration date of January 1, 2021.

The purpose of DSL's General Permit on vernal pools is to provide an expedited authorization for certain projects that involve removal-fill activities in vernal pool wetlands and includes a mitigation framework to conserve the rare species found in these wetlands. This rule does not take away the existing regulatory option of an individual DSL permit and separate consultation with the federal agencies.

The Department requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing any negative economic impact of the rule on business.
Rules Coordinator: Sabrina L. Owings—(503) 986-5200

141-093-0185
Expiration

This GP will expire on January 1, 2021 or when a combined total of 60 acres of vernal pool wetlands (up to 300 acres of vernal pool habitat complex) or other associated waters have been impacted, whichever occurs first. Upon expiration, the GP may be reviewed and modified or reissued.
Stat. Auth.: ORS 196.600 – 196.692 & 196.795 – 196.990
Stats. Implemented: ORS 196.600 – 196.692 & 196.795 – 196.990
Hist.: DSL 1-2012, f. 3-14-12, cert. ef. 4-1-12; DSL 1-2016, f. & cert. ef. 2-8-16

141-093-0190
Definitions

The following definitions are used in this GP, in addition to those in OAR 141-085-0510.

(1) "Combination Credits" means those credits that have been approved by the Department as wetland mitigation credits and by the USFWS as ESA species credits.

(2) "Drought Year" means a season in which precipitation prior to and during the growing season is less than the 30 percent probability level documented in the WETS table for the Medford weather station. The procedure for determining "below normal rainfall" is found in the September 2008 Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Arid West Region, available on the Department Web site.

(3) "Permittee Responsible Mitigation" means actions undertaken by a permittee to compensate for impacts resulting from a specific project.

(4) "Protect and Manage Mitigation" is preservation mitigation that entails the removal of a threat to, or preventing the decline of vernal pool wetlands, and includes the establishment and maintenance of native biological communities.

(5) "Restore and Manage Mitigation" is mitigation which re-establishes and maintains vernal pool wetland topography and hydrology, and native biological communities in areas where previously existing vernal pools have been altered to upland or open water.

(6) "Steward" means the party responsible for long-term management and monitoring of the mitigation site after it has been released by the Department.

(7) "Vernal Pool" means a seasonal wetland found on shallow soils over an impermeable hardpan layer or bedrock.

(8) "Vernal Pool Complex (VPC) and VPC Habitat" means a tract of land that includes vernal pool wetlands and the upland mounds between them.

(9) "Vernal Pool Function Ranking" is the average of the four function scores (scores) for the subject site relative to the scores reported for the 59 vernal pool complexes inventoried in appendix C-1 of the Agate Desert Vernal Pool Final Draft Function Assessment Methodology dated April 2007 (AD Inventory). This report is available on the Department Web site.
Stat. Auth.: ORS 196.600 – 196.692 & 196.795 – 196.990
Stats. Implemented: ORS 196.600 – 196.692 & 196.795 – 196.990
Hist.: DSL 1-2012, f. 3-14-12, cert. ef. 4-1-12; DSL 1-2016, f. & cert. ef. 2-8-16

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Employment Department
Chapter 471

Rule Caption: Clarifies how OED applies exceptions to sharing confidential information under ORS 657.665.
Adm. Order No.: ED 1-2016(Temp)
Filed with Sec. of State: 1-29-2016
Certified to be Effective: 1-29-16 thru 7-26-16
Notice Publication Date:
Rules Amended: 471-010-0080

Subject: Oregon's workforce redesign has changed local area boundaries, boards, and partner composition. Local areas are still in the process of putting together their local boards and addressing partner alignment. Many of the prior Memorandum of Understandings (MOUs) no longer reflect the current status. Without a current MOU, local one-stop delivery system partners are not identified.

ORS 657.665 states that all information in the record of the Employment Department is considered confidential and for the exclusive use and information of the Director. The statute allows exceptions where the Employment Department may disclose confidential information, including to partners for the purpose of administering state workforce programs.

OAR 471 provides the clarity on how the Employment Department will apply the exceptions allowed under ORS 657.665:

- OAR 471-010-0115(1) states that Employment Department is authorized to disclose confidential customer information or records to one-stop delivery system partners under certain circumstances.

- OAR 471-010-0080(16) defines one-stop delivery system partners as entities authorized under the Workforce Investment Act and described in the local MOUs.

Employment Department executives are proposing a temporary and permanent rule change that modifies the definition of partners. The proposed rule takes the position that a "partner" under the Workforce Innovation and Opportunity Act fits within the definition of "partner" under the Workforce Investment Act. However, the temporary rule change will remain in effect for only 180 days. The Employment Department will need to begin the process for a permanent rule change, or all the MOUs will need to be in place before the temporary rule expires.

Rules Coordinator: Carolyn Moir—(503) 947-1471

471-010-0080
Definitions

(1) "Agent" means an individual or entity that is authorized to act for or in the place of another individual or entity.

(2) "Business" means any entity carrying on a trade or commercial enterprise that operates either inside or outside of Oregon and includes employers and employing units.

(3) "Customer" means any individual person seeking service from the Employment Department or other one-stop delivery system partner.

(4) "Employer" has the same meaning as in ORS 657.025

(5) "Employing Unit" has the same meaning as in ORS 657.020

(6) "Establishment" means an economic unit that produces goods or services, usually at a single physical location, and is engaged in one or predominantly one activity.

(7) "Governmental planning functions" means duties authorized by law which are undertaken by state, federal, or local government agencies, to facilitate policy decisions about the future. These functions include, but are not limited to, economic or similar modeling, impact analysis, projections, and forecasting.

(8) "Governmental performance measurement functions" means duties authorized by law which are undertaken by state, federal, or local government agencies regarding the success and impact of government programs.

(9) "Governmental program analysis functions" means duties authorized by law which are undertaken by state, federal, or local government agencies to better understand the impact and operation of government programs. These functions include, but are not limited to, fiscal analysis, budget analysis, and workload analysis.

(10) "Governmental socioeconomic functions" means duties authorized by law which are undertaken by state, federal, or local government agencies to better understand the socioeconomic conditions in which the governmental entity is operating. These functions include, but are not limited to, the analysis of demographic, labor force, employment, and income trends.

(11) "Governmental policy analysis functions" means duties authorized by law which are undertaken by state, federal, or local government agencies to determine or better understand the impact of policy choices and decisions. These functions include, but are not limited to, economic impact analysis, trend analysis, and economic or similar modeling.

(12) "Hosted Worker" means a non-Department employee or volunteer who, under the supervision of an Employment Department management service employee, performs services in the area of the public labor exchange, such as: selecting and referring job seekers on employer openings on jobs listed with the Employment Department, assisting employers in listing jobs, providing marketing or outreach services to the business community, assisting customers with their iMatch Skills registration, and assisting in the resource rooms. The roles and responsibilities of the Hosted Worker, the Workers' responsibilities with respect to confidential information, and the penalties for unauthorized disclosure must be addressed in a written agreement with the Hosted Worker's actual employer or the Worker if there is no employer.

(13) "Information" means

(a) Data that pertains to an individual business or person;

(b) Aggregations of data about businesses in which there are fewer than three businesses or in which any one business accounts for more than 80 percent of the aggregated data; and

(c) Aggregations of data about persons in which there are fewer than three persons.

(14) "Need to Know" means that access to, possession of, or other use of customer-related information is essential in order to carry out official duties.

(15) "One-stop delivery system" means the workforce development activities provided by one-stop delivery system partner entities as authorized by the Workforce Investment Act.

(16) "One-stop delivery system Partner" means an entity described in section 101(30) of the Workforce Investment Act of 1998, including entities that carry out appropriate Federal, State, local, or private programs not specifically enumerated in the Act.

(17) "Public Official" means an official, agency, or public entity within the executive branch of Federal, State, or local government who, or which, has responsibility for administering or enforcing a law, or an elected official in the Federal, State, or local government.

(18) "Party" has the same meaning as in ORS 183.310(7).

(19) "Person" has the same meaning as in ORS 183.310(8).

(20) "Written disclosure agreement" means an interagency or other applicable agreement for sharing or disclosing information by written, electronic, paper, verbal or other means.

(21) "Workforce Investment Act" means the federal Workforce Investment Act of 1998 as codified in Public Law 105-220.

Stat. Auth.: ORS 657.610
Stats. Implemented: ORS 657.665
Hist.: ED 4-2008(Temp), f. & cert. ef. 2-26-08 thru 8-23-08; ED 7-2008, f. 5-20-08, cert. ef. 7-1-08; ED 1-2016(Temp), f. & cert. ef. 1-29-16 thru 7-26-16

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Higher Education Coordinating Commission, Office of Community Colleges and Workforce Development Chapter 589

Rule Caption: Non-substantive office, title name changes reflecting recent legislation; general administrative and housekeeping updates.
Adm. Order No.: CCWD 1-2016
Filed with Sec. of State: 2-12-2016
Certified to be Effective: 2-12-16
Notice Publication Date: 7-1-2014
Rules Amended: 589-002-0120
Subject: Refiling due to filing error.
Rules Coordinator: Kelly Dickinson—(503) 947-2379

589-002-0120
Community College Support Fund Distribution Methodology

(1) The Community College Support Fund (CCSF) shall be distributed in equal payments as follows:

(a) For the first year of the biennium, August 15, October 15, January 15, and April 15;

(b) For the second year of the biennium, August 15, October 15, and January 15;

(c) The final payment of each biennium is deferred until July 15 of the following biennium as directed by the legislature.

(d) Should any of the dates set forth above occur on a weekend, payment shall be made on the next business day.

(e) All payments, made before actual property taxes imposed by each district are certified by the Oregon Department of Revenue, shall be based on the department's best estimate of quarterly entitlement using property tax revenue projections. Payments shall be recalculated each year as actual property tax revenues become available from the Oregon Department of

Revenue and any adjustments will be made in the final payment(s) of the fiscal year.

(2) Community college districts shall be required to submit enrollment reports in the format specified by the commissioner, including numbers of clock hours realized for all coursework, in a term-end enrollment report by the Friday of the sixth week following the close of each term. If reports are outstanding at the time of the quarterly payments, payment to the district(s) not reporting may be delayed at the discretion of the commissioner.

(a) All payments, made before actual Full-Time Equivalent (FTE) student enrollment data are available shall be based on the department's best estimate of quarterly entitlement using student enrollment data from previous years.

(b) Payments shall be recalculated each year as FTE student enrollment data become available and any adjustments will be made in the fiscal year.

(3) Reimbursement from the CCSF shall be made for career technical education, lower-division collegiate, developmental education and other courses approved by the state board in accordance with OAR 589-006-0100 through 589-006-0400. State reimbursement is not available for hobby and recreation courses as defined in 589-006-0400.

(4) Residents of the State of Oregon and the states of Idaho, Washington, Nevada, and California shall be counted as part of each community college district's CCSF reimbursable FTE, but only for those students who take part in coursework offered within Oregon's boundaries.

(5) State funding for community college district. Operations is appropriated by the legislature on a biennial basis to the CCSF. The amount of state funds available for each biennium and for distribution through the funding formula shall be calculated based on the following:

(a) Funds to support services provided to inmates of state penitentiary and correctional institutions by community college districts shall be subtracted from the amount allocated to the CCSF before the formula is calculated. The amount available for services provided to inmates shall be equal to the funding amount in the preceding biennium, except as adjusted to reflect the same percentage increase or decrease realized in the overall CCSF appropriation. The distribution method of CCSF funding for individual state penitentiary and correction institution programs provided by community college districts will be determined in consultation between the agency and the Department of Corrections.

(b) Funds to support contracted out-of-district (COD) programs described in OAR 589-002-0600 shall be subtracted from the amount allocated to the CCSF before the formula is calculated.

(A) A community college district providing contracted out-of-district services will receive an allocation equal to the college's number of reimbursable COD FTE multiplied by the statewide average of non-base community college support funds per total funded FTE. The average funds per total funded FTE is based on the same year COD services are provided.

(B) The allocation is distributed after the reimbursable COD FTE has been reported to CCWD for the full academic year. An adjustment to the allocation may be made if the final audited FTE is significantly different than the COD FTE from which the allocation was made.

(C) Beginning July 1, 2014, to be eligible for a COD allocation, each participating community college district must:

(i) Provide the department with a copy of the agreement between the community college district and the local participating entity by October 1 of each service year.

(ii) Enter into a contract with the department by January 1 of the service year for a COD allocation payment.

(iii) Follow all requirements found in OAR 589-002-0600.

(D) Section (5)(b)(A) and (B) of this rule applies to COD contracts that were in effect starting with the 2012–13 fiscal year.

(c) Funds to support targeted investments such as distributed learning shall be subtracted from the amount allocated to the CCSF before the formula is calculated. The amount available for these investments shall be equal to the funding amount in the preceding biennium, except as adjusted to reflect the same percentage change to the current biennium's total CCSF appropriation.

(d) Funds remaining in the CCSF shall be distributed through the formula as described in section 6.

(e) State general fund and local property taxes for territories annexed or formed effective June 1, 1996 or later shall not be included in the funding formula for the first three years of service. Additionally, the FTE generated in newly annexed territories shall not impact the funding formula during the first three years of service. Beginning in the fourth year, funding will be distributed through the formula as outlined in this rule.

(6) Distribution of funds to community college districts from the CCSF shall be accomplished through a formula, based on the following factors:

(a) Base Payment: Effective for the 2015-16 fiscal year, each community college district shall receive a base payment of $819 for each Weighted Reimbursable FTE up to 1,100 and $409.50 per FTE for unrealized enrollments between actual Weighted Reimbursable FTE and 1,100 FTE. Each year thereafter, the base payment will be adjusted by the amount of the annual seasonally unadjusted Portland CPI-U of the prior year.

The base payment for each community college district will be adjusted according to the size of the district. Community college district size for purposes of this adjustment will be determined each year by the FTE set forth in section (8)(b) of this rule. The base payment adjustments shall be:

(A) 0–750 FTE 1.3513;

(B) 751–1,250 FTE 1.2784;

(C) 1,251–1,750 FTE 1.2062;

(D) 1,751–2,250 FTE 1.1347;

(E) 2,251–2,750 FTE 1.0641;

(F) 2,751–3,250 FTE 1.0108;

(G) 3,251–3,750 FTE 1.0081;

(H) 3,751–4,250 FTE 1.0054;

(I) 4,251–4,999 FTE 1.0027;

(J) 5,000 or more FTE 1.000.

(b) Student-Centered Funding: The formula is designed to distribute the CCSF is based on each community college district's FTE.

(A) The equalized amount per FTE is determined by dividing Total Public Resources (TPR) — excluding base payments, contracted out-of-district payments, and any other payments directed by the State Board or the legislature — by funded FTE. The department shall make the calculation based on submission of FTE reports by community college districts and in accordance with established FTE principles.

(B) To determine the number of funded FTE for each community college district, a three-year weighted average of fundable FTE for each community college district will be used with the first year prior to current fundable FTE weighted at 40%, second year prior to current fundable FTE weighted at 30%, and third year prior to current fundable FTE weighted at 30%.

(c) Beginning with the 2011–13 biennium, a Biennial Growth Management Component is added to the calculation of each community college district's funded FTE. The purpose of the Biennial Growth Management Component is to manage the level of total public resource available per FTE within the total public resources available.

(A) The methodology for calculating the base year and subsequent biennial growth management component is displayed in Table 1 "Community College Support Fund Growth Management Calculation Tables" and is available through the following hyperlink. [Table not included. See ED. NOTE.]

(B) The calculations that will implement the Growth Management Component in the CCSF Distribution Formula Model are available in Table 2. Formula Calculation of Fundable FTE by Community College District." [Table not included. See ED. NOTE.]

(C) The state board has authority, on a biennial basis to, set the "quality growth factor" that may increase or decrease the number of FTE that will be counted for funding purposes above or below the Biennial Growth Management Component. The state board will consider the following principles as guidelines for setting the "quality growth factor":

(i) Balance the desire to support growth beyond that which is funded through the funding formula distribution model with the desire to enhance quality by increasing the level of funding provided on a per-student FTE basis.

(ii) The TPR per FTE should not erode by more than 5% on an annual basis.

(iii) Where current TPR per FTE is determined to be insufficient to support the "quality of education" desired, a growth factor could be established that would increase the TPR per FTE.

(iv) If revenue is significantly reduced during a biennium, the Board may reduce the "quality growth factor".

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

Stat. Auth.: ORS 326.051, 341.015, 341.022, 341.317, 341.440, 341.525, 341.528, 341.626 & 341.665

Stats. Implemented: ORS 341.626

Hist.: DCCWD 1-2012(Temp), f. & cert. ef. 7-17-12 thru 1-10-13; DCCWD 3-2012, f. & cert. ef. 12-26-12; DCCWD 3-2013, f. & cert. ef. 6-11-13; DCCWD 6-2013(Temp), f. & cert. ef. 12-16-13 thru 6-13-14; DCCWD 3-2014, f. & cert. ef. 3-20-14; DCCWD 2-2015, f. & cert. ef. 6-15-15; DCCWD 5-2015, f. & cert. ef. 10-30-15; CCWD 1-2016, f. & cert. ef. 2-12-16

Land Conservation and Development Department
Chapter 660

Rule Caption: Zoning of rural exception areas
Adm. Order No.: LCDD 1-2016
Filed with Sec. of State: 2-10-2016
Certified to be Effective: 2-10-16
Notice Publication Date: 12-1-2015
Rules Amended: 660-004-0018
Subject: HB 3214 (2015) requires the Land Conservation and Development Commission to amend OAR chapter 660, division 4 to allow for a rezoning that authorizes the change, continuation or expansion of an industrial use that has been in operation for the five years without requiring the local government to take a new exception to statewide planning goals related to agricultural and forest lands. The proposed amendments allow these and certain other rezonings without requiring a new exception.
Rules Coordinator: Casaria Taylor—(503) 373-0050, ext. 322

660-004-0018
Planning and Zoning for Exception Areas

(1) Purpose. This rule explains the requirements for adoption of plan and zone designations for exceptions. Exceptions to one goal or a portion of one goal do not relieve a jurisdiction from remaining goal requirements and do not authorize uses, densities, public facilities and services, or activities other than those recognized or justified by the applicable exception. Physically developed or irrevocably committed exceptions under OAR 660-004-0025 and 660-004-0028 and 660-014-0030 are intended to recognize and allow continuation of existing types of development in the exception area. Adoption of plan and zoning provisions that would allow changes in existing types of uses, densities, or services requires the application of the standards outlined in this rule.

(2) For "physically developed" and "irrevocably committed" exceptions to goals, residential plan and zone designations shall authorize a single numeric minimum lot size and all plan and zone designations shall limit uses, density, and public facilities and services to those that satisfy (a) or (b) or (c) and, if applicable, (d):

(a) That are the same as the existing land uses on the exception site;

(b) That meet the following requirements:

(A) The rural uses, density, and public facilities and services will maintain the land as "Rural Land" as defined by the goals, and are consistent with all other applicable goal requirements;

(B) The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to uses not allowed by the applicable goal as described in OAR 660-004-0028; and

(C) The rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses;

(c) For uses in unincorporated communities, the uses are consistent with OAR 660-022-0030, "Planning and Zoning of Unincorporated Communities", if the county chooses to designate the community under the applicable provisions of OAR chapter 660, division 22;

(d) For industrial development uses and accessory uses subordinate to the industrial development, the industrial uses may occur in buildings of any size and type provided the exception area was planned and zoned for industrial use on January 1, 2004, subject to the territorial limits and other requirements of ORS 197.713 and 197.714.

(3) Uses, density, and public facilities and services not meeting section (2) of this rule may be approved on rural land only under provisions for a reasons exception as outlined in section (4) of this rule and applicable requirements of OAR 660-004-0020 through 660-004-0022, 660-011-0060 with regard to sewer service on rural lands, OAR 660-012-0070 with regard to transportation improvements on rural land, or OAR 660-014-0030 or 660-014-0040 with regard to urban development on rural land.

(4) "Reasons" Exceptions:

(a) When a local government takes an exception under the "Reasons" section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that are justified in the exception.

(b) When a local government changes the types or intensities of uses or public facilities and services within an area approved as a "Reasons" exception, a new "Reasons" exception is required.

(c) When a local government includes land within an unincorporated community for which an exception under the "Reasons" section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022 was previously adopted, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that were justified in the exception or OAR 660-022-0030, whichever is more stringent.

Stat. Auth.: ORS 197.040
Stats. Implemented: ORS 197. 732 - 197.734
Hist.: LCDC 9-1983, f. & ef. 12-30-83; LCDC 1-1986, f. & ef. 3-20-86; LCDD 4-1998, f. & cert. ef. 7-28-98; LCDD 3-2004, f. & cert. ef. 5-7-04; LCDD 8-2005, f. & cert. ef. 12-13-05; LCDD 7-2006, f. 10-13-06, cert. ef. 10-23-06; LCDD 1-2011, f. & cert. ef. 2-2-11; LCDD 3-2011, f. & cert. ef. 3-16-11; LCDD 1-2016, f. & cert. ef. 2-10-16

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Rule Caption: Periodic Review Procedures
Adm. Order No.: LCDD 2-2016
Filed with Sec. of State: 2-10-2016
Certified to be Effective: 2-10-16
Notice Publication Date: 12-1-2015
Rules Amended: 660-025-0020, 660-025-0035, 660-025-0040, 660-025-0060, 660-025-0085, 660-025-0090, 660-025-0130, 660-025-0140, 660-025-0150, 660-025-0160, 660-025-0175
Subject: Amendments to ORS 197 made by HB 3282(2015) require that the Land Conservation and Development Commission make conforming amendments to OAR Chapter 660, division 25. The proposed amendments make these conforming amendments and other minor and technical changes to the division.
Rules Coordinator: Casaria Taylor—(503) 373-0050, ext. 322

660-025-0020
Definitions

For the purposes of this division, the definitions contained in ORS 197.015, 197.303, and 197.747 shall apply unless the context requires otherwise. In addition, the following definitions apply:

(1) "Filed" or "Submitted" means that the required documents have been received by the Department of Land Conservation and Development at its Salem, Oregon, office.

(2) "Final Decision" means the completion by the local government of a work task on an approved work program, including the adoption of supporting findings and any amendments to the comprehensive plan or land use regulations. A decision is final when the local government's decision is transmitted to the department for review.

(3) "Metropolitan planning organization" means an organization located wholly within the State of Oregon and designated by the Governor to coordinate transportation planning in an urbanized area of the state pursuant to 49 USC § 5303(c).

(4) "Objection" means a written complaint concerning the adequacy of an evaluation, proposed work program, or completed work task.

(5) "Participated at the local level" means to have provided substantive comment, evidence, documents, correspondence, or testimony to the local government during the local proceedings regarding a decision on an evaluation, work program or work task.

(6) "Regional Solutions Team" means a team described in ORS 284.754.

(7) "Work Program" means a detailed listing of tasks necessary to revise or amend the local comprehensive plan or land use regulations to ensure the plan and regulations achieve the statewide planning goals. A work program must indicate the date that each work task must be submitted to the department for review.

(8) "Work Task" or "task" means an activity that is included on an approved work program and that generally results in an adopted amendment to a comprehensive plan or land use regulation.

Stat. Auth.: ORS 197.040 & 197.633
Stats. Implemented: ORS 197.015 & 197.628 - 197.646
Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDC 6-1995, f. & cert. ef. 6-16-95; LCDD 3-2000, f. & cert. ef. 2-14-00; LCDD 4-2006, f. & cert. ef. 5-15-06; LCDD 8-2011, f. & cert. ef. 10-20-11; LCDD 4-2012, f. & cert. ef. 2-14-12; LCDD 2-2016, f. & cert. ef. 2-10-16

660-025-0035
Initiating Periodic Review Outside the Schedule

(1) A local government may request, and the commission may approve, initiation of periodic review not otherwise provided for in the schedule established under OAR 660-025-0030. The request must be submitted to the commission along with justification for the requested action. The justification must include a statement of local circumstances that warrant periodic review and identification of the statewide planning goals to be addressed.

(2) A city may request, and the commission may approve, initiation of periodic review for the limited purpose of completing changes to proposed

amendments to a comprehensive plan and land use regulations required on remand after review by the commission in the manner provided for review of a work task under ORS 197.626(1)(b) and OAR 660-025-0175(1)(b). If periodic review is initiated under this section, the city may adopt, and the director may approve, a work program that includes only the changes required on remand.

(3) In consideration of the request filed pursuant to section (1) or (2), the commission must consider the needs of the jurisdiction to address the issue(s) identified in the request for periodic review, the interrelationships of the statewide planning goals to be addressed in the periodic review project, and other factors the commission finds relevant. If the commission approves the request, the provisions of this division apply, except as provided in section (4) of this rule.

(4) The Regional Solutions Team may work with a city to create a voluntary comprehensive plan review that focuses on the unique vision of the city, instead of conducting a standard periodic review, if the team identifies a city that the team determines can benefit from a customized voluntary comprehensive plan review. In order for a voluntary comprehensive plan review to be initiated by the commission, the city must request initiation of such a modified periodic review. The provisions of this division apply except as follows:

(a) If the city is subject to the periodic review schedule in OAR 660-025-0030, the periodic review under this section will not replace or delay the next scheduled periodic review;

(b) If the city misses a deadline related to an evaluation, work program or work task, including any extension, the commission must terminate the evaluation, work program, or work task or impose sanctions pursuant to OAR 660-025-0170(3).

(5) If the commission pays the costs of a local government that is not subject to OAR 660-025-0030 to perform new work programs and work tasks, the commission may require the local government to complete periodic review when the local government has not completed periodic review within the previous five years if:

(a) A city has been growing faster than the annual population growth rate of the state for five consecutive years;

(b) A major transportation project on the Statewide Transportation Improvement Program that is approved for funding by the Oregon Transportation Commission is likely to:

(A) Have a significant impact on a city or an urban unincorporated community; or

(B) Be significantly affected by growth and development in a city or an urban unincorporated community;

(c) A major facility, including a prison, is sited or funded by a state agency; or

(d) Approval by the city or county of a facility for a major employer will increase employment opportunities and significantly affect the capacity of housing and public facilities in the city or urban unincorporated community.

(6) As used in section (5) of this rule, "the costs of a local government" means: normal and customary expenses for supplies, personnel and services directly related to preparing a work program, and completing studies and inventories, drafting of ordinances, preparing and sending notices of hearings and meetings, conducting meetings and workshops, and conducting hearings on possible adoption of amendments to plans or codes, to complete a work task.

Stat. Auth.: ORS 197.040 & 197.633
Stats. Implemented: ORS 197.628 - 197.646
Hist.: LCDD 4-2006, f. & cert. ef. 5-15-06; LCDD 4-2012, f. & cert. ef. 2-14-12; LCDD 2-2016, f. & cert. ef. 2-10-16

660-025-0040
Exclusive Jurisdiction of LCDC

(1) The commission, pursuant to ORS 197.644(2), has exclusive jurisdiction for review of completed periodic review work tasks for compliance with the statewide planning goals and applicable statutes and administrative rules, as provided in ORS 197.633(3). The director also has authority to review the periodic review evaluation, work program and completed work tasks, as provided in ORS 197.633 and 197.644.

(2) Pursuant to ORS 197.626, the commission has exclusive jurisdiction for review of the following final decisions for compliance with the statewide planning goals:

(a) An amendment of an urban growth boundary by a metropolitan service district that adds more than 100 acres to the area within its urban growth boundary;

(b) An amendment of an urban growth boundary by a city with a population of 2,500 or more within its urban growth boundary that adds more than 50 acres to the area within the urban growth boundary, except as provided by ORS 197A.325 and OAR 660-038-0020(10);

(c) A designation of an area as an urban reserve under ORS 195.137 to 195.145 by a metropolitan service district or by a city with a population of 2,500 or more within its urban growth boundary;

(d) An amendment of the boundary of an urban reserve by a metropolitan service district;

(e) An amendment of the boundary of an urban reserve to add more than 50 acres to the urban reserve by a city with a population of 2,500 of more within its urban growth boundary; and

(f) A designation or an amendment to the designation of a rural reserve under ORS 195.137 to 195.145 by a county, in coordination with a metropolitan service district, including an amendment of the boundary of a rural reserve.

(3) A final order of the commission pursuant to sections (1) or (2) of this rule may be subject to judicial review in the manner provided in applicable provisions of ORS 197.650 and 197.651.

(4) The director may transfer one or more matters arising from review of a work task, urban growth boundary amendment or designation or amendment of an urban reserve area to the Land Use Board of Appeals pursuant to ORS 197.825(2)(c)(A) and OAR 660-025-0250.

Stat. Auth.: ORS 197.040 & 197.633
Stats. Implemented: ORS 195.145, 197.628 - 197.646, 197.825, 197A.325
Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDC 6-1995, f. & cert. ef. 6-16-95; LCDD 3-2000, f. & cert. ef. 2-14-00; LCDD 3-2004, f. & cert. ef. 5-7-04; LCDD 4-2006, f. & cert. ef. 5-15-06; LCDD 1-2008, f. & cert. ef. 2-13-08; LCDD 8-2011, f. & cert. ef. 10-20-11; LCDD 4-2012, f. & cert. ef. 2-14-12; LCDD 2-2016, f. & cert. ef. 2-10-16

660-025-0060
Periodic Review Assistance Team(s)

(1) The director may create one or more Periodic Review Assistance Team(s) to coordinate state, regional or local public agency comment, assistance, and information into the evaluation and work program development process. The director must seek input from agencies, regional governments and local governments on the membership of Periodic Review Assistance Team(s).

(2) Members of the Periodic Review Assistance Team will provide, as appropriate:

(a) Information relevant to the periodic review process;

(b) New and updated information;

(c) Technical and professional land use planning assistance; or

(d) Coordinated evaluation and comment from state agencies.

(3) Membership. The Periodic Review Assistance Team may include representatives of state agencies with programs affecting land use described in ORS 197.180, and representatives of regional or local governments who may have an interest in the review.

(4) Meetings. The Periodic Review Assistance Team shall meet as necessary to provide information and advice to a local government in periodic review.

(5) Authority. The Periodic Review Assistance Team shall be an advisory body. The team may make recommendations concerning an evaluation, a work program or work task undertaken pursuant to an approved work program. The team may also make recommendations to cities, counties, state agencies and the commission regarding any other issues related to periodic review.

(6) In addition to the Periodic Review Assistance Team(s), the department may utilize the Regional Solutions Team or institute an alternative process for coordinating agency participation in the periodic review of comprehensive plans.

(7) The commission must consider the recommendations, if any, of the Periodic Review Assistance Team(s).

Stat. Auth.: ORS 197.040 & 197.633
Stats. Implemented: ORS 197.628 - 197.646
Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDD 4-2006, f. & cert. ef. 5-15-06; LCDD 4-2012, f. & cert. ef. 2-14-12; LCDD 2-2016, f. & cert. ef. 2-10-16

660-025-0085
Commission Hearings Notice and Procedures

(1) Hearings before the commission on a referral of a local government submittal of a work program or hearings on referral or appeal of a work task must be noticed and conducted in accordance with this rule.

(2) The commission shall take final action on an appeal or referral of a completed work task within 90 days of the date the appeal was filed or the director issued notice of the referral unless:

(a) At the request of a local government and a person who files a valid objection or appeals the director's decision, the department may provide mediation services to resolve disputes related to the appeal. Where mediation is underway, the commission shall delay its hearing until the mediation

process is concluded or the director, after consultation with the mediator, determines that mediation is of no further use in resolution of the work program or work task disagreements;

(b) If the appeal or referral raises new or complex issues of fact or law that make it unreasonable for the commission to give adequate consideration to the issues within the 90-day limit the commission is not required to take final action within that time limit; or

(c) If the parties to the appeal and the commission agree to an extension, the hearing may be continued for a period not to exceed an additional 90 days.

(3) The director must provide written notice of the hearing to the local government, the appellant, objectors, and individuals requesting notice in writing. The notice must contain the date and location of the hearing.

(4) The director may prepare a written report to the commission on an appeal or referral. If a report is prepared, the director must send a copy to the local government, objectors, the appellant, and individuals requesting the report in writing.

(5) Commission hearings will be conducted using the following procedures:

(a) The chair will open the hearing and explain the proceedings;

(b) The director or designee will present an oral report regarding the nature of the matter before the commission, an explanation of the director's decision, if any, and other information to assist the commission in reaching a decision. If another state agency participated in the periodic review under ORS 197.637 or 197.638, the agency may participate in the director's oral report.

(c) Participation in the hearing is limited to:

(A) The local government or governments whose decision is under review;

(B) Persons who filed a valid objection to the local decision in the case of commission hearing on a referral;

(C) Persons who filed a valid appeal of the director's decision in the case of a commission hearing on an appeal; and

(D) Other affected local governments.

(d) Standing to file an appeal of a work task is governed by OAR 660-025-0150.

(e) Persons or their authorized representative may present oral argument.

(f) The local government that submitted the task may provide general information from the record on the task submittal and address those issues raised in the department review, objections, or the appeal. A person who submitted objections or an appeal may address only those issues raised in the objections or the appeal submitted by that person. Other affected local governments may address only those issues raised in objections or an appeal.

(g) As provided in ORS 197.633(3), the commission will confine its review of evidence to the local record.

(h) The director or commission may take official notice of law defined as:

(A) The decisional, constitutional and public statutory law of Oregon, the United States and any state, territory or other jurisdiction of the United States.

(B) Public and private official acts of the legislative, executive and judicial departments of this state, the United States, and any other state, territory or other jurisdiction of the United States.

(C) Regulations, ordinances and similar legislative enactments issued by or under the authority of the United States or any state, territory or possession of the United States.

(D) Rules of court of any court of this state or any court of record of the United States or of any state, territory or other jurisdiction of the United States.

(E) The law of an organization of nations and of foreign nations and public entities in foreign nations.

(F) An ordinance, comprehensive plan or enactment of any local government in this state, or a right derived therefrom.

Stat. Auth.: ORS 197.040 & 197.633
Stats. Implemented: ORS 197.628 - 197.646
Hist.: LCDD 4-2006, f. & cert. ef. 5-15-06; LCDD 8-2011, f. & cert. ef. 10-20-11; LCDD 4-2012, f. & cert. ef. 2-14-12; LCDD 2-2016, f. & cert. ef. 2-10-16

660-025-0090
Evaluation, Work Program or Decision that No Work Is Necessary

(1) The local government must conduct an evaluation of its plan and land use regulations based on the periodic review conditions in ORS 197.628 and OAR 660-025-0070. The local evaluation process must comply with the following requirements:

(a) The local government must follow its citizen involvement program and the requirements of OAR 660-025-0080 for conducting the evaluation and determining the scope of a work program.

(b) The local government must provide opportunities for participation by the department and Periodic Review Assistance Team. The local government must consider issues related to coordination between local government comprehensive plan provisions and certified state agency coordination programs that are raised by the affected agency or Periodic Review Assistance Team.

(c) The local government may provide opportunities for participation by the Regional Solutions Team.

(d) At least 21 days before submitting the evaluation and work program, or decision that no work program is required, the local government must provide copies of the evaluation to members of the Periodic Review Assistance Team, if formed, and others who have, in writing, requested copies.

(e) After review of comments from interested persons, the local government must adopt an evaluation and work program or decision that no work program is required.

(2) The local government must submit the evaluation and work program, or decision that no work program is required, to the department according to the following requirements:

(a) The evaluation must include completed evaluation forms that are appropriate to the jurisdiction as determined by the director. Evaluation forms will be based on the jurisdiction's size, growth rate, geographic location, and other factors that relate to the planning situation at the time of periodic review. Issues related to coordination between local government comprehensive plan provisions and certified agency coordination programs may be included in evaluation forms.

(b) The local government must also submit to the department a list of persons who requested notice of the evaluation and work program or decision that no work program is required.

(c) The evaluation and work program, or decision that no work program is necessary, must be submitted within six months of the date the department sent the letter initiating the periodic review process, including any extension granted under section (3) of this rule.

(3) A local government may request an extension of time for submitting its evaluation and work program, or decision that no work program is required. The director may grant the request if the local government shows good cause for the extension. A local government may be permitted only one extension, which shall be for no more than 90 days.

(4) A decision by the director to deny a request for an extension may be appealed to the commission according to the procedures in OAR 660-025-0110(5), or the director may refer a request for extension under section (3) of this rule to the commission pursuant to OAR 660-025-0085.

(5) If a local government fails to submit its evaluation and work program, or decision that no work program is necessary, by the deadline set by the director or the commission, including any extension, the director shall schedule a hearing before the commission according to OAR 660-025-0170(3).

Stat. Auth.: ORS 197.040 & 197.633
Stats. Implemented: ORS 197.628 - 197.646
Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDC 6-1995, f. & cert. ef. 6-16-95; LCDD 3-2000, f. & cert. ef. 2-14-00; LCDD 4-2006, f. & cert. ef. 5-15-06; LCDD 4-2012, f. & cert. ef. 2-14-12; LCDD 2-2016, f. & cert. ef. 2-10-16

660-025-0130
Submission of Completed Work Task

(1) A local government must submit completed work tasks as provided in the approved work program or a submittal pursuant to OAR 660-025-0175 to the department along with the notice required in OAR 660-025-0140 and any form required by the department. A local government must submit to the department a list of persons who participated orally or in writing in the local proceedings leading to the adoption of the work task or who requested notice of the local government's final decision on a work task.

(2) After receipt of a work task or a submittal pursuant to OAR 660-025-0175, the department must determine whether the submittal is complete.

(3) For a periodic review task to be complete, a submittal must be a final decision containing all required elements identified for that task in the work program. The department may accept a portion of a task or subtask as a complete submittal if the work program identified that portion of the task or subtask as a separate item for adoption by the local government. All submittals required by section (1) of this rule are subject to the following requirements:

(a) If the local record does not exceed 2,000 pages, a submittal must include the entire local record, including but not limited to adopted ordi-

nances and orders, studies, inventories, findings, staff reports, correspondence, hearings minutes, written testimony and evidence, and any other items specifically listed in the work program;

(b) If the local record exceeds 2,000 pages, a submittal must include adopted ordinances, resolutions, and orders; any amended comprehensive or regional framework plan provisions or land use regulations; findings; hearings minutes; materials from the record that the local government deems necessary to explain the submittal or cites in its findings; and a detailed index listing all items in the local record and indicating whether or not the item is included in the submittal. All items in the local record must be made available for public review during the period for submitting objections under OAR 660-025-0140. The director or commission may require a local government to submit any materials from the local record not included in the initial submittal;

(c) A submittal of over 500 pages must include an index of all submitted materials. Each document must be separately indexed, in chronological order, with the last document on the top. Pages must be consecutively numbered at the bottom of the page.

(4) A submittal includes only the materials provided to the department pursuant to section (3) of this rule. Following submission of objections pursuant to OAR 660-025-0140, the local government may:

(a) Provide written correspondence that is not part of the local record which identifies material in the record relevant to filed objections. The correspondence may not include or refer to materials not in the record submitted or listed pursuant to section (3) of this rule. The local government must provide the correspondence to each objector at the same time it is sent to the department.

(b) Submit materials in the record that were not part of the submittal under section (3) if the materials are relevant to one or more filed objections. The local government may not include or refer to materials not in the local record. The local government must provide the materials to each objector at the same time it is sent to the department.

(5) If the department determines that a submittal is incomplete, it must notify the local government. If the department determines that the submittal should be reviewed despite missing information, the department may commence a formal review of the submittal. Missing material may be identified as a deficiency in the review process and be a basis to require further work by the local government.

(6) A local government may request an extension of time for submitting a work task. The director may grant the request if the local government shows good cause for the extension. A local government may be permitted only one extension, which shall be for no more than one year.

(7) If a local government fails to submit a complete work task by the deadline set by the director, or the commission, including any extension, the director must schedule a hearing before the commission. The hearing must be conducted according to the procedures in OAR 660-025-0170(3).

Stat. Auth.: ORS 197.040 & 197.633
Stats. Implemented: ORS 197.628 - 197.646
Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDC 6-1995, f. & cert. ef. 6-16-95; LCDD 3-2000, f. & cert. ef. 2-14-00; LCDD 3-2004, f. & cert. ef. 5-7-04; LCDD 4-2006, f. & cert. ef. 5-15-06; LCDD 8-2011, f. & cert. ef. 10-20-11; LCDD 4-2012, f. & cert. ef. 2-14-12; LCDD 2-2016, f. & cert. ef. 2-10-16

660-025-0140
Notice and Filing of Objections (Work Task Phase)

(1) After the local government makes a final decision on a work task or comprehensive plan amendment listed in ORS 197.626(1) and OAR 660-025-0175, the local government must notify the department and persons who participated at the local level orally or in writing during the local process or who requested notice in writing. The local government notice must contain the following information:

(a) Where a person can review a copy of the local government's final decision, and how a person may obtain a copy of the final decision;

(b) The requirements listed in section (2) of this rule for filing a valid objection to the work task or comprehensive plan amendment listed in OAR 660-025-0175; and

(c) That objectors must give a copy of the objection to the local government.

(2) Persons who participated orally or in writing in the local process leading to the final decision may object to the local government's submittal. To be valid, objections must:

(a) Be in writing and filed with the department's Salem office no later than 21 days from the date the local government sent the notice;

(b) Clearly identify an alleged deficiency in the work task or adopted comprehensive plan amendment sufficiently to identify the relevant section of the final decision and the statute, goal, or administrative rule the submittal is alleged to have violated;

(c) Suggest specific revisions that would resolve the objection; and

(d) Demonstrate that the objecting party participated orally or in writing in the local process leading to the final decision.

(3) Objections that do not meet the requirements of section (2) of this rule will not be considered by the director or commission.

(4) If no valid objections are received within the 21-day objection period, the director may approve the submittal. Regardless of whether valid objections are received, the director may make a determination of whether the final decision complies with the statewide planning goals and applicable statutes and administrative rules.

(5) When a subsequent work task conflicts with a work task that has been deemed acknowledged, or violates a statewide planning goal, applicable statute or administrative rule related to a previous work task, the director or commission shall not approve the submittal until all conflicts and compliance issues are resolved. In such case, the director or commission may enter an order deferring acknowledgment of all, or part, of the work task until completion of additional tasks.

(6) If valid objections are received or the department conducts its own review, the department must issue a report. The report shall address the issues raised in valid objections. The report shall identify specific work tasks or measures to resolve valid objections or department concerns. A valid objection shall either be sustained or rejected by the department or commission based on the statewide planning goals, or applicable statutes or administrative rules.

Stat. Auth.: ORS 197.040 & 197.633
Stats. Implemented: ORS 197.626 - 197.646
Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDC 6-1995, f. & cert. ef. 6-16-95; LCDD 3-2000, f. & cert. ef. 2-14-00; LCDD 3-2004, f. & cert. ef. 5-7-04; LCDD 4-2006, f. & cert. ef. 5-15-06; LCDD 8-2011, f. & cert. ef. 10-20-11; LCDD 4-2012, f. & cert. ef. 2-14-12; LCDD 2-2016, f. & cert. ef. 2-10-16

660-025-0150
Director Action and Appeal of Director Action (Work Task Phase)

(1) In response to a completed work task or other plan amendment submitted to the department for review in accordance with OAR 660-025-0140, the director may:

(a) Issue an order approving the completed work task or plan amendment;

(b) Issue an order remanding the work task or plan amendment to the local government including, for a work task only, a date for resubmittal;

(c) Refer the work task or plan amendment to the commission for review and action; or

(d) The director may issue an order approving portions of the completed work task or plan amendment provided these portions are not affected by an order remanding or referring the completed work task.

(2) The director must send the order to the local government, persons who filed objections and persons who, in writing, requested a copy of the action.

(3) The director shall take action on, and the order or referral must be sent, not later than 120 days of the date the department received the task submittal from the local government, unless the local government waives the 120-day deadline or the commission grants the director an extension. The local government may withdraw the submittal, in which case the 120-day deadline does not apply, provided the withdrawal will not result in the local government passing the deadline for work task submittal in the work program and any extension allowed in OAR 660-025-0130(6).

(4) If the director does not issue an order or refer the work task within the time limits set by section (3) of this rule, and the department did not receive any valid objections to the work task, the work task shall be deemed approved. In such cases, the department will provide a letter to the local government certifying that the work task is approved.

(5) If the department received one or more valid objections to the work task or plan amendment, the director must either issue an order within the time limits set by section (3) of this rule or refer the work task or plan amendment to the commission for review.

(6) Appeals of a director's decision are subject to the following requirements:

(a) A director's decision approving or partially approving a work task or plan amendment may be appealed to the commission only by a person who filed a valid objection.

(b) A director's decision remanding or partially remanding a work task or plan amendment may be appealed to the commission only by the local government, a person who filed a valid objection, or by another person who participated orally or in writing in the local proceedings leading to adoption of the local decision under review.

(c) Appeals of a director's decision must be filed with the department's Salem office within 21 days of the date the director's action was sent;

(d) A person, other than the local government that submitted the work task or plan amendment and an affected local government, appealing the director's decision must:

(A) Show that the person participated in the local proceedings leading to adoption of the work task or plan amendment orally or in writing;

(B) Clearly identify a deficiency in the work task or plan amendment sufficiently to identify the relevant section of the submittal and the statute, goal, or administrative rule the local government is alleged to have violated; and

(C) Suggest a specific modification to the work task or plan amendment necessary to resolve the alleged deficiency.

(7) If no appeal to the commission is filed within the time provided by section (6) of this rule, the director's order is deemed affirmed by the commission. If the order approved a submittal, the work task or plan amendment is deemed acknowledged.

(8) When a subsequent work task conflicts with a work task that has been deemed acknowledged, or violates a statewide planning goal, applicable statute or administrative rule related to a previous work task, the director or commission shall not approve the submittal until all conflicts and compliance issues are resolved. In such case, the director or commission may enter an order deferring acknowledgment of all, or part, of the subsequent work task until completion of additional tasks.

(9) The director's standard of review is the same as the standard that governs the commission expressed in OAR 660-025-0160(2).

Stat. Auth.: ORS 197.040 & 197.633
Stats. Implemented: ORS 197.626 - 197.646
Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDC 6-1995, f. & cert. ef. 6-16-95; LCDD 3-2000, f. & cert. ef. 2-14-00; LCDD 3-2004, f. & cert. ef. 5-7-04; LCDD 4-2006, f. & cert. ef. 5-15-06; LCDD 8-2011, f. & cert. ef. 10-20-11; LCDD 4-2012, f. & cert. ef. 2-14-12; LCDD 2-2016, f. & cert. ef. 2-10-16

660-025-0160
Commission Review of Referrals and Appeals (Work Task Phase)

(1) The commission shall hear appeals and referrals of work tasks or other plan amendments according to the applicable procedures in OAR 660-025-0085 and 660-025-0150.

(2) The commission's standard of review, as provided in ORS 197.633(3), is:

(a) For evidentiary issues, whether there is substantial evidence in the record as a whole to support the local government's decision.

(b) For procedural issues, whether the local government failed to follow the procedures applicable to the matter before the local government in a manner that prejudiced the substantial rights of a party to the proceeding.

(c) For issues concerning compliance with applicable laws, whether the local government's decision on the whole complies with applicable statutes, statewide land use planning goals, administrative rules, the comprehensive plan, the regional framework plan, the functional plan and land use regulations. The commission shall defer to a local government's interpretation of its comprehensive plan or land use regulation in the manner provided in ORS 197.829 or to Metro's interpretation of its regional framework plan or functional plans. For purposes of this subsection, "complies" has the meaning given the term "compliance" in the phrase "compliance with the goals" in ORS 197.747.

(3) In response to a referral or appeal, the director may prepare and submit a report to the commission.

(4) The department must send a copy of the report to the local government, all persons who submitted objections, and other persons who appealed the director's decision. The department must send the report at least 21 days before the commission meeting to consider the referral or appeal.

(5) The persons specified in OAR 660-025-0085(5)(c) may file written exceptions to the director's report within 10 days of the date the report is sent. Objectors may refer to or append to their exceptions any document from the local record, whether or not the local government submitted it to the department under OAR 660-025-0130. The director may issue a response to exceptions and may make revisions to the director's report in response to exceptions. The department may provide the commission a response or revised report at or prior to its hearing on the referral or appeal. A revised director's report is not required to be sent at least 21 days prior to the commission hearing.

(6) The commission shall hear appeals based on the local record. The written record shall consist of the submittal, timely objections, the director's report, timely exceptions to the director's report including materials described in section (5) of this rule, the director's response to exceptions and revised report if any, and the appeal if one was filed.

(7) Following its hearing, the commission must issue an order that does one or more of the following:

(a) Approves the work task or plan amendment or a portion of the task or plan amendment;

(b) Remands the work task or plan amendment or a portion of the task or plan amendment to the local government, including, for a work task only, a date for resubmittal;

(c) Requires specific plan or land use regulation revisions to be completed by a specific date. Where specific revisions are required, the order shall specify that no further review is necessary. These changes are final when adopted by the local government. The failure to adopt the required revisions by the date established in the order shall constitute failure to complete a work task or plan amendment by the specified deadline requiring the director to initiate a hearing before the commission according to the procedures in OAR 660-025-0170(3);

(d) Amends the work program to add a task authorized under OAR 660-025-0170(1)(b); or

(e) Modifies the schedule for the approved work program in order to accommodate additional work on a remanded work task.

(8) If the commission approves the work task or plan amendment or portion of a work task or plan amendment under subsection (7)(a) of this rule and no appeal to the Court of Appeals is filed within the time provided in ORS 197.651, the work task or plan amendment or portion of a work task or plan amendment shall be deemed acknowledged. If the commission decision on a work task or plan amendment is under subsection (7)(b) through (e) of this rule and no appeal to the Court of Appeals is filed within the time provided in ORS 197.651, the decision is final.

Stat. Auth.: ORS 197.040 & 197.633
Stats. Implemented: ORS 197.626 - 197.646
Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDC 6-1995, f. & cert. ef. 6-16-95; LCDD 3-2000, f. & cert. ef. 2-14-00; LCDD 3-2004, f. & cert. ef. 5-7-04; LCDD 4-2006, f. & cert. ef. 5-15-06; LCDD 8-2011, f. & cert. ef. 10-20-11; LCDD 4-2012, f. & cert. ef. 2-14-12; LCDD 2-2016, f. & cert. ef. 2-10-16

660-025-0175
Review of UGB Amendments and Urban Reserve Area Designations

(1) A local government must submit the following land use decisions to the department for review for compliance with the applicable statewide planning goals, statutes and rules in the manner provided for review of a work task under ORS 197.633:

(a) An amendment of an urban growth boundary by a metropolitan service district that adds more than 100 acres to the area within its urban growth boundary;

(b) An amendment of an urban growth boundary by a city with a population of 2,500 or more within its urban growth boundary that adds more than 50 acres to the area within the urban growth boundary, except as provided by ORS 197A.325 and OAR 660-038-0020(10);

(c) A designation of an area as an urban reserve under ORS 195.137 to 195.145 by a metropolitan service district or by a city with a population of 2,500 or more within its urban growth boundary;

(d) An amendment of the boundary of an urban reserve by a metropolitan service district;

(e) An amendment of the boundary of an urban reserve to add more than 50 acres to the urban reserve by a city with a population of 2,500 of more within its urban growth boundary; and

(f) A designation or an amendment to the designation of a rural reserve under ORS 195.137 to 195.145 by a county, in coordination with a metropolitan service district, including an amendment of the boundary of a rural reserve.

(2) The standards and procedures in this rule govern the local government process and submittal, and department and commission review.

(3) The local government must provide notice of the proposed amendment according to the procedures and requirements for post-acknowledgement plan amendments in ORS 197.610 and OAR 660-018-0020.

(4) The local government must submit its final decision amending its urban growth boundary, or designating urban reserve areas, to the department according to all the requirements for a work task submittal in OAR 660-025-0130 and 660-025-0140.

(5) Department and commission review and decision on the submittal from the local government must follow the procedures and requirements for review and decision of a work task submittal in OAR 660-025-0085, and 660-025-0140 to 660-025-0160.

Stat. Auth.: ORS 197.040
Stats. Implemented: ORS 195.145, 197.626 – 197.646, 197A.325

Hist.: LCDD 3-2000, f. & cert. ef. 2-14-00; LCDD 3-2004, f. & cert. ef. 5-7-04; LCDD 4-2006, f. & cert. ef. 5-15-06; LCDD 8-2011, f. & cert. ef. 10-20-11; LCDD 4-2012, f. & cert. ef. 2-14-12; LCDD 2-2016, f. & cert. ef. 2-10-16

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Rule Caption: Minor and technical changes to conform to recent legislation and provide clarification.
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Rules Repealed: 660-033-0150
Subject: The proposed amendments will modify rules to make minor and technical changes to conform to recent legislation and to provide other clarifications. Conforming amendments will implement various provisions in HB 3400 and HB 2457.
Rules Coordinator: Casaria Taylor—(503) 373-0050, ext. 322

660-006-0005
Definitions

For the purpose of this division, the following definitions apply:

(1) Definitions contained in ORS 197.015 and the Statewide Planning Goals.

(2) "Commercial Tree Species" means trees recognized for commercial production under rules adopted by the State Board of Forestry pursuant to ORS 527.715.

(3) "Cubic Foot Per Acre" means the average annual increase in cubic foot volume of wood fiber per acre for fully stocked stands at the culmination of mean annual increment as reported by the USDA Natural Resource Conservation Service (NRCS) soil survey.

(4) "Cubic Foot Per Tract Per Year" means the average annual increase in cubic foot volume of wood fiber per tract for fully stocked stands at the culmination of mean annual increment as reported by the USDA Natural Resource Conservation Service (NRCS) soil survey.

(5) "Date of Creation and Existence." When a lot, parcel or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot, parcel or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfigured means any change in the boundary of the lot, parcel, or tract.

(6) "Eastern Oregon" means that portion of the state lying east of a line beginning at the intersection of the northern boundary of the State of Oregon and the western boundary of Wasco County, then south along the western boundaries of the counties of Wasco, Jefferson, Deschutes and Klamath to the southern boundary of the State of Oregon.

(7) "Forest lands" as defined in Goal 4 are those lands acknowledged as forest lands, or, in the case of a plan amendment, forest lands shall include:

(a) Lands that are suitable for commercial forest uses, including adjacent or nearby lands which are necessary to permit forest operations or practices; and

(b) Other forested lands that maintain soil, air, water and fish and wildlife resources.

(8) "Forest Operation" means any commercial activity relating to the growing or harvesting or any forest tree species as defined in ORS 527.620(6).

(9) "Governing Body" means a city council, county board of commissioners, or county court or its designate, including planning director, hearings officer, planning commission or as provided by Oregon law.

(10) "Lot" means a single unit of land that is created by a subdivision of land as provided in ORS 92.010.

(11) "Parcel" means a single unit of land that is created by a partition of land and as further defined in ORS 215.010(1).

(12) "Primary processing of forest products" means the initial treatments of logs or other forest plant or fungi materials to prepare them for shipment for further processing or to market, including, but not limited to, debarking, peeling, drying, cleaning, sorting, chipping, grinding, sawing, shaping, notching, biofuels conversion, or other similar methods of initial treatments.

(13) "Storage structures for emergency supplies" means structures to accommodate those goods, materials and equipment required to meet the essential and immediate needs of an affected population in a disaster. Such supplies include food, clothing, temporary shelter materials, durable medical goods and pharmaceuticals, electric generators, water purification gear, communication equipment, tools and other similar emergency supplies.

(14) "Tract" means one or more contiguous lots or parcels in the same ownership as provided in ORS 215.010(2).

(15) "Western Oregon" means that portion of the state lying west of a line beginning at the intersection of the northern boundary of the State of Oregon and the western boundary of Wasco County, then south along the western boundaries of the counties of Wasco, Jefferson, Deschutes and Klamath to the southern boundary of the State of Oregon.

Stat. Auth.: ORS 197.040, 197.230 & 197.245
Stats. Implemented: ORS 197.040, 197.230, 197.245, 215.311, 215.457, 215.459, 215.700, 215.705, 215.720, 215.740, 215.750, 215.780 & 1993 OL Ch. 792
Hist.: LCDC 8-1982, f. & ef. 9-1-82; LCDC 1-1990, f. & cert. ef. 2-5-90; LCDC 7-1992, f. & cert. ef. 12-10-92; LCDC 1-1994, f. & cert. ef. 3-1-94; LCDD 2-1998, f. & cert. ef. 6-1-98; LCDD 5-2000, f. & cert. ef. 4-24-00; LCDD 3-2008, f. & cert. ef. 4-18-08; LCDD 2-2011, f. & cert. ef. 2-2-11; LCDD 1-2013, f. 1-29-13, cert. ef. 2-1-13; LCDD 4-2015, f. & cert. ef. 6-10-15; LCDD 3-2016, f. & cert. ef. 2-10-16

660-006-0010
Identifying Forest Land

(1) Governing bodies shall identify "forest lands" as defined by Goal 4 in the comprehensive plan. Lands inventoried as Goal 3 agricultural lands, lands for which an exception to Goal 4 is justified pursuant to ORS 197.732 and taken, and lands inside urban growth boundaries are not required to planned and zoned as forest lands.

(2) Where a plan amendment is proposed:

(a) Lands suitable for commercial forest uses shall be identified using a mapping of average annual wood production capability by cubic foot per acre (cf/ac) as reported by the USDA Natural Resources Conservation Service. Where NRCS data are not available or are shown to be inaccurate, other site productivity data may be used to identify forest land, in the following order of priority:

(A) Oregon Department of Revenue western Oregon site class maps;

(B) USDA Forest Service plant association guides; or

(C) Other information determined by the State Forester to be of comparable quality.

(b) Where data of comparable quality under paragraphs (2)(a)(A) through (C) are not available or are shown to be inaccurate, an alternative method for determining productivity may be used as described in the Oregon Department of Forestry's Technical Bulletin entitled "Land Use Planning Notes, Number 3 April 1998, Updated for Clarity April 2010."

(c) Counties shall identify forest lands that maintain soil air, water and fish and wildlife resources.

Stat. Auth.: ORS 197.040
Stats. Implemented: ORS 197.040, ORS 197.230, ORS 197.245, ORS 215.700, ORS 215.705, ORS 215.720, ORS 215.740, ORS 215.750, ORS 215.780 & Ch. 792, 1993 OL
Hist.: LCDC 8-1982, f. & ef. 9-1-82; LCDC 1-1990, f. & cert. ef. 2-5-90; LCDD 3-2008, f. & cert. ef. 4-18-08; LCDD 2-2011, f. & cert. ef. 2-2-11; LCDD 3-2016, f. & cert. ef. 2-10-16

660-006-0025
Uses Authorized in Forest Zones

(1) Goal 4 requires that forest land be conserved. Forest lands are conserved by adopting and applying comprehensive plan provisions and zoning regulations consistent with the goals and this rule. In addition to forest practices and operations and uses auxiliary to forest practices, as set forth in ORS 527.722, the Commission has determined that five general types of uses, as set forth in the goal, may be allowed in the forest environment, subject to the standards in the goal and in this rule. These general types of uses are:

(a) Uses related to and in support of forest operations;

(b) Uses to conserve soil, air and water quality and to provide for fish and wildlife resources, agriculture and recreational opportunities appropriate in a forest environment;

(c) Locationally-dependent uses, such as communication towers, mineral and aggregate resources, etc.

(d) Dwellings authorized by ORS 215.705 to 215.755; and

(e) Other dwellings under prescribed conditions.

(2) The following uses pursuant to the Forest Practices Act (ORS chapter 527) and Goal 4 shall be allowed in forest zones:

(a) Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals, and disposal of slash;

(b) Temporary on-site structures that are auxiliary to and used during the term of a particular forest operation;

(c) Physical alterations to the land auxiliary to forest practices including, but not limited to, those made for purposes of exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road construction or recreational facilities; and

(d) For the purposes of section (2) of this rule "auxiliary" means a use or alteration of a structure or land that provides help or is directly associated with the conduct of a particular forest practice. An auxiliary structure is located on site, temporary in nature, and is not designed to remain for the forest's entire growth cycle from planting to harvesting. An auxiliary use is removed when a particular forest practice has concluded.

(3) The following uses may be allowed outright on forest lands:

(a) Uses to conserve soil, air and water quality and to provide for wildlife and fisheries resources;

(b) Farm use as defined in ORS 215.203;

(c) Local distribution lines (e.g., electric, telephone, natural gas) and accessory equipment (e.g., electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals), or equipment that provides service hookups, including water service hookups;

(d) Temporary portable facility for the primary processing of forest products;

(e) Exploration for mineral and aggregate resources as defined in ORS chapter 517;

(f) Private hunting and fishing operations without any lodging accommodations;

(g) Towers and fire stations for forest fire protection;

(h) Widening of roads within existing rights-of-way in conformance with the transportation element of acknowledged comprehensive plans and public road and highway projects as described in ORS 215.213(1) and 215.283(1);

(i) Water intake facilities, canals and distribution lines for farm irrigation and ponds;

(j) Caretaker residences for public parks and public fish hatcheries;

(k) Uninhabitable structures accessory to fish and wildlife enhancement;

(l) Temporary forest labor camps;

(m) Exploration for and production of geothermal, gas, oil, and other associated hydrocarbons, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the well head;

(n) Destination resorts reviewed and approved pursuant to ORS 197.435 to 197.467 and Goal 8;

(o) Alteration, restoration or replacement of a lawfully established dwelling that:

(A) Has intact exterior walls and roof structures;

(B) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;

(C) Has interior wiring for interior lights;

(D) Has a heating system; and

(E) In the case of replacement, is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling;

(p) An outdoor mass gathering as defined in ORS 433.735 or other gathering of fewer than 3,000 persons that is not anticipated to continue for more than 120 hours in any three-month period is not a "land use decision" as defined in ORS 197.015(10) or subject to review under this division;

(q) Dump truck parking as provided in ORS 215.311; and

(r) An agricultural building, as defined in ORS 455.315, customarily provided in conjunction with farm use or forest use. A person may not convert an agricultural building authorized by this section to another use.

(4) The following uses may be allowed on forest lands subject to the review standards in section (5) of this rule:

(a) Permanent facility for the primary processing of forest products that is:

(A) Located in a building or buildings that do not exceed 10,000 square feet in total floor area, or an outdoor area that does not exceed one acre excluding laydown and storage yards, or a proportionate combination of indoor and outdoor areas; and

(B) Adequately separated from surrounding properties to reasonably mitigate noise, odor and other impacts generated by the facility that adversely affect forest management and other existing uses, as determined by the governing body;

(b) Permanent logging equipment repair and storage;

(c) Log scaling and weigh stations;

(d) Disposal site for solid waste approved by the governing body of a city or county or both and for which the Oregon Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities or buildings necessary for its operation;

(e)(A) Private parks and campgrounds. Campgrounds in private parks shall only be those allowed by this subsection. Except on a lot or parcel contiguous to a lake or reservoir, campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4. A campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes and is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground. A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites. Campsites may be occupied by a tent, travel trailer or recreational vehicle. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites. Campgrounds authorized by this rule shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive six-month period.

(B) Campsites may be occupied by a tent, travel trailer, yurt or recreational vehicle. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites except that electrical service may be provided to yurts allowed for by paragraph (4)(e)(C) of this rule.

(C) Subject to the approval of the county governing body or its designee, a private campground may provide yurts for overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation. Upon request of a county governing body, the Commission may provide by rule for an increase in the number of yurts allowed on all or a portion of the campgrounds in a county if the Commission determines that the increase will comply with the standards described in ORS 215.296(1). As used in this rule, "yurt" means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hook-up or internal cooking appliance.

(f) Public parks including only those uses specified under OAR 660-034-0035 or 660-034-0040, whichever is applicable;

(g) Mining and processing of oil, gas, or other subsurface resources, as defined in ORS chapter 520, and not otherwise permitted under subsection (3)(m) of this rule (e.g., compressors, separators and storage serving multiple wells), and mining and processing of aggregate and mineral resources as defined in ORS chapter 517;

(h) Television, microwave and radio communication facilities and transmission towers;

(i) Fire stations for rural fire protection;

(j) Commercial utility facilities for the purpose of generating power. A power generation facility shall not preclude more than 10 acres from use as a commercial forest operation unless an exception is taken pursuant to OAR chapter 660, division 4;

(k) Aids to navigation and aviation;

(l) Water intake facilities, related treatment facilities, pumping stations, and distribution lines;

(m) Reservoirs and water impoundments;

(n) Firearms training facility as provided in ORS 197.770(2);

(o) Cemeteries;

(p) Private seasonal accommodations for fee hunting operations may be allowed subject to section (5) of this rule, OAR 660-006-0029, and 660-006-0035 and the following requirements:

(A) Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;

(B) Only minor incidental and accessory retail sales are permitted;

(C) Accommodations are occupied temporarily for the purpose of hunting during either or both game bird or big game hunting seasons authorized by the Oregon Fish and Wildlife Commission; and

(D) A governing body may impose other appropriate conditions.

(q) New electric transmission lines with right of way widths of up to 100 feet as specified in ORS 772.210. New distribution lines (e.g., gas, oil, geothermal, telephone, fiber optic cable) with rights-of-way 50 feet or less in width;

(r) Temporary asphalt and concrete batch plants as accessory uses to specific highway projects;

(s) Home occupations as defined in ORS 215.448;

(t) A manufactured dwelling or recreational vehicle, or the temporary residential use of an existing building, in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative as defined in ORS 215.213 and 215.283. The manufactured dwelling shall use the same subsurface sewage disposal system

used by the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling. If the manufactured dwelling will use a public sanitary sewer system, such condition will not be required. Within three months of the end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demolished or, in the case of an existing building, the building shall be removed, demolished or returned to an allowed nonresidential use. A temporary residence approved under this subsection is not eligible for replacement under subsection (3)(o) of this rule. Governing bodies every two years shall review the permit authorizing such mobile homes. When the hardships end, governing bodies or their designate shall require the removal of such mobile homes. Oregon Department of Environmental Quality review and removal requirements also apply to such mobile homes. As used in this section, "hardship" means a medical hardship or hardship for the care of an aged or infirm person or persons;

(u) Expansion of existing airports;

(v) Public road and highway projects as described in ORS 215.213(2)(p) through (r) and (10) and 215.283(2)(q) through (s) and (3);

(w) Private accommodations for fishing occupied on a temporary basis may be allowed subject to section (5) of this rule, OAR 600-060-0029 and 660-006-0035 and the following requirements:

(A) Accommodations limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;

(B) Only minor incidental and accessory retail sales are permitted;

(C) Accommodations occupied temporarily for the purpose of fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission;

(D) Accommodations must be located within 1/4 mile of fish-bearing Class I waters; and

(E) A governing body may impose other appropriate conditions.

(x) Forest management research and experimentation facilities as defined by ORS 526.215 or where accessory to forest operations; and

(y) An outdoor mass gathering subject to review by a county planning commission under the provisions of ORS 433.763. These gatherings are those of more than 3,000 persons that continue or can reasonably be expected to continue for more than 120 hours within any three-month period and any part of which is held in open spaces.

(z) Storage structures for emergency supplies to serve communities and households that are located in tsunami inundation zones, if:

(A) Areas within an urban growth boundary cannot reasonably accommodate the structures;

(B) The structures are located outside tsunami inundation zones and consistent with evacuation maps prepared by Department of Geology and Mineral Industries (DOGAMI) or the local jurisdiction;

(C) Sites where the structures could be co-located with an existing use approved under this section are given preference for consideration;

(D) The structures are of a number and size no greater than necessary to accommodate the anticipated emergency needs of the population to be served;

(E) The structures are managed by a local government entity for the single purpose of providing for the temporary emergency support needs of the public; and

(F) Written notification has been provided to the County Office of Emergency Management of the application for the storage structures.

(5) A use authorized by section (4) of this rule may be allowed provided the following requirements or their equivalent are met. These requirements are designed to make the use compatible with forest operations and agriculture and to conserve values found on forest lands:

(a) The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands;

(b) The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel; and

(c) A written statement recorded with the deed or written contract with the county or its equivalent is obtained from the land owner that recognizes the rights of adjacent and nearby land owners to conduct forest operations consistent with the Forest Practices Act and Rules for uses authorized in subsections (4)(e), (m), (s), (t) and (w) of this rule.

(6) Nothing in this rule relieves governing bodies from complying with other requirement contained in the comprehensive plan or implementing ordinances such as the requirements addressing other resource values (e.g., Goal 5) that exist on forest lands.

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

Stat. Auth.: ORS 197.040, 197.230 & 197.245

Stats. Implemented: ORS 197.040, 197.230, 197.245, 215.700, 215.705, 215.720, 215.740, 215.750, 215.780 & 1993 OL Ch. 792

Hist.: LCDC 1-1990, f. & cert. ef. 2-5-90; LCDC 7-1992, f. & cert. ef. 12-10-92; LCDC 1-1994, f. & cert. ef. 3-1-94; LCDC 8-1995, f. & cert. ef. 6-29-95; LCDC 3-1996, f. & cert. ef. 12-23-96; LCDD 2-1998, f. & cert. ef. 6-1-98; LCDD 5-2000, f. & cert. ef. 4-24-00; LCDD 1-2002, f. & cert. ef. 5-22-02; LCDD 3-2004, f. & cert. ef. 5-7-04; LCDD 2-2011, f. & cert. ef. 2-2-11; LCDD 1-2013, f. 1-29-13, cert. ef. 2-1-13; LCDD 5-2013, f. 12-20-13, cert. ef. 1-1-14; LCDD 3-2016, f. & cert. ef. 2-10-16

660-006-0026

New Land Division Requirements in Forest Zones

(1) Governing bodies shall legislatively amend their land division standards to incorporate one or more of the following parcel sizes. Under these provisions, a governing body may not determine minimum parcel sizes for forest land on a case-by-case basis:

(a) An 80-acre or larger minimum parcel size; or

(b) One or more numeric minimum parcel sizes less than 80 acres provided that each parcel size is large enough to ensure:

(A) The opportunity for economically efficient forest operations typically occurring in the area;

(B) The opportunity for the continuous growing and harvesting of forest tree species;

(C) The conservation of other values found on forest lands as described in Goal 4; and

(D) That parcel meets the requirements of ORS 527.630.

(2) New land divisions less than the parcel size in section (1) of this rule may be approved for any of the following circumstances:

(a) For the uses listed in OAR 660-006-0025(3)(m) and (n) and (4)(a) through (o) provided that such uses have been approved pursuant to OAR 660-060-0025(5) and the parcel created from the division is the minimum size necessary for the use.

(b) For the establishment of a parcel for a dwelling that has existed since before June 1, 1995, subject to the following requirements:

(A) The parcel established may not be larger than five acres, except as necessary to recognize physical factors such as roads or streams, in which case the parcel shall not be larger than 10 acres; and

(B) The parcel that does not contain the dwelling is not entitled to a dwelling unless subsequently authorized by law or goal and the parcel either:

(i) Meets the minimum land division standards of the zone; or

(ii) Is consolidated with another parcel, and together the parcels meet the minimum land division standards of the zone.

(c) To allow a division of forest land to facilitate a forest practice as defined in ORS 527.620 that results in a parcel that does not meet the minimum area requirements of subsection (1)(a) or (b). Approvals shall be based on findings that demonstrate that there are unique property specific characteristics present in the proposed parcel that require an amount of land smaller than the minimum area requirements of subsections (1)(a) or (b) of this rule in order to conduct the forest practice. Parcels created pursuant to this subsection:

(A) Are not eligible for siting of new dwelling;

(B) May not serve as the justification for the siting of a future dwelling on other lots or parcels;

(C) May not, as a result of the land division, be used to justify redesignation or rezoning of resource lands; and

(D) May not result in a parcel of less than 35 acres, unless the purpose of the land division is to:

(i) Facilitate an exchange of lands involving a governmental agency; or

(ii) Allow transactions in which at least one participant is a person with a cumulative ownership of at least 2,000 acres of forest land.

(d) To allow a division of a lot or parcel zoned for forest use if:

(A) At least two dwellings lawfully existed on the lot or parcel prior to November 4, 1993;

(B) Each dwelling complies with the criteria for a replacement dwelling under ORS 215.213(1) or 215.283(1);

(C) Except for one lot or parcel, each lot or parcel created under this paragraph is between two and five acres in size;

(D) At least one dwelling is located on each lot or parcel created under this paragraph; and

(E) The landowner of a lot or parcel created under this paragraph provides evidence that a restriction prohibiting the landowner and the landowner's successors in interest from further dividing the lot or parcel has been recorded with the county clerk of the county in which the lot or parcel is located. A restriction imposed under this paragraph shall be irrevocable unless a statement of release is signed by the county planning director of the county in which the lot or parcel is located indicating that the comprehensive plan or land use regulations applicable to the lot or parcel have been changed so that the lot or parcel is no longer subject to statewide

planning goals protecting forestland or unless the land division is subsequently authorized by law or by a change in a statewide planning goal for land zoned for forest use.

(e) To allow a proposed division of land as provided in ORS 215.783.

(3) A county planning director shall maintain a record of lots and parcels that do not qualify for division under the restrictions imposed by OAR 660-006-0026(2)(d) and (4). The record shall be available to the public.

(4) A lot or parcel may not be divided under OAR 660-006-0026(2)(d) if an existing dwelling on the lot or parcel was approved under:

(a) A statute, an administrative rule or a land use regulation as defined in ORS 197.015 that required removal of the dwelling or that prohibited subsequent division of the lot or parcel; or

(b) A farm use zone provision that allowed both farm and forest uses in a mixed farm and forest use zone under statewide goal 4 (Forest Lands).

(5)(a) An applicant for the creation of a parcel pursuant to subsection (2)(b) of this rule shall provide evidence that a restriction on the remaining parcel, not containing the dwelling, has been recorded with the county clerk of the county where the property is located. The restriction shall allow no dwellings unless authorized by law or goal on land zoned for forest use except as permitted under section (2) of this rule.

(b) A restriction imposed under this section shall be irrevocable unless a statement of release is signed by the county planning director of the county where the property is located indicating that the comprehensive plan or land use regulations applicable to the property have been changed in such a manner that the parcel is no longer subject to statewide planning goals pertaining to agricultural land or forest land.

(c) The county planning director shall maintain a record of parcels that do not qualify for the siting of a new dwelling under restrictions imposed by this rule. The record shall be readily available to the public.

(6) A landowner allowed a land division under section (2) of this rule shall sign a statement that shall be recorded with the county clerk of the county in which the property is located, declaring that the landowner will not in the future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use.

(7) The county governing body or its designate may not approve a property line adjustment of a lot or parcel in a manner that separates a temporary hardship dwelling or home occupation from the parcel on which the primary residential use exists.

(8) A division of a lawfully established unit of land may occur along an urban growth boundary where the parcel remaining outside the urban growth boundary is zoned for forest use or mixed farm and forest use and is smaller than the minimum parcel size, provided that:

(a) If the parcel contains a dwelling, it must be large enough to support continued residential use.

(b) If the parcel does not contain a dwelling:

(A) It is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;

(B) It may not be considered in approving or denying an application for any other dwelling;

(C) It may not be considered in approving a redesignation or rezoning of forest lands, except to allow a public park, open space or other natural resource use; and

(D) The owner of the parcel shall record with the county clerk an irrevocable deed restriction prohibiting the owner and all successors in interest from pursuing a cause of action or claim of relief alleging injury from farming or forest practices for which a claim or action is not allowed under ORS 30.936 or 30.937.

Stat. Auth.: ORS 197.040, 197.230 & 197.245

Stats. Implemented: ORS 197.040, 197.230, 197.245, 215.700, 215.705, 215.720, 215.740, 215.750, 215.780, 215.783 & Ch. 792, 1993 OL

Hist.: LCDC 1-1990, f. & cert. ef. 2-5-90; LCDC 7 1992, f. & cert. ef. 12-10-92; LCDC 1-1994, f. & cert. ef. 3-1-94; LCDC 3-1996, f. & cert. ef. 12-23-96; LCDD 2-1998, f. & cert. ef. 6-1-98; LCDD 1-2002, f. & cert. ef. 5-22-02; LCDD 3-2008, f. & cert. ef. 4-18-08; LCDD 2-2011, f. & cert. ef. 2-2-11; LCDD 5-2013, f. 12-20-13, cert. ef. 1-1-14; LCDD 3-2016, f. & cert. ef. 2-10-16

660-006-0027
Dwellings in Forest Zones

The following standards apply to dwellings described at OAR 660-006-0025(1)(d):

(1) A lot of record dwelling authorized under ORS 215.705 may be allowed if:

(a) The lot or parcel on which the dwelling will be sited was lawfully created and was acquired and owned continuously by the present owner as defined in subsection (d) of this section:

(A) Since prior to January 1, 1985; or

(B) By devise or by intestate succession from a person who acquired and had owned continuously the lot or parcel since prior to January 1, 1985.

(b) The tract on which the dwelling will be sited does not include a dwelling;

(c) The lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract.

(d) For purposes of this section, "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or combination of these family members.

(e) The dwelling must be located:

(A) On a tract in western Oregon that is composed of soil is not capable of producing 5,000 cubic feet per year of commercial tree species and is located within 1,500 feet of a public road as defined under ORS 368.001 that provides or will provide access to the subject tract. The road shall be maintained and either paved or surfaced with rock and shall not be:

(i) A United States Bureau of Land Management road; or

(ii) A United States Forest Service road unless the road is paved to a minimum width of 18 feet, there is at least one defined lane in each direction and a maintenance agreement exists between the United States Forest Service and landowners adjacent to the road, a local government or a state agency.

(B) On a tract in eastern Oregon that is composed of soils not capable of producing 4,000 cubic feet per year of commercial tree species and is located within 1,500 feet of a public road as defined under ORS 368.001 that provides or will provide access to the subject tract. The road shall be maintained and either paved or surfaced with rock and shall not be:

(i) A United States Bureau of Land Management road; or

(ii) A United States Forest Service road unless the road is paved to a minimum width of 18 feet, there is at least one defined lane in each direction and a maintenance agreement exists between the United States Forest Service and landowners adjacent to the road, a local government or a state agency.

(f) When the lot or parcel on which the dwelling will be sited lies within an area designated in an acknowledged comprehensive plan as habitat of big game, the siting of the dwelling shall be consistent with the limitations on density upon which the acknowledged comprehensive plan and land use regulations intended to protect the habitat are based; and

(g) When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract shall be consolidated into a single lot or parcel when the dwelling is allowed.

(2) If a dwelling is not allowed pursuant to section (1) of this rule, a large tract forest dwelling authorized under ORS 215.740 may be allowed on land zoned for forest use if it complies with other provisions of law and is sited on a tract that does not include a dwelling:

(a) In eastern Oregon of at least 240 contiguous acres or 320 acres in one ownership that are not contiguous but are in the same county or adjacent counties and zoned for forest use. A deed restriction shall be filed pursuant to section (7) of this rule for all tracts that are used to meet the acreage requirements of this subsection.

(b) In western Oregon of at least 160 contiguous acres or 200 acres in one ownership that are not contiguous but are in the same county or adjacent counties and zoned for forest use. A deed restriction shall be filed pursuant to section (7) of this rule for all tracts that are used to meet the acreage requirements of this subsection.

(c) A tract shall not be considered to consist of less than 240 acres or 160 acres because it is crossed by a public road or a waterway.

(3) In western Oregon, a governing body of a county or its designate may allow the establishment of a single family "template" dwelling authorized under ORS 215.750 on a lot or parcel located within a forest zone if the lot or parcel is predominantly composed of soils that are:

(a) Capable of producing zero to 49 cubic feet per acre per year of wood fiber if:

(A) All or part of at least three other lots or parcels that existed on January 1, 1993, are within a 160-acre square centered on the center of the subject tract; and

(B) At least three dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.

(b) Capable of producing 50 to 85 cubic feet per acre per year of wood fiber if:

(A) All or part of at least seven other lots or parcels that existed on January 1, 1993, are within a 160-acre square centered on the center of the subject tract; and

(B) At least three dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.

(c) Capable of producing more than 85 cubic feet per acre per year of wood fiber if:

(A) All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160-acre square centered on the center of the subject tract; and

(B) At least three dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.

(4) In eastern Oregon, a governing body of a county or its designate may allow the establishment of a single family "template" dwelling authorized under ORS 215.750 on a lot or parcel located within a forest zone if the lot or parcel is predominantly composed of soils that are:

(a) Capable of producing zero to 20 cubic feet per acre per year of wood fiber if:

(A) All or part of at least three other lots or parcels that existed on January 1, 1993, are within a 160-acre square centered on the center of the subject tract; and

(B) At least three dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.

(b) Capable of producing 21 to 50 cubic feet per acre per year of wood fiber if:

(A) All or part of at least seven other lots or parcels that existed on January 1, 1993, are within a 160-acre square centered on the center of the subject tract; and

(B) At least three dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.

(c) Capable of producing more than 50 cubic feet per acre per year of wood fiber if:

(A) All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160-acre square centered on the center of the subject tract; and

(B) At least three dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.

(5) The following review standards apply to "template" dwellings approved under sections (3) or (4) of this rule:

(a) Lots or parcels within urban growth boundaries shall not be used to satisfy the eligibility requirements under sections (3) or (4) of this rule.

(b) Except as provided by subsection (c) of this section, if the tract under section (3) or (4) of this rule abuts a road that existed on January 1, 1993, the measurement may be made by creating a 160-acre rectangle that is one mile long and 1/4 mile wide centered on the center of the subject tract and that is to the maximum extent possible, aligned with the road.

(c)(A) If a tract 60 acres or larger described under section (3) or (4) of this rule abuts a road or perennial stream, the measurement shall be made in accordance with subsection (b) of this section. However, one of the three required dwellings shall be on the same side of the road or stream as the tract, and:

(i) Be located within a 160-acre rectangle that is one mile long and one-quarter mile wide centered on the center of the subject tract and that is, to the maximum extent possible aligned with the road or stream; or

(ii) Be within one-quarter mile from the edge of the subject tract but not outside the length of the 160-acre rectangle, and on the same side of the road or stream as the tract.

(B) If a road crosses the tract on which the dwelling will be located, at least one of the three required dwellings shall be on the same side of the road as the proposed dwelling.

(6) A proposed "template" dwelling under this rule is not allowed:

(a) If it is prohibited by or will not comply with the requirements of an acknowledged comprehensive plan, acknowledged land use regulations, or other provisions of law;

(b) Unless it complies with the requirements of OAR 660-006-0029 and 660-006-0035;

(c) Unless no dwellings are allowed on other lots or parcels that make up the tract and deed restrictions established under section (7) of this rule for the other lots or parcels that make up the tract are met; or

(d) If the tract on which the dwelling will be sited includes a dwelling.

(7)(a) The applicant for a dwelling authorized by paragraph (A) or (B) below shall provide evidence that the covenants, conditions and restrictions form adopted as "Exhibit A" has been recorded with the county clerk of the county or counties where the property subject to the covenants, conditions and restrictions is located.

(A) Subsections (2)(a) or (b) of this rule requiring one or more lot or parcel to meet minimum acreage requirements.

(B) Sections (3) or (4) of this rule applying to other lots or parcels that make up a tract in section (6).

(b) The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions and restrictions is located.

(c) Enforcement of the covenants, conditions and restrictions may be undertaken by the department or by the county or counties where the property subject to the covenants, conditions and restrictions is located.

(d) The failure to follow the requirements of this section shall not affect the validity of the transfer of property or the legal remedies available to the buyers of property that is subject to the covenants, conditions and restrictions required by this section.

(e) The county planning director shall maintain a copy of the covenants, conditions and restrictions filed in the county deed records pursuant to this section and a map or other record depicting tracts do not qualify for the siting of a dwelling under the covenants, conditions and restrictions filed in the county deed records pursuant to this section. The map or other record required by this subsection shall be readily available to the public in the county planning office.

(8) Notwithstanding subsection (6)(a) of this rule, if the acknowledged comprehensive plan and land use regulations of a county require that a dwelling be located in a 160-acre square or rectangle described in sections (3) or (4) or subsections (5)(b) or (c) of this rule, a dwelling is in the 160-acre square or rectangle if any part of the dwelling is in the 160-acre square or rectangle.

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

Stat. Auth.: ORS 197.040, 197.230 & 197.245

Stats. Implemented: ORS 197.040, 197.230, 197.245, 215.700, 215.705, 215.720, 215.740, 215.750, 215.780 & Ch. 792, 1993 OL

Hist.: LCDC 1-1990, f. & cert. ef. 2-5-90; LCDC 2-1990, f. & cert. ef. 3-9-90; LCDC 7-1992, f. & cert. ef. 12-10-92; LCDC 1-1994, f. & cert. ef. 3-1-94; LCDC 3-1996, f. & cert. ef. 12-23-96; LCDD 2-1998, f. & cert. ef. 6-1-98; LCDD 6-2000, f. & cert. ef. 6-14-00; LCDD 2-2006, f. & cert. ef. 2-15-06; LCDD 2-2011, f. & cert. ef. 2-2-11; LCDD 3-2016, f. & cert. ef. 2-10-16

660-033-0030

Identifying Agricultural Land

(1) All land defined as "agricultural land" in OAR 660-033-0020(1) shall be inventoried as agricultural land.

(2) When a jurisdiction determines the predominant soil capability classification of a lot or parcel it need only look to the land within the lot or parcel being inventoried. However, whether land is "suitable for farm use" requires an inquiry into factors beyond the mere identification of scientific soil classifications. The factors are listed in the definition of agricultural land set forth at OAR 660-033-0020(1)(a)(B). This inquiry requires the consideration of conditions existing outside the lot or parcel being inventoried. Even if a lot or parcel is not predominantly Class I-IV soils or suitable for farm use, Goal 3 nonetheless defines as agricultural "Lands in other classes which are necessary to permit farm practices to be undertaken on adjacent or nearby lands." A determination that a lot or parcel is not agricultural land requires findings supported by substantial evidence that addresses each of the factors set forth in 660-033-0020(1).

(3) Goal 3 attaches no significance to the ownership of a lot or parcel when determining whether it is agricultural land. Nearby or adjacent land, regardless of ownership, shall be examined to the extent that a lot or parcel is either "suitable for farm use" or "necessary to permit farm practices to be undertaken on adjacent or nearby lands" outside the lot or parcel.

(4) When inventoried land satisfies the definition requirements of both agricultural land and forest land, an exception is not required to show why one resource designation is chosen over another. The plan need only document the factors that were used to select an agricultural, forest, agricultural/forest, or other appropriate designation.

(5)(a) More detailed data on soil capability than is contained in the USDA Natural Resources Conservation Service (NRCS) soil maps and soil surveys may be used to define agricultural land. However, the more detailed soils data shall be related to the NRCS land capability classification system.

(b) If a person concludes that more detailed soils information than that contained in the Web Soil Survey operated by the NRCS as of January 2, 2012, would assist a county to make a better determination of whether land qualifies as agricultural land, the person must request that the department arrange for an assessment of the capability of the land by a professional soil classifier who is chosen by the person, using the process described in OAR 660-033-0045.

(c) This section and OAR 660-033-0045 apply to:

(A) A change to the designation of a lot or parcel planned and zoned for exclusive farm use, forest use or mixed farm-forest use to a non-resource plan designation and zone on the basis that such land is not agricultural land; and

(B) Excepting land use decisions under section (7) of this rule, any other proposed land use decision in which more detailed data is used to demonstrate that a lot or parcel planned and zoned for exclusive farm use does not meet the definition of agricultural land under OAR 660-033-0020(1)(a)(A).

(d) This section and OAR 660-033-0045 implement ORS 215.211, effective on October 1, 2011. After this date, only those soils assessments certified by the department under section (9) of this rule may be considered by local governments in land use proceedings described in subsection (c) of this section. However, a local government may consider soils assessments that have been completed and submitted prior to October 1, 2011.

(e) This section and OAR 660-033-0045 authorize a person to obtain additional information for use in the determination of whether a lot or parcel qualifies as agricultural land, but do not otherwise affect the process by which a county determines whether land qualifies as agricultural land as defined by Goal 3 and OAR 660-033-0020.

(6) Any county that adopted marginal lands provisions before January 1, 1993, may continue to designate lands as "marginal lands" according to those provisions and criteria in former ORS 197.247 (1991), as long as the county has not applied the provisions of ORS 215.705 to 215.750 to lands zoned for exclusive farm use.

(7)(a) For the purposes of approving a land use application on high-value farmland under ORS 215.705, the county may change the soil class, soil rating or other soil designation of a specific lot or parcel if the property owner:

(A) Submits a statement of agreement from the NRCS that the soil class, soil rating or other soil designation should be adjusted based on new information; or

(B) Submits a report from a soils scientist whose credentials are acceptable to the Oregon Department of Agriculture that the soil class, soil rating or other soil designation should be changed; and

(C) Submits a statement from the Oregon Department of Agriculture that the Director of Agriculture or the director's designee has reviewed the report described in paragraph (a)(B) of this section and finds the analysis in the report to be soundly and scientifically based.

(b) Soil classes, soil ratings or other soil designations used in or made pursuant to this section are those of the NRCS Web Soil Survey for that class, rating or designation before November 4, 1993, except for changes made pursuant to subsection (a) of this section.

(8) For the purposes of approving a land use application on high-value farmland under OAR 660-033-0090, 660-033-0120, 660-033-0130 and 660-033-0135, soil classes, soil ratings or other soil designations used in or made pursuant to this definition are those of the NRCS Web Soil Survey as of January 2, 2012 for that class, rating or designation.

Stat. Auth.: ORS 197.040
Stats. Implemented: ORS 197.015, 197.040, 197.230, 197.245, 215.203, 215.243 & 215.700 - 215.710
Hist.: LCDC 6-1992, f. 12-10-92, cert. ef. 8-7-93; LCDD 5-2000, f. & cert. ef. 4-24-00; LCDD 3-2008, f. & cert. ef. 4-18-08; LCDD 4-2011, f. & cert. ef. 3-16-11; LCDD 10-2011, f. & cert. ef. 12-20-11; LCDD 7-2012, f. & cert. ef. 2-14-12; LCDD 6-2013, f. 12-20-13, cert. ef. 1-1-14; LCDD 3-2016, f. & cert. ef. 2-10-16

660-033-0045
Soils Assessments by Professional Soil Classifiers

(1) A "professional soil classifier" means any professional in good standing with the Soil Science Society of America (SSSA) who the SSSA has certified to have met its requirements that existed as of October 1, 2011 for:

(a) Certified Professional Soil Classifier; or

(b) Certified Professional Soil Scientist, and who has been determined by an independent panel of soils professionals as defined in section (8) of this rule to have:

(A) Completed five semester hours in soil genesis, morphology and classification;

(B) At least five years of field experience in soils classification and mapping that meets National Cooperative Soil Survey standards, as maintained by the NRCS, or three years of field experience if the applicant holds an MS or PhD degree; and

(C) Demonstrated competence in practicing soils classification and mapping without direct supervision, based on published SSSA standards.

(2) The department will develop, update quarterly and post a list of professional soil classifiers (henceforth 'soils professionals') who are qualified to perform soils assessments under this rule.

(a) Qualified soils professionals shall include those individuals who have either met the requirements of subsection (1)(a) of this section or the requirements of subsection (1)(b) of this section as determined by a majority vote of an independent panel of soils professionals.

(A) A person must apply to the department for initial inclusion on the list described in section (2) of this rule.

(B) Qualified soils professionals must reapply to the department for listing on a biennial basis.

(b) A soils assessment auditing committee as defined in section (9) of this rule will periodically reevaluate qualifications of soils professionals by auditing soils assessments, considering sample department reviews and field checks as described in section (6) of this rule and verifying continued good standing of soils professionals with the SSSA.

(A) When reviewing applications for relisting, the department will consider the recommendations of the auditing committee and make final determinations as to the continued qualifications of soils professionals to perform soils assessments under this rule.

(B) The department will re-approve soils professionals for listing when audits, sample reviews and field checks reveal a pattern of demonstrated competence in practicing soils classification and mapping consistent with paragraph (1)(b)(C) of this rule, and when the SSSA verifies that the soils professional is in good standing with the SSSA.

(3) A person requesting a soils assessment shall:

(a) Choose a soils professional from the posted list described in section (2) of this rule:

(b) Privately contract for a soils assessment to be prepared; and

(c) On completion of the soils assessment, submit to the department payment of the non-refundable administrative fee established by the department as provided in statute to meet department costs to administer this rule.

(4) On completion of the soils assessment, the selected soils professional shall submit to the department:

(a) A Soils Assessment Submittal Form that includes the property owner's and soils professional's authorized signatures and a liability waiver for the department; and

(b) A soils assessment that is soundly and scientifically based and that meets reporting requirements as established by the department.

(5) The department shall deposit fees collected under this rule in the Soils Assessment Fund established under Oregon Laws 2010, chapter 44, section 2.

(6) The department shall review the soils assessment by:

(a) Performing completeness checks for consistency with reporting requirements for all submitted soils assessments; and

(b) Performing sample reviews and field checks for some submitted soils assessments, as follows:

(A) The department shall arrange for a person who meets the qualifications of 'professional soil classifier' in section (1) of this rule to conduct systematic sample reviews and field checks of soils assessments and make recommendations to the department as to whether they are soundly and scientifically based.

(B) Within 30 days of the receipt of a soils assessment subject to review under this subsection that the department determines to be complete pursuant to subsection (a) of this section, the department shall determine whether the soils assessment is soundly and scientifically based. Where soils assessments are determined not to be soundly and scientifically based, the department will provide an opportunity to the soils professional to correct any noted deficiencies. Where noted deficiencies are not corrected to the satisfaction of the department, the department will provide written notification of the noted deficiencies to the soils professional, property owner and person who requested the soils assessment.

(7)(a) A soils assessment produced under this rule is not a public record, as defined in ORS 192.410, unless the person requesting the assessment utilizes the assessment in a land use proceeding. If the person decides to utilize a soils assessment produced under this section in a land use proceeding, the person shall inform the department and consent to the release by the department of certified copies of all assessments produced under this section regarding the land to the local government conducting the land use proceeding. The department may not disclose a soils assessment prior to its utilization in a land use proceeding as described in this rule without written consent of the person paying the fee for the assessment and the property owner.

(b) On receipt of written consent, the department shall release to the local government all soils assessments produced under this rule as well as any department notifications provided under section (6) of this rule regarding land to which the land use proceeding applies.

(8) As used in this rule, "Independent panel of soils professionals" means a committee of three professionals appointed by the department that, quarterly or as needed, reviews and makes determinations regarding the qualifications of individuals seeking to be listed as soils professionals to perform soils analyses.

(a) Such panel shall consist of:

(A) A member of the SSSA;

(B) The Oregon State Soil Scientist; and

(C) An Oregon college or university soils professional.

(b) Panel members shall meet the qualifications of professional soil classifiers as defined in this rule or shall have experience mapping and teaching soil genesis, morphology and classification in a college or university setting.

(c) The department's farm and forest lands specialist shall serve as staff to the panel.

(d) In reviewing qualifications of applicants with respect to required semester hours of academic study under paragraph (1)(b)(A) of this rule, panel members may adjust for differences in academic calendars.

(9) As used in this rule, "Soils assessment auditing committee" means a group of three professionals that, annually or as needed, reviews and makes recommendations to the department regarding the continuing qualifications of soils professionals to perform soils analyses under this rule.

(a) Committee members shall be appointed by the independent panel of soils professionals and shall meet the qualifications of professional soil classifier as defined in section (1) of this rule.

(b) The department's farm and forest lands specialist shall serve as staff to the committee.

(10) As used in this rule, "person" shall have the meaning set forth in ORS 197.015(18).

Stat. Auth.: ORS 197.040
Stats. Implemented: ORS 197.015, 197.040, 197.230, 197.245, 215.203, 215.211, 215.212, 215.243 & 215.700 - 215.710
Hist.: LCDD 7-2012, f. & cert. ef. 2-14-12; LCDD 3-2016, f. & cert. ef. 2-10-16

660-033-0120
Uses Authorized on Agricultural Lands

The uses listed in the table adopted and referenced by this rule may be allowed on agricultural land in areas that meet the applicable requirements of this division, statewide goals and applicable laws. All uses are subject to the requirements, special conditions, additional restrictions and exceptions set forth in ORS chapter 215, Goal 3 and this division. The abbreviations used within the table shall have the following meanings:

(1) "A" — The use is allowed. Authorization of some uses may require notice and the opportunity for a hearing because the authorization qualifies as a land use decision pursuant to ORS chapter 197. Minimum standards for uses in the table that include a numerical reference are specified in OAR 660-033-0130. Counties may prescribe additional limitations and requirements to meet local concerns only to the extent authorized by law.

(2) "R" — The use may be allowed, after required review. The use requires notice and the opportunity for a hearing. Minimum standards for uses in the table that include a numerical reference are specified in OAR 660-033-0130. Counties may prescribe additional limitations and requirements to address local concerns.

(3) "*" — The use is not allowed.

(4) "#" — Numerical references for specific uses shown in the table refer to the corresponding section of OAR 660-033-0130. Where no numerical reference is noted for a use in the table, this rule does not establish criteria for the use.

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 197.040 & 197.245
Stats. Implemented: ORS 197.015, 197.040, 197.230, 197.245, 215.203, 215.243, 215.283, 215.700 - 215.710 & 215.780
Hist.: LCDC 6-1992, f. 12-10-92, cert. ef. 8-7-93; LCDC 3-1994, f. & cert. ef. 3-1-94; LCDC 6-1994, f. & cert. ef. 6-3-94; LCDC 2-1995(Temp), f. & cert. ef. 3-14-95; LCDC 7-1995, f. & cert. ef. 6-16-95; LCDC 5-1996, f. & cert. ef. 12-23-96; LCDD 2-1998, f. & cert. ef. 6-1-98; LCDD 1-2002, f. & cert. ef. 5-22-02; LCDD 1-2004, f. & cert. ef. 4-30-04; LCDD 2-2006, f. & cert. ef. 2-15-06; LCDD 3-2008, f. & cert. ef. 4-18-08; LCDD 5-2008, f. 12-31-08, cert. ef. 1-2-09; LCDD 5-2009, f. & cert. ef. 12-7-09; LCDD 6-2010, f. & cert. ef. 6-17-10; LCDD 4-2011, f. & cert. ef. 3-16-11; LCDD 9-2011, f. & cert. ef. 11-23-11; LCDD 7-2012, f. & cert. ef. 2-14-12; LCDD 6-2013, f. 12-20-13, cert. ef. 1-1-14; LCDD 2-2014, f. & cert. ef. 10-14-14; LCDD 2-2015, f. & cert. ef. 4-9-15; LCDD 3-2016, f. & cert. ef. 2-10-16

660-033-0130
Minimum Standards Applicable to the Schedule of Permitted and Conditional Uses

The following requirements apply to uses specified, and as listed in the table adopted by OAR 660-033-0120. For each section of this rule, the corresponding section number is shown in the table. Where no numerical reference is indicated on the table, this rule does not specify any minimum review or approval criteria. Counties may include procedures and conditions in addition to those listed in the table, as authorized by law.

(1) A dwelling on farmland may be considered customarily provided in conjunction with farm use if it meets the requirements of OAR 660-033-0135.

(2)(a) No enclosed structure with a design capacity greater than 100 people, or group of structures with a total design capacity of greater than 100 people, shall be approved in connection with the use within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4, or unless the structure is described in a master plan adopted under the provisions of OAR chapter 660, division 34.

(b) Any enclosed structures or group of enclosed structures described in subsection (a) within a tract must be separated by at least one-half mile. For purposes of this section, "tract" means a tract as defined by ORS 215.010(2) that is in existence as of June 17, 2010.

(c) Existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, subject to other requirements of law, but enclosed existing structures within a farm use zone within three miles of an urban growth boundary may not be expanded beyond the requirements of this rule.

(3)(a) A dwelling may be approved on a pre-existing lot or parcel if:

(A) The lot or parcel on which the dwelling will be sited was lawfully created and was acquired and owned continuously by the present owner as defined in subsection (3)(g) of this rule:

(i) Since prior to January 1, 1985; or

(ii) By devise or by intestate succession from a person who acquired and had owned continuously the lot or parcel since prior to January 1, 1985.

(B) The tract on which the dwelling will be sited does not include a dwelling;

(C) The lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract;

(D) The proposed dwelling is not prohibited by, and will comply with, the requirements of the acknowledged comprehensive plan and land use regulations and other provisions of law;

(E) The lot or parcel on which the dwelling will be sited is not high-value farmland except as provided in subsections (3)(c) and (d) of this rule; and

(F) When the lot or parcel on which the dwelling will be sited lies within an area designated in an acknowledged comprehensive plan as habitat of big game, the siting of the dwelling is consistent with the limitations on density upon which the acknowledged comprehensive plan and land use regulations intended to protect the habitat are based.

(b) When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract are consolidated into a single lot or parcel when the dwelling is allowed;

(c) Notwithstanding the requirements of paragraph (3)(a)(E) of this rule, a single-family dwelling may be sited on high-value farmland if:

(A) It meets the other requirements of subsections (3)(a) and (b) of this rule;

(B) The lot or parcel is protected as high-value farmland as defined in OAR 660-033-0020(8)(a);

(C) A hearings officer of a county determines that:

(i) The lot or parcel cannot practicably be managed for farm use, by itself or in conjunction with other land, due to extraordinary circumstances inherent in the land or its physical setting that do not apply generally to other land in the vicinity. For the purposes of this section, this criterion asks whether the subject lot or parcel can be physically put to farm use without undue hardship or difficulty because of extraordinary circumstances inherent in the land or its physical setting. Neither size alone nor a parcel's limited economic potential demonstrates that a lot of parcel cannot be practicably managed for farm use. Examples of "extraordinary circumstances inherent in the land or its physical setting" include very steep slopes, deep ravines, rivers, streams, roads, railroad or utility lines or other similar natural or physical barriers that by themselves or in combination separate the subject lot or parcel from adjacent agricultural land and prevent it from being practicably managed for farm use by itself or together with adjacent or nearby farms. A lot or parcel that has been put to farm use despite the proximity of a natural barrier or since the placement of a physical barrier shall be presumed manageable for farm use;

(ii) The dwelling will comply with the provisions of ORS 215.296(1); and

(iii) The dwelling will not materially alter the stability of the overall land use pattern in the area by applying the standards set forth in paragraph (4)(a)(D) of this rule; and

(D) A local government shall provide notice of all applications for dwellings allowed under subsection (3)(c) of this rule to the Oregon Department of Agriculture. Notice shall be provided in accordance with the governing body's land use regulations but shall be mailed at least 20 calendar days prior to the public hearing before the hearings officer under paragraph (3)(c)(C) of this rule.

(d) Notwithstanding the requirements of paragraph (3)(a)(E) of this rule, a single-family dwelling may be sited on high-value farmland if:

(A) It meets the other requirements of subsections (3)(a) and (b) of this rule;

(B) The tract on which the dwelling will be sited is:

(i) Identified in OAR 660-033-0020(8)(c) or (d);

(ii) Not high-value farmland defined in OAR 660-033-0020(8)(a); and

(iii) Twenty-one acres or less in size; and

(C) The tract is bordered on at least 67 percent of its perimeter by tracts that are smaller than 21 acres, and at least two such tracts had dwellings on January 1, 1993; or

(D) The tract is not a flaglot and is bordered on at least 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter mile of the center of the subject tract. Up to two of the four dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary; or

(E) The tract is a flaglot and is bordered on at least 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter mile of the center of the subject tract and on the same side of the public road that provides access to the subject tract. The governing body of a county must interpret the center of the subject tract as the geographic center of the flaglot if the applicant makes a written request for that interpretation and that interpretation does not cause the center to be located outside the flaglot. Up to two of the four dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary:

(i) "Flaglot" means a tract containing a narrow strip or panhandle of land providing access from the public road to the rest of the tract.

(ii) "Geographic center of the flaglot" means the point of intersection of two perpendicular lines of which the first line crosses the midpoint of the longest side of a flaglot, at a 90-degree angle to the side, and the second line crosses the midpoint of the longest adjacent side of the flaglot.

(e) If land is in a zone that allows both farm and forest uses, is acknowledged to be in compliance with both Goals 3 and 4 and may qualify as an exclusive farm use zone under ORS chapter 215, a county may apply the standards for siting a dwelling under either section (3) of this rule or OAR 660-006-0027, as appropriate for the predominant use of the tract on January 1, 1993;

(f) A county may, by application of criteria adopted by ordinance, deny approval of a dwelling allowed under section (3) of this rule in any area where the county determines that approval of the dwelling would:

(A) Exceed the facilities and service capabilities of the area;

(B) Materially alter the stability of the overall land use pattern of the area; or

(C) Create conditions or circumstances that the county determines would be contrary to the purposes or intent of its acknowledged comprehensive plan or land use regulations.

(g) For purposes of subsection (3)(a) of this rule, "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or a combination of these family members;

(h) The county assessor shall be notified that the governing body intends to allow the dwelling.

(i) When a local government approves an application for a single-family dwelling under section (3) of this rule, the application may be transferred by a person who has qualified under section (3) of this rule to any other person after the effective date of the land use decision.

(4) A single-family residential dwelling not provided in conjunction with farm use requires approval of the governing body or its designate in any farmland area zoned for exclusive farm use:

(a) In the Willamette Valley, the use may be approved if:

(A) The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use;

(B) The dwelling will be sited on a lot or parcel that is predominantly composed of Class IV through VIII soils that would not, when irrigated, be classified as prime, unique, Class I or II soils;

(C) The dwelling will be sited on a lot or parcel created before January 1, 1993;

(D) The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern in the area, a county shall consider the cumulative impact of possible new nonfarm dwellings and parcels on other lots or parcels in the area similarly situated. To address this standard, the county shall:

(i) Identify a study area for the cumulative impacts analysis. The study area shall include at least 2000 acres or a smaller area not less than 1000 acres, if the smaller area is a distinct agricultural area based on topography, soil types, land use pattern, or the type of farm or ranch operations or practices that distinguish it from other, adjacent agricultural areas. Findings shall describe the study area, its boundaries, the location of the subject parcel within this area, why the selected area is representative of the land use pattern surrounding the subject parcel and is adequate to conduct the analysis required by this standard. Lands zoned for rural residential or other urban or nonresource uses shall not be included in the study area;

(ii) Identify within the study area the broad types of farm uses (irrigated or nonirrigated crops, pasture or grazing lands), the number, location and type of existing dwellings (farm, nonfarm, hardship, etc.), and the dwelling development trends since 1993. Determine the potential number of nonfarm/lot-of-record dwellings that could be approved under subsection (3)(a) and section (4) of this rule, including identification of predominant soil classifications, the parcels created prior to January 1, 1993 and the parcels larger than the minimum lot size that may be divided to create new parcels for nonfarm dwellings under ORS 215.263(4). The findings shall describe the existing land use pattern of the study area including the distribution and arrangement of existing uses and the land use pattern that could result from approval of the possible nonfarm dwellings under this subparagraph; and

(iii) Determine whether approval of the proposed nonfarm/lot-of-record dwellings together with existing nonfarm dwellings will materially alter the stability of the land use pattern in the area. The stability of the land use pattern will be materially altered if the cumulative effect of existing and potential nonfarm dwellings will make it more difficult for the existing types of farms in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area; and

(E) The dwelling complies with such other conditions as the governing body or its designate considers necessary.

(b) In the Willamette Valley, on a lot or parcel allowed under OAR 660-033-0100(7), the use may be approved if:

(A) The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use;

(B) The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern in the area, a county shall consider the cumulative impact of nonfarm dwellings on other lots or parcels in the area similarly situated and whether creation of the parcel will lead to creation of other nonfarm parcels, to the detriment of agriculture in the area by applying the standards set forth in paragraph (4)(a)(D) of this rule; and

(C) The dwelling complies with such other conditions as the governing body or its designate considers necessary.

(c) In counties located outside the Willamette Valley require findings that:

(A) The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use;

(B)(i) The dwelling, including essential or accessory improvements or structures, is situated upon a lot or parcel, or, in the case of an existing lot or parcel, upon a portion of a lot or parcel, that is generally unsuitable land for the production of farm crops and livestock or merchantable tree species, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract. A lot or parcel or portion of a lot or parcel shall not be considered unsuitable solely because of size or

location if it can reasonably be put to farm or forest use in conjunction with other land; and

(ii) A lot or parcel or portion of a lot or parcel is not "generally unsuitable" simply because it is too small to be farmed profitably by itself. If a lot or parcel or portion of a lot or parcel can be sold, leased, rented or otherwise managed as a part of a commercial farm or ranch, then the lot or parcel or portion of the lot or parcel is not "generally unsuitable". A lot or parcel or portion of a lot or parcel is presumed to be suitable if, in Western Oregon it is composed predominantly of Class I-IV soils or, in Eastern Oregon, it is composed predominantly of Class I-VI soils. Just because a lot or parcel or portion of a lot or parcel is unsuitable for one farm use does not mean it is not suitable for another farm use; or

(iii) If the parcel is under forest assessment, the dwelling shall be situated upon generally unsuitable land for the production of merchantable tree species recognized by the Forest Practices Rules, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the parcel. If a lot or parcel is under forest assessment, the area is not "generally unsuitable" simply because it is too small to be managed for forest production profitably by itself. If a lot or parcel under forest assessment can be sold, leased, rented or otherwise managed as a part of a forestry operation, it is not "generally unsuitable". If a lot or parcel is under forest assessment, it is presumed suitable if, in Western Oregon, it is composed predominantly of soils capable of producing 50 cubic feet of wood fiber per acre per year, or in Eastern Oregon it is composed predominantly of soils capable of producing 20 cubic feet of wood fiber per acre per year. If a lot or parcel is under forest assessment, to be found compatible and not seriously interfere with forest uses on surrounding land it must not force a significant change in forest practices or significantly increase the cost of those practices on the surrounding land;

(C) The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern in the area, a county shall consider the cumulative impact of nonfarm dwellings on other lots or parcels in the area similarly situated by applying the standards set forth in paragraph (4)(a)(D) of this rule. If the application involves the creation of a new parcel for the nonfarm dwelling, a county shall consider whether creation of the parcel will lead to creation of other nonfarm parcels, to the detriment of agriculture in the area by applying the standards set forth in paragraph (4)(a)(D) of this rule; and

(D) The dwelling complies with such other conditions as the governing body or its designate considers necessary.

(d) If a single-family dwelling is established on a lot or parcel as set forth in section (3) of this rule or OAR 660-006-0027, no additional dwelling may later be sited under the provisions of section (4) of this rule;

(e) Counties that have adopted marginal lands provisions before January 1, 1993, shall apply the standards in ORS 215.213(3) through 215.213(8) for nonfarm dwellings on lands zoned exclusive farm use that are not designated marginal or high-value farmland.

(5) Approval requires review by the governing body or its designate under ORS 215.296. Uses may be approved only where such uses:

(a) Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and

(b) Will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

(6) A facility for the primary processing of forest products shall not seriously interfere with accepted farming practices and shall be compatible with farm uses described in ORS 215.203(2). Such facility may be approved for a one-year period that is renewable and is intended to be only portable or temporary in nature. The primary processing of a forest product, as used in this section, means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market. Forest products as used in this section means timber grown upon a tract where the primary processing facility is located.

(7) A personal-use airport as used in this section means an airstrip restricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations. No aircraft may be based on a personal-use airport other than those owned or controlled by the owner of the airstrip. Exceptions to the activities allowed under this definition may be granted through waiver action by the Oregon Department of Aviation in specific instances. A personal-use airport lawfully existing as of September 13, 1975, shall continue to be allowed subject to any applicable rules of the Oregon Department of Aviation.

(8)(a) A lawfully established dwelling may be altered, restored or replaced under ORS 215.213(1)(q) or 215.283(1)(p) if, when an application for a permit is submitted, the permitting authority finds to its satisfaction, based on substantial evidence that:

(A) The dwelling to be altered, restored or replaced has, or formerly had:

(i) Intact exterior walls and roof structure;

(ii) Indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;

(iii) Interior wiring for interior lights; and

(iv) A heating system; and

(B) The dwelling was assessed as a dwelling for purposes of ad valorem taxation for the previous five property tax years, or, if the dwelling has existed for less than five years, from that time.

(C) Notwithstanding paragraph (B), if the value of the dwelling was eliminated as a result of either of the following circumstances, the dwelling was assessed as a dwelling until such time as the value of the dwelling was eliminated:

(i) The destruction (i.e by fire or natural hazard), or demolition in the case of restoration, of the dwelling; or

(ii) The applicant establishes to the satisfaction of the permitting authority that the dwelling was improperly removed from the tax roll by a person other than the current owner. "Improperly removed" means that the dwelling has taxable value in its present state, or had taxable value when the dwelling was first removed from the tax roll or was destroyed by fire or natural hazard, and the county stopped assessing the dwelling even though the current or former owner did not request removal of the dwelling from the tax roll.

(b) For replacement of a lawfully established dwelling under ORS 215.213(1)(q) or 215.283(1)(p):

(A) The dwelling to be replaced must be removed, demolished or converted to an allowable nonresidential use:

(i) Within one year after the date the replacement dwelling is certified for occupancy pursuant to ORS 455.055; or

(ii) If the dwelling to be replaced is, in the discretion of the permitting authority, in such a state of disrepair that the structure is unsafe for occupancy or constitutes an attractive nuisance, on or before a date set by the permitting authority that is not less than 90 days after the replacement permit is issued; and

(iii) If a dwelling is removed by moving it off the subject parcel to another location, the applicant must obtain approval from the permitting authority for the new location.

(B) The applicant must cause to be recorded in the deed records of the county a statement that the dwelling to be replaced has been removed, demolished or converted.

(C) As a condition of approval, if the dwelling to be replaced is located on a portion of the lot or parcel that is not zoned for exclusive farm use, the applicant shall execute and cause to be recorded in the deed records of the county in which the property is located a deed restriction prohibiting the siting of another dwelling on that portion of the lot or parcel. The restriction imposed is irrevocable unless the county planning director, or the director's designee, places a statement of release in the deed records of the county to the effect that the provisions of 2013 Oregon Laws, chapter 462, Section 2 and either ORS 215.213 or 215.283 regarding replacement dwellings have changed to allow the lawful siting of another dwelling.

(D) The county planning director, or the director's designee, shall maintain a record of:

(i) The lots and parcels for which dwellings to be replaced have been removed, demolished or converted; and

(ii) The lots and parcels that do not qualify for the siting of a new dwelling under subsection (b) of this section, including a copy of the deed restrictions filed under paragraph (B) of this subsection.

(c) A replacement dwelling under ORS 215.213(1)(q) or 215.283(1)(p) must comply with applicable building codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to siting at the time of construction. However, the standards may not be applied in a manner that prohibits the siting of the replacement dwelling.

(A) The siting standards of paragraph (B) of this subsection apply when a dwelling under ORS 215.213(1)(q) or 215.213(1)(p) qualifies for replacement because the dwelling:

(i) Formerly had the features described in paragraph (a)(A) of this section;

(ii) Was removed from the tax roll as described in paragraph (C) of subsection (a); or

(iii) Had a permit that expired as described under paragraph (d)(C) of this section.

(B) The replacement dwelling must be sited on the same lot or parcel:

(i) Using all or part of the footprint of the replaced dwelling or near a road, ditch, river, property line, forest boundary or another natural boundary of the lot or parcel; and

(ii) If possible, for the purpose of minimizing the adverse impacts on resource use of land in the area, within a concentration or cluster of structures or within 500 yards of another structure.

(C) Replacement dwellings that currently have the features described in paragraph (a)(A) of this subsection and that have been on the tax roll as described in paragraph (B) of subsection (a) may be sited on any part of the same lot or parcel.

(d) A replacement dwelling permit that is issued under ORS 215.213(1)(q) or 215.283(1)(p):

(A) Is a land use decision as defined in ORS 197.015 where the dwelling to be replaced:

(i) Formerly had the features described in paragraph (a)(A) of this section; or

(ii) Was removed from the tax roll as described in paragraph (a)(C) of this section;

(B) Is not subject to the time to act limits of ORS 215.417; and

(C) If expired before January 1, 2014, shall be deemed to be valid and effective if, before January 1, 2015, the holder of the permit:

(i) Removes, demolishes or converts to an allowable nonresidential use the dwelling to be replaced; and

(ii) Causes to be recorded in the deed records of the county a statement that the dwelling to be replaced has been removed, demolished or converted.

(9)(a) To qualify for a relative farm help dwelling, a dwelling shall be occupied by relatives whose assistance in the management and farm use of the existing commercial farming operation is required by the farm operator. However, farming of a marijuana crop may not be used to demonstrate compliance with the approval criteria for a relative farm help dwelling. The farm operator shall continue to play the predominant role in the management and farm use of the farm. A farm operator is a person who operates a farm, doing the work and making the day-to-day decisions about such things as planting, harvesting, feeding and marketing.

(b) A relative farm help dwelling must be located on the same lot or parcel as the dwelling of the farm operator and must be on real property used for farm use.

(c) For the purpose of subsection (a), "relative" means a child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of the farm operator or the farm operator's spouse.

(d) Notwithstanding ORS 92.010 to 92.192 or the minimum lot or parcel requirements under 215.780, if the owner of a dwelling described in this section obtains construction financing or other financing secured by the dwelling and the secured party forecloses on the dwelling, the secured party may also foreclose on the "homesite," as defined in 308A.250, and the foreclosure shall operate as a partition of the homesite to create a new parcel. Prior conditions of approval for the subject land and dwelling remain in effect.

(e) For the purpose of subsection (d), "foreclosure" means only those foreclosures that are exempt from partition under ORS 92.010(9)(a).

(10) A manufactured dwelling, or recreational vehicle, or the temporary residential use of an existing building allowed under this provision is a temporary use for the term of the hardship suffered by the existing resident or relative as defined in ORS chapter 215. The manufactured dwelling shall use the same subsurface sewage disposal system used by the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling. If the manufactured home will use a public sanitary sewer system, such condition will not be required. Governing bodies shall review the permit authorizing such manufactured homes every two years. Within three months of the end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demolished or, in the case of an existing building, the building shall be removed, demolished or returned to an allowed nonresidential use. A temporary residence approved under this section is not eligible for replacement under 215.213(1)(q) or 215.283(1)(p). Department of Environmental Quality review and removal requirements also apply. As used in this section "hardship" means a medical hardship or hardship for the care of an aged or infirm person or persons.

(11) Subject to the issuance of a license, permit or other approval by the Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with rules adopted under 468B.095, and with the requirements of 215.246, 215.247, 215.249 and 215.251, the land application of reclaimed water, agricultural process or industrial process water or biosolids for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in an exclusive farm use zones under this division is allowed.

(12) In order to meet the requirements specified in the statute, a historic dwelling shall be listed on the National Register of Historic Places.

(13) Roads, highways and other transportation facilities, and improvements not otherwise allowed under this rule may be established, subject to the adoption of the governing body or its designate of an exception to Goal 3, Agricultural Lands, and to any other applicable goal with which the facility or improvement does not comply. In addition, transportation uses and improvements may be authorized under conditions and standards as set forth in OAR 660-012-0035 and 660-012-0065.

(14) Home occupations and the parking of vehicles may be authorized. Home occupations shall be operated substantially in the dwelling or other buildings normally associated with uses permitted in the zone in which the property is located. A home occupation shall be operated by a resident or employee of a resident of the property on which the business is located, and shall employ on the site no more than five full-time or part-time persons.

(15) New uses that batch and blend mineral and aggregate into asphalt cement may not be authorized within two miles of a planted vineyard. Planted vineyard means one or more vineyards totaling 40 acres or more that are planted as of the date the application for batching and blending is filed.

(16)(a) A utility facility established under ORS 215.213(1)(c) or 215.283(1)(c) is necessary for public service if the facility must be sited in an exclusive farm use zone in order to provide the service. To demonstrate that a utility facility is necessary, an applicant must:

(A) Show that reasonable alternatives have been considered and that the facility must be sited in an exclusive farm use zone due to one or more of the following factors:

(i) Technical and engineering feasibility;

(ii) The proposed facility is locationally-dependent. A utility facility is locationally-dependent if it must cross land in one or more areas zoned for exclusive farm use in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;

(iii) Lack of available urban and nonresource lands;

(iv) Availability of existing rights of way;

(v) Public health and safety; and

(vi) Other requirements of state and federal agencies.

(B) Costs associated with any of the factors listed in paragraph (A) of this subsection may be considered, but cost alone may not be the only consideration in determining that a utility facility is necessary for public service. Land costs shall not be included when considering alternative locations for substantially similar utility facilities and the siting of utility facilities that are not substantially similar.

(C) The owner of a utility facility approved under this section shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this paragraph shall prevent the owner of the utility facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration.

(D) The governing body of the county or its designee shall impose clear and objective conditions on an application for utility facility siting to mitigate and minimize the impacts of the proposed facility, if any, on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on surrounding farmlands.

(E) Utility facilities necessary for public service may include on-site and off-site facilities for temporary workforce housing for workers constructing a utility facility. Such facilities must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule when project construction is complete. Off-site facilities allowed under this paragraph are subject to 660-033-0130(5). Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request. A minor amendment request shall have no effect on the original approval.

(F) In addition to the provisions of paragraphs (A) to (D) of this subsection, the establishment or extension of a sewer system as defined by OAR 660-011-0060(1)(f) in an exclusive farm use zone shall be subject to the provisions of 660-011-0060.

(G) The provisions of paragraphs (A) to (D) of this subsection do not apply to interstate natural gas pipelines and associated facilities authorized by and subject to regulation by the Federal Energy Regulatory Commission.

(b) An associated transmission line is necessary for public service and shall be approved by the governing body of a county or its designee if an applicant for approval under ORS 215.213(1)(c) or 215.283(1)(c) demonstrates to the governing body of a county or its designee that the associated transmission line meets either the requirements of paragraph (A) of this subsection or the requirements of paragraph (B) of this subsection.

(A) An applicant demonstrates that the entire route of the associated transmission line meets at least one of the following requirements:

(i) The associated transmission line is not located on high-value farmland, as defined in ORS 195.300, or on arable land;

(ii) The associated transmission line is co-located with an existing transmission line;

(iii) The associated transmission line parallels an existing transmission line corridor with the minimum separation necessary for safety; or

(iv) The associated transmission line is located within an existing right of way for a linear facility, such as a transmission line, road or railroad, that is located above the surface of the ground.

(B) After an evaluation of reasonable alternatives, an applicant demonstrates that the entire route of the associated transmission line meets, subject to paragraphs (C) and (D) of this subsection, two or more of the following criteria:

(i) Technical and engineering feasibility;

(ii) The associated transmission line is locationally-dependent because the associated transmission line must cross high-value farmland, as defined in ORS 195.300, or arable land to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;

(iii) Lack of an available existing right of way for a linear facility, such as a transmission line, road or railroad, that is located above the surface of the ground;

(iv) Public health and safety; or

(v) Other requirements of state or federal agencies.

(C) As pertains to paragraph (B), the applicant shall present findings to the governing body of the county or its designee on how the applicant will mitigate and minimize the impacts, if any, of the associated transmission line on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm pratices or a significant increase in the cost of farm practices on the surrounding farmland.

(D) The governing body of a county or its designee may consider costs associated with any of the factors listed in paragraph (B) of this subsection, but consideration of cost may not be the only consideration in determining whether the associated transmission line is necessary for public service.

(17) Permanent features of a power generation facility shall not preclude more than 12 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4. A power generation facility may include on-site and off-site facilities for temporary workforce housing for workers constructing a power generation facility. Such facilities must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule when project construction is complete. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request. A minor amendment request shall be subject to 660-033-0130(5) and shall have no effect on the original approval.

(18)(a) Existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, subject to other requirements of law. An existing golf course may be expanded consistent with the requirements of sections (5) and (20) of this rule, but shall not be expanded to contain more than 36 total holes.

(b) In addition to and not in lieu of the authority in ORS 215.130 to continue, alter, restore or replace a use that has been disallowed by the enactment or amendment of a zoning ordinance or regulation, schools as formerly allowed pursuant to ORS 215.213(1)(a) or 215.283(1)(a), as in effect before January 1, 2010, the effective date of 2009 Oregon Laws, chapter 850, section 14, may be expanded subject to:

(A) The requirements of subsection (c) of this section; and

(B) Conditional approval of the county in the manner provided in ORS 215.296.

(c) A nonconforming use described in subsection (b) of this section may be expanded under this section if:

(A) The use was established on or before January 1, 2009; and

(B) The expansion occurs on:

(i) The tax lot on which the use was established on or before January 1, 2009; or

(ii) A tax lot that is contiguous to the tax lot described in subparagraph (i) of this paragraph and that was owned by the applicant on January 1, 2009.

(19)(a) Except on a lot or parcel contiguous to a lake or reservoir, private campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4. A campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes and is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground. A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites. Campgrounds authorized by this rule shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive six-month period.

(b) Campsites may be occupied by a tent, travel trailer, yurt or recreational vehicle. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites except that electrical service may be provided to yurts allowed for by subsection (19)(c) of this rule.

(c) Subject to the approval of the county governing body or its designee, a private campground may provide yurts for overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation. Upon request of a county governing body, the commission may provide by rule for an increase in the number of yurts allowed on all or a portion of the campgrounds in a county if the commission determines that the increase will comply with the standards described in ORS 215.296(1). As used in this section, "yurt" means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hook-up or internal cooking appliance.

(20) "Golf Course" means an area of land with highly maintained natural turf laid out for the game of golf with a series of nine or more holes, each including a tee, a fairway, a putting green, and often one or more natural or artificial hazards. A "golf course" for purposes of ORS 215.213(2)(f), 215.283(2)(f), and this division means a nine or 18 hole regulation golf course or a combination nine and 18 hole regulation golf course consistent with the following:

(a) A regulation 18 hole golf course is generally characterized by a site of about 120 to 150 acres of land, has a playable distance of 5,000 to 7,200 yards, and a par of 64 to 73 strokes;

(b) A regulation nine hole golf course is generally characterized by a site of about 65 to 90 acres of land, has a playable distance of 2,500 to 3,600 yards, and a par of 32 to 36 strokes;

(c) Non-regulation golf courses are not allowed uses within these areas. "Non-regulation golf course" means a golf course or golf course-like development that does not meet the definition of golf course in this rule, including but not limited to executive golf courses, Par three golf courses, pitch and putt golf courses, miniature golf courses and driving ranges;

(d) Counties shall limit accessory uses provided as part of a golf course consistent with the following standards:

(A) An accessory use to a golf course is a facility or improvement that is incidental to the operation of the golf course and is either necessary for the operation and maintenance of the golf course or that provides goods or services customarily provided to golfers at a golf course. An accessory use or activity does not serve the needs of the non-golfing public. Accessory uses to a golf course may include: Parking; maintenance buildings; cart storage and repair; practice range or driving range; clubhouse; restrooms; lockers and showers; food and beverage service; pro shop; a practice or beginners course as part of an 18 hole or larger golf course; or golf tournament. Accessory uses to a golf course do not include: Sporting facilities unrelated to golfing such as tennis courts, swimming pools, and weight rooms; wholesale or retail operations oriented to the non-golfing public; or housing;

(B) Accessory uses shall be limited in size and orientation on the site to serve the needs of persons and their guests who patronize the golf course to golf. An accessory use that provides commercial services (e.g., pro shop, etc.) shall be located in the clubhouse rather than in separate buildings; and

(C) Accessory uses may include one or more food and beverage service facilities in addition to food and beverage service facilities located in a clubhouse. Food and beverage service facilities must be part of and incidental to the operation of the golf course and must be limited in size and

orientation on the site to serve only the needs of persons who patronize the golf course and their guests. Accessory food and beverage service facilities shall not be designed for or include structures for banquets, public gatherings or public entertainment.

(21) "Living History Museum" means a facility designed to depict and interpret everyday life and culture of some specific historic period using authentic buildings, tools, equipment and people to simulate past activities and events. As used in this rule, a living history museum shall be related to resource based activities and shall be owned and operated by a governmental agency or a local historical society. A living history museum may include limited commercial activities and facilities that are directly related to the use and enjoyment of the museum and located within authentic buildings of the depicted historic period or the museum administration building, if areas other than an exclusive farm use zone cannot accommodate the museum and related activities or if the museum administration buildings and parking lot are located within one quarter mile of an urban growth boundary. "Local historical society" means the local historical society, recognized as such by the county governing body and organized under ORS chapter 65.

(22) Permanent features of a power generation facility shall not preclude more than 20 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4. A power generation facility may include on-site and off-site facilities for temporary workforce housing for workers constructing a power generation facility. Such facilities must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule when project construction is complete. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request. A minor amendment request shall be subject to 660-033-0130(5) and shall have no effect on the original approval.

(23) A farm stand may be approved if:

(a) The structures are designed and used for sale of farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area, including the sale of retail incidental items and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand if the annual sales of the incidental items and fees from promotional activity do not make up more than 25 percent of the total annual sales of the farm stand; and

(b) The farm stand does not include structures designed for occupancy as a residence or for activities other than the sale of farm crops and livestock and does not include structures for banquets, public gatherings or public entertainment.

(c) As used in this section, "farm crops or livestock" includes both fresh and processed farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area. As used in this subsection, "processed crops and livestock" includes jams, syrups, apple cider, animal products and other similar farm crops and livestock that have been processed and converted into another product but not prepared food items.

(d) As used in this section, "local agricultural area" includes Oregon or an adjacent county in Washington, Idaho, Nevada or California that borders the Oregon county in which the farm stand is located.

(e) A farm stand may not be used for the sale, or to promote the sale, of marijuana products or extracts.

(24) Accessory farm dwellings as defined by subsection (e) of this section may be considered customarily provided in conjunction with farm use if:

(a) Each accessory farm dwelling meets all the following requirements:

(A) The accessory farm dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land and whose seasonal or year-round assistance in the management of the farm use, such as planting, harvesting, marketing or caring for livestock, is or will be required by the farm operator;

(B) The accessory farm dwelling will be located:

(i) On the same lot or parcel as the primary farm dwelling;

(ii) On the same tract as the primary farm dwelling when the lot or parcel on which the accessory farm dwelling will be sited is consolidated into a single parcel with all other contiguous lots and parcels in the tract;

(iii) On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is limited to only a manufactured dwelling with a deed restriction. The deed restriction shall be filed with the county clerk and require the manufactured dwelling to be removed when the lot or parcel is conveyed to another party. The manufactured dwelling may remain if it is reapproved under these rules;

(iv) On any lot or parcel, when the accessory farm dwelling is limited to only attached multi-unit residential structures allowed by the applicable state building code or similar types of farmworker housing as that existing on farm or ranch operations registered with the Department of Consumer and Business Services, Oregon Occupational Safety and Health Division under ORS 658.750. A county shall require all accessory farm dwellings approved under this subparagraph to be removed, demolished or converted to a nonresidential use when farmworker housing is no longer required. "Farmworker housing" shall have the meaning set forth in 215.278 and not the meaning in 315.163; or

(v) On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is located on a lot or parcel at least the size of the applicable minimum lot size under ORS 215.780 and the lot or parcel complies with the gross farm income requirements in OAR 660-033-0135(3) or (4), whichever is applicable; and

(C) There is no other dwelling on the lands designated for exclusive farm use owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm or ranch and that could reasonably be used as an accessory farm dwelling.

(b) In addition to the requirements in subsection (a) of this section, the primary farm dwelling to which the proposed dwelling would be accessory, meets one of the following:

(A) On land not identified as high-value farmland, the primary farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, on which, in each of the last two years or three of the last five years or in an average of three of the last five years, the farm operator earned the lower of the following:

(i) At least $40,000 in gross annual income from the sale of farm products. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or

(ii) Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the county with the gross annual sales of $10,000 or more according to the 1992 Census of Agriculture, Oregon. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract;

(B) On land identified as high-value farmland, the primary farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, on which the farm operator earned at least $80,000 in gross annual income from the sale of farm products in each of the last two years or three of the last five years or in an average of three of the last five years. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract;

(C) On land not identified as high-value farmland in counties that have adopted marginal lands provisions under former ORS 197.247 (1991 Edition) before January 1, 1993, the primary farm dwelling is located on a farm or ranch operation that meets the standards and requirements of 215.213(2)(a) or (b) or paragraph (A) of this subsection; or

(D) It is located on a commercial dairy farm as defined by OAR 660-033-0135(8); and

(i) The building permits, if required, have been issued and construction has begun or been completed for the buildings and animal waste facilities required for a commercial dairy farm;

(ii) The Oregon Department of Agriculture has approved a permit for a "confined animal feeding operation" under ORS 468B.050 and 468B.200 to 468B.230; and

(iii) A Producer License for the sale of dairy products under ORS 621.072.

(c) The governing body of a county shall not approve any proposed division of a lot or parcel for an accessory farm dwelling approved pursuant to this section. If it is determined that an accessory farm dwelling satisfies the requirements of OAR 660-033-0135, a parcel may be created consistent with the minimum parcel size requirements in 660-033-0100.

(d) An accessory farm dwelling approved pursuant to this section cannot later be used to satisfy the requirements for a dwelling not provided in conjunction with farm use pursuant to section (4) of this rule.

(e) For the purposes of OAR 660-033-0130(24), "accessory farm dwelling" includes all types of residential structures allowed by the applicable state building code.

(f) Farming of a marijuana crop shall not be used to demonstrate compliance with the approval criteria for an accessory farm dwelling.

(25) In counties that have adopted marginal lands provisions under former ORS 197.247 (1991 Edition) before January 1, 1993, an armed forces reserve center is allowed, if the center is within one-half mile of a

community college. An "armed forces reserve center" includes an armory or National Guard support facility.

(26) Buildings and facilities associated with a site for the takeoff and landing of model aircraft shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility preexisted the use approved under this section. The site shall not include an aggregate surface or hard surface area unless the surface preexisted the use approved under this section. An owner of property used for the purpose authorized in this section may charge a person operating the use on the property rent for the property. An operator may charge users of the property a fee that does not exceed the operator's cost to maintain the property, buildings and facilities. As used in this section, "model aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is used or intended to be used for flight and is controlled by radio, lines or design by a person on the ground.

(27) Insect species shall not include any species under quarantine by the Oregon Department of Agriculture or the United States Department of Agriculture. The county shall provide notice of all applications under this section to the Oregon Department of Agriculture. Notice shall be provided in accordance with the county's land use regulations but shall be mailed at least 20 calendar days prior to any administrative decision or initial public hearing on the application.

(28) A farm on which a processing facility is located must provide at least one-quarter of the farm crops processed at the facility. A farm may also be used for an establishment for the slaughter, processing or selling of poultry or poultry products pursuant to ORS 603.038. If a building is established or used for the processing facility or establishment, the farm operator may not devote more than 10,000 square feet of floor area to the processing facility or establishment, exclusive of the floor area designated for preparation, storage or other farm use. A processing facility or establishment must comply with all applicable siting standards but the standards may not be applied in a manner that prohibits the siting of the processing facility or establishment. A county may not approve any division of a lot or parcel that separates a processing facility or establishment from the farm operation on which it is located.

(29)(a) Composting operations and facilities allowed on high-value farmland are limited to those that are accepted farming practices in conjunction with and auxiliary to farm use on the subject tract, and that meet the performance and permitting requirements of the Department of Environmental Quality under OAR 340-093-0050 and 340-096-0060. Excess compost may be sold to neighboring farm operations in the local area and shall be limited to bulk loads of at least one unit (7.5 cubic yards) in size. Buildings and facilities used in conjunction with the composting operation shall only be those required for the operation of the subject facility.

(b) Composting operations and facilities allowed on land not defined as high-value farmland shall meet the performance and permitting requirements of the Department of Environmental Quality under OAR 340-093-0050 and 340-096-0060. Composting operations that are accepted farming practices in conjunction with and auxiliary to farm use on the subject tract are allowed uses, while other composting operations are subject to the review standards of ORS 215.296. Buildings and facilities used in conjunction with the composting operation shall only be those required for the operation of the subject facility. Onsite sales shall be limited to bulk loads of at least one unit (7.5 cubic yards) in size that are transported in one vehicle.

(30) The County governing body or its designate shall require as a condition of approval of a single-family dwelling under ORS 215.213, 215.283 or 215.284 or otherwise in a farm or forest zone, that the landowner for the dwelling sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under 30.936 or 30.937.

(31) Public parks including only the uses specified under OAR 660-034-0035 or 660-034-0040, whichever is applicable.

(32) Utility facility service lines are utility lines and accessory facilities or structures that end at the point where the utility service is received by the customer and that are located on one or more of the following:

(a) A public right of way;

(b) Land immediately adjacent to a public right of way, provided the written consent of all adjacent property owners has been obtained; or

(c) The property to be served by the utility.

(33) An outdoor mass gathering as defined in ORS 433.735 or other gathering of 3,000 or fewer persons that is not anticipated to continue for more than 120 hours in any three-month period is not a "land use decision" as defined in 197.015(10) or subject to review under this division. Agritourism and other commercial events or activities may not be permitted as mass gatherings under 215.213(11) and 215.283(4).

(34) Any outdoor gathering of more than 3,000 persons that is anticipated to continue for more than 120 hours in any three-month planning period is subject to review by a county planning commission under the provisions of ORS 433.763.

(35)(a) As part of the conditional use approval process under ORS 215.296 and OAR 660-033-0130(5), for the purpose of verifying the existence, continuity and nature of the business described in ORS 215.213(2)(w) or 215.283(2)(y), representatives of the business may apply to the county and submit evidence including, but not limited to, sworn affidavits or other documentary evidence that the business qualifies; and

(b) Alteration, restoration or replacement of a use authorized in ORS 215.213(2)(w) or 215.283(2)(y) may be altered, restored or replaced pursuant to 215.130(5), (6) and (9).

(36) For counties subject to ORS 215.283 and not 215.213, a community center authorized under this section may provide services to veterans, including but not limited to emergency and transitional shelter, preparation and service of meals, vocational and educational counseling and referral to local, state or federal agencies providing medical, mental health, disability income replacement and substance abuse services, only in a facility that is in existence on January 1, 2006. The services may not include direct delivery of medical, mental health, disability income replacement or substance abuse services.

(37) For purposes of this rule a wind power generation facility includes, but is not limited to, the following system components: all wind turbine towers and concrete pads, permanent meteorological towers and wind measurement devices, electrical cable collection systems connecting wind turbine towers with the relevant power substation, new or expanded private roads (whether temporary or permanent) constructed to serve the wind power generation facility, office and operation and maintenance buildings, temporary lay-down areas and all other necessary appurtenances, including but not limited to on-site and off-site facilities for temporary workforce housing for workers constructing a wind power generation facility. Such facilities must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule when project construction is complete. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request filed after a decision to approve a power generation facility. A minor amendment request shall be subject to 660-033-0130(5) and shall have no effect on the original approval. A proposal for a wind power generation facility shall be subject to the following provisions:

(a) For high-value farmland soils described at ORS 195.300(10), the governing body or its designate must find that all of the following are satisfied:

(A) Reasonable alternatives have been considered to show that siting the wind power generation facility or component thereof on high-value farmland soils is necessary for the facility or component to function properly or if a road system or turbine string must be placed on such soils to achieve a reasonably direct route considering the following factors:

(i) Technical and engineering feasibility;

(ii) Availability of existing rights of way; and

(iii) The long term environmental, economic, social and energy consequences of siting the facility or component on alternative sites, as determined under paragraph (B);

(B) The long-term environmental, economic, social and energy consequences resulting from the wind power generation facility or any components thereof at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located on other agricultural lands that do not include high-value farmland soils;

(C) Costs associated with any of the factors listed in paragraph (A) may be considered, but costs alone may not be the only consideration in determining that siting any component of a wind power generation facility on high-value farmland soils is necessary;

(D) The owner of a wind power generation facility approved under subsection (a) shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this subsection shall prevent the owner of the facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration; and

(E) The criteria of subsection (b) are satisfied.

(b) For arable lands, meaning lands that are cultivated or suitable for cultivation, including high-value farmland soils described at ORS 195.300(10), the governing body or its designate must find that:

(A) The proposed wind power facility will not create unnecessary negative impacts on agricultural operations conducted on the subject property. Negative impacts could include, but are not limited to, the unnecessary construction of roads, dividing a field or multiple fields in such a way that creates small or isolated pieces of property that are more difficult to farm, and placing wind farm components such as meteorological towers on lands in a manner that could disrupt common and accepted farming practices;

(B) The presence of a proposed wind power facility will not result in unnecessary soil erosion or loss that could limit agricultural productivity on the subject property. This provision may be satisfied by the submittal and county approval of a soil and erosion control plan prepared by an adequately qualified individual, showing how unnecessary soil erosion will be avoided or remedied and how topsoil will be stripped, stockpiled and clearly marked. The approved plan shall be attached to the decision as a condition of approval;

(C) Construction or maintenance activities will not result in unnecessary soil compaction that reduces the productivity of soil for crop production. This provision may be satisfied by the submittal and county approval of a plan prepared by an adequately qualified individual, showing how unnecessary soil compaction will be avoided or remedied in a timely manner through deep soil decompaction or other appropriate practices. The approved plan shall be attached to the decision as a condition of approval; and

(D) Construction or maintenance activities will not result in the unabated introduction or spread of noxious weeds and other undesirable weeds species. This provision may be satisfied by the submittal and county approval of a weed control plan prepared by an adequately qualified individual that includes a long-term maintenance agreement. The approved plan shall be attached to the decision as a condition of approval.

(c) For nonarable lands, meaning lands that are not suitable for cultivation, the governing body or its designate must find that the requirements of OAR 660-033-0130(37)(b)(D) are satisfied.

(d) In the event that a wind power generation facility is proposed on a combination of arable and nonarable lands as described in OAR 660-033-0130(37)(b) and (c) the approval criteria of 660-033-0130(37)(b) shall apply to the entire project.

(38) A proposal to site a photovoltaic solar power generation facility shall be subject to the following definitions and provisions:

(a) "Arable land" means land in a tract that is predominantly cultivated or, if not currently cultivated, predominantly comprised of arable soils.

(b) "Arable soils" means soils that are suitable for cultivation as determined by the governing body or its designate based on substantial evidence in the record of a local land use application, but "arable soils" does not include high-value farmland soils described at ORS 195.300(10) unless otherwise stated.

(c) "Nonarable land" means land in a tract that is predominantly not cultivated and predominantly comprised of nonarable soils.

(d) "Nonarable soils" means soils that are not suitable for cultivation. Soils with an NRCS agricultural capability class V–VIII and no history of irrigation shall be considered nonarable in all cases. The governing body or its designate may determine other soils, including soils with a past history of irrigation, to be nonarable based on substantial evidence in the record of a local land use application.

(e) "Photovoltaic solar power generation facility" includes, but is not limited to, an assembly of equipment that converts sunlight into electricity and then stores, transfers, or both, that electricity. This includes photovoltaic modules, mounting and solar tracking equipment, foundations, inverters, wiring, storage devices and other components. Photovoltaic solar power generation facilities also include electrical cable collection systems connecting the photovoltaic solar generation facility to a transmission line, all necessary grid integration equipment, new or expanded private roads constructed to serve the photovoltaic solar power generation facility, office, operation and maintenance buildings, staging areas and all other necessary appurtenances. For purposes of applying the acreage standards of this section, a photovoltaic solar power generation facility includes all existing and proposed facilities on a single tract, as well as any existing and proposed facilities determined to be under common ownership on lands with fewer than 1320 feet of separation from the tract on which the new facility is proposed to be sited. Projects connected to the same parent company or individuals shall be considered to be in common ownership, regardless of the operating business structure. A photovoltaic solar power generation facility does not include a net metering project established consistent with ORS 757.300 and OAR chapter 860, division 39 or a Feed-in-Tariff project established consistent with ORS 757.365 and OAR chapter 860, division 84.

(f) For high-value farmland described at ORS 195.300(10), a photovoltaic solar power generation facility shall not preclude more than 12 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4. The governing body or its designate must find that:

(A) The proposed photovoltaic solar power generation facility will not create unnecessary negative impacts on agricultural operations conducted on any portion of the subject property not occupied by project components. Negative impacts could include, but are not limited to, the unnecessary construction of roads dividing a field or multiple fields in such a way that creates small or isolated pieces of property that are more difficult to farm, and placing photovoltaic solar power generation facility project components on lands in a manner that could disrupt common and accepted farming practices;

(B) The presence of a photovoltaic solar power generation facility will not result in unnecessary soil erosion or loss that could limit agricultural productivity on the subject property. This provision may be satisfied by the submittal and county approval of a soil and erosion control plan prepared by an adequately qualified individual, showing how unnecessary soil erosion will be avoided or remedied and how topsoil will be stripped, stockpiled and clearly marked. The approved plan shall be attached to the decision as a condition of approval;

(C) Construction or maintenance activities will not result in unnecessary soil compaction that reduces the productivity of soil for crop production. This provision may be satisfied by the submittal and county approval of a plan prepared by an adequately qualified individual, showing how unnecessary soil compaction will be avoided or remedied in a timely manner through deep soil decompaction or other appropriate practices. The approved plan shall be attached to the decision as a condition of approval;

(D) Construction or maintenance activities will not result in the unabated introduction or spread of noxious weeds and other undesirable weed species. This provision may be satisfied by the submittal and county approval of a weed control plan prepared by an adequately qualified individual that includes a long-term maintenance agreement. The approved plan shall be attached to the decision as a condition of approval;

(E) The project is not located on high-value farmland soils unless it can be demonstrated that:

(i) Non high-value farmland soils are not available on the subject tract;

(ii) Siting the project on non high-value farmland soils present on the subject tract would significantly reduce the project's ability to operate successfully; or

(iii) The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract than other possible sites also located on the subject tract, including those comprised of non high-value farmland soils; and

(F) A study area consisting of lands zoned for exclusive farm use located within one mile measured from the center of the proposed project shall be established and:

(i) If fewer than 48 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits within the study area, no further action is necessary.

(ii) When at least 48 acres of photovoltaic solar power generation have been constructed or received land use approvals and obtained building permits, either as a single project or as multiple facilities within the study area, the local government or its designate must find that the photovoltaic solar energy generation facility will not materially alter the stability of the overall land use pattern of the area. The stability of the land use pattern will be materially altered if the overall effect of existing and potential photovoltaic solar energy generation facilities will make it more difficult for the existing farms and ranches in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland or acquire water rights, or will reduce the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.

(g) For arable lands, a photovoltaic solar power generation facility shall not preclude more than 20 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4. The governing body or its designate must find that:

(A) The project is not located on high-value farmland soils or arable soils unless it can be demonstrated that:

(i) Nonarable soils are not available on the subject tract;

(ii) Siting the project on nonarable soils present on the subject tract would significantly reduce the project's ability to operate successfully; or

(iii) The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract than other possible sites also located on the subject tract, including those comprised of nonarable soils;

(B) No more than 12 acres of the project will be sited on high-value farmland soils described at ORS 195.300(10) unless an exception is taken pursuant to 197.732 and OAR chapter 660, division 4;

(C) A study area consisting of lands zoned for exclusive farm use located within one mile measured from the center of the proposed project shall be established and:

(i) If fewer than 80 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits within the study area no further action is necessary.

(ii) When at least 80 acres of photovoltaic solar power generation have been constructed or received land use approvals and obtained building permits, either as a single project or as multiple facilities, within the study area the local government or its designate must find that the photovoltaic solar energy generation facility will not materially alter the stability of the overall land use pattern of the area. The stability of the land use pattern will be materially altered if the overall effect of existing and potential photovoltaic solar energy generation facilities will make it more difficult for the existing farms and ranches in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area; and

(D) The requirements of OAR 660-033-0130(38)(f)(A), (B), (C) and (D) are satisfied.

(h) For nonarable lands, a photovoltaic solar power generation facility shall not preclude more than 320 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4. The governing body or its designate must find that:

(A) The project is not located on high-value farmland soils or arable soils unless it can be demonstrated that:

(i) Siting the project on nonarable soils present on the subject tract would significantly reduce the project's ability to operate successfully; or

(ii) The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract as compared to other possible sites also located on the subject tract, including sites that are comprised of nonarable soils;

(B) No more than 12 acres of the project will be sited on high-value farmland soils described at ORS 195.300(10);

(C) No more than 20 acres of the project will be sited on arable soils unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4;

(D) The requirements of OAR 660-033-0130(38)(f)(D) are satisfied;

(E) If a photovoltaic solar power generation facility is proposed to be developed on lands that contain a Goal 5 resource protected under the county's comprehensive plan, and the plan does not address conflicts between energy facility development and the resource, the applicant and the county, together with any state or federal agency responsible for protecting the resource or habitat supporting the resource, will cooperatively develop a specific resource management plan to mitigate potential development conflicts. If there is no program present to protect the listed Goal 5 resource(s) present in the local comprehensive plan or implementing ordinances and the applicant and the appropriate resource management agency(ies) cannot successfully agree on a cooperative resource management plan, the county is responsible for determining appropriate mitigation measures; and

(F) If a proposed photovoltaic solar power generation facility is located on lands where, after site specific consultation with an Oregon Department of Fish and Wildlife biologist, it is determined that the potential exists for adverse effects to state or federal special status species (threatened, endangered, candidate, or sensitive) or habitat or to big game winter range or migration corridors, golden eagle or prairie falcon nest sites or pigeon springs, the applicant shall conduct a site-specific assessment of the subject property in consultation with all appropriate state, federal, and tribal wildlife management agencies. A professional biologist shall conduct the site-specific assessment by using methodologies accepted by the appropriate wildlife management agency and shall determine whether adverse effects to special status species or wildlife habitats are anticipated. Based on the results of the biologist's report, the site shall be designed to avoid adverse effects to state or federal special status species or to wildlife habitats as described above. If the applicant's site-specific assessment shows that adverse effects cannot be avoided, the applicant and the appropriate wildlife management agency will cooperatively develop an agreement for project-specific mitigation to offset the potential adverse effects of the facility. Where the applicant and the resource management agency cannot agree on what mitigation will be carried out, the county is responsible for determining appropriate mitigation, if any, required for the facility.

(G) The provisions of paragraph (F) are repealed on January 1, 2022.

(i) The county governing body or its designate shall require as a condition of approval for a photovoltaic solar power generation facility, that the project owner sign and record in the deed records for the county a document binding the project owner and the project owner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices as defined in ORS 30.930(2) and (4).

(j) Nothing in this section shall prevent a county from requiring a bond or other security from a developer or otherwise imposing on a developer the responsibility for retiring the photovoltaic solar power generation facility.

(k) If ORS 469.300(11)(a)(D) is amended, the commission may re-evaluate the acreage thresholds identified in subsections (f), (g) and (h) of this section.

(39) Dog training classes or testing trials conducted outdoors or in farm buildings that existed on January 1, 2013, when:

(a) The number of dogs participating in training does not exceed 10 per training class and the number of training classes to be held on-site does not exceed six per day; and

(b) The number of dogs participating in a testing trial does not exceed 60 and the number of testing trials to be conducted on-site does not exceed four per calendar year.

(40) A youth camp may be established on agricultural land under the requirements of this section. The purpose of this section is to allow for the establishment of youth camps that are generally self-contained and located on a lawfully established unit of land of suitable size and location to limit potential impacts on nearby land and to ensure compatibility with surrounding farm uses.

(a) Definitions: In addition to the definitions provided for this division in OAR 660-033-0020 and ORS 92.010, for purposes of this section the following definitions apply:

(A)"Low impact recreational facilities" means facilities that have a limited amount of permanent disturbance on the landscape and are likely to create no, or only minimal impacts on adjacent private lands. Low impact recreational facilities include, but are not limited to, open areas, ball fields, volleyball courts, soccer fields, archery or shooting ranges, hiking and biking trails, horseback riding areas, swimming pools and zip lines. Low impact recreational facilities are designed and developed in a manner consistent with the lawfully established unit of land's natural environment.

(B) "Youth camp" means a facility that is either owned or leased, and is operated by a state or local government or a nonprofit corporation as defined under ORS 65.001 and is established for the purpose of providing an outdoor recreational and educational experience primarily for the benefit of persons 21 years of age and younger. Youth camps do not include a juvenile detention center or juvenile detention facility or similar use.

(C) "Youth camp participants" means persons directly involved with providing or receiving youth camp services, including but not limited to, campers, group leaders, volunteers or youth camp staff.

(b) Location: A youth camp may be located only on a lawfully established unit of land suitable to ensure an outdoor experience in a private setting without dependence on the characteristics of adjacent and nearby public and private land. In determining the suitability of a lawfully established unit of land for a youth camp the county shall consider its size, topography, geographic features and other characteristics, the proposed number of overnight participants and the type and number of proposed facilities. A youth camp may be located only on a lawfully established unit of land that is:

(A) At least 1,000 acres;

(B) In eastern Oregon;

(C) Composed predominantly of class VI, VII or VIII soils;

(D) Not within an irrigation district;

(E) Not within three miles of an urban growth boundary;

(F) Not in conjunction with an existing golf course;

(G) Suitable for the provision of protective buffers to separate the visual and audible aspects of youth camp activities from other nearby and adjacent lands and uses. Such buffers shall consist of natural vegetation, topographic or other natural features and shall be implemented through the

requirement of setbacks from adjacent public and private lands, public roads, roads serving other ownerships and riparian areas. Setbacks from riparian areas shall be consistent with OAR 660-023-0090. Setbacks from adjacent public and private lands, public roads and roads serving other ownerships shall be 250 feet unless the county establishes on a case-by-case basis a different setback distance sufficient to:

(i) Prevent significant conflicts with commercial resource management practices;

(ii) Prevent a significant increase in safety hazards associated with vehicular traffic on public roads and roads serving other ownerships; and

(iii) Minimize conflicts with resource uses on nearby resource lands;

(H) At least 1320 feet from any other lawfully established unit of land containing a youth camp approved pursuant to this section; and

(I) Suitable to allow for youth camp development that will not interfere with the exercise of legally established water rights on nearby properties.

(c) Overnight Youth Camp Participants: The maximum number of overnight youth camp participants is 350 participants unless the county finds that a lower number of youth camp participants is necessary to avoid conflicts with surrounding uses based on consideration of the size, topography, geographic features and other characteristics of the lawfully established unit of land proposed for the youth camp. Notwithstanding the preceding sentence, a county may approve a youth camp for more than 350 overnight youth camp participants consistent with this subsection if resource lands not otherwise needed for the youth camp that are located in the same county or adjacent counties that are in addition to, or part of, the lawfully established unit of land approved for the youth camp are permanently protected by restrictive covenant as provided in subsection (d) and subject to the following provisions:

(A) For each 160 acres of agricultural lands predominantly composed of class I-V soils that are permanently protected from development, an additional 50 overnight youth camp participants may be allowed;

(B) For each 160 acres of wildlife habitat that is either included on an acknowledged inventory in the local comprehensive plan or identified with the assistance and support of Oregon Department of Fish and Wildlife, regardless of soil types and resource land designation that are permanently protected from development, an additional 50 overnight youth camp participants may be allowed;

(C) For each 160 acres of agricultural lands predominantly composed of class VI-VIII soils that are permanently protected from development, an additional 25 overnight youth camp participants may be allowed; or

(D) A youth camp may have 351 to 600 overnight youth camp participants when:

(i) The tract on which the youth camp will be located includes at least 1,920 acres; and

(ii) At least 920 acres is permanently protected from development. The county may require a larger area to be protected from development when it finds a larger area necessary to avoid conflicts with surrounding uses.

(E) Under no circumstances shall more than 600 overnight youth camp participants be allowed.

(d) The county shall require, as a condition of approval of an increased number of overnight youth camp participants authorized by paragraphs (c)(A), (B), (C) or (D) of this section requiring other lands to be permanently protected from development, that the land owner of the other lands to be protected sign and record in the deed records for the county or counties where such other lands are located a document that protects the lands as provided herein, which for purposes of this section shall be referred to as a restrictive covenant.

(A) A restrictive covenant shall be sufficient if it is in a form substantially the same as the form attached hereto as Exhibit B.

(B) The county condition of approval shall require that the land owner record a restrictive covenant under this subsection:

(i) Within 90 days of the final land use decision if there is no appeal, or

(ii) Within 90 days after an appellate judgment affirming the final land use decision on appeal.

(C) The restrictive covenant is irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the land subject to the restrictive covenant is located.

(D) Enforcement of the restrictive covenant may be undertaken by the department or by the county or counties where the land subject to the restrictive covenant is located.

(E) The failure to follow the requirements of this section shall not affect the validity of the transfer of property or the legal remedies available to the buyers of property that is subject to the restrictive covenant required by this subsection.

(F) The county planning director shall maintain a copy of the restrictive covenant filed in the county deed records pursuant to this section and a map or other record depicting the tracts, or portions of tracts, subject to the restrictive covenant filed in the county deed records pursuant to this section. The map or other record required by this subsection shall be readily available to the public in the county planning office.

(e) In addition, the county may allow:

(A) Up to eight nights during the calendar year during which the number of overnight youth camp participants may exceed the total number of overnight youth camp participants allowed under subsection (c) of this section.

(B) Overnight stays at a youth camp for participants of adult programs that are intended primarily for individuals over 21 years of age, not including staff, for up to 30 days in any one calendar year.

(f) Facilities: A youth camp may provide only the facilities described in paragraphs (A) through (I) of this subsection:

(A) Low impact recreational facilities. Intensive developed facilities such as water parks and golf courses are not allowed;

(B) Cooking and eating facilities, provided they are within a building that accommodates youth camp activities but not in a building that includes sleeping quarters. Food services shall be limited to those provided in conjunction with the operation of the youth camp and shall be provided only for youth camp participants. The sale of individual meals may be offered only to family members or guardians of youth camp participants;

(C) Bathing and laundry facilities;

(D) Up to three camp activity buildings, not including a building for primary cooking and eating facilities.

(E) Sleeping quarters, including cabins, tents or other structures, for youth camp participants only, consistent with subsection (c) of this section. Sleeping quarters intended as overnight accommodations for persons not participating in activities allowed under this section or as individual rentals are not allowed. Sleeping quarters may include restroom facilities and, except for the caretaker's dwelling, may provide only one shower for every five beds. Sleeping quarters may not include kitchen facilities.

(F) Covered areas that are not fully enclosed for uses allowed in this section;

(G) Administrative, maintenance and storage buildings including permanent structures for administrative services, first aid, equipment and supply storage, and a gift shop available to youth camp participants but not open to the general public;

(H) An infirmary, which may provide sleeping quarters for medical care providers (e.g., a doctor, registered nurse, or emergency medical technician);

(I) A caretaker's residence, provided no other dwelling is on the lawfully established unit of land on which the youth camp is located.

(g) A campground as described in ORS 215.283(2)(c), OAR 660-033-0120, and section (19) of this rule may not be established in conjunction with a youth camp.

(h) Conditions of Approval: In approving a youth camp application, a county must include conditions of approval as necessary to achieve the requirements of this section.

(A) With the exception of trails, paths and ordinary farm and ranch practices not requiring land use approval, youth camp facilities shall be clustered on a single development envelope of no greater than 40 acres.

(B) A youth camp shall adhere to standards for the protection of archaeological objects, archaeological sites, burials, funerary objects, human remains, objects of cultural patrimony and sacred objects, as provided in ORS 97.740 to 97.750 and 358.905 to 358.961, as follows:

(i) If a particular area of the lawfully established unit of land proposed for the youth camp is proposed to be excavated, and if that area contains or is reasonably believed to contain resources protected by ORS 97.740 to 97.750 and 358.905 to 358.961, the application shall include evidence that there has been coordination among the appropriate Native American Tribe, the State Historic Preservation Office (SHPO) and a qualified archaeologist, as described in 390.235(6)(b).

(ii) The applicant shall obtain a permit required by ORS 390.235 before any excavation of an identified archeological site begins.

(iii) The applicant shall monitor construction during the ground disturbance phase(s) of development if such monitoring is recommended by SHPO or the appropriate Native American Tribe.

(C) A fire safety protection plan shall be adopted for each youth camp that includes the following:

(i) Fire prevention measures;

(ii) On site pre-suppression and suppression measures; and

(iii) The establishment and maintenance of fire-safe area(s) in which camp participants can gather in the event of a fire.

(D) A youth camp's on-site fire suppression capability shall at least include:

(i) A 1000 gallon mobile water supply that can reasonably serve all areas of the camp;

(ii) A 60 gallon-per-minute water pump and an adequate amount of hose and nozzles;

(iii) A sufficient number of firefighting hand tools; and

(iv) Trained personnel capable of operating all fire suppression equipment at the camp during designated periods of fire danger.

(v) An equivalent level of fire suppression facilities may be determined by the governing body or its designate. The equivalent capability shall be based on the response time of the effective wildfire suppression agencies.

(E) The county shall require, as a condition of approval of a youth camp, that the land owner of the youth camp sign and record in the deed records for the county a document binding the land owner, the operator of the youth camp if different from the owner, and the land owner's or operator's successors in interest, prohibiting:

(i) a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937;

(ii) future land divisions resulting in a lawfully established unit of land containing the youth camp that is smaller in size than required by the county for the original youth camp approval; and

(iii) development on the lawfully established unit of land that is not related to the youth camp and would require a land use decision as defined at ORS 197.015(10) unless the county's original approval of the camp is rescinded and the youth camp development is either removed or can remain, consistent with a county land use decision that is part of such rescission.

(F) Nothing in this rule relieves a county from complying with other requirements contained in the comprehensive plan or implementing land use regulations, such as the requirements addressing other resource values (e.g. resources identified in compliance with statewide planning Goal 5) that exist on agricultural lands.

(i) If a youth camp is proposed to be developed on lands that contain a Goal 5 resource protected under the county's comprehensive plan, and the plan does not address conflicts between youth camp development and the resource, the applicant and the county, together with any state or federal agency responsible for protecting the resource or habitat supporting the resource, will cooperatively develop a specific resource management plan to mitigate potential development conflicts consistent with OAR chapter 660, divisions 16 and 23. If there is no program to protect the listed Goal 5 resource(s) included in the local comprehensive plan or implementing ordinances and the applicant and the appropriate resource management agency cannot successfully agree on a cooperative resource management plan, the county is responsible for determining appropriate mitigation measures in compliance with OAR chapter 660, division 23; and

(ii) If a proposed youth camp is located on lands where, after site specific consultation with a district state biologist, the potential exists for adverse effects to state or federal special status species (threatened, endangered, candidate, or sensitive) or habitat, or to big game winter range or migration corridors, golden eagle or prairie falcon nest sites, or pigeon springs), the applicant shall conduct a site-specific assessment of the land in consultation with all appropriate state, federal, and tribal wildlife management agencies. A professional biologist shall conduct the site-specific assessment by using methodologies accepted by the appropriate wildlife management agency and shall determine whether adverse effects to special status species or wildlife habitats are anticipated. Based on the results of the biologist's report, the site shall be designed to avoid adverse effects to state or federal special status species or to wildlife habitats as described above. If the applicant's site-specific assessment shows that adverse effects cannot be avoided, the applicant and the appropriate wildlife management agency will cooperatively develop an agreement for project-specific mitigation to offset the potential adverse effects of the youth camp facility. Where the applicant and the resource management agency cannot agree on what mitigation will be carried out, the county is responsible for determining appropriate mitigation, if any, required for the youth camp facility.

(iii) The commission shall consider the repeal of the provisions of subparagraph (ii) on or before January 1, 2022.

(i) Extension of Sewer to a Youth Camp. A Goal 11 exception to authorize the extension of a sewer system to serve a youth camp shall be taken pursuant to ORS 197.732(1)(c), Goal 2, and this section. The exceptions standards in OAR chapter 660, division 4 and OAR chapter 660, division 11 shall not apply. Exceptions adopted pursuant to this section shall be deemed to fulfill the requirements for goal exceptions under ORS 197.732(1)(c) and Goal 2.

(A) A Goal 11 exception shall determine the general location for the proposed sewer extension and shall require that necessary infrastructure be no larger than necessary to accommodate the proposed youth camp.

(B) To address Goal 2, Part II(c)(1), the exception shall provide reasons justifying why the state policy in the applicable goals should not apply. Goal 2, Part II(c)(1) shall be found to be satisfied if the proposed sewer extension will serve a youth camp proposed for up to 600 youth camp participants.

(C) To address Goal 2, Part II(c)(2), the exception shall demonstrate that areas which do not require a new exception cannot reasonably accommodate the proposed sewer extension. Goal 2, Part II(c)(2) shall be found to be satisfied if the sewer system to be extended was in existence as of January 1, 1990 and is located outside of an urban growth boundary on lands for which an exception to Goal 3 has been taken.

(D) To address Goal 2, Part II(c)(3), the exception shall demonstrate that the long term environmental, economic, social, and energy consequences resulting from the proposed extension of sewer with measures to reduce the effect of adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the lawfully established unit of land proposed for the youth camp. Goal 2, Part II(c)(3) shall be found to be satisfied if the proposed sewer extension will serve a youth camp located on a tract of at least 1,000 acres.

(E) To address Goal 2, Part II(c)(4), the exception shall demonstrate that the proposed sewer extension is compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts. Goal 2, Part II(c)(4) shall be found to be satisfied if the proposed sewer extension for a youth camp is conditioned to comply with section (5) of this rule.

(F) An exception taken pursuant to this section does not authorize extension of sewer beyond what is justified in the exception.

(j) Applicability: The provisions of this section shall apply directly to any land use decision pursuant to ORS 197.646 and 215.427(3). A county may adopt provisions in its comprehensive plan or land use regulations that establish standards and criteria in addition to those set forth in this section, or that are necessary to ensure compliance with any standards or criteria in this section.

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

Stat. Auth.: ORS 197.040

Stats. Implemented: ORS 197.040, 215.213, 215.275, 215.282, 215.283, 215.301, 215.448, 215.459 & 215.705

Hist.: LCDC 6-1992, f. 12-10-92, cert. ef. 8-7-93; LCDC 3-1994, f. & cert. ef. 3-1-94; LCDC 6-1994 , f. & cert. ef. 6-3-94; LCDC 8-1995, f. & cert. ef. 6-29-95; LDCD 5-1996, f. & cert. ef. 12-23-96; LCDD 5-1997, f. & cert. ef. 12-23-97; LCDD 2-1998, f. & cert. ef. 6-1-98; LCDD 5-2000, f. & cert. ef. 4-24-00; LCDD 9-2000, f. & cert. ef. 11-3-00; LCDD 1-2002, f. & cert. ef. 5-22-02; LCDD 1-2004, f. & cert. ef. 4-30-04; LCDD 2-2006, f. & cert. ef. 2-15-06; LCDD 3-2008, f. & cert. ef. 4-18-08; LCDD 5-2008, f. 12-31-08, cert. ef. 1-2-09; LCDD 5-2009, f. & cert. ef. 12-7-09; LCDD 6-2010, f. & cert. ef. 6-17-10; LCDD 7-2010(Temp), f. & cert. ef. 6-17-10 thru 11-30-10; LCDD 9-2010, f. & cert. ef. 9-24-10; LCDD 11-2010, f. & cert. ef. 11-23-10; LCDD 4-2011, f. & cert. ef. 3-16-11; LCDD 9-2011, f. & cert. ef. 11-23-11; LCDD 7-2012, f. & cert. ef. 2-14-12; LCDD 2-2013, f. & cert. ef. 1-29-13; LCDD 6-2013, f. 12-20-13, cert. ef. 1-1-14; LCDD 2-2014, f. & cert. ef. 10-14-14; LCDD 2-2015, f. & cert. ef. 4-9-15; LCDD 3-2016, f. & cert. ef. 2-10-16

660-033-0135

Dwellings in Conjunction with Farm Use

(1) On land not identified as high-value farmland pursuant to OAR 660-033-0020(8), a dwelling may be considered customarily provided in conjunction with farm use if:

(a) The parcel on which the dwelling will be located is at least:

(A) 160 acres and not designated rangeland; or

(B) 320 acres and designated rangeland; or

(C) As large as the minimum parcel size if located in a zoning district with an acknowledged minimum parcel size larger than indicated in paragraph (A) or (B) of this subsection.

(b) The subject tract is currently employed for farm use, as defined in ORS 215.203.

(c) The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the subject tract, such as planting, harvesting, marketing or caring for livestock, at a commercial scale.

(d) Except for seasonal farmworker housing approved prior to 2001, there is no other dwelling on the subject tract.

(2)(a) If a county prepares the potential gross sales figures pursuant to subsection (c) of this section, the county may determine that on land not

identified as high-value farmland pursuant to OAR 660-033-0020(8), a dwelling may be considered customarily provided in conjunction with farm use if:

(A) The subject tract is at least as large as the median size of those commercial farm or ranch tracts capable of generating at least $10,000 in annual gross sales that are located within a study area that includes all tracts wholly or partially within one mile from the perimeter of the subject tract;

(B) The subject tract is capable of producing at least the median level of annual gross sales of county indicator crops as the same commercial farm or ranch tracts used to calculate the tract size in paragraph (A) of this subsection;

(C) The subject tract is currently employed for a farm use, as defined in ORS 215.203, at a level capable of producing the annual gross sales required in paragraph (B) of this subsection;

(D) The subject lot or parcel on which the dwelling is proposed is not less than 10 acres in western Oregon or 20 acres in eastern Oregon;

(E) Except for seasonal farmworker housing approved prior to 2001, there is no other dwelling on the subject tract;

(F) The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the subject tract, such as planting, harvesting, marketing or caring for livestock, at a commercial scale; and

(G) If no farm use has been established at the time of application, land use approval shall be subject to a condition that no building permit may be issued prior to the establishment of the farm use required by paragraph (C) of this subsection.

(H) In determining the gross sales capability required by paragraph (C):

(i) The actual or potential cost of purchased livestock shall be deducted from the total gross sales attributed to the farm or ranch tract;

(ii) Only actual or potential gross sales from land owned, not leased or rented, shall be counted; and

(iii) Actual or potential gross farm sales earned from a lot or parcel that has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used.

(b) In order to identify the commercial farm or ranch tracts to be used in paragraph (2)(a)(A) of this rule, the gross sales capability of each tract in the study area, including the subject tract, must be determined, using the gross sales figures prepared by the county pursuant to subsection (2)(c) of this section as follows:

(A) Identify the study area. This includes all the land in the tracts wholly or partially within one mile of the perimeter of the subject tract;

(B) Determine for each tract in the study area the number of acres in every land classification from the county assessor's data;

(C) Determine the potential earning capability for each tract by multiplying the number of acres in each land class by the gross sales per acre for each land class provided by the commission pursuant to subsection (2)(c) of this section. Add these to obtain the potential earning capability for each tract;

(D) Identify those tracts capable of grossing at least $10,000 based on the data generated in paragraph (C) of this subsection; and

(E) Determine the median size and median gross sales capability for those tracts capable of generating at least $10,000 in annual gross sales to use in paragraphs (2)(a)(A) and (B) of this subsection.

(c) In order to review a farm dwelling pursuant to subsection (2)(a) of this section, a county may prepare, subject to review by the director of the Department of Land Conservation and Development, a table of the estimated potential gross sales per acre for each assessor land class (irrigated and nonirrigated) required in subsection (2)(b) of this section. The director shall provide assistance and guidance to a county in the preparation of this table. The table shall be prepared as follows:

(A) Determine up to three indicator crop types with the highest harvested acreage for irrigated and for nonirrigated lands in the county using the most recent OSU Extension Service Commodity Data Sheets, Report No. 790, "Oregon County and State Agricultural Estimates," or other USDA/Extension Service documentation;

(B) Determine the combined weighted average of the gross sales per acre for the three indicator crop types for irrigated and for nonirrigated lands, as follows:

(i) Determine the gross sales per acre for each indicator crop type for the previous five years (i.e., divide each crop type's gross annual sales by the harvested acres for each crop type);

(ii) Determine the average gross sales per acre for each crop type for three years, discarding the highest and lowest sales per acre amounts during the five-year period;

(iii) Determine the percentage each indicator crop's harvested acreage is of the total combined harvested acres for the three indicator crop types for the five year period;

(iv) Multiply the combined sales per acre for each crop type identified under subparagraph (ii) of this paragraph by its percentage of harvested acres to determine a weighted sales per acre amount for each indicator crop; and

(v) Add the weighted sales per acre amounts for each indicator crop type identified in subparagraph (iv) of this paragraph. The result provides the combined weighted gross sales per acre.

(C) Determine the average land rent value for irrigated and nonirrigated land classes in the county's exclusive farm use zones according to the annual "income approach" report prepared by the county assessor pursuant to ORS 308A.092; and

(D) Determine the percentage of the average land rent value for each specific land rent for each land classification determined in paragraph (C) of this subsection. Adjust the combined weighted sales per acre amount identified in subparagraph (B)(v) of this subsection using the percentage of average land rent (i.e., multiply the weighted average determined in subparagraph (B)(v) of this subsection by the percent of average land rent value from paragraph (C) of this subsection). The result provides the estimated potential gross sales per acre for each assessor land class that will be provided to each county to be used as explained under paragraph (2)(b)(C) of this section.

(3) On land not identified as high-value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:

(a) The subject tract is currently employed for the farm use, as defined in ORS 215.203, on which, in each of the last two years or three of the last five years, or in an average of three of the last five years, the farm operator earned the lower of the following:

(A) At least $40,000 in gross annual income from the sale of farm products; or

(B) Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the county with gross annual sales of $10,000 or more according to the 1992 Census of Agriculture, Oregon; and

(b) Except for seasonal farmworker housing approved prior to 2001, there is no other dwelling on lands designated for exclusive farm use pursuant to ORS chapter 215 or for mixed farm/forest use pursuant to OAR 660-006-0057 owned by the farm or ranch operator or on the farm or ranch operation;

(c) The dwelling will be occupied by a person or persons who produced the commodities that grossed the income in subsection (a) of this section; and

(d) In determining the gross income required by subsection (a) of this section:

(A) The cost of purchased livestock shall be deducted from the total gross income attributed to the farm or ranch operation;

(B) Only gross income from land owned, not leased or rented, shall be counted; and

(C) Gross farm income earned from a lot or parcel that has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used.

(4) On land identified as high-value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:

(a) The subject tract is currently employed for the farm use, as defined in ORS 215.203, on which the farm operator earned at least $80,000 in gross annual income from the sale of farm products in each of the last two years or three of the last five years, or in an average of three of the last five years; and

(b) Except for seasonal farmworker housing approved prior to 2001, there is no other dwelling on lands designated for exclusive farm use pursuant to ORS chapter 215 or for mixed farm/forest use pursuant to OAR 660-006-0057 owned by the farm or ranch operator or on the farm or ranch operation; and

(c) The dwelling will be occupied by a person or persons who produced the commodities that grossed the income in subsection (a) of this section;

(d) In determining the gross income required by subsection (a) of this section;

(A) The cost of purchased livestock shall be deducted from the total gross income attributed to the farm or ranch operation;

(B) Only gross income from land owned, not leased or rented, shall be counted; and

(C) Gross farm income earned from a lot or parcel that has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used.

(5)(a) For the purpose of sections (3) or (4) of this rule, noncontiguous lots or parcels zoned for farm use in the same county or contiguous counties may be used to meet the gross income requirements. Except for Hood River and Wasco counties and Jackson and Klamath counties, when a farm or ranch operation has lots or parcels in both "western" and "eastern" Oregon as defined by this division, lots or parcels in eastern or western Oregon may not be used to qualify a dwelling in the other part of the state.

(b) Prior to the final approval for a dwelling authorized by sections (3) and (4) of this rule that requires one or more contiguous or non contiguous lots or parcels of a farm or ranch operation to comply with the gross farm income requirements, the applicant shall provide evidence that the covenants, conditions and restrictions form adopted as "Exhibit A" has been recorded with the county clerk of the county or counties where the property subject to the covenants, conditions and restrictions is located. The covenants, conditions and restrictions shall be recorded for each lot or parcel subject to the application for the primary farm dwelling and shall preclude:

(A) All future rights to construct a dwelling except for accessory farm dwellings, relative farm assistance dwellings, temporary hardship dwellings or replacement dwellings allowed by ORS chapter 215; and

(B) The use of any gross farm income earned on the lots or parcels to qualify another lot or parcel for a primary farm dwelling.

(c) The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions and restrictions is located;

(d) Enforcement of the covenants, conditions and restrictions may be undertaken by the department or by the county or counties where the property subject to the covenants, conditions and restrictions is located;

(e) The failure to follow the requirements of this section shall not affect the validity of the transfer of property or the legal remedies available to the buyers of property that is subject to the covenants, conditions and restrictions required by this section;

(f) The county planning director shall maintain a copy of the covenants, conditions and restrictions filed in the county deed records pursuant to this section and a map or other record depicting the lots and parcels subject to the covenants, conditions and restrictions filed in the county deed records pursuant to this section. The map or other record required by this subsection shall be readily available to the public in the county planning office.

(6) In counties that have adopted marginal lands provisions under former ORS 197.247 (1991 Edition) before January 1, 1993, a dwelling may be considered customarily provided in conjunction with farm use if it is not on a lot or parcel identified as high-value farmland and it meets the standards and requirements of ORS 215.213(2)(a) or (b).

(7) A dwelling may be considered customarily provided in conjunction with a commercial dairy farm as defined by OAR 660-033-0135(8) if:

(a) The subject tract will be employed as a commercial dairy as defined by OAR 660-033-0135(8);

(b) The dwelling is sited on the same lot or parcel as the buildings required by the commercial dairy;

(c) Except for seasonal farmworker housing approved prior to 2001, there is no other dwelling on the subject tract;

(d) The dwelling will be occupied by a person or persons who will be principally engaged in the operation of the commercial dairy farm, such as the feeding, milking or pasturing of the dairy animals or other farm use activities necessary to the operation of the commercial dairy farm;

(e) The building permits, if required, have been issued for and construction has begun for the buildings and animal waste facilities required for a commercial dairy farm; and

(f) The Oregon Department of Agriculture has approved the following:

(A) A permit for a "confined animal feeding operation" under ORS 468B.050 and 468B.200 to 468B.230; and

(B) A Producer License for the sale of dairy products under ORS 621.072.

(8) As used in this division, the following definitions apply:

(a) "Commercial dairy farm" is a dairy operation that owns a sufficient number of producing dairy animals capable of earning the gross annual income required by OAR 660-033-0135(3)(a) or (4)(a), whichever is applicable, from the sale of fluid milk; and

(b) "Farm or ranch operation" means all lots or parcels of land in the same ownership that are used by the farm or ranch operator for farm use as defined in ORS 215.203.

(9) A dwelling may be considered customarily provided in conjunction with farm use if:

(a) Within the previous two years, the applicant owned and operated a different farm or ranch operation that earned the gross farm income in each of the last five years or four of the last seven years as required by OAR 660-033-0135(3) or (4) of this rule, whichever is applicable;

(b) The subject lot or parcel on which the dwelling will be located is:

(A) Currently employed for the farm use, as defined in ORS 215.203, that produced in each of the last two years or three of the last five years, or in an average of three of the last five years the gross farm income required by OAR 660-033-0135(3) or (4) of this rule, whichever is applicable; and

(B) At least the size of the applicable minimum lot size under OAR 215.780;

(c) Except for seasonal farmworker housing approved prior to 2001, there is no other dwelling on the subject tract;

(d) The dwelling will be occupied by a person or persons who produced the commodities that grossed the income in subsection (a) of this section; and

(e) In determining the gross income required by subsections (a) and (b)(A) of this section:

(A) The cost of purchased livestock shall be deducted from the total gross income attributed to the tract; and

(B) Only gross income from land owned, not leased or rented, shall be counted.

(10) Farming of a marijuana crop, and the gross sales derived from selling a marijuana crop, may not be used to demonstrate compliance with the approval criteria for a primary farm dwelling.

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

Stat. Auth.: ORS 183, 197.040, 197.230 & 197.245

Stats. Implemented: ORS 197.015, 197.040, 197.230, 197.245, 215.203, 215.243, 215.283, 215.700 - 215.710 & 215.780

Hist.: LCDC 3-1994, f. & cert. ef. 3-1-94; LCDD 2-1998, f. & cert. ef. 6-1-98; LCDD 1-2002, f. & cert. ef. 5-22-02; LCDD 1-2004, f. & cert. ef. 4-30-04; LCDD 4-2011, f. & cert. ef. 3-16-11; LCDD 7-2012, f. & cert. ef. 2-14-12; LCDD 3-2016, f. & cert. ef. 2-10-16

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Rule Caption: This rule will provide a baseline for monitoring disturbance in core sage-grouse habitat.
Adm. Order No.: LCDD 4-2016
Filed with Sec. of State: 2-10-2016
Certified to be Effective: 2-10-16
Notice Publication Date: 11-1-2015
Rules Amended: 660-023-0115
Subject: This rule is needed to provide a baseline for monitoring disturbance in core sage-grouse habitat. Existing rules do not allow conflicting uses to exceed one percent of any core area in 10-year increments or an absolute total three percent of any core area. A disturbance baseline is necessary to allow state and local decision makers to adequately consider proposals for large-scale development in core areas of sagegrouse habitat. Failure to adopt a disturbance baseline will increase the legal vulnerability of state and local decisions.
Rules Coordinator: Casaria Taylor—(503) 373-0050, ext. 322

660-023-0115
Greater Sage-Grouse

(1) Introduction. Greater Sage-Grouse (hereafter "sage-grouse") habitat is a unique wildlife resource subject to a variety of threats across a broad, multi-state region. Oregon's sage-grouse habitat is comprised of a combination of public land managed by the federal government and nonfederal land generally in private ownership. Managing private and other nonfederal land for the best possible outcomes requires partnership and cooperation among many stakeholders. Accordingly, private and other nonfederal lands are strongly encouraged to participate in a Candidate Conservation Agreement with Assurances program. Voluntary conservation efforts of this nature are recognized by the State of Oregon as a critical part in recovering the breeding population targeted by Oregon's Greater Sage-Grouse Conservation Assessment and Strategy for Oregon. Beyond voluntary efforts it remains necessary to provide a regulatory framework that offers fairness, predictability and certainty for all involved parties. Engagement on the part of county government is critical to Oregon's efforts to address possible impacts from future development.

(2) Exempt activities.

(a) Those activities that do not require governmental approval, including farm use as defined in ORS 215.203(2), are exempt from the provisions of this rule. State agency permits necessary to facilitate a farm use, including granting of new water right permits by the Oregon Water Resources Department (OWRD), are also exempt from the provisions of this rule.

(b) Any energy facility that submitted a preliminary application for site certificate pursuant to ORS 469.300 et seq. on or before the effective date of this rule is exempt from the provisions of this rule. Notwithstanding ORS 197.646(3), this rule shall not be directly applicable to any land use decision regarding that facility unless the applicant chooses otherwise. Similarly, any changes to a local government's acknowledged comprehensive plan or land use ordinances developed to achieve consistency with this rule shall not constitute "applicable substantive criteria" pursuant to OAR 345-022-0030(3), unless they are in effect on the date the applicant submits a preliminary application for site certificate, unless the applicant chooses otherwise.

(c) Private and other nonfederal lands are strongly encouraged to participate in a Candidate Conservation Agreement with Assurances (CCAA) program. Voluntary conservation efforts of this nature are recognized by the State of Oregon as a critical part in recovering the breeding population targeted by the Greater Sage-Grouse Conservation Assessment and Strategy for Oregon. Uses identified in CCAA agreements are relieved from the provisions of this rule except that conflicting uses identified in section (7) will be subject to sections (9) to (11) in all instances regardless of enrollment status.

(3) Definitions. For purposes of this rule, the definitions in OAR 635-140-0002 and in the glossary of the "Greater Sage-Grouse Conservation Assessment and Strategy for Oregon" adopted by the Oregon Fish and Wildlife Commission on April 22, 2011 (copies of the plan are available through the Oregon Department of Fish and Wildlife (ODFW)) shall apply. In addition, the following definitions shall apply:

(a) "Areas of High Population Richness" means mapped areas of breeding and nesting habitat within core habitat that support the 75th percentile of breeding bird densities (i.e. the top 25 percent). Please see Exhibit A.

(b) "Candidate Conservation Agreement with Assurances" means a formal agreement between the United States Fish and Wildlife Service (USFWS) and one or more parties to address the conservation needs of proposed or candidate species, or species likely to become candidates, before they become listed as endangered or threatened. Landowners voluntarily commit to conservation actions that will help stabilize or restore the species with the goal that listing under the Federal Endangered Species Act will become unnecessary.

(c) "Core areas" means mapped sagebrush types or other habitats that support sage-grouse annual life history requirements that are encompassed by areas:

(A) Of very high, high, and moderate lek density strata;

(B) Where low lek density strata overlap local connectivity corridors; or

(C) Where winter habitat use polygons overlap with either low lek density strata, connectivity corridors, or occupied habitat. Core area maps are maintained by ODFW.

(d) "Development action" means any human activity subject to regulation by local, state, or federal agencies that could result in the loss of significant sage-grouse habitat. Development actions may include but are not limited to, construction and operational activities of local, state, and federal agencies. Development actions also include subsequent repermitting of existing activities proposing new impacts beyond current conditions.

(e) "Direct impact" means an adverse effect of a development action upon significant sage-grouse habitat which is proximal to the development action in time and place.

(f) "Disturbance" includes natural threats to sage-grouse habitat such as: wildfire, juniper infestation and the spread of noxious weeds or human activities that can negatively affect sage-grouse use of habitat either through changing the vegetation type or condition, or displacement of sage-grouse use of an area. For purposes of this rule only disturbance from human activities are considered.

(g) "General habitat" means occupied (seasonal or year-round) sage-grouse habitat outside core and low density habitats.

(h) "Indirect impacts" means adverse effects to significant sage-grouse habitat that are caused by or will ultimately result from an affected development activity. Indirect impacts usually occur later in time or are removed in distance compared to direct effects.

(i) "Large-scale development" means uses that are: over 50 feet in height; have a direct impact in excess of five acres; generate more than 50 vehicle trips per day; or create noise levels of at least 70 dB at zero meters for sustained periods of time. Uses that constitute large-scale development also require review by county decision makers and are listed in one of the following categories identified in the table attached to OAR 660-033-0120.

(A) Commercial Uses.

(B) Mineral, Aggregate, Oil and Gas Uses.

(C) Transportation Uses.

(D) Utility/Solid Waste Disposal Facilities.

(E) Parks/Public/Quasi-Public.

(j) "Lek" means an area where male sage-grouse display during the breeding season to attract females (also referred to as strutting-ground).

(k) "Low density areas" means mapped sagebrush types or other habitats that support sage-grouse that are encompassed by areas where:

(A) Low lek density strata overlapped with seasonal connectivity corridors;

(B) Local corridors occur outside of all lek density strata;

(C) Low lek density strata occur outside of connectivity corridors; or

(D) Seasonal connectivity corridors occur outside of all lek density strata. Low density area maps are maintained by ODFW.

(l) "Mitigation hierarchy" means an approach used by decision makers to consider development proposals and is ordinarily comprised of a three step process:

(A) "Avoidance" is the first step in the mitigation hierarchy and is accomplished by not taking a certain development action or parts of that action.

(B) "Minimization" is the second step in the mitigation hierarchy and is accomplished by limiting the degree or magnitude of the development action and its implementation.

(C) "Compensatory mitigation" is the third step in the mitigation hierarchy and means the replacement or enhancement of the function of habitat capable of supporting sage-grouse in greater numbers than predicted to be impacted by a development.

(m) "Occupied Lek" means a lek that has been regularly visited by ODFW and has had one or more male sage-grouse counted in one or more of the last seven years.

(n) "Occupied Pending Lek" means a lek that has not been counted regularly by ODFW in the last seven years, but sage-grouse were present at ODFW's last visit.

(o) "Priority Areas for Conservation" (PACs) means key habitats identified by state sage-grouse conservation plans or through other sage-grouse conservation efforts (e.g., BLM Planning). In Oregon, core area habitats are PACs.

(4) Local program development and direct applicability of rule. Local governments may develop a program to achieve consistency with this rule by following the standard process in OAR 660-023-0030, 660-023-0040 and 660-023-0050 and submitting the amendment to the commission in the manner provided for periodic review under ORS 197.628 to 197.650 and OAR 660-025-0175. Until the commission has acknowledged a county amendment to its comprehensive plan and land use regulations to be in compliance with Goal 5 and equivalent to this rule with regard to protecting sage-grouse habitat, sections (5) to (12) shall apply directly to county land use decisions affecting significant sage-grouse habitat. Once the commission has acknowledged a local government program under this section, that program becomes the controlling county land use document and sections (5) to (12) of this rule no longer apply directly.

(5) Quality, Quantity and Location. For purposes of this rule, sage-grouse habitat is only present in Baker, Crook, Deschutes, Harney, Lake, Malheur and Union Counties. The location of sage-grouse habitat within these counties shall be determined by following the map produced by ODFW included as Exhibit B.

(6) Determination of Significance. Significant sage-grouse habitat includes only lands protected under Statewide Planning Goals 3 or 4 as of July 1, 2015 that are identified as:

(a) Core areas;

(b) Low density areas; and

(c) Lands within a general habitat area located within 3.1 miles of an occupied or occupied-pending lek.

(d) The exact location of sage-grouse habitat may be refined during consideration of specific projects but must be done in consultation with ODFW.

(7) Conflicting uses. For purposes of protecting significant sage-grouse habitat, conflicting uses are:

(a) Large-scale development; and

(b) Other activities, which require review by county decision makers pursuant to OAR 660-033-0120 table and are proposed:

(A) In a core area within 4.0 miles of an occupied or occupied-pending lek;

(B) In a low density area within 3.1 miles of an occupied or occupied-pending lek; or

(C) In general habitat within 3.1 miles of an occupied or occupied-pending lek.

(8) Pre-Application Conference. A county should convene a pre-application conference prior to accepting an application for a conflicting use in significant sage-grouse habitat. The pre-application conference should include, at a minimum, the applicant, county planning staff and local ODFW staff.

(9) Program to achieve the goal of protecting significant sage grouse habitat in a core area.

(a) A county may consider a large-scale development in a core area upon applying disturbance thresholds and the mitigation hierarchy as follows:

(A) A county may consider a large-scale development that does not cause the one-percent metering threshold described in section (16) or the three-percent disturbance threshold described in section (17) to be exceeded.

(B) Avoidance. Before proceeding with large-scale development activity that impacts a core area, the proponent must demonstrate that reasonable alternatives have been considered and that the activity or other action cannot avoid impacts within core area habitat. If the proposed large-scale development can occur in another location that avoids both direct and indirect impacts within core area habitat, then the proposal must not be allowed unless it can satisfy the following criteria.

(i) It is not technically feasible to locate the proposed large-scale development outside of a core area based on accepted engineering practices, regulatory standards or some combination thereof. Costs associated with technical feasibility may be considered, but cost alone may not be the only consideration in determining that development must be located such that it will have direct or indirect impacts on significant sage-grouse areas; or

(ii) The proposed large-scale development is dependent on a unique geographic or other physical feature(s) that cannot be found on other lands; and

(iii) If either subparagraph (9)(a)(B)(i) or (9)(a)(B)(ii) is found to be satisfied the county must also find that the large-scale development will provide important economic opportunity, needed infrastructure, public safety benefits or public health benefits for local citizens or the entire region.

(C) Minimization. If the proposed use cannot be sited by avoiding a core area altogether, including direct and indirect impacts, it shall be located to minimize the amount of such habitat directly or indirectly disturbed, and to minimize fragmentation of the core area(s) in question by locating the development adjacent to existing development and at the edge of the core area when possible. Uses should minimize impacts through micro-siting, limitations on the timing of construction or use, or both, and methods of construction. Minimizing impacts from large-scale development in core habitat shall also ensure direct and indirect impacts do not occur in known areas of high population richness within a given core area, unless a project proponent demonstrates, by a preponderance of the evidence, that such an approach is not feasible. Costs associated with minimization may be considered, but cost alone may not be the only consideration in determining that location of development cannot further minimize direct or indirect impacts to core areas.

(D) Compensatory Mitigation. To the extent that a proposed large-scale development will have direct or indirect impacts on a core area after application of the avoidance and minimization standards and criteria, above, the permit must be conditioned to fully offset the direct and indirect impacts of the development to any core area. he required compensatory mitigation must comply with OAR chapter 635, division 140.

(b) A county may approve a conflicting use as identified at subsection (7)(b) above upon either:

(A) Receiving confirmation from ODFW that the proposed conflicting use does not pose a threat to significant sage-grouse habitat or the way sage-grouse use that habitat; or

(B) Conditioning the approval based on ODFW recommendations, including minimization techniques and compensatory mitigation, if necessary, to resolve threats to significant sage-grouse habitat.

(10) Program to achieve the goal of protecting significant sage-grouse habitat in a low density area.

(a) A county may approve a large-scale development in a low density area upon applying the mitigation hierarchy as follows:

(A) Avoidance. Before proceeding with large-scale development activity that impacts a low density area, the proponent must demonstrate that reasonable alternatives have been considered and that the activity or other action cannot avoid impacts within a low density area. If the proposed large-scale development can occur in another location that avoids both direct and indirect impacts within a low density area, then the proposal must not be allowed unless it can satisfy the following criteria:

(i) It is not technically or financially feasible to locate the proposed large-scale development outside of a low density area based on accepted engineering practices, regulatory standards, proximity to necessary infrastructure or some combination thereof; or

(ii) The proposed large-scale development is dependent on geographic or other physical feature(s) found in low density habitat areas that are less common at other locations, or it is a linear use that must cross significant sage-grouse habitat in order to achieve a reasonably direct route.

(B) Minimization. If the proposed use cannot be sited by avoiding a low density area altogether, including direct and indirect impacts, it shall be located to minimize the amount of such habitat directly or indirectly disturbed, and to minimize fragmentation of the low density area(s) in question by locating the development adjacent to existing development and at the edge of the low density area when possible. Uses should minimize impacts through micro-siting, limitations on the timing of construction or use, or both, and methods of construction.

(C) Compensatory Mitigation. Required consistent with the provisions of paragraph (9)(a)(D) above.

(b) A county may approve a conflicting use as identified at subsection (7)(b) above when found to be consistent with the provisions of subsection (9)(b).

(11) Program to achieve the goal of protecting significant sage-grouse habitat on general habitat.

(a) A county may approve a large-scale development on significant sage-grouse habitat in general habitat upon requiring:

(A) General Habitat Consultation. Minimizing impacts from development actions in general habitat shall include consultation between the development proponent and ODFW that considers and results in recommendations on how to best locate, construct or operate the development action so as to avoid or minimize direct and indirect impacts on significant sage-grouse habitat within the area of general habitat. A county shall attach ODFW recommendations as a condition of approval; and

(B) Compensatory Mitigation. Required consistent with the provisions of paragraph (9)(a)(D)above.

(b) A county may approve a conflicting use identified in subsection (7)(b) above when found to be consistent with the provisions of subsection (9)(b).

(12) Especially Unique Local Economic Opportunity. A county may approve a large-scale development proposal that does not meet the avoidance test for significant sage-grouse habitat if the county determines that the overall public benefits of the proposal outweigh the damage to significant sage-grouse habitat. Requirements for minimization and compensatory mitigation continue to apply and attempts should be made to avoid areas of high population richness, if possible. The county shall make this balancing determination only when the proposal involves an economic opportunity that will provide a number of permanent, full-time jobs, not including construction activities, paying at least 150 percent of average county wages sufficient to increase the amount of total private nonfarm payroll employment by at least 0.5 percent over the figure included in the most recent data available from the Oregon Department of Employment rounded down to the nearest whole number. The applicant has the burden to show that the overall public benefits outweigh the damage to the significant sage-grouse habitat. This provision may be exercised by each effected county once during every ten-year period beginning on the effective date of this rule. A county is also free not to approve a proposal submitted under this section.

(13) A proposal to up-zone lands containing significant sage-grouse habitat to a greater development potential than otherwise allowed under Goals 3 and 4 shall follow the ordinary Goal 5 process at OAR 660-023-0030 to 660-023-0050. Furthermore, up-zoning lands in a core area shall be considered a direct impact and count towards the three percent disturbance threshold pursuant to section (17) below.

(14) Landscape-Level Consideration. The standards in sections (9), (10) and (11) above, are designed to minimize the amount of future impacts from human sources to significant sage-grouse habitat areas. Consistent with available science concerning the relation between human activities and sage-grouse population levels, the department will monitor direct impacts in core areas in each of the PACs shown in Exhibit (C).

(15) Central Registry. The department will work with the counties identified in section (5), ODFW, the Bureau of Land Management (BLM), and USFWS to maintain a central registry, tracking human disturbance from existing (baseline) and all new development affecting core areas. In addition to serving as partners in maintaining the central registry, counties must report all development land use permits for all uses within a core area to the department. The registry will include baseline calculations of direct impact levels consistent with the approach identified by the BLM. The percentage figures included in Exhibit D establish the baseline for human disturbance existing on the effective date of this rule. If better information becomes available, the commission may revise the baseline subject to a rule amendment that is coordinated with the counties identified in section (5) and other interested parties. Counties may establish more refined, project specific data to replace the baseline figures so long as all counties utilize a common methodology. Each year the department shall report to the commission the amount of new direct impacts in each PAC. The report shall be coordinated with and made available to all affected counties.

(16) Metering. This rule is intended to ensure that the area of direct impact levels in any PAC, including energy facilities exempted under subsection (2)(b), does not increase by an amount greater than 1.0 percent of the total area of the PAC in any ten-year period. The initial period shall commence upon the effective date of this rule and continue for ten consecutive years, where upon the process shall be successively repeated. The commission will consider revisions to this rule if the department's yearly reports required by section (15) indicate that the development trends in any PAC indicate that the 1.0 percent direct impact threshold is in jeopardy of being exceeded before the ten-year period has expired. Any proposal to amend this rule undertaken by the department shall be developed in coordination with all affected counties and other stakeholders.

(17) Disturbance Threshold. This rule is intended to ensure that direct impact level, including energy facilities exempted under subsection (2)(b), does not exceed three percent of the total area in any PAC. If this three-percent threshold is approached, then the department must report that situation to the commission along with a proposal to amend this rule to adapt the standards and criteria such that the threshold is not exceeded.

(18) State agency coordination programs. All state agencies that carry out or that permit conflicting uses in core area, low density area, or significant general habitat including but not limited to OWRD, Oregon Department of Transportation, Department of State Lands, Department of Geology and Mineral Industries, Oregon Department of Energy and the Energy Facility Siting Council, and Department of Environmental Quality must report the proposed development to the department, along with an estimate of the direct impact of the development. In addition, to the extent not regulated by a county, such development, other than the issuance of water rights, the expansion of cultivation, and other farm uses under ORS 215.203(2), must meet the requirements of paragraph (9)(a)(D) of this rule.

(19) Scheduled Review. The department shall commence a review of these rules no later than June 30, 2020 and, if determined to be necessary, recommend revisions to achieve the policy objectives found herein. Furthermore, should the species become listed under the Federal Endangered Species Act, the commission shall consider whether continued application of this rule is necessary. Should the rule remain applicable and the species is de-listed the commission shall consider whether continued application of this rule is necessary.

Stat. Auth.: ORS 197.040
Stats. Implemented: ORS 197.040
Hist.: LCDD 5-2015, f. 8-6-15, cert. ef. 8-13-15; LCDD 4-2016, f. & cert. ef. 2-10-16

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Rule Caption: Modification of existing exceptions for transportation facilities in rural reserves
Adm. Order No.: LCDD 5-2016
Filed with Sec. of State: 2-10-2016
Certified to be Effective: 2-10-16
Notice Publication Date: 12-1-2015
Rules Amended: 660-027-0070
Subject: Designation of rural reserves provides long-term protection for large blocks of agricultural and forest lands. Consistent with that policy intent, OAR 660-027-0070(4) specifies that new transportation facilities may not be built in rural reserves if an exception to Statewide Planning Goals 3, 4, 11 or 14 is required. The current method for modifying an exception is to take a new exception, which is prohibited in the rural reserves under OAR 660-027-0070(4). The proposed rule amendments modify the rural reserves rules to allow for a modification of an existing exception for a transportation facility.
Rules Coordinator: Casaria Taylor—(503) 373-0050, ext. 322

660-027-0070
Planning of Urban and Rural Reserves

(1) Urban reserves are the highest priority for inclusion in the urban growth boundary when Metro expands the UGB, as specified in Goal 14, OAR chapter 660, division 24, and in ORS 197.298.

(2) In order to maintain opportunities for orderly and efficient development of urban uses and provision of urban services when urban reserves are added to the UGB, counties shall not amend comprehensive plan provisions or land use regulations for urban reserves designated under this division to allow uses that were not allowed, or smaller lots or parcels than were allowed, at the time of designation as urban reserves until the reserves are added to the UGB, except as specified in sections (4) through (6) of this rule.

(3) Counties that designate rural reserves under this division shall not amend comprehensive plan provisions or land use regulations to allow uses that were not allowed, or smaller lots or parcels than were allowed, at the time of designation as rural reserves unless and until the reserves are redesignated, consistent with this division, as land other than rural reserves, except as specified in sections (4) through (6) of this rule.

(4) Notwithstanding the prohibitions in sections (2) and (3) of these rules, counties may adopt or amend comprehensive plan provisions or land use regulations as they apply to lands in urban reserves, rural reserves or both, unless an exception to Goals 3, 4, 11 or 14 is required, in order to allow:

(a) Uses that the county inventories as significant Goal 5 resources, including programs to protect inventoried resources as provided under OAR chapter 660, division 23, or inventoried cultural resources as provided under OAR chapter 660, division 16;

(b) Public park uses, subject to the adoption or amendment of a park master plan as provided in OAR chapter 660, division 34;

(c) Roads, highways and other transportation and public facilities and improvements, as provided in ORS 215.213 and 215.283, OAR 660-012-0065, and 660-033-0130 (agricultural land) or OAR chapter 660, division 6 (forest lands);

(d) Other uses and land divisions that a county could have allowed under ORS 215.130(5) – (11) or as an outright permitted use or as a conditional use under ORS 215.213 and 215.283 or Goal 4 if the county had amended its comprehensive plan to conform to the applicable state statute or administrative rule prior to its designation of rural reserves;

(5) Notwithstanding the prohibition in sections (2) through (4) of this rule a county may amend its comprehensive plan or land use regulations as they apply to land in an urban or rural reserve that is subject to an exception to Goals 3 or 4, or both, acknowledged prior to designation of the subject property as urban or rural reserves, in order to authorize an alteration or expansion of uses or lot or parcel sizes allowed on the land under the exception provided:

(a) The alteration or expansion would comply with the requirements described in ORS 215.296, applied whether the land is zoned for farm use, forest use, or mixed farm and forest use;

(b) The alteration or expansion conforms to applicable requirements for exceptions and amendments to exceptions under OAR chapter 660, division 4, and all other applicable laws;

(c) The alteration or expansion would not expand the boundaries of the exception area unless such alteration or expansion is necessary in response to a failing on-site wastewater disposal system; and

(d) An alteration to allow creation of smaller lots or parcels than was allowed on the land under the exception complies with the requirements of OAR chapter 660, division 29.

(6) Notwithstanding the prohibitions in sections (2) through (5) of this rule, a county may amend its comprehensive plan or land use regulations as they apply to lands in urban reserves or rural reserves or both in order to allow establishment of a new sewer system or the extension of a sewer system provided the exception meets the requirements under OAR 660-011-0060(9)(a).

(7) Notwithstanding the prohibition in sections (2) and (4) of this rule, a county may take an exception to a statewide land use planning goal in order to allow:

(a) The establishment of a transportation facility in an area designated as urban reserve; or

(b) Modifications to an unconstructed transportation facility that was authorized in an exception prior to February 13, 2008. In addition to the requirements of OAR 660-012-0070, county approval of an exception authorized in this subsection shall demonstrate that the modifications have

an equal or lesser impact than the unconstructed transportation facility on lands devoted to farm or forest use, considering the impacts of the identified alternatives on: farm and forest practices; farm and forest lands, structures and facilities; the movement of farm and forest vehicles and equipment; and access to parcels created on farm and forest lands.

(8) Counties, cities and Metro may adopt and amend conceptual plans for the eventual urbanization of urban reserves designated under this division, including plans for eventual provision of public facilities and services, roads, highways and other transportation facilities, and may enter into urban service agreements among cities, counties and special districts serving or projected to serve the designated urban reserve area.

(9) Metro shall ensure that lands designated as urban reserves, considered alone or in conjunction with lands already inside the UGB, are ultimately planned to be developed in a manner that is consistent with the factors in OAR 660-027-0050.

Stat. Auth.: ORS 195.141 & 197.040
Stats. Implemented: ORS 195.137-195.145 & 195.300-195.336; 2007 OL, ch. 424
Hist.: LCDD 1-2008, f. & cert. ef. 2-13-08; LCDD 3-2010, f. 4-29-10, cert. ef. 4-30-10; LCDD 10-2010, f. & cert. ef. 10-20-10; LCDD 5-2012, f. & cert. ef. 2-14-12; LCDD 3-2015, f. & cert. ef. 4-27-15; LCDD 5-2016, f. & cert. ef. 2-10-16

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Oregon Business Development Department
Chapter 123

Rule Caption: Technical update of Strategic Investment Program including implementation of HB 2652 and SB 129(2015).
Adm. Order No.: OBDD 2-2016
Filed with Sec. of State: 1-29-2016
Certified to be Effective: 1-29-16
Notice Publication Date: 12-1-2015
Rules Adopted: 123-623-1115, 123-623-4200
Rules Amended: 123-623-1000, 123-623-1100, 123-623-1250, 123-623-1300, 123-623-1400, 123-623-1500, 123-623-1525, 123-623-1600, 123-623-1700, 123-623-1800, 123-623-1900, 123-623-1950, 123-623-2000, 123-623-3000, 123-623-3200, 123-623-4000, 123-623-4100
Subject: Proposed amendments to division 623 make a number of improvements for technical and reading purposes respective to the SIP property tax exemption, as well as to incorporate statutory changes by OrLaws 2015, chapters 515 and 757, that:

- specify rural vs. urban in general, for Strategic Investment Zones and specially preserved rural areas from earlier law,
- offer clearer, more precise language of:
- what is existing property that is not exempt from property taxes,
- a business firm's making early, incomplete application to the department to consequently begin its project, and
- application processing for approval by the Commission,
- define the extent of consequences in violating Commission eligibility criteria for fully disclosing potentially foreseeable employment curtailments anywhere in state, and
- rigorously address the employment information that must be reported annually by business firms (unrelated to program qualification) for purposes of data collection and "gain share," taking account of legislative deliberations and lessons learned, including:
- terminology that is as objective as possible in contrast to existing instructions that called for determinations by reporters,
- clarity for how a project's job retention equates to a preexisting workforce, in addition to which would be the jobs newly created with a project,
- establishment of such a preexisting workforce based on the original application or other factors, such as jobs moved from elsewhere in the state to the project site,
- reporting of jobs of a third-party who wholly operates the SIP project;
- composition of "compensation,"
- the case of multiple exempt projects by the same business that have overlapping workforce, and
- recourse to the Commission's considering suspension of property tax exemption for lack of information or any necessary follow-up.

Rules Coordinator: Mindee Sublette—(503) 986-0036

123-623-1000
Purpose

This division of administrative rules clarifies, specifies and establishes procedures, standards and criteria for operation of the Strategic Investment Program (SIP) under ORS 285C.600 to 285C.635 and 307.123, whether inside or outside of a Strategic Investment Zone (SIZ). It does not control or bind the county assessor or Department of Revenue and does not supersede OAR chapter 150, in matters related to tax administration.

Stat. Auth.: ORS 285A.075 & 285C.615(7)
Stats. Implemented: ORS 285C.600 - 285C.626 & 307.123
Hist.: EDD 7-1999, f. & cert. ef. 9-30-99; EDD 10-2004, f. & cert. ef. 5-24-04, Renumbered from 123-023-0201; EDD 25-2008, f. 7-31-08, cert. ef. 8-1-08; Renumbered from 123-023-1000 by OBDD 18-2010, f. 4-30-10, cert. ef. 5-1-10; OBDD 2-2016, f. & cert. ef. 1-29-16

123-623-1100
Definitions

For the purposes of this division of administrative rules, additional definitions are found in OAR 123-001 (Procedural Rules). As used in these rules, the following terms have the meanings set forth below, unless the context clearly indicates otherwise.

(1) Abatement means the taxation and assessment of property comprising an eligible project under ORS 307.123.

(2) Applicant means a business firm, including but not limited to a publicly or privately held corporation, people's utility district, or a joint operating agency under ORS 262.005, seeking approval from the Commission for Abatement.

(3) Application means the form, prescribed by the Department and described in OAR 123-623-1400, and all supplemental attachments, exhibits and so forth that the Applicant completes or furnishes to the Department for the Strategic Investment Program.

(4) Approved Project means an investment or investments in taxable property that:

(a) Is not Existing Property;

(b) The Applicant owns or leases;

(c) The Commission has determined shall receive Abatement; and

(d) Conforms to the project definition established with the determination of the Commission according to OAR 123-326-1700.

(5) County means the government of the county in which the Approved Project is located. (Except with respect to SIZs, "County" also refers to the tribe/tribal government if the Approved Project is anywhere on the reservation of a federally recognized Indian Tribe)

(6) Existing Property means any property:

(a) Comprising all or part of a prior Approved Project, unless the property was never actually subject to Abatement.

(b) That at the time of the Department's receipt of the Application, the Applicant already:

(A) Owns or leases, regardless of location, including but not limited to recently acquired land or other property; or

(B) Has a contractual right or obligation to purchase or lease, including but not limited to doing so upon completion of improvements, construction, reconstruction or installations already underway at the Approved Project's site.

(c) Located in an SIZ, or for which any construction or installation began there, before the effective date of the SIZ's designation or the Department's receipt of the Application, regardless of whether the SIZ is the basis of Abatement under ORS 285C.606(2) and 285C.626.

(7) Retained Jobs means the Total Jobs existing some time before the Approved Project became fully operational or associated with later, intrafirm transfer of operations within this state, according to OAR 123-623-4200.

(8) SIZ means a strategic investment zone designated by the Commission at the request of the County according to OAR 123-623-3000 to 123-623-3400.

(9) Total Jobs means the total number of hours, for which relevant jobs, employees or hires were paid over a year's time, divided by 2,080, consistent with OAR 123-623-4200.

(10) Urban Project means an Approved Project located entirely outside a "rural area" as defined under ORS 285C.600, and hence, at least partially inside the urban growth boundary -- as acknowledged and in effect on the date of the Department's receipt of the Application:

(a) Of the Portland metropolitan region, aside from the exceptions in OAR 123-632-1115; or

(b) That surround any city outside that region, for which the population equals or exceeds 40,000 based on the most recent U.S. Census count or estimate available from the Portland State University Population Research Center (which currently consists of Albany, Bend, Corvallis, Eugene, Medford, Salem–Keizer and Springfield).

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 285A.075 & 285C.615(7)
Stats. Implemented: ORS 285C.600 - 285C.626 & 307.123
Hist.: EDD 7-1999, f. & cert. ef. 9-30-99; EDD 10-2004, f. & cert. ef. 5-24-04, Renumbered from 123-023-0351; EDD 3-2006(Temp), f. & cert. ef. 5-26-06 thru 11-22-06; Administrative correction 12-16-06; EDD 25-2008, f. 7-31-08, cert. ef. 8-1-08; Renumbered from 123-023-1100 by OBDD 18-2010, f. 4-30-10, cert. ef. 5-1-10; OBDD 2-2016, f. & cert. ef. 1-29-16

123-623-1115
Grandfathered Rural Areas

On and after October 5, 2015, the following remain rural areas under ORS 285C.600 pursuant to section 2, chapter 515, Oregon Laws 2015:

(1) Any area inside Clackamas Rural SIZ #1, designated September 24, 2010, and sponsored by Clackamas County and the cities of Canby, Estacada, Happy Valley, Molalla and Sandy; and

(2) Tax lot 2900 in the southeast quarter of section 21 of Township 1 North, Range 2 West of the Willamette Meridian (1N221-2900) in Washington County.

Stat. Auth.: ORS 285A.075 & 285C.615(7)
Stats. Implemented: ORS 285C.600; OrLaws 2015 Ch. 515 Sec. 2
Hist.: OBDD 2-2016, f. & cert. ef. 1-29-16

123-623-1250
Eligibility Criteria of the Commission

Under the definition of "eligible project" as used in ORS 285C.600:

(1) The Commission may establish criteria in order for property to receive Abatement either by resolution or as described in this division of administrative rules.

(2) The Commission may reject or revoke an Application up to 18 months after its approval and before the Abatement has begun, if the Approved Project will or does take place in conjunction with what the Commission deems to be substantial curtailment of employment at operations under the control of the Applicant (including but not limited to another commonly controlled business firm) anywhere in this state. Mitigating factors include:

(a) Applicant's candidness and cooperation in addressing such conjunction;

(b) Such curtailment's being unrelated and only coincidental to proposed investments; or

(c) Compensating actions by the Applicant.

Stat. Auth.: ORS 285A.075 & 285C.615(7)
Stats. Implemented: ORS 285C.600 & 285C.606
Hist.: EDD 25-2008, f. 7-31-08, cert. ef. 8-1-08; Renumbered from 123-023-1250 by OBDD 18-2010, f. 4-30-10, cert. ef. 5-1-10; OBDD 2-2016, f. & cert. ef. 1-29-16

123-623-1300
Local Hiring

For purposes of ORS 285C.603:

(1) Prospective Applicants and County/local governments shall consider creative and cooperative means to promote gainful work for persons already residing in the proximate area or region of the Approved Project for:

(a) Jobs associated with the Approved Project's facility or operations; and

(b) Persons employed in the construction or installation of property or by other types of associated contractors, vendors or suppliers.

(2) County/local governments shall incorporate such means in a policy and standards for the designation of an SIZ, as otherwise permissible and administrable, with respect to OAR 123-623-3100.

(3) Such means shall not create any:

(a) Undue burden on the Applicant relative to the nature, needs or competitiveness of the Approved Project; or

(b) Explicit bias against anyone's rights or access to the privilege of employment, such as specifying residency-based hiring criteria proscribed by OP-8236, Oregon Attorney General (April 20, 1995).

Stat. Auth.: ORS 285A.075 & 285C.615(7)
Stats. Implemented: ORS 285C.603, 285C.609 & 285C.623
Hist.: EDD 10-2004, f. & cert. ef. 5-24-04; EDD 25-2008, f. 7-31-08, cert. ef. 8-1-08; Renumbered from 123-023-1300 by OBDD 18-2010, f. 4-30-10, cert. ef. 5-1-10; OBDD 2-2016, f. & cert. ef. 1-29-16

123-623-1400
Making Application

(1) An Applicant desiring approval for Abatement must submit an Application to the Department.

(2) In addition to what is required by the Application or in this division of administrative rules, the Applicant shall submit any information requested by the Department for purposes of evaluating the Application.

(3) Not less than 21 days after having received a complete Application, as described in OAR 123-623-1500, the Department shall arrange for the Commission to initially consider it at a regular or special meeting. Under extenuating circumstances, the Department may dispense with this minimum period.

(4) The Application form is available from and submitted to: Business Development, Business Oregon, State Lands Building Suite 200, 775 Summer Street NE, Salem OR 97301, see www.oregon4biz.com.

(5) An Applicant may submit an Application that is incomplete for lack of local agreement/approval, which the Department effectively receives and holds pending completion, in order that subsequently acquired, constructed or installed property avoids classification as Existing Property or for other reasons, so long as the Application includes:

(a) The fee described in OAR 123-623-1800(1);

(b) All required information or documentation currently available to the Applicant; and

(c) What the Department deems to be sufficient evidence that the Applicant has been in contact with the County to initiate steps under ORS 285C.609, including but not limited to local submission of a formal application if the County has previously established such procedures.

(6) Section (5) of this rule is not generally applicable to proposed investments in an SIZ, but the Department may exercise it in the case where an Applicant has encountered what the Department considers significant and undue delays in executing the standardized agreement for the SIZ under the local program established pursuant to OAR 123-623-3100.

Stat. Auth.: ORS 285A.075 & 285C.615(7)
Stats. Implemented: ORS 285C.600 - 285C.626
Hist.: EDD 7-1999, f. & cert. ef. 9-30-99; EDD 10-2004, f. & cert. ef. 5-24-04, Renumbered from 123-023-0401; EDD 25-2008, f. 7-31-08, cert. ef. 8-1-08; Renumbered from 123-023-1400 by OBDD 18-2010, f. 4-30-10, cert. ef. 5-1-10;; OBDD 2-2016, f. & cert. ef. 1-29-16

123-623-1500
Contents of Application, Generally

123-623-1550:

(1) A copy of a First Source Hiring Agreement according to OAR 123-070 that takes effect beginning no later than when any hiring for the Approved Project commences and ending no sooner than June 30 of the final tax year of Abatement.

(2) Information required in or with the Application as stated in the form, including but not limited to full company identification, hiring/payroll projections, full description of proposed investment(s) and of any exceptional impact on public services, as well as:

(a) The number of Retained Jobs over the 12 month's preceding the Department's receipt of the Application at the site, facility or operations, to which the proposed investment will be made;

(b) Full disclosure for purposes of OAR 123-623-1250, including but not limited to any probable reduction in the operations, employment or the like at any other facility in this state that is owned or operated by the Applicant or a commonly controlled business firm, within one year after making application, regardless of proximity or relationship to the proposed investment(s); and

(c) Commitments to:

(A) Address the exhortation under ORS 285C.603 consistent with OAR 123-623-1300;

(B) Provide timely notification or evidence to the county assessor or the Department of Revenue, as requested or otherwise necessary under ORS 307.123 or other applicable laws, such as the date when any taxable property is or will be initially occupied, used or operated commercially for specifically intended purposes;

(C) Ensure that any ultimate lessee is responsible for the payment of property taxes levied on leased property that comprises any part of the Approved Project; and

(D) Submit the annual reports of employment required under ORS 285C.615 and described in OAR 123-623-4000 to 123-623-4200.

(3) As described in OAR 123-623-1800:

(a) Full amount of the nonrefundable application fee; and

(b) Commitment to pay additional fee, if approved.

Stat. Auth.: ORS 285A.075 & 285C.615(7)
Stats. Implemented: ORS 285C.600, 285C.606, 285C.609, 285C.626, 307.123
Hist.: EDD 10-2004, f. & cert. ef. 5-24-04; EDD 25-2008, f. 7-31-08, cert. ef. 8-1-08; Renumbered from 123-023-1500 by OBDD 18-2010, f. 4-30-10, cert. ef. 5-1-10; OBDD 2-2016, f. & cert. ef. 1-29-16

123-623-1525
Application within a Strategic Investment Zone

If the proposed investment is subject to approval based on its location inside an SIZ:

(1) A complete Application must also include a locally endorsed and fully executed copy of the SIZ's standardized agreement that unambiguously identifies the Applicant and the proposed investment.

(2) The County may neither negotiate a project-specific agreement nor subject the proposal to approval under discretionary provisions, including but not limited to those under ORS 285C.609.

(3) Material variance between additional requirements established with designation of the SIZ and those found in the agreement submitted by the Applicant shall render such requirements unenforceable.

Stat. Auth.: ORS 285A.075 & 285C.615(7)
Stats. Implemented: ORS 285C.600, 285C.606 & 285C.626
Hist.: EDD 25-2008, f. 7-31-08, cert. ef. 8-1-08; Renumbered from 123-023-1525 by OBDD 18-2010, f. 4-30-10, cert. ef. 5-1-10; OBDD 2-2016, f. & cert. ef. 1-29-16

123-623-1600
Consideration and Approval

(1) The Department shall review each Application, and only after deeming that information described in OAR 123-623-1500 and 123-623-1525 or 123-623-1550 is completely and accurately provided in it (except potentially for pending materials or information, of which the Department is reasonably assured of receipt), the Department shall make a recommendation to the Commission (subject to actual receipt of any pending material or information).

(2) In evaluating an Application, the Commission shall hold at least one meeting open to the public, at which the matter is an agenda item for discussion, and for which the Department has made appropriate and customary public notice. At the meeting the Commission may:

(a) Invite oral statements or written comments from the public; and

(b) Have the Applicant appear in order to give a statement and to answer questions submitted in advance or posed by Department staff or by members of the Commission, exclusively.

(3) The Commission may dispense with some or all of the elements in section (2) of this rule, as otherwise permitted under ORS Chapter 192, in light of extenuating circumstances.

(4) Pursuant to evaluation of the Application, the Applicant's proposed investment(s) are determined to be an eligible project for Abatement if the Commission finds that:

(a) The project will satisfy the criteria for eligibility as established by prior resolution of the Commission or in this division of administrative rules;

(b) The project will directly benefit a traded sector industry under ORS 285B.280;

(c) The total cost of the project will equal or exceed $25 million, or $100 million in the case of any proposed Urban Project;

(d) The project will not consist of any property formerly or currently exempt under ORS 285C.175 and the Applicant is not an authorized business firm for any investment at the exact same location in an enterprise zone, unless there will be a demarcation between such qualified property and property subject to the Abatement that is clear enough for purposes of proper valuation and tax administration;(e) The Applicant is not subject to an outstanding suspension under ORS 285C.615(3) as described in OAR 123-623-4000(4) and (5); and

(f) The Applicant has agreed to comply with any additional reasonable conditions imposed by the Commission related to the Strategic Investment Program, including requirements that continue for the term of the Abatement.

(5) Notwithstanding suspension of the determination as provided under ORS 307.123(6), once the Commission has taken formal action to authorize the Abatement, the Commission's determination is final, and the Commission may reverse, rescind or withdraw it only by formal finding of a material error or omission among submitted Application information or a noncompliance with criteria described or referenced in this rule.

Stat. Auth.: ORS 285A.075 & 285C.615(7)
Stats. Implemented: ORS 285C.600 - 285C.626, 307.123
Hist.: EDD 7-1999, f. & cert. ef. 9-30-99; EDD 12-2002(Temp), f. & cert. ef. 6-5-02 thru 11-29-02; Administrative correction 4-15-03; EDD 10-2004, f. & cert. ef. 5-24-04, Renumbered from 123-023-0451; EDD 25-2008, f. 7-31-08, cert. ef. 8-1-08; Renumbered from 123-023-1600 by OBDD 18-2010, f. 4-30-10, cert. ef. 5-1-10; OBDD 2-2016, f. & cert. ef. 1-29-16

123-623-1700
Establishment of Exempt Property

(1) The Commission's determination pursuant to OAR 123-623-1600 needs to define the Approved Project for purposes of the Abatement, consistent with the Application (and the County agreement with the Applicant if outside an SIZ).

(2) Such a definition shall employ one or more of the following examples or a comparable method that:

(a) Stipulates the site(s) or overall facility at which applicable property must be located, used and occupied for commercial purposes;

(b) Delimits what the Abatement covers in terms of investment cost or property value, or the specific period, in which construction/installation needs to commence, or in which property must be placed in service; or

(c) Identifies applicable real and personal property, including but not limited to:

(A) Referencing the description of investment(s) in the Application or further information from the Applicant (whether requested or not by the Department or Commission); or

(B) Delineating details for improvements, buildings or property items (or representative examples thereof) that the Applicant will acquire, construct or install, or for which the assessed value might increase as a result of additions, reconstruction, modifications, remodeling, renovation, refurbishment, retrofitting or upgrades.

(3) Property of an Approved Project qualifies for Abatement even if built on, installed in or associated with Existing Property:

(a) Outside a SIZ, a (positive) change in the assessed value of already owned or leased property is also subject to Abatement if resulting from modifications, remodeling, renovation, refurbishment, retrofitting or upgrades as part of the Approved Project.

(b) The Abatement excludes any such change in value of any property inside any SIZ, except for newly constructed additions to any existing structure, as well as all land or any other property in existence or in the process of construction or installation before the Department's effective receipt of the Application. This subsection applies regardless if the project is approved based on its location in the SIZ or otherwise under ORS 285C.606(1) as described in OAR 123-623-1550.

(4) As otherwise allowed under the project definition described in this rule, the Abatement shall cover any property comprising the Approved Project, for which construction, installation, modification or the like occurs during or after the first year of Abatement, but only for the remainder of the 15-year period.

(5) If another business firm acquires the Applicant or the Approved Project, the ongoing Abatement shall continue as authorized, such that continuously exempt property is not Existing Property, provided that:

(a) The acquiring firm complies with all terms and conditions under the Application, its approval, and the corresponding local agreement in OAR 123-623-1525 or 123-623-1550, as well as applicable requirements of law and this division of administrative rules, as if the acquiring firm were the Applicant; and

(b) The owner or chief executive officer of the acquiring firm furnishes and authorizes a formal statement to the Department and the parties to the agreement, attesting to the firm's full assumption of relevant obligations and requirements formerly incumbent on the Applicant.

Stat. Auth.: ORS 285A.075 & 285C.615(7)
Stats. Implemented: ORS 285C.600, 285C.606 & 285C.626, 307.123
Hist.: EDD 10-2004, f. & cert. ef. 5-24-04; EDD 25-2008, f. 7-31-08, cert. ef. 8-1-08; Renumbered from 123-023-1700 by OBDD 18-2010, f. 4-30-10, cert. ef. 5-1-10; OBDD 2-2016, f. & cert. ef. 1-29-16

123-623-1800
State Application and Approval Fees

With respect to ORS 285C.612 and the fees payable to and collected by the Department:

(1) The following (non-refundable) amount must accompany the Application:

(a) $5,000; or

(b) $10,000 for a proposed Urban Project.

(2) After the Commission decides to approve the Application, but pending formal authorization as such through the Department, the Applicant must pay the following amount (of which the Department shall transfer 50 percent to the Department of Revenue to administer ORS 307.123):

(a) $10,000; or

(b) $50,000 for a proposed Urban Project.

(3) The Commission or Department will allocate payments collected and retained consistent with relevant provisions in OAR 123-009.

Stat. Auth.: ORS 285A.075 & 285C.615(7)
Stats. Implemented: ORS 285C.612
Hist.: EDD 7-1999, f. & cert. ef. 9-30-99; EDD 10-2004, f. & cert. ef. 5-24-04, Renumbered from 123-023-0501; EDD 25-2008, f. 7-31-08, cert. ef. 8-1-08; Renumbered from 123-023-1800 by OBDD 18-2010, f. 4-30-10, cert. ef. 5-1-10; OBDD 2-2016, f. & cert. ef. 1-29-16

123-623-1900
Community Service Fee

(1) The local agreement included with the Application and described in OAR 123-623-1525 or 123-623-1550 shall specify:

(a) The community service fee under ORS 285C.609(4)(b) and (c) or 285C.623(4)(b) and (c); and

(b) How the Applicant will annually make payment of the fee to the County, beginning not earlier than December 1 of each of the 15 tax years for which the Applicant claims and receives the Abatement, including arrangements for invoicing or issuance of a receipt to the Applicant.

(2) Depositing of community service fee moneys (under ORS Chapter 294) and their allocation, distribution or transfer by the County or any other entity in OAR 123-623-1950(1) do not affect the Approved Project's eligibility.

Stat. Auth.: ORS 285A.075 & 285C.615(7)
Stats. Implemented: ORS 285C.609 & 285C.623
Hist.: EDD 10-2004, f. & cert. ef. 5-24-04; EDD 25-2008, f. 7-31-08, cert. ef. 8-1-08; Renumbered from 123-023-1900 by OBDD 18-2010, f. 4-30-10, cert. ef. 5-1-10; OBDD 2-2016, f. & cert. ef. 1-29-16

123-623-1950
Local Distribution of Community Service Fee

(1) The County shall see to the entire annual distribution of funds comprising the community service fee including but not limited to some or all of the following:

(a) The County;

(b) City government(s), if any part of Approved Project is located within incorporated territory;

(c) Any (other) local taxing district that levies taxes on property located in a tax code area containing any part of the Approved Project; or

(d) Local organizations or programs that provide a relevant and significant community service, even without taxing authority.

(2) A distribution formula shall determine the exact percentage of the community service fee received or retained by an entity listed in section (1) of this rule. A schedule of distribution formulae that varies from year to year is allowable.

(3) Establishment of the annual formula may occur in one of only the following two ways:

(a) By official action of the Commission, if subsection (b) of this section is not satisfied; or

(b) By formal agreement that the following local parties have at least accepted in principle, and that is effective on or before the same date of the third month after the Commission's determination of the Approved Project:

(A) County government;

(B) City government described in subsection (1)(b) of this rule; and

(C) Local taxing districts listed in ORS 198.010 or 198.180 and described in subsection (1)(c) of this rule, to the extent that the sum of property tax authority for such participating districts equals or exceeds 75 percent of the total for all such districts (prorated by the anticipated proportion of the Approved Project among tax code areas). Property tax authority consists of the sum of a district's permanent and local option (levy) rate authority, whether used and unused, but it excludes the levy/tax rates for bonded indebtedness.

(4) If local parties timely reach and effect such an agreement:

(a) They may mutually amend or revise the agreement at a later time; and

(b) The County shall formally report the annual distribution formula to the Department, to:

(A) Confirm that the Commission need not establish such formula; and

(B) Inform about the redistribution of amounts received under ORS 285C.635(3).

(5) In the event that the parties in subsection (3)(b) of this rule have not concluded an agreement (aside from outstanding signatures) before the requisite three-month period, the Commission:

(a) Shall take necessary steps as soon as reasonably possible for purposes of subsection (3)(a), as described in section (6), of this rule; or

(b) May delay official action, at its sole discretion, upon learning that a sufficient set of the parties described in subsection (3)(b) of this rule are having productive negotiations, with which they wish to continue. Under such circumstances:

(A) The Commission may officially sanction an agreement reached when negotiations successfully conclude; and

(B) The parties may not subsequently amend or revise such an agreement in any way that would effectively modify the established distribution formula.

(6) In determining a distribution formula the Commission, as necessary:

(a) May rely primarily on the relative proportions of prevailing property tax rates among affected local taxing districts;

(b) May consider adjusting such proportions according to the Approved Project's demand or direct impact on the public service(s) provided by each entity, taking account of expected new property tax revenues even with the Abatement, as well as consideration of the goals and purposes of applicable state policies;

(c) Shall set an annual distribution percentage for each entity described in section (1) of this rule that the Commission determines will receive a portion of the distribution; and

(d) Shall in the process of issuing the distribution formula to the County government, notify all entities of this official, final action.

(7) In an SIZ, each Approved Project will entail a separate agreement or Commission action for the distribution of the community service fee arising from it, consistent with this rule. Nevertheless, with respect to any SIZ, the County and affected local parties may agree to a generalized distribution formula and standard agreement for all future Approved Projects.

Stat. Auth.: ORS 285A.075 & 285C.615(7)
Stats. Implemented: ORS 285C.609, 285C.623 & 285C.639
Hist.: EDD 25-2008, f. 7-31-08, cert. ef. 8-1-08; Renumbered from 123-023-1950 by OBDD 18-2010, f. 4-30-10, cert. ef. 5-1-10; OBDD 11-2012, f. & cert. ef. 8-15-12; OBDD 2-2016, f. & cert. ef. 1-29-16

123-623-2000
Confidential Records

As provided under ORS 192.501, 192.502 and 285C.620:

(1) The Department shall not release any information identifying or pertaining to an expected Applicant, or to discussions among it, local governments, or the Department and members of the Commission, before:

(a) Finalization of local approval for the proposed investment based on its being inside an SIZ; or

(b) The County governing body holds the public hearing under ORS 285C.609(4) (or a public notice for the hearing naming an expected Applicant) if not using an SIZ.

(2) The Department shall not release any Application materials submitted by an expected Applicant that specifically describe investment plans, before the Department's deems the received Application to be complete.

(3) The department shall seek to keep confidential certain sensitive records or communications obtained in association with an Application, as otherwise allowable under ORS 192.410 to 192.505, including but not limited to the following:

(a) Reports and analyses of reports bearing on the Applicant's character, finances, management ability and reliability, as obtained in confidence from persons or firms not required by law to submit them, including but not limited to the Applicant, and for which the Department obliged itself in good faith to not disclose;

(b) Financial statements, tax returns, business records, employment history, personnel files and comparable data submitted by or for an Applicant, or analysis of such data;

(c) Intra-departmental advisory memoranda based on or providing preliminary information;

(d) Formulas, plans, designs and related information that constitute trade secrets under ORS Chapter 192;

(e) Personal financial statements;

(f) Information of an Applicant pertaining to litigation that has not concluded, to which the Applicant is a party if the complaint has been filed, or if not, that the Applicant shows is reasonably likely to occur (Nothing in this section shall limit any right or opportunity granted by discovery or deposition statutes to a litigant or defendant);

(g) Production, sales or cost data, customer lists, or detailed descriptions or identifications of business property; or

(h) Marketing strategy information that relates to an Applicant's plan to address specific markets and the Applicant's strategy regarding specific competitors.

(4) Subject to sections (1), (2) and (3) of this rule, the Department shall provide records pertaining to the Strategic Investment Program upon written request, as described in OAR 123-005.

Stat. Auth.: ORS 285A.075 & 285C.615(7)
Stats. Implemented: ORS 285C.620
Hist.: EDD 7-1999, f. & cert. ef. 9-30-99; EDD 10-2004, f. & cert. ef. 5-24-04, Renumbered from 123-023-0551; EDD 25-2008, f. 7-31-08, cert. ef. 8-1-08; Renumbered from 123-023-2000 by OBDD 18-2010, f. 4-30-10, cert. ef. 5-1-10; OBDD 2-2016, f. & cert. ef. 1-29-16

123-623-3000
Physical, Temporal and Jurisdictional Existence

(1) There is no limit to the number of SIZs under ORS 285C.623, for which any County may seek designation on one or multiple occasions.

(2) The Commission may designate an SIZ that is entirely or partially inside one or more cities that also seek designation as parties with the

County to a joint request. The County and any such city do thereby jointly cosponsor the SIZ and are its "sponsor" or "cosponsors."

(3) An SIZ may cover the entire (unincorporated) territory of the County, or it may be as small as a single parcel of land, on which development of an eligible project can feasibly take place, but any SIZ must:

(a) Be entirely contiguous;

(b) Consist of area only in the territory of a single County;

(c) Encompass land exclusive of land inside any other existing SIZ; and

(d) Contain only rural area if including any rural area under ORS 285C.600(5) and section 2, chapter 515, Oregon Laws 2015, consistent with OAR 123-623-1100(10) and 123-623-1115.

(4) Once designated, an SIZ does not expire and may be neither terminated nor geographically amended.

(5) In determining the area to include in a proposed SIZ, local governments shall consider plans and potentialities for city annexations and projections for city population growth, in order to minimize the probability of the following occurrences, which would nevertheless not interrupt the existence or operation of the SIZ:

(a) A city that does not sponsor the SIZ annexes territory inside of it; or

(b) A city, whose urban growth boundary (UGB) crosses the area of the SIZ, increases in population to 40,000 or more, in the case of an otherwise rural SIZ. (An Approved Project, for example, inside such an UGB is an Urban Project, if official release of the relevant increase in the city's population estimate or enumeration occurred before the Department receives the Application)

Stat. Auth.: ORS 285A.075 & 285C.615(7)
Stats. Implemented: ORS 285C.623 & 285C.626
Hist.: EDD 25-2008, f. 7-31-08, cert. ef. 8-1-08; Renumbered from 123-023-3000 by OBDD 18-2010, f. 4-30-10, cert. ef. 5-1-10; OBDD 2-2016, f. & cert. ef. 1-29-16

123-623-3200
Department's Receipt of County Request

The Department shall report to the Commission on any complete request that it receives from a County for designation of a proposed SIZ that satisfies OAR 123-623-3000 and 123-623-3100, after concluding that the request contains the following:

(1) Identification of any requisite city that also sponsors the SIZ;

(2) The map and other geographic data establishing the SIZ area and boundary;

(3) Evidence that the SIZ area will conform to OAR 123-623-3000(3);

(4) Information pertaining to the SIZ's inclusion, adjacency and proximity to any current city limit or urban growth boundary and to any urban growth boundary of a city with a population that equals or exceeds 40,000 (or likely will within 10 years);

(5) The agenda, minutes and so forth demonstrating that the County held a public hearing concerning the SIZ;

(6) A copy of the intergovernmental agreement between the County and any and all city cosponsors, as executed on or after the date of the public hearing;

(7) A summary of the locally established objectives for the SIZ;

(8) Documentation of the local program described in OAR 123-623-3100(3), including but not limited copies of policies, rules, procedural guidelines or administrative plans, but especially, a sample standardized agreement; and

(9) A record that the County governing body took the official action requesting designation of the SIZ with an affirmative vote by a majority of its members (not merely those present) at a regular or duly called special meeting that occurs after the execution or conclusion of material efforts described in sections (1) to (8) of this rule.

Stat. Auth.: ORS 285A.075 & 285C.615(7)
Stats. Implemented: ORS 285C.623
Hist.: EDD 25-2008, f. 7-31-08, cert. ef. 8-1-08; Renumbered from 123-023-3200 by OBDD 18-2010, f. 4-30-10, cert. ef. 5-1-10; OBDD 2-2016, f. & cert. ef. 1-29-16

123-623-4000
Submissions to Department

For purposes of ORS 285C.615(1) to (3) & (6) and the report submitted by a business firm benefiting from Abatement in the property tax year concluding as of the prior June 30:

(1) The firm shall complete the prescribed report form available from and furnish it to: Business Development, Business Oregon, State Lands Building Suite 200, 775 Summer Street NE, Salem OR 97301, see www.oregon4biz.com.

(2) The firm may send the report form on or after January 1 next following the tax year, but the Department must receive it no later than the immediately subsequent April-1 date or the preceding Friday when April 1 is a Saturday or Sunday.

(3) This reporting requirement applies to any Approved Project, of which any property is actually exempt from taxes under ORS 307.123(1)(b) in the tax year, beginning with the 2009–2010 tax year.

(4) Section (3) of this rule is true regardless that the Approved Project does not pertain to a distribution under ORS 285C.635(3), whether because:

(a) The first tax year of that Abatement was before 2008–2009; or

(b) The most recently concluded tax year is 2023–2024 or later, in that reports will still be required in and after 2025.

(5) If the benefiting business firm has two or more Approved Projects receiving Abatements in a given tax year at more or less the same location(s), for which Total Jobs are the same or overlapping:

(a) The firm shall submit report forms for each project, including but not limited to the respective data for Retained Jobs as applicable according to OAR 123-623-4200(3) to (6).

(b) In transmitting data to the Oregon Department of Administrative Service (DAS), the Department shall adjust the job numbers assigned among the projects to prevent double-counting, which may depend on further information from the firm.

(c) Generally, assuming employment increases with successive projects, these adjustments will:

(A) Assign only Retained Jobs to the less/least recent project as reported for it;

(B) For any less recent project, assign the Retained Jobs of the next more recent project to be its total jobs; and

(C) For the more/most recent project, assign as its total jobs the reported Total Jobs minus the sum of Retained Jobs, as reported for all projects.

(6) The Department shall recommend to the Commission that it suspend its determination for the Approved Project, and any other project materially implicated for purposes of subsection (5) of this rule — effectively revoking any such Abatement for and after the tax year beginning with the very next July 1, until the suspension is ever rescinded under ORS 285C.615(3)(c) — if the benefiting firm has failed to:

(a) Provide information called for by the report form or in OAR 123-623-4100 or 123-623-4200; or

(b) Promptly satisfy a necessary or appropriate request by the Department to further clarify or verify such information. (Therefore, in light of the Department's limited turnaround time to transmit data to DAS, firms are encouraged to submit as early as possible to improve the likelihood that such a request can be timely resolved)

(7) "Tax year" has the same meaning as under ORS 308.007.

Stat. Auth.: ORS 285A.075 & 285C.615(7)
Stats. Implemented: ORS 285C.615; OL 2007 Ch. 905 §6
Hist.: EDD 25-2008, f. 7-31-08, cert. ef. 8-1-08; Renumbered from 123-023-4000 by OBDD 18-2010, f. 4-30-10, cert. ef. 5-1-10; OBDD 2-2016, f. & cert. ef. 1-29-16

123-623-4100
Reporting Elements

Respective or in addition to items stipulated under ORS 285C.615(2), the report submitted to the Department by a benefiting business firm described in OAR 123-623-4000 must:

(1) State for the applicable tax year, as may be confirmed or corrected through communication with the county assessor:

(a) The real market or assessed value of the entire Approved Project in terms of what was exempt or taxable, as well as corresponding property taxes saved or paid by the firm; and

(b) Which year it was out of the 15 that comprise the Abatement period.

(2) Include the total cumulative cost of investments physically made in the Approved Project through the most recent calendar year (which in effect, are two years removed from any investment affecting values in subsection (1)(a) of this rule).

(3) Breakdown the amounts and recipients of fees or other (non-tax) payments made by or on behalf of the firm that arise from requirements under ORS 285C.609(5) or 285C.623(5), in addition to the amount of the statutory community service fee, in the calendar year preceding the report.

(4) Provide data for Retained Jobs as relevant, Total Jobs, and taxable income and compensation of Total Jobs, in accordance with OAR 123-623-4200 that are broken out for:

(a) The firm itself; and

(b) A single general operator of the Approved Project, if relevant, but the report need not include information formally identifying any such general operator.

Stat. Auth.: ORS 285A.075 & 285C.615(7)
Stats. Implemented: ORS 285C.615
Hist.: EDD 25-2008, f. 7-31-08, cert. ef. 8-1-08; Renumbered from 123-023-4100 by OBDD 18-2010, f. 4-30-10, cert. ef. 5-1-10; OBDD 2-2016, f. & cert. ef. 1-29-16

123-623-4200
Applicable Employees and Payroll

For purposes of OAR 123-623-4100(4):

(1) With respect to Total Jobs, the report shall include each of the following totals for the preceding calendar year:

(a) Hours paid;

(b) Taxable income; and

(c) Compensation.

(2) Relevant jobs, hires or employees are persons, regardless of residency in this state:

(a) For whom their employer under ORS chapter 316 is:

(A) The benefiting business firm (or a commonly controlled business firm); or

(B) A general operator, if any, who manages the entire Approved Project for the firm; but

(C) Not any other type of contractor, subcontractor, vendor or supplier of the firm or of such a general operator; and

(b) Who:

(A) Regularly work at a site or location containing property of the Approved Project; and

(B) Are engaged in or directly support business operations of the Approved Project, such that other operations represent not more than 25 percent of the person's time spent performing work for the employer.

(3) Retained Jobs consist of relevant existing jobs, hires or employees described in section (2) of this rule, who:

(a) Were already at the existing site, facility or operations, to which the Applicant makes the investments that comprise the Approved Project, consistent with sections (4) or (5) of this rule; or

(b) Are associated with the transfer of operations from elsewhere in this state to the Approved Project, after the Application was received by the Department and before the final year of Abatement, in terms of any increase in Total Jobs that relates to the permanent curtailment of full-time equivalent employment at the former location of the transferred operations.

(4) Pursuant to an Application received by the Department on or after January 1, 2016, the first report shall establish total hours with respect to Retained Jobs already at the Approved Project over:

(a) The 12 months before the Application's receipt, accounting for any modification from the Application in terms of OAR 123-623-1500(2)(a); or

(b) The calendar year ending 30 months before the first tax year of the Abatement, if that is more recent than the period in subsection (a) of this section.

(5) In the case of Approved Projects, for which Applications were received before January 1, 2016, the Department shall seek to establish with the first such report in or after 2016, the applicable number of Retained Jobs based on information that is or has been submitted by the firm in that or prior reports or upon request of the Department.

(6) Subject to section (4) or (5) of this rule, the number of Retained Jobs becomes fixed and need not be re-reported, but the benefiting business firm shall revise or update it with subsequent reports to:

(a) Correct errors and omissions, if any; or

(b) Account for operations of the firm (or a commonly controlled business firm) that are transferred during the preceding calendar year, in accordance with subsection (3)(b) of this rule, even if the operations became part of the firm through merger or acquisition after the Department received the Application.

(7) The amount of hours assigned to salaried positions is 2,080, or a lower amount as prorated to account for less than full-time or year-round employment.

(8) Taxable income equates to the wages that the employer used in calculating amounts withheld under ORS chapter 316 for Oregon personal income taxes during the calendar year.

(9) Compensation includes total calendar-year remuneration (whether taxable or not) in the form of wages, salary, overtime pay, shift differential, profit-sharing, bonuses, commissions, paid vacation, and associated fringe or financial benefits such as life insurance, medical coverage and retirement plans, but excluding:

(a) Free meals, club membership or comparable workplace amenities;

(b) Payroll-based tax or cost mandated by federal, state or local law, such as worker's compensation, unemployment insurance or the employer's share under FICA; and

(c) Gratuities or tips.

Stat. Auth.: ORS 285A.075 & 285C.615(7)
Stats. Implemented: ORS 285C.615
Hist.: OBDD 2-2016, f. & cert. ef. 1-29-16

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Rule Caption: These rules relate to the Beginning and Expanding Farmer Loan Program (Aggie Bonds).
Adm. Order No.: OBDD 3-2016(Temp)
Filed with Sec. of State: 2-9-2016
Certified to be Effective: 2-9-16 thru 8-5-16
Notice Publication Date:
Rules Adopted: 123-052-1850
Rules Amended: 123-052-1100
Subject: The changes made to these administrative rules streamline the process for the issuance of a bond through the program. The definition for "Participating Lender" has been added to 123-052-1100. A new rule, 123-052-1850, creates an expedited process for lenders who are experienced with tax-exempt agricultural loans and the program.
Rules Coordinator: Mindee Sublette—(503) 986-0036

123-052-1100
Definitions

For the purposes of these rules, the following terms shall have the following meanings, unless the context clearly indicates otherwise:

(1) "Aggie Bonds" means conduit revenue bonds issued by the State of Oregon pursuant to ORS 285A.420 to 285A.435 and these rules.

(2) "Agricultural Improvements" means any improvements, buildings, structures or fixtures suitable for use in farming that are located on Agricultural Land. "Agricultural Improvements" do not include personal residences.

(3) "Agricultural Land" means land located in the State of Oregon that is:

(a) Suitable for use in farming and that is or will be operated as a farm; and

(b) That will be acquired by a Beginning Farmer.

(4) "Applicant" means any person who submits an Application for Aggie Bond financing.

(5) "Application" means an Application for Aggie Bonds that is submitted to the Department on a form provided by the Department.

(6) "Beginning Farmer" means an individual who meets the requirements of OAR 123-052-1300 and is therefore eligible to be a Borrower under the Program.

(7) "Bond Counsel" means the bond counsel firm(s) under contract with Oregon Business Development Department to represent the State of Oregon as issuer of Aggie Bonds.

(8) "Borrower" means a Beginning Farmer who has received Aggie Bond financing under the Program.

(9) "Code" means the United States Internal Revenue Code of 1986, as amended, and all rules, regulations, and notices and releases issued under it.

(10) "Department" means the Oregon Business Development Department, or its designee.

(11) "Depreciable Agricultural Property" means personal property suitable for use in farming for which an income tax deduction for depreciation is allowable in computing federal income tax under the Code, including but not limited to farm machinery and trucks but not including feeder livestock, seed, feed, fertilizer and other types of inventory or supplies.

(12) "Depreciable Farm Property" means property of a character subject to the allowance for depreciation in computing federal income tax under the Code which is to be used in a trade or business of farming.

(13) "Eligible Lender" means a lender who meets the requirements of OAR 123-052-1500.

(14) "Eligible Revenue" means the revenue or assets that are provided as security for a loan to a Beginning Farmer participating in the Program.

(15) "Federal Maximum" means the maximum amount of a loan that federal law allows to be financed under the Program. For calendar year 2015 the Federal Maximum is $517,700. This amount may be adjusted for inflation in future calendar years as provided for in Section 147(c)(2)(H) of the Code.

(16) "Financed Property" means property described in OAR 123-052-1400(1)(a) which is financed through the Program.

(17) "Financing Agreement" means an agreement, in substantially the form and with the substance acceptable to the Department, which describes the requirements for an Eligible Lender making a loan to a Beginning Farmer that is eligible for financing under the Program.

(18) "Lender Documents" means the Financing Agreement between the Department and the Eligible Lender and the Loan Agreement and related documents between an Eligible Lender and a Beginning Farmer, including but not limited to any related security documents such as mortgages, deeds of trust and security agreements.

(19) "Participating Lender" means an Eligible Lender with substantial experience making tax-exempt agricultural loans, that has familiarized itself with these administrative rules and Oregon's Aggie Bond Program, and has entered into, or will enter into prior to bond closing, a master financing agreement with the Department.

(20) "Permitted Costs" means any costs of property described in OAR 123-052-1400(1)(a).

(21) "Program" means the Beginning and Expanding Farmer Loan Program authorized by ORS 285A.420 to 285A.435 and described in these rules.

(22) "Related Person" means a person other than the Borrower if:

(a) The relationship between the Borrower and that person would result in a disallowance of losses under section 267 or 707(b) of the Code, or

(b) The Borrower and that person are members of the same controlled group of corporations (as defined in section 1563(a), except that "more than 50 percent" shall be substituted for "at least 80 percent" each place it appears therein). For example, a Related Person includes a grandparent, parent, sibling (whether whole or half-blood), child, grandchild, or spouse, as well as certain corporations and partnerships.

(23) "State" means the State of Oregon, any department, agency, or political subdivision of the State of Oregon, or any designee thereof.

(24) "Substantial Farmland" means any parcel of land unless the parcel is smaller than 30 percent of the median size of a farm in the county where the agricultural project is located. However, Substantial Farmland does not include farmland which was previously owned by the individual seeking to qualify as a Beginning Farmer if the farmland was disposed of while the individual was insolvent and Code section 108 applied to indebtedness with respect to that farmland.

(25) "Tax-exempt" means excludable from gross income under the Code, and exempt from Oregon personal income taxation.

(26) "State Treasurer" means the Treasurer of the State of Oregon or the Treasurer's designee.

Stat. Auth.: ORS 285A.420 - 285A.435, ch. 742 OL 2013
Stats. Implemented: ORS 285A.420.420 - 285A.435, ch. 742 OL 2013
Hist.: OBDD 3-2015, f. & cert. ef. 2-24-15; OBDD 3-2016(Temp), f. & cert. ef. 2-9-16 thru 8-5-16

123-052-1850
Aggie Bonds Purchased By Participating Lenders

(1) An applicant seeking aggie bond financing through a Participating Lender must apply to the Program on a form provided by the Department. That Application must be accompanied by a non-refundable application fee of $250. In addition to the information specified in the Application, the Applicant must provide any other information reasonably required by the Department.

(2) Once the Department receives an Application and any other information required by the Department, if the Department determines that the Applicant and the assets the Applicant wishes to finance appear to qualify for aggie bond financing, the Department shall notify the Applicant and the Participating Lender.

(3) The Department notifies the Applicant and the Participating Lender that the Applicant and the assets the Applicant wishes to finance appear to qualify for aggie bond financing:

(a) The Department shall prepare and sign a reimbursement declaration for the Application.

(b) The Department and the Participating Lender shall prepare a schedule for the proposed financing, and shall modify that schedule as circumstances require.

(c) The Department shall schedule the "TEFRA" hearing and provide the Application and any required information to bond counsel as provided in the schedule.

(d) The Participating Lender shall prepare and circulate a draft loan agreement and other documents that the Participating Lender prepares as provided in the schedule. The loan agreement shall be in a form acceptable to the Department.

(e) Bond counsel shall review the application, circulate drafts of documents to be prepared by bond counsel, and conduct tax due diligence. When the tax due diligence is complete and bond counsel is prepared to issue its approving opinion, bond counsel shall notify the Department and the Participating Lender.

(f) After bond counsel notifies the Department and the Participating Lender that bond counsel is prepared to issue its approving opinion, the Department shall request that the State Treasurer approve issuance of the bonds, and shall work with the Applicant, the Participating Lender and bond counsel to close the aggie bonds for the Applicant.

(4) The provisions of OAR 123-052-1200, OAR 123-052-1500, OAR 123-052-1600(6), OAR 123-052-1600(7), OAR 123-052-1700, OAR 123-052-1800, and OAR 123-052-1900 do not apply to applications for aggie bond financing through a Participating Lender.

Stat. Auth.: ORS 285A.420 - 285A.435, ch. 742 OL 2013
Stats. Implemented: ORS 285A.420.420 - 285A.435, ch. 742 OL 2013
Hist.: OBDD 3-2016(Temp), f. & cert. ef. 2-9-16 thru 8-5-16

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Oregon Department of Education
Chapter 581

Rule Caption: Aligning K–12 Biliteracy Pathways Grant Program with HB 3499 to support students eligible for ELL programs.
Adm. Order No.: ODE 1-2016
Filed with Sec. of State: 2-5-2016
Certified to be Effective: 2-5-16
Notice Publication Date: 11-1-2015
Rules Adopted: 581-017-0380, 581-017-0383, 581-017-0386, 581-017-0389, 581-017-0392, 581-017-0395
Subject: New rules are needed to support a K–12 Biliteracy Pathways Grant Program, in accordance with HB 3499's provision relating to the development and implementation of a statewide plan to support students eligible for English Language Learner programs.

The rules will provide grants (up to $120,000, depending on available funds)to district and school sites that are in the midst of developing or with established K-12 biliteracy pathways for students. The program will also provide expert consultants to grantees to assist them with program design, implementation and evaluation to ensure (a) that the biliteracy pathways developed under the grant are well implemented and (b) that ODE can continue to develop a solid research base on effective EL instructional practice and EL program models.
Rules Coordinator: Cindy Hunt—(503) 947-5651

581-017-0380
Definitions

The following definitions apply to OAR 581-017-0380 to 581-017-0395:

(1) "K–12 Biliteracy Pathways Grant" means the Grant established in OAR 581-017-0383 to implement ORS 336.079.

(2) "K–12 Biliteracy Pathway" means an educational program that begins in at least Kindergarten and continues through grade 12 that promotes biliteracy outcomes and provides students who complete this pathway with the skills necessary to earn a State Seal of Biliteracy. For the purposes of this grant, these pathways must include an existing dual language program that:

(a) Already serves students at the elementary school level;

(b) Also operates at or there are plans for expansion to the middle and high school level; and

(c) Is primarily designed to serve English Learners.

(3) "Dual language program" means any program that provides literacy and content instruction to all students through two languages and that promotes bilingualism and biliteracy, grade-level academic achievement, and multicultural competence for all students. This grant is intended to support dual language programs that are primarily designed to serve English Learners. These types of dual language programs are commonly referred to as two-way immersion, developmental bilingual, and heritage language programs.

Stat. Auth.: ORS 326.051
Stat. Implemented: ORS 336.079
Hist.: ODE 14-2015(Temp), f. 9-25-15, cert. ef. 9-28-15 thru 3-15-16; ODE 1-2016, f. & cert. ef. 2-5-16

581-017-0383
Establishment

There is established the K–12 Biliteracy Pathways Grant, which is intended to support Oregon public school districts or public charter schools to develop and implement model dual language programs and K–12 Biliteracy Pathways. This includes improving existing K–12 dual language programs, as well as expanding well-implemented elementary programs into middle and high school.

Stat. Auth.: ORS 326.051
Stat. Implemented: ORS 336.079
Hist.: ODE 14-2015(Temp), f. 9-25-15, cert. ef. 9-28-15 thru 3-15-16; ODE 1-2016, f. & cert. ef. 2-5-16

581-017-0386
Eligibility

(1) The following entities shall be eligible to receive the K–12 Biliteracy Pathways Grant:

(a) School districts

(b) Public charter schools; and

(c) Consortium of school districts, public charter schools or an Education Service District (ESD). Each consortium must have at least one school district or public charter school as a member.

(2) A single grant proposal may include more than one eligible applicant.

Stat. Auth.: ORS 326.051
Stat. Implemented: ORS 336.079
Hist.: ODE 14-2015(Temp), f. 9-25-15, cert. ef. 9-28-15 thru 3-15-16; ODE 1-2016, f. & cert. ef. 2-5-16

581-017-0389
Criteria

(1) The Oregon Department of Education (ODE) shall establish a request for proposal solicitation and approval process to be conducted each biennium for which the K–12 Biliteracy Pathways Grant funds are available.

(2) Grants shall be awarded based on the following criteria:

(a) Whether the grant application identifies how English Learners enrolled in the applicants school(s) will benefit from the proposed K–12 Biliteracy Pathway

(b) Whether the grant application demonstrates school district or public charter school support, commitment and readiness to design K–12 Biliteracy Pathways Grant program.

(3) ODE shall give priority to proposals that meet the minimum criteria and:

(a) Provide a sustainability plan to continue to the program for at least two additional years after the grant period ends.

(b) The extent to which the applicant clearly documents its capacity to implement a model K–12 Biliteracy Pathway, including demonstrated intentions to work in a collaborative way with other grantees.

(4) ODE shall allocate funds for the grant program based on the evaluation of the grant application and the following considerations:

(a) Geographic location of district to insure geographic diversity within the recipients of grant program funs throughout the state;

(b) Districts who have a high level of students who are economically disadvantaged and;

(c) Give preference to districts or schools that have demonstrated success in improving student outcomes, particularly for English Learners.

(5) ODE may also provide funding on a non-competitive basis to previous Dual Language Grant recipients for the purposes of fostering K–12 Biliteracy Pathways at these sites and to support a more complete evaluation of dual language programs and K–12 Biliteracy Pathways across the state.

Stat. Auth.: ORS 326.051
Stat. Implemented: ORS 336.079
Hist.: ODE 14-2015(Temp), f. 9-25-15, cert. ef. 9-28-15 thru 3-15-16; ODE 1-2016, f. & cert. ef. 2-5-16

581-017-0392
Funding

(1) Each grantee who is awarded a competitive K–12 Biliteracy Grant based on the criteria identified in OAR 581-017-0389(1) to (4) may receive up to $120,000 for the biennium.

(2) Each grantee who is awarded a non-competitive K–12 Biliteracy Grant based on the criteria identified in OAR 581-017-0389(5) may receive up to $40,000 for the biennium.

(3) Grantees shall use funds for planning, implementation and evaluation activities associated with the development and/or improvement of their dual language program into a model for statewide replication, and shall engage administrators, teachers, parents and the community in the design, implementation and evaluation of the program with a focus on building school and school district capacity to sustain efforts.

(4) Grantees must be able to expend the funds for allowable purposes specified in the request for proposal within the grant timeline according to acceptable accounting procedures.

Stat. Auth.: ORS 326.051
Stat. Implemented: ORS 336.079
Hist.: ODE 14-2015(Temp), f. 9-25-15, cert. ef. 9-28-15 thru 3-15-16; ODE 1-2016, f. & cert. ef. 2-5-16

581-017-0395
Reporting

The Oregon Department of Education shall provide to grant recipients a template for an interim and final grant report. Grantees are required to submit a final report prior to receiving their final request for funds.

Stat. Auth.: ORS 326.051
Stat. Implemented: ORS 336.079
Hist.: ODE 14-2015(Temp), f. 9-25-15, cert. ef. 9-28-15 thru 3-15-16; ODE 1-2016, f. & cert. ef. 2-5-16

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Rule Caption: Changes student accounting and reporting rule to reflecting changes in student enrollment from full-day kindergarten.
Adm. Order No.: ODE 2-2016
Filed with Sec. of State: 2-5-2016
Certified to be Effective: 2-5-16
Notice Publication Date: 11-1-2015
Rules Amended: 581-023-0006
Subject: Changes the student accounting and reporting rule to reflect changes in student enrollment that result from full-day kindergarten implementation in 2015.
Rules Coordinator: Cindy Hunt—(503) 947-5651

581-023-0006
Student Accounting Records and State Reporting

(1) The following definitions and abbreviations apply to this rule:

(a) "Active roll" means the list of students enrolled and attending the school or program during the current school year;

(b) "ADA" means average daily attendance;

(c) "ADM" means average daily membership;

(d) "Alternative program" means any private or public alternative program providing instruction or instruction combined with counseling under ORS 336.635;

(e) "Class" means a separate group of students under the direction of a teacher.

(f) "Day in session" means a scheduled day of instruction during which students are under the guidance and direction of teachers;

(g) "Department" means the Oregon Department of Education;

(h) "Full school day" means the length of time a school or program is normally in session during the day in compliance with OAR 581-022-1620;

(i)"Full-day kindergarten program" means a program providing kindergarten that meets the standards and minimum number of hours of instruction set forth in OAR 581-022-1620(1) and is in session during the day in compliance with OAR 581-022-16;

(j) "FTE" means full-time equivalency;

(k) "Half-day kindergarten program" means a program providing kindergarten that complies with the minimum hours of instruction in OAR 581-022-1620(2).

(l) "Inactive roll" means the list of students enrolled for purposes of credit but not attending the school or program. Includes students attending private alternative or Job Corps programs, students withdrawn after ten consecutive days' absence and students served on a tutorial basis outside the classroom;

(m) "Instruction" for purposes of reimbursement of alternative programs means all activities that are approved by the student's resident school district, consistent with Oregon's academic and career related learning standards, and designed to lead to student achievement of those standards, including participation in Oregon state assessment, where applicable.

(n) "Instructional unit" means a school or other organizational arrangement which provides instruction of a given type or types;

(o) "Intermediate group" means instruction provided to a student receiving a comprehensive instructional program consistent with OAR 581-022-1210 and individually placed by a school district in an alternative program approved by a school district to a class of six to 15 students;

(p) "Large group" means instruction consistent with OAR 581-022-1210 and provided to a student individually placed by a school district in an alternative program approved by a school district to a class of 16 or more students;

(q) "Nonpublic school" means instruction provided by an individual or institution listed in ORS 339.030 as exemptions to the compulsory attendance requirements set out in ORS 339.010.

(r) "Regular school program" means that which is offered to comply with the standards adopted by the State Board of Education and compulsory school attendance law. This does not include summer school, adult education, or pre-kindergarten programs;

(s) "Small group" means instruction provided to a student receiving a comprehensive instructional program consistent with OAR 581-022-1210 and individually placed by a school district in an alternative program approved by the school district to a class of two to five students;

(t) "Superintendent" means the State Superintendent of Public Instruction;

(u)(A) "Teacher" means:

(i) An appropriately licensed staff member with the responsibilities of a teacher in OAR 584-036-0011 or with the responsibilities of teacher described in the definition of a teacher in ORS 342.120; and

(ii) For purposes of private alternative education programs, an appropriately licensed or unlicensed staff member with the responsibilities of a teacher in OAR 584-036-0011 or with the responsibilities of teacher described in the definition of a teacher in ORS 342.120.

(B) "Teacher" does not include an "Educational Assistant" as defined by ORS 342.120 and OAR 581-037-0005 or "Instructional Assistant" described in 584-036-0011.

(v) "Tutorial" means instruction provided to a student receiving a comprehensive instructional program consistent with OAR 581-022-1210 and individually placed by a school district in an alternative program approved by a school district to one student.

(2) Instructions pertaining to the maintenance of student accounting records and state reporting shall be published by the Department.

(3) Each school district and ESD shall:

(a) Permanently maintain accounting records of student enrollment, attendance, membership, resident/nonresident status, and such other student information as may be required, for each student enrolled in regular school programs operating during the regular school year. Such records shall utilize uniform definitions of each student measure as stated in this rule;

(b) Designate the residency for school purposes, subject to the provisions of ORS 327.006 and 339.133 of each student enrolled in the district;

(c) Have in operation an attendance accounting system which is adequately controlled and enables the district's chief administrator to certify in writing the accuracy of reported data;

(d) Report enrollment, attendance, membership, and such other information as the Superintendent may require, within 15 days of the end of the collection periods. Reports for the period ending the first school day in October shall be submitted no later than November 15.

(e) Retain daily source records of enrollment, membership and attendance for a period of no less than two years. Records, whether paper or electronic, must be maintained in an accessible format.

(4) Students shall be entered and withdrawn from the district roll as follows:

(a) A student shall be entered on the district active roll on the first day of the student's actual attendance. A student with an excused absence of less than ten school days at the beginning of the school year may be counted in membership prior to the first day of attendance if the status has been verified by contact with the parent or guardian. A student participating in the program of more than one instructional unit shall be entered on the active roll of that instructional unit in which 50 percent or more of the student's time is scheduled and the student shall not be entered on the roll of other instructional units;

(b) A student whose withdrawal status can be determined within ten school days of their first day of absence shall be marked as a withdrawal on the school day following that determination. A student must be withdrawn from the active roll on the day following the tenth consecutive full school day of absence but may be retained on the inactive roll at the district's option. A student must be present for at least one-half day in order to restart the count of consecutive days' absence. Under no circumstances shall a student who is absent for the first ten days at the beginning of the school year be counted in membership prior to the first day of school attendance. A student whose attendance is reported as hours of instruction must be withdrawn from the active roll on the day following the tenth consecutive day of absence from the program in which they are enrolled. A student must be present for at least one hour of instruction in order to restart the count of consecutive days' absence. A student who is enrolled in dual programs and reported as both days present/days absent and hours of instruction must be withdrawn according to the instructional unit in which fifty percent or more of the student's time is scheduled. Under no circumstance shall a student who is absent for the first ten days at the beginning of the school year be counted in membership prior to the first day of school attendance.

(5) Membership and attendance accounting in instructional units scheduled to operate a full school day shall be recorded as follows:

(a) A full-time equivalency (FTE) for each student on the active roll shall be determined. Students participating in more than one-half of the full-day program shall be given an FTE of 1.0. Students participating in one-half or less of the full-day program shall be given an FTE of .5. The FTE computation of students placed in community college programs by the local school district shall include time spent in the community college program:

(A) Districts shall determine the FTE for kindergarten students based on whether the district provides a full-day kindergarten program or half-day kindergarten program as follows:

(i) For students in full-day kindergarten programs, districts shall give students 1.0 FTE for students participating in more than one-half of the full-day kindergarten program. Districts shall assign an FTE of 0.5 for students participating in one-half or less of the full-day kindergarten program;

(ii) Students in half-day kindergarten programs shall be assigned an FTE of 1.0. The Department shall proportionally reduce the total days membership of these students reflecting the permissible percentage as stated in statute;

(B) Students participating in district supervised work-study programs may be credited as 1.0 FTE. If a student is released for work during school hours and the district assumes no supervisory responsibility for the time involved, that time shall not be counted as participation in the full-day program when determining the student's FTE.

(b) Membership of each student for the period shall be computed as follows: student FTE times days present plus student FTE times days absent equals total days membership of the student. The day upon which a student is marked as a withdrawal shall not be counted as a day of membership. A student not scheduled to attend daily shall be marked present or absent only on the days the student is scheduled to attend;

(c) Total days membership of the instructional unit shall be the total of days membership of all students on the active roll of the instructional unit as computed in subsection (b) of this section. The computation of total days membership of the instructional unit shall yield subtotals indicating grade placement and resident/nonresident status of student membership;

(d) The Department shall compute the ADM and ADA of resident students, nonresident students, and attending students for each instructional unit reporting and derive totals of such data for each local school district in the state, subject to the following procedures:

(A) ADM is the total days membership of an instructional unit during a specific reporting period divided by the number of days the instructional unit was in session during that reporting period. The ADM of groups of instructional units having varying lengths of terms shall be the sum of the ADMs obtained for the individual instructional units. If a district school board adopts a class schedule that operates throughout the year under the provisions of ORS 336.012 for all or any instructional units in the district, the computation shall be made so that the resulting ADM will not be higher or lower than if the local board had not adopted such a schedule;

(B) ADA is the total days attendance of an instructional unit during a specific reporting period divided by the number of days the instructional unit was in session during that reporting period. The ADA of groups of instructional units having varying lengths of terms shall be the sum of the ADAs obtained for the individual instructional units. If a district school board adopts a class schedule that operates throughout the year under the provisions of ORS 336.012 for all or any instructional units in the district, the computation shall be made so that the resulting ADA will not be higher or lower than if the local board had not adopted such a schedule.

(6) Students enrolled in programs operating less than the full school day and nonpublic school students attending public schools part time shall be accounted for as follows:

(a) The ADM of students enrolled in schools under provisions of ORS 336.135 and students enrolled in nonpublic schools or taught by private teacher or parent under ORS 339.035 shall be computed by multiplying total hours of instruction given all students during the reporting period by .167 and dividing the product by 73 for the July 1 to December 31 cumulative report and by 175 for the June 30 annual report;

(b) The ADM of students receiving tutorial instruction provided by licensed district staff shall be computed by dividing total number of hours of tutorial instruction given (not to exceed 5 hours per week for a single student) by 73 for the July 1 to December 31 cumulative report and by 175 for the June 30 annual report;

(c) The computation of ADM for each less than full-time program listed shall yield subtotals for resident and nonresident students;

(d) The ADM of students enrolled in less than full-time programs shall be reported to the Department for the period ending December 31 and for the year ending June 30.

(e) No more than five day's membership may be claimed for any student enrolled in any combination of programs during a one-week period.

(f) The Department will proportionally reduce the ADM of kindergarteners enrolled in half-day programs to reflect the permissible percentage as stated in statute.

(7) A student enrolled in a public school district and receiving instruction in the district's comprehensive planned K-12 curriculum consistent with OAR 581-022-1210 and who is individually placed by the school district in an alternative education program under ORS 336.635 shall be accounted for as follows:

(a) The ADM of students enrolled in alternative programs scheduled to operate a full school day may be computed either on the basis of membership (section (5) of this rule) or on the basis of actual attendance (section (7)(b) of this rule);

(b) Equivalent ADM of students enrolled in alternative programs scheduled to operate less than full time shall be computed as follows:

(A) Equivalent ADM of students enrolled in large group instruction shall be computed by multiplying total hours of instruction given all students during the reporting period by a factor of .167 and dividing the product by 73 for the July 1 to December 31 period cumulative report and by 175 for the June 30 annual report;

(B) Equivalent ADM of students enrolled in intermediate group instruction shall be computed by multiplying the total hours of instruction given all students during the reporting period by a factor of .222 and dividing the product by 73 for the July 1 to December 31 period cumulative report and by 175 for the June 30 annual report;

(C) Equivalent ADM of students enrolled in small group instruction shall be computed by multiplying the total hours of instruction by a factor of .333 and dividing the product by 73 for the July 1 to December 31 period cumulative report and by 175 for the June 30 annual report;

(D) Equivalent ADM of students receiving individual instruction shall be computed by multiplying the total number of hours of tutorial instruction given by a factor of 1.0 and dividing the product by 73 for the July 1 to December 31 period cumulative report and by 175 for the June 30 annual report;

(E) Case management services (not limited to student contact) may be counted as large group instruction and constitute up to ten percent of equivalent ADM if specifically authorized by contract with the resident school district;

(F) Documented time in supervised work experience programs, supervised community service activities and supervised independent study, if performed as a part of the instructional programs designed to fulfill the student's educational goals, may be counted as large group instruction;

(G) Over any 20-day period, no more than 20 equivalent membership days may be claimed for any student receiving a combination of instructional services under paragraph (7)(b)(A), (B), (C) or (D) of this rule. Equivalent membership days for any student is equal to the hours of instruction given multiplied by the factor appropriate for the size of the instructional group.

(c) Students attending alternative programs part day and attending the home high school part day shall be reported by the home high school only, taking account of the total time spent in the alternative program and the home high school when determining FTE under section (5) of this rule;

(d) Students attending private alternative programs only, shall not be reported by the instructional unit placing the student for purposes of reporting membership or attendance.

(8) Each private alternative program shall:

(a) Maintain accounting records of student attendance, size of group attended, resident school district and such other student information as may be required by the contracting school district for each student attending the private alternative program;

(b) Report student name, dates served and hours served by group size to resident school district no less than twice yearly, once for the July 1 through December 31 period and an annual report ten days after the close of the school year; and

(c) Retain student attendance records for a period of no less than two years.

(9) Students in the following programs are not eligible to be counted in the resident average daily membership for purposes of ORS 327.013(7)(a):

(a) Students enrolled in special education programs under ORS 343.261, 343.961, and 346.010.

(b) Children enrolled in early intervention and early childhood special education programs under ORS 343.533;

(c) Students not receiving a free public education;

(d) Students in summer school programs;

(e) Students in adult education classes.

(10) Rules governing the reporting of students identified as dropouts are contained in the most recent edition of the Oregon Dropout Reporting Manual, published by the Oregon Department Education. The State Board of Education adopts the procedures in this publication to govern the reporting of dropouts by school districts.

(11) For the purposes of dropout reporting, the following shall apply:

(a) A student is considered enrolled when the student is present at school and attends more than half of a school day;

(b) Acceptable alternative programs are those programs providing activities meeting OAR 581-023-0008 and provided by public school districts, ESDs, community colleges or private alternative programs registered with the Oregon Department of Education under OAR 581-021-0072;

(c) An absence, explained or unexplained becomes a withdrawal after an absence of 10 consecutive days. A student must be present for at least one-half day in order to restart the count of consecutive days absence;

(d) Standards for excused absences must be developed by local districts. Policies shall clearly define excused and unexcused absences and ensure the health and safety of the child. Parents shall be informed of the policies at enrollment. Policy should address the documentation required.

(12) The Superintendent shall prescribe the applicable student accounting procedures for any programs or specific situations not covered by the provisions of this rule.

Stat. Auth.: ORS 326.310 & 327.125
Stats. Implemented: ORS 327
Hist.: 1EB 1-1981, f. 2-5-81, ef. 7-1-81; 1EB 14-1985, f. 7-3-85, ef. 7-5-85; 1EB 28-1986, f. & ef. 7-18-86; EB 17-1987, f. & ef. 8-4-87; EB 18-1987(Temp), f. & ef. 8-4-87; EB 33-1987, f. & ef. 12-11-87; EB 38-1988, f. & cert. ef. 9-22-88; EB 30-1992, f. & cert. ef. 10-14-92; EB 6-1996, f. & cert. ef. 4-25-96; ODE 3-2007, f. & cert. ef. 2-21-07; ODE 23-2008, f. 8-28-08, cert. ef. 8-29-08; ODE 26-2009, f. & cert. ef. 12-10-09; ODE 2-2016, f. & cert. ef. 2-5-16

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Rule Caption: Kindergarten through grade 12 student expulsion.
Adm. Order No.: ODE 3-2016
Filed with Sec. of State: 2-5-2016
Certified to be Effective: 2-5-16
Notice Publication Date: 11-1-2015
Rules Amended: 581-021-0070
Subject: State and national data reveal an increased reliance on use of exclusionary discipline (i.e.,

out-of-school suspension and expulsion) under "zero tolerance" school discipline policies. In response, Oregon's school discipline statute has been significantly revised in the last two years (HB 2912 in 2013 regular session; SB 553 & SB 556 in 2015 regular session). In general, the legislative changes represent a move away from punitive "zero tolerance" school discipline policies to those that focus on correcting behavior while striving to keep students in school. SB 556 adds to this general legislative scheme by prohibiting the use of expulsion to address truancy. The proposed addition to 581-021-0070 inserts the statutory language into regulation.

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative

economic impact of the rule on business.
Rules Coordinator: Cindy Hunt—(503) 947-5651

581-021-0070
Expulsion

(1) Each district school board shall adopt written policies that limit the use of expulsion to the following circumstances:

(a) For conduct that poses a threat to the health or safety of students of school employees;

(b) When other strategies to change student conduct have been ineffective, except that expulsion may not be used to address truancy; or

(c) When the expulsion is required by law

(d) In addition to any limitations imposed by paragraphs (a) to (c) of this subsection, board policies must limit the use of expulsion for students in fifth grade or lower to the following circumstances:

(i) For nonaccidential conduct causing serious physical harm to a student or school employee;

(ii) When a school administrator determines, based upon the administrator's observation or upon a report from a school employee, that the student's conduct poses a direct threat to the health or safety of students or school employees;

(2) A school district board may expel, or delegate authority to a hearings officer to expel, a student provided the student is not expelled without a hearing unless the student's parent(s) or guardian, or the student, if 18 years of age, waives the right to a hearing. Waiver may take place by the parent or the student, if 18 years of age, notifying the school district in writing of waiver of the right to a hearing. Waiver may also take place by the parent, or the student, if age 18 or over, failing to appear after notice, at the place and time set for the hearing:

(a) If the school board acts to expel, the hearing may be conducted by a hearings officer designated by the board. In cases where the hearings officer is conducting the expulsion hearing for the board, the hearings officer shall provide to the board the findings as to the facts, the recommended decision and whether or not the student is guilty of the conduct alleged. This material shall be made available at the same time to the parent or guardian, and to the student, if age 18 or over;

(b) If the authority to expel a student is delegated to a hearings officer, the parent, or student, if age 18 or over, shall have the right upon appeal to a board review of the decision. If the decision is appealed to the board for review, the board shall be provided findings as to the facts and the decision of the hearings officer. This material shall be made available at the same time to the parent or guardian, and to the student, if age 18 or over. When appealed, the board will affirm, modify, or rescind the decision of the hearings officer.

(3) Student expulsion hearings shall be conducted pursuant to ORS 332.061.

(4) Expulsion hearing policies or rules shall contain provisions for the following:

(a) Notice to the student and to the parent or guardian shall be given by personal service or certified mail of the charge or charges and the specific facts that support the charge or charges. The notice shall include the statement of intent to consider the charges as reason for expulsion. Where notice is given by personal service, the person serving the notice shall file a return of service. Where notice is given by certified mail to a parent of a suspended student the notice shall be placed in the mail at least five days before the date of the hearing;

(b) Where the student or the student's parent cannot understand the spoken English language, an interpreter shall be provided by the district;

(c) The student may be represented by counsel or other persons;

(d) The student shall be permitted to introduce evidence by testimony, writings, or other exhibits;

(e) The student shall be permitted to be present and hear the evidence presented by the district;

(f) Strict rules of evidence shall not apply to the proceedings. However, this provision shall not limit the hearings officer's control of the hearing;

(g) The hearings officer or the student may make a record of the hearing.

Stat. Auth.: ORS 339
Stats. Implemented: ORS 339.240, 339.250 & 339.260
Hist.: 1EB 132, f. 5-19-72, ef. 6-1-72; 1EB 212, f. 1-20-76, ef. 2-25-76; 1EB 230, f. & ef. 6-4-76; 1EB 262, f. 6-2-77, ef. 6-3-77; ODE 3-2016, f. & cert. ef. 2-5-16

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Rule Caption: School district funding for transportation of students placed in foster care.
Adm. Order No.: ODE 4-2016
Filed with Sec. of State: 2-5-2016
Certified to be Effective: 2-5-16
Notice Publication Date: 11-1-2015
Rules Amended: 581-023-0040
Subject: Updating the pupil transportation reimbursement rule to allow school districts to collect fees from public agencies, such as the Department of Human Services, for transporting foster kids and not have them considered a reduction in cost in order to make these services budget-neutral for school districts.

The rule changes the definitions used for the calculation of approved transportation costs for the State School Fund grants.
Rules Coordinator: Cindy Hunt—(503) 947-5651

581-023-0040
Approved Transportation Costs for Payments from the State School Fund

(1) Definitions for the purpose of this rule:

(a) "Elementary School Student" means, notwithstanding any other OAR or statute, pupils attending a school offering only an elementary curriculum, any combination of grades K through 8;

(b) "Secondary School Student" means, notwithstanding any other OAR or statute, pupils attending a school offering any secondary curriculum for grades 9, 10, 11, or 12. Additionally, all students attending a school designated by the local school board through board action as a junior high school or middle school may be considered secondary students;

(c) "Local School Board" means, notwithstanding any other OAR or statute, the local school board for the district in which the student's legal residence is physically located. Local school boards are not required to provide transportation for students who have requested and received approval to attend a school other than that designated by the local school board for students living in their specified attendance area;

(d) "Manufacturer's Rated Capacity" means the number of students to be used in the calculations specified in paragraph (5)(n)(B) of this rule and described below:

(A) Buses transporting only elementary students will have a passenger capacity as stated on the manufacturer's identification plate;

(B) Buses transporting only high school students, grades 9 through 12 will have a passenger capacity based on two students for each 39 inch bus seat;

(C) Buses transporting mixed groups from grades K–12 (in any combination) or groups of only junior high or middle school students will have a passenger capacity based on 2.5 students for each 39-inch bus seat.

EXAMPLE: A bus with a manufacturer's passenger capacity stated on the identification plate of 72 would have the following ratings: elementary — 72, high school only — 48, mixed groups — 60, middle school and junior high school — 60.

(e) "Mile(s) from School" means the distance a student lives from school, measured from the closest, reasonable, and prudent point between the school property identified by the local board for that pupil's attendance and the property where the pupil lives. The distance will be measured over the shortest practicable route on maintained public roadways or over existing pedestrian facilities or pedestrian facilities capable of meeting the requirements listed in ORS 332.405(4);

(f) "Patron" means any individual, organization, or entity that is able to use student transportation services except for charter schools (as defined in ORS 338) or a public agency (described in ORS 339.133(4) if the school or agency reimburses school districts up to one hundred percent (100%) of incurred transportation costs pursuant to 338.145 or 339.133(4).

(g) "Supplemental Plan" means a plan adopted by local school board resolution identifying groups or categories of students who live within the 1 and 1.5 mile limitations and require transportation based on health or safety reasons, including special education. Supplemental plan approvals may be ordered by the State Board of Education or its designated representatives. The State Board shall have the right of final review of any actions regarding supplemental plans. Appeals will be directed to the State Board for final consideration. The Plan must include the following:

(A) The approximate number of students to be transported based on the plan;

(B) The health or safety reasons cited for providing transportation;

(C) The local board resolution specifying the supplemental plan as submitted; and

(D) Any additional information or documentation supporting the supplemental plan deemed appropriate locally.

(2) Approved transportation costs shall include those costs incurred in transporting pupils to and from instructional programs during the regularly scheduled school term within the limitations specified by ORS 327.006 and 327.033. Approved transportation costs may include costs incurred in transporting students participating in extended school year programs eligible for funding from the State School Fund.

(3) Approved transportation costs shall include those district expenditures associated with:

(a) Home-to-school transportation of elementary school pupils who live at least one mile from school;

(b) Home-to-school transportation of secondary school pupils who live at least one and one-half miles from school;

(c) Transportation of pupils between educational facilities either within or across district boundaries, if the facilities are used as part of the regularly-scheduled instructional program approved by the Board;

(d) Transportation of pupils for in-state field trips when such represents an extension of classroom activities for instructional purposes, and shall include out-of-state destinations within 100 miles of the Oregon border;

(e) Transportation of pupils home to school for whom a supplemental plan has been approved by the State Board of Education in addressing safety, health, and special education needs;

(f) Transportation of preschool children in Early Childhood Special Education Services having an Individual Family Service Plan requiring transportation and preschool children receiving Early Intervention Services under the authority of ORS 343.533.

(g) School to home transportation following extended school day instructional programs for:

(A) Elementary school pupils who live at least one mile from school;

(B) Secondary school pupils who live at least one and one-half miles from school.

(4) Approved transportation costs shall exclude those district expenditures associated with transportation for the following unless the school program is required under provisions of the Individuals with Disabilities Education Act, ORS 343.533 or 339.010 through 339.090 and 339.250:

(a) Pupils living within the limits prescribed in ORS 327.006(2) for whom no supplemental plan has been approved by the State Board;

(b) Activity trips other than for instructional purposes;

(c) Athletic trips;

(d) School lunch purposes;

(e) Summer school;

(f) Adult education;

(g) Evening school;

(h) Preschool and/or nursery school;

(i) Board and room in lieu of transportation associated with field trips;

(j) Transportation facility and staff costs other than those directly related to approved pupil transportation activities.

(5) The computation shall be made as follows:

(a) Pupil Transportation Salaries;

(b) Pupil Transportation Supplies, Equipment, Repairs, and Maintenance;

(c) All contracted Transportation;

(d) Travel of Pupil Transportation Personnel;

(e) Employee Benefits on Pupil Transportation Salaries;

(f) Pupil Transportation Insurance;

(g) Payments in Lieu of Transportation;

(h) Other Expenses of Pupil Transportation;

(i) Payments to Other Districts for Pupil Transportation;

(j) Leases and Rentals;

(k) Depreciation:

(A) Depreciation of Garage, but this shall not include land;

(B) Depreciation of Buses that are used at least 50% for reimbursable mileage.

(C) Shall include the costs to retrofit, as defined in ORS 468A.795, or to replace school buses for the purpose of reducing or eliminating diesel engine emissions, except that these costs may not include the costs paid with moneys received from the state by a school district from the Clean Diesel Engine Fund that are described in 468A.801 (2)(a) to retrofit or to replace school buses for the purpose of reducing or eliminating diesel engine emissions.

(l) Total of subsections (5)(a) through (k) of this rule;

(m) Deduct (if cost is included in detail above):

(A) Payments Received from Other Districts and from Patrons for reimbursable transportation;

(B) Non-reimbursable Transportation Costs:

(i) For 2011–12:

(I) Number of miles @ $2.07 per mile for all school buses and school activity vehicles having a manufacturers' designed passenger capacity greater than 20 persons including driver, or

(II) Number of miles @ $1.04 per mile for all school activity vehicles having a manufacturers' designed passenger capacity 20 or less including driver; or

(ii) For 2012–13:

(I) Number of miles @ $2.10 per mile for all school buses and school activity vehicles having a manufacturers' designed passenger capacity greater than 20 persons including driver, or

(II) Number of miles @ $1.06 per mile for all school activity vehicles having a manufacturers' designed passenger capacity 20 or less including driver; or

(iii) For 2013–14:

(I) Number of miles @ $2.18 per mile for all school buses and school activity vehicles having a manufacturers' designed passenger capacity of greater than 20 persons including the driver, or

(II) Number of miles @ $1.10 per mile for all school activity vehicles having a manufacturers' designed passenger capacity of 20 or less including the driver; or

(iv) For 2014–15:

(I) Number of miles @ $2.26 per mile for all school buses and school activity vehicles having a manufacturers' designed passenger capacity of greater than 20 persons including the driver, or

(II) Number of miles @ $1.14 per mile for all school activity vehicles having a manufacturers' designed passenger capacity of 20 or less including the driver.

(v)(I) Those local school board certified marginal costs attributable to services described in section (4)(a) of this rule, calculated and documented as follows: Documentation maintained by local district shall include: bus and route identification, school(s) being served, number of eligible students on board, number of ineligible students on board;

(II) Calculation of marginal costs shall be as follows: District Cost Per Mile of bus operation divided by the total number of students transported on each bus to derive an average cost per student. The cost per student multiplied by the number of ineligible students and the number of miles inside the limits provides the amount for deduction. Example: Cost per student = district cost per bus mile - number of students on bus; Total Deduction = cost per student x ineligible students x number of miles inside limit.

(III) No deduction will be made for transportation inside prescribed limits if the local board certifies student demographics would require student bus rides to or from school of more than one hour if the bus is routed in a manner making it accessible to the number of eligible students living outside the prescribed mileage limit equal to 130 percent of the bus manufacturer's rated capacity; or

(IV) The local school board certifies that buses are routed in a manner to serve at least the number of eligible students living outside the prescribed mileage limits equal to 130 percent of the bus manufacturer's rated passenger capacity; and

(V) In either of the aforementioned situations, no additional costs have been incurred by the district for the identified service.

(C) State and Federal Receipts for Transportation, except those apportioned under ORS 327.006 or third party Medicaid payments for transportation, if used to support expenditures in subsections (5)(a) through (l) of this rule;

(D) Rental or Lease Payments from Private Contractors;

(E) The percentage of transportation facility depreciation commensurate with the percentage of the total district fleet value based upon purchase price (see subsection (6)(k) of this rule) represented by non-pupil transportation equipment. Examples of nonpupil transportation equipment would include the following: lawnmowers, tractors, backhoes, trucks, pickups, cars, trailers, snow blowers, etc.

(n) Total Deductions ((5)(m)(A)+(m)(B)+(m)(C)+(m)(D)+ (m)(E));

(o) Approved Cost ((5)(l) minus (5)(n)).

(6) In the above computation, the following definitions apply:

(a) Pupil Transportation Salaries. Salaries and wages paid school bus drivers, assistants to driver, and that portion of salaries paid mechanics and other bus maintenance employees, supervisors of transportation, secretarial and clerical assistants, and persons assigned transportation oversight and coordination responsibilities attributable to the transportation program and documented through position descriptions and payroll records. No school district General Administration salaries may be included in this area;

(b) Pupil Transportation Supplies, Equipment, Repairs, and Maintenance. Costs of fuel, oil, lubricants, tires, tire repair, batteries, vehicle diagnosis and repair equipment identified as capital expenditures in the "Program Budget Manual," vehicle repair parts and supplies, repair of vehicles by other than the school district, garage maintenance and operation, and garage equipment repair and maintenance;

(c) All Contracted Transportation. Payments to parents and independent public or private contractors for transporting pupils from home to school, between educational facilities and for non-reimbursable activities enumerated in paragraph (6)(l)(B) of this rule; and fares to public carriers

for transporting pupils from home to school and between educational facilities:

(A) If a district retains ownership of buses and garages and contracts for the operation of the transportation system with provision in the contract for lease or rental of the buses and garages, the contracted transportation cost shown should reflect the gross bid including the lease or rental payment. The lease or rental payment shall be deducted in the computation as reported in paragraph (5)(n)(D) of this rule;

(B) If the district retains ownership of buses and garages and participates in a transportation cooperative or consortium through an intergovernmental agreement, depreciation apportionment provided under ORS 327.033 will be disbursed directly to the district. No depreciation component is approved for cooperative-owned buses or garages.

(d) Travel of Pupil Transportation Personnel. Meals, lodging, mileage, per diem and other travel expenses of pupil transportation personnel, and private car mileage if paid to bus drivers for travel to and from the point where school bus is parked if other than the central garage. The same travel expenses plus tuition or registration are included for attendance at Department of Education sponsored or presented pupil transportation training programs and seminars;

(e) Employee Benefits on Pupil Transportation Salaries. The district's contributions for employee benefits including social security and retirement, employee health insurance, workers' compensation, and unemployment insurance;

(f) Pupil Transportation Insurance. Payments for public liability and property damage, medical care, collision, fire and theft, and insurance on garages and shops;

(g) Payments in Lieu of Transportation. Payments for pupils' board and room in lieu of transportation, consistent with ORS 332.405(2);

(h) Other Expenses of Pupil Transportation. District-paid fees for school bus drivers' physical examinations; interest on bus or garage contracts payable including lease-purchase agreements if capitalized (see subsection (6)(k) of this rule);

(i) Payments to Other In-State or Out-of-State Districts for Transportation. Payments to other districts for approved pupil transportation costs;

(j) Leases and Rentals. Rental or lease payments for the use of land or buildings used for approved pupil transportation. Rental or lease payments for buses operated by district personnel for approved pupil transportation.

NOTE: Only those leases which do not contain an option to purchase or application of rentals to purchase should be included in subsection (5)(j) of this rule. See subsection (6)(k) of this rule as to the proper treatment of other lease-purchase agreements.

(k) Depreciation. For purposes of computing depreciation, capitalized cost is defined to include the unit cost of the asset, exclusive of interest, for such assets purchased outright, by conventional contract, or by lease-purchase agreement if such agreement contains any provision to acquire ownership at the end of the agreement by application of a portion of the rentals paid or a terminal payment. The computation of the capitalized cost and the depreciation shall be according to the following:

(A) Portions of Garages and Other Buildings Used for Approved Pupil Transportation:

(i) Outright purchase (including purchase by conventional contract). For each outright purchase or purchase by conventional contract, each district shall report to the Oregon Department of Education, on the forms provided, the unit cost of the garage or other building purchased and the dollar amount of interest payments associated with such purchase. The purchase of land shall not be included in the Garage Depreciation. The capitalized value shall represent the unit cost, exclusive of interest. Depreciation shall be computed at an annual rate of four percent;

(ii) Lease-purchase agreements. For each lease-purchase agreement, the district shall report to the Oregon Department of Education, on the forms provided, the dollar amount of the agreement, the interest payments contained in the agreement, and the schedule of such interest payments contained in the agreement. Land shall not be included in the lease purchase agreement for the purpose of reimbursement. Subsequent to July 1, 1975, the capitalized value shall represent the lease-purchase price less any interest payments contained in the agreement. Depreciation shall be computed at an annual rate of four percent.

(B) Buses and Other Vehicles Used for Approved Pupil Transportation:

(i) Outright purchase (including purchase by conventional contract). For each outright purchase or purchase by conventional contract, each district shall report to the Oregon Department of Education, on the forms provided, the unit cost of the vehicle(s) purchased and the dollar amount of interest payments associated with such purchase. The capitalized value shall represent the unit cost, exclusive of interest. Depreciation shall be computed at an annual rate of ten percent;

(ii) Lease-purchase agreements. For each lease-purchase agreement, the district shall report to the Oregon Department of Education, on the forms provided, the dollar amount of the agreement, any applicable trade-in value, the dollar amounts of interest payments contained in the agreement, and the schedule of such interest payments contained in the agreement. The capitalized value of the vehicles shall represent the lease-purchase price including the trade-in allowance less interest payments contained in the agreement. Depreciation shall be computed at an annual rate of ten percent;

(iii) Lease agreements. If the district is leasing its buses under a lease agreement, the district shall report the annual lease cost. A lease agreement as used in this paragraph means an agreement whereby the lessor retains title to the buses being leased to the lessee school district and the title to the buses is never received by the lessee. Under such a lease agreement, the use of the buses by the lessee is limited by the term of the lease. If there is an auxiliary agreement either written or oral whereby at the end of the lease term, the title of the buses shall pass to the lessee school district, the agreement is not a lease agreement as described in this paragraph but is a lease-purchase agreement as outlined in subparagraph (ii) of this paragraph. The lease payment made by a school district obtaining the use of buses pursuant to a lease as defined in this paragraph shall be used in the computation of the reimbursement in place of the depreciation set forth in subparagraphs (i) and (ii) of this paragraph.

(l) Deductions:

(A) Payments Received from Other Districts and from Patrons. Money received from other school districts, parents, guardians, or students for transportation if paid in support of expenditures listed in subsections (5)(a) through (l) of this rule;

(B) Nonreimbursable Transportation Costs. Actual bus mileage of excludable trips shall include the actual mileage in district owned or contracted buses for transportation for activity trips, athletic trips, school lunch purposes, summer school, adult education, evening school, nursery school, and any other nonreimbursable purposes. Such mileage shall be deducted at the rate indicated in subsection (5)(m)(B) of this rule. The rate of deduction may be reviewed periodically by the State Board of Education and adjusted accordingly;

(C) State and Federal Receipts for Transportation. All state and federal receipts for transportation expenditures, exclusive of funds apportioned under ORS 327.006 and 327.033, that have been included in subsection (5)(a) through (l) of this rule;

(D) Rental or Lease Payments from Private Contractors. Payments received from private contractors for the use of district owned buses and garages in the operation of the pupil transportation system by the private contractor. This item must be shown as Revenue Code 1930 in the school district audit and the gross payments to the contractor must be included in subsection (5)(c) of this rule.

(7) Each district shall maintain a record, by purpose, of total pupil transportation miles and shall submit a report of such to the Oregon Department of Education on the form provided. The accuracy of such records shall be certified by the district clerk.

(8) If an education service district offers a special service under the provisions of section (4) of ORS 334.175, including home-to-school transportation that would qualify for reimbursement under the provisions of ORS 327.006 if provided by a local school district, the following procedure in crediting the transportation expenditure to the local district may be employed:

(a) The education service district shall compute approved home-to-school transportation costs as provided in section (4) of this rule;

(b) The approved costs so determined shall be billed to and paid by each of the local school districts. The expenditure shall be accounted for by the local district as a transportation expenditure paid to another education agency;

(c) The audited district expenditure shall be recognized by the State Superintendent of Public Instruction in computing the local district's entitlement under ORS 327.006;

(d) If the education service district reimburses the local district the difference between that portion billed and that paid under ORS 327.006, such reimbursement — if derived from property tax sources by education service district resolution — shall not be deducted by the state in determining the local district's approved costs. The local district shall account for the education service district reimbursement as other general receipts are accounted for from the education service district.

(9) For purposes of computing board and room entitlement for a district operating a dormitory under provisions of ORS 327.006, the state assumes responsibility for its proportionate share of costs associated with the provision of food, facilities, staff, operation, and maintenance necessary to provide students with safe and healthy living conditions. The state does not assume responsibility for costs associated with recreation or entertainment of students. The approved cost against which the computation is made for state liability shall not exceed the limit stated in ORS 332.405. In addition, the state will assume its proportionate share of the cost of field trips as defined in subsection (3)(c) of this rule.

(10) The computation of approved expenditures for board and room entitlement shall be made as follows:

(a) Salaries;

(b) Operation:

(A) Utilities;

(B) Supplies;

(C) Other Operational Costs.

(c) Maintenance:

(A) Upkeep;

(B) Replacement.

(d) Fixed Charges:

(A) Employee Benefits;

(B) Other Fixed Charges.

(e) Food;

(f) Operation of Buses and Other Vehicles — Supplies, Repairs and Maintenance;

(g) Depreciation:

(A) Dormitory;

(B) Buses and Other Vehicles.

(h) Total Expenditures (Sum of subsections (10)(a) through (g) of this rule));

(i) Deductions (subtract if cost is included in cost above):

(A) Payments Received from Other Districts and from Patrons;

(B) Nonreimbursable Transportation Costs as indicated in subsection (5)(m)(B) of this rule;

(C) State and Federal Receipts for Transportation, except those apportioned under ORS 327.006, 327.033, or third party Medicaid payments, if used to support expenditures in subsections (10)(a) through (g) of this rule;

(D) Federal School Lunch, Breakfast, and Milk Reimbursements;

(E) Sales of Food.

(j) Total Deductions (sum (10)(i)(A) + (i)(B) + (i)(C) + (i)(D) + (i)(E));

(k) Approved Cost ((10)(h) minus (10)(j) of this rule).

(11) The items included in the board and room entitlement computation are defined as follows:

(a) Salaries. Salaries and wages paid dormitory personnel, including the dormitory manager, cooks, custodians, and other personnel directly concerned with operation of the dormitory, and that portion of salaries paid secretarial and clerical assistants and other personnel attributable to the dormitory program;

(b) Operation:

(A) Utilities. Heat for buildings, water and sewage, electricity, telephone, and other utilities necessary for the operation of the dormitory;

(B) Supplies. Custodial supplies, supplies for care of grounds, linens, and other supplies necessary for the operation of the dormitory including food services. Purchase of food is included in subsection (11)(e) of this rule;

(C) Other Operational Costs. Contracted custodial services, window washing, laundry or linen services, etc., necessary for the operation of the dormitory.

(c) Maintenance:

(A) Upkeep. Expenditures associated with maintaining the existing dormitory facilities in a safe, healthy, and efficient condition, including supplies and materials for upkeep of dormitory grounds and the dormitory building. Costs associated with maintenance of recreational or entertainment facilities are excluded;

(B) Replacement of Equipment. Expenditures associated with replacing equipment necessary to the safe, healthy, and efficient operation of the dormitory. Replacement of equipment used for recreational or entertainment purposes are excluded.

(d) Fixed Charges:

(A) Employee Benefits. Expenditures for dormitory employees' benefits including social security and retirement, employee health insurance, workers' compensation, and unemployment insurance;

(B) Other Fixed Charges. Expenditures for property insurance, liability insurance, rental of land and buildings for purposes associated with operation of the dormitory, and other fixed charges directly attributable to operation of the dormitory.

(e) Food. Expenditures for food necessary for the operation of the dormitory;

(f) Operation of Buses and Other Vehicles — Supplies, Repairs, and Maintenance. Expenditures for fuel, oil, lubricants, tires, tire repair, batteries, vehicle repair parts and supplies, repair of vehicles by other than the school district, garage maintenance and operation, and garage equipment repair and maintenance necessary for the operation of buses utilized for purposes stated in section (3) of this rule and of other vehicles necessary for the operation of the dormitory;

(g) Depreciation:

(A) Dormitory. For purposes of computing dormitory depreciation, capitalized cost is defined as the unit cost of the asset (including the cost of original equipment), exclusive of interest, plus the cost of substantial improvements or remodeling. The purchase of land shall not be included. Costs associated with providing recreational or entertainment facilities are not included. Depreciation shall be computed at an annual rate of four percent;

(B) Buses and Other Vehicles. Depreciation for buses used for approved pupil transportation and that portion of other vehicles necessary for operation of the dormitory shall be computed in accordance with the formula and definition stated in paragraph (6)(k)(B) of this rule.

(h) Total. Sum of subsections (10)(a) through (g) of this rule;

(i) Deductions:

(A) Payments Received from Other Districts and from Patrons. Money received from other school districts, parents, guardians, or students for transportation or room and board if paid in support of expenditures listed in subsections (10)(a) through (f) of this rule;

(B) Nonreimbursable Transportation Costs. Costs for nonreimbursable transportation according to the formula and definition stated in paragraph (6)(l)(B) of this rule;

(C) State and Federal Receipts for Transportation. All state and federal receipts for transportation or room and board expenditures exclusive of funds apportioned under ORS 327.006 that have been included in subsections (10)(a) through (f) of this rule;

(D) Federal School Lunch, Breakfast, and Milk Reimbursements. All federal receipts for school lunch, breakfast, and milk expenditures that have been included in subsections (10)(a) through (f) of this rule;

(E) Sales of Food. Money received from teachers, students, or other individuals from food sales for which the expenditures are included in subsections (10)(a) through (f) of this rule.

(12) Such items of expenditure as may be questionable in applying the policy stated in this administrative rule shall be resolved by the State Superintendent of Public Instruction and such determination shall be final.

(13) Apportionment of the State School Fund for 2001–02 and subsequent years.

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

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013 & 820.100 - 820.120

Hist.: 1EB 177, f. 10-2-74; 1EB 181, f. 1-17-75, ef. 7-1-75; 1EB 209, f. 12-5-75, ef. 1-16-76; 1EB 220, f. 2-17-76, ef. 3-15-76; 1EB 233, f. 6-11-76, ef. 6-18-76; 1EB 4-1978, f. 1-27-78, ef. 1-27-78; 1EB 10-1980, f. & ef. 5-5-80; 1EB 6-1981, f. 3-2-81, ef. 3-3-81; 1EB 4-1982, f. & ef. 2-10-82; 1EB 15-1982, f. 8-4-82, ef. 8-5-82; 1EB 17-1983, f. 11-23-83, ef. 11-25-83; 1EB 1-1985, f. 1-4-85, ef. 1-7-85; 1EB 5-1986, f. 1-30-86, ef. 2-1-86; EB 4-1987, f. & ef. 2-20-87; EB 32-1987, f. & ef. 12-10-87; EB 42-1988, f. & cert. ef. 11-15-88; EB 3-1992, f. & cert. ef. 2-21-92; EB 21-1993, f. & cert. ef. 6-2-93; EB 4-1997, f. & cert. ef. 4-25-97; ODE 9-2000, f. & cert. ef. 4-5-00; ODE 25-2001, f. & cert. ef. 11-7-01; ODE 9-2003, f. & cert. ef. 6-13-03; ODE 10-2006, f. & cert. ef. 2-21-06; ODE 8-2008, f. & cert. ef. 3-21-08; ODE 6-2010, f. & cert. ef. 4-26-10; ODE 22-2011, f. & cert. ef. 12-15-11; ODE 39-2014, f. & cert. ef. 9-3-14; ODE 4-2016, f. & cert. ef. 2-5-16

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Rule Caption: Kindergarten through grade 12 student suspensions.
Adm. Order No.: ODE 5-2016
Filed with Sec. of State: 2-5-2016
Certified to be Effective: 2-5-16
Notice Publication Date: 11-1-2015
Rules Amended: 581-021-0065
Subject: State and national data reveal an increased reliance on use of exclusionary discipline(i.e., out-of-school suspension and expulsion) under "zero tolerance" school discipline policies. In response, Oregon's school discipline statute has been significantly revised in the last two years (HB 2912 in 2013 regular session; SB 553 & SB 556 in 2015 regular session). In general, the legislative changes represent a move away from punitive "zero tolerance" school discipline

policies to those that focus on correcting behavior while striving to keep students in school. SB 553 adds to this general legislative scheme by creating more stringent requirements for the use of out-of-school suspension for students in fifth grade and younger. The proposed addition to 581-021-0065 inserts the statutory language into regulation.
Rules Coordinator: Cindy Hunt—(503) 947-5651

581-021-0065
Suspension

(1) Students may be suspended when such suspension contains within its procedures the elements of prior notice (OAR 581-021-0075), specification of charges, and an opportunity for the student to present his or her view of the alleged misconduct. The suspending official shall notify the student's parent or guardian of the suspension, the conditions for reinstatement, and appeal procedures, where applicable. These procedures may be postponed in emergency situations relating to health and safety.

(2) Emergency situations shall be limited to those instances where there is a serious risk that substantial harm will occur if suspension does not take place immediately.

(3) School district boards shall provide students suspended under emergency conditions with the rights outlined in section (1) of this rule as soon as the emergency condition has passed.

(4) In all suspensions ordered by the executive officer of the school district or designated representative, the district school board shall have the right of final review if the action is not taken by the school board itself.

(5) School district boards shall limit suspension to a specific maximum number of days. That maximum shall not exceed ten school days.

(6) School district boards shall adopt policies that require consideration of the age of a student and the past pattern of behavior of a student prior to imposing the suspension or expulsion of a student. For students in fifth grade or lower, the policies must limit the use of out-of-school suspension to the following circumstances:

(a) for non-accidental conduct causing serious physical harm to a student or school employee;

(b) when a school administrator determines, based upon the administrator's observation or upon a report from a school employee, that the student's conduct poses a direct threat to the health or safety of students or school employees; or

(c) when the suspension or expulsion is required by law

(7) When an out of school suspension is imposed for a student who is fifth grade or younger, district policies must require schools to take steps to prevent the recurrence of the behavior that led to the out-of-school suspension and return the student to a classroom setting so that the disruption of the student's academic instruction is minimized.

(8) School district boards or designated representatives shall specify the methods and conditions, if any, under which the student's school work can be made up. Students shall be allowed to make up school work upon their return from the suspension if that work reflects achievement over a greater period of time than the length of the suspension. For example, the students shall be allowed to make up final, mid-term, and unit examinations, without an academic penalty, but it is within the districts' discretion as to whether the students may be allowed to make up daily assignments, laboratory experiments, class discussions or presentations.

(9) In special circumstances a suspension may be continued until some specific pending action occurs, such as a physical or mental examination, or incarceration by court action.

Stat. Auth.: ORS 339.240
Stats. Implemented: ORS 339.240, 339.250 & 339.260
Hist.: 1EB 132, f. 5-19-72, ef. 6-1-72; 1EB 230, f. & ef. 6-4-76; EB 18-1991, f. & cert. ef. 9-9-91; EB 11-1996, f. & cert. ef. 6-26-96; ODE 17-2006, f. 12-11-06, cert. ef. 12-12-06; ODE 5-2016, f. & cert. ef. 2-5-16

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Rule Caption: English Language Learner Revenue and Expenditure Report Criteria.
Adm. Order No.: ODE 6-2016
Filed with Sec. of State: 2-5-2016
Certified to be Effective: 2-5-16
Notice Publication Date: 11-1-2015
Rules Adopted: 581-023-0250
Subject: Per HB 3499(2015), the Legislature directed the Department of Education to convene an advisory group to develop uniform budget coding requirements and uniform reporting requirements to provide budget transparency for the spending of moneys received by school districts as provided by OR S 327.013 (1)(c)(A)(ii) for students in average daily membership eligible for and enrolled in an English Language Learner programs. This new rule establishes the criteria for this new transparency report.
Rules Coordinator: Cindy Hunt—(503) 947-5651

581-023-0250
English Language Learner Revenue and Expenditure Report Criteria

(1) For purposes of determining budget transparency for the spending of moneys received by school districts as provided by ORS 327.013 (1)(c)(A)(ii) for students in average daily membership eligible for and enrolled in an English Language Learner (ELL) program under ORS 336.079, or any ELL program identified by a school district.

(a) ELL Revenues reporting shall be:

(A) Reconciled State School Fund (SSF) weights for Average Daily Membership weighting(ADMw) received by school districts as provided by ORS 327.013(1)(c)(A)(ii) for the school year in review.

(B) The total ELL ADMw multiplied by the school district's reconciled SSF General Purpose Grant per Extended ADMw for the same school year in review.

(b) ELL Expenditure reporting shall:

(A) Include only Fund 100 expenditures

(B) Include Function 1291 — English Language Learner Programs

(C) Include Area of Responsibility 280 — To be used with functions other than 1291 to identify supplemental costs for ELL and Limited English Proficiency programs

(D) Include additional Function codes as established by the State Board for the purposes of this report

(E) Include all of the ELL expenditure reporting for the same year as the ELL revenue reporting

(c) Report timeline

(A) Department of Education's ELL Revenue and Expenditure Report shall be posted on ODE's website in July of each year. The supporting data used shall be for the preceding school year (E.g., the 2015-16 school year report would be compiled in July 2017)

Stat. Auth.: Sec. 1, ch. 604, OL 2015 (Enrolled HB 3499)
Stat. Implemented: Sec. 1, ch. 604, OL 2015 (Enrolled HB 3499)
Hist.: ODE 6-2016, f. & cert. ef. 2-5-16

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Rule Caption: English Language Learners District and School Improvement Program.
Adm. Order No.: ODE 7-2016
Filed with Sec. of State: 2-5-2016
Certified to be Effective: 2-5-16
Notice Publication Date: 11-1-2015
Rules Adopted: 581-020-0600, 581-020-0603, 581-020-0606, 581-020-0609, 581-020-0612, 581-020-0615
Subject: House Bill 3499 directed the Department to select school districts for improvement based on the achievement of the district's English Language Learners. The rules establish the criteria for district selection for two categories of schools and established the process.
Rules Coordinator: Cindy Hunt—(503) 947-5651

581-020-0600
Definitions

The following definitions apply to OAR 581-020-0600 to 581-020-0615:

(1) "Current ELL student" means a student who is enrolled as an English language learner program in Oregon during the school year.

(2) "English language learner" or "ELL" means a student who has limited English language proficiency because English is not the native language of the student or the student comes from an environment where a language other than English has had a significant impact on the student's level of English language proficiency.

(3) "Former ELL student" means a student who was previously enrolled in an English language learner program in Oregon.

(4) "Percentage of students in poverty" means the percentage of students in poverty using the number of students in poverty as calculated under OAR 581-023-0102 for purposes of calculation of the State School Fund distribution.

(5) "School district" means a common or union high school district.

Stat. Auth.: Sec. 3, ch. 604, OL 2015 (Enrolled HB 3499)
Stats. Implemented: ORS 339.079 & Sec. 3, ch. 604, OL 2015 (Enrolled HB 3499)
Hist.: ODE 7-2016, f. & cert. ef. 2-5-16

581-020-0603
Program

(1) The Department of Education through the ELL District and School Improvement program shall:

(a) Improve ELL student progress indicators including high school graduation rates and English language proficiency.

(b) Identify school districts that are not meeting objectives and the needs of ELL students, taking into account the specific learning challenges and demographics of the students.

(c) Collaborate with selected districts to better meet objectives and the needs of ELL students.

(d) Partner with identified ELL transformation and target districts, to ensure that those districts achieve expected growth in student progress indicators, and the expected benchmarks for student progress indicators that an identified district is expected to meet within four years of identification.

(e) In consultation with ELL transformation and target districts design and implement an accountability system of progressive interventions for the school districts.

(f) Direct transformation and target school districts on how to expend moneys received under ORS 327.013(1)(c)(A)(ii) (ELL weight) for up to three years, for identified districts that have not met the expected growth in student progress indicators, and the expected benchmarks for student progress indicators. The direction on expenditure of moneys for school districts identified as ELL transformation or target districts in 2016 will first apply to monies received by those school districts from the ELL weight on or after July 1, 2020.

(2) The Department of Education shall identify school districts that are:

(a) ELL transformation districts that are in need of progressive interventions and technical assistance; and

(b) ELL target districts that are in need of technical assistance.

(3) If a school district is identified as an ELL transformation or target district the district shall remain as such for four years.

Stat. Auth.: Sec. 3, ch. 604, OL 2015 (Enrolled HB 3499)
Stats. Implemented: ORS 339.079 & Sec. 3, ch. 604, OL 2015 (Enrolled HB 3499)
Hist.: ODE 7-2016, f. & cert. ef. 2-5-16

581-020-0606
District Eligibility and Selection

(1) To be eligible for selection as an ELL transformation or target district, a district must have enrolled 20 or more English Language Learners on a date specified by the Department. School districts with fewer than 20 English Language Learners will be eligible for other regionally based services and supports provided by the Department.

(2) A public charter school is not eligible for selection as a ELL transformation or target district. However, a public charter school may be selected by the Department as a school within an identified ELL transformation or target district for interventions and technical assistance.

Stat. Auth.: Sec. 3, ch. 604, OL 2015 (Enrolled HB 3499)
Stats. Implemented: ORS 339.079 & Sec. 3, ch. 604, OL 2015 (Enrolled HB 3499)
Hist.: ODE 7-2016, f. & cert. ef. 2-5-16

581-020-0609
District Selection

(1) The Department shall identify school districts that are not meeting objectives and needs of ELL students, taking into consideration the specific learning challenges and demographics of the students. The Department shall consider whether the district has demonstrated a history of not meeting objectives and needs of ELL students as compared to other districts relating to ELL students.

(2) To identify school districts that are not meeting objectives and needs of ELL students, the Department shall consider the following student progress indicators in identifying the school districts in need of improvement:

(a) The cohort 5 year graduation rate for current and former ELL students;

(b) The academic growth of current and former ELL students in grades 6, 7 and 8 as measured by statewide standardized assessments;

(c) The growth in language acquisition of current ELL students in grades 1 through 8 as measured by the English Language Proficiency Assessment (ELPA);

(d) The growth in language acquisition of current ELL students in grades 10 through 12, combined as measured by the English Language Proficiency Assessment (ELPA); and

(e) Percentage of former ELL students who enroll in a post-secondary institutions after graduation from the district.

(3) The Department shall also consider the needs of the district by considering learning challenges and demographic information of students enrolled in the district including but not limited to:

(a) The percentage of current and former ELL students as a percent of all students in the district;

(b) The percentage of all students in poverty as calculated using the district small area income and poverty estimate (SAIPE);

(c) The percentage of current and former ELL students who are economically disadvantaged;

(d) The percentage of current and former ELL students who are mobile;

(e) The percentage of current and former ELL students who are homeless;

(f) The percentage of current and former ELL students who are migrant students;

(g) The percentage of current and former ELL students who are recent arrivers to Oregon; and

(h) The number of unique home languages of current and former ELL students.

(4) After identifying potential districts based on student progress indicators that are not meeting objectives and needs of ELL students, the Department may adjust the list of districts:

(a) To achieve geographic diversity of school districts;

(b) Based on the percentage of current ELL students identified as needing special education;

(c) Based on data trends identified by the Department related to a school district;

(d) Based on programs for ELL students within the district which have been shown to either improve high school graduation rates or English language proficiency; and

(e) Based on available funding.

(5) After identifying the districts that are not meeting objectives and needs of ELL students, the Department shall further identify the districts as:

(a) ELL transformation districts; or

(b) ELL target districts.

(6) The Department may use the demonstrated commitment level of a district's superintendent and board as a factor in determining whether the district is an ELL transformation or ELL target district.

(7) Data used by the Department to identify school districts may be from different school years but must by the best data available as identified by the Department.

Stat. Auth.: Sec. 3, ch. 604, OL 2015 (Enrolled HB 3499)
Stats. Implemented: ORS 339.079 & Sec. 3, ch. 604, OL 2015 (Enrolled HB 3499)
Hist.: ODE 7-2016, f. & cert. ef. 2-5-16

581-020-0612
Transformation Districts

The Department, in consultation with an ELL transformation district, shall:

(1) Select specific schools within the district for interventions and targeted assistance.

(2) Identify the specific interventions and technical assistance to be provided to ELL transformation districts which may include grant funds.

(3) Establish the expected growth in student progress indicators, and the expected benchmarks for student progress indicators, for English language learners of the district.

(4) Shall design and implement an accountability system of progressive interventions for the school district which will be provided for four years after the district has been identified as a ELL transformation district.

Stat. Auth.: Sec. 3, ch. 604, OL 2015 (Enrolled HB 3499)
Stats. Implemented: ORS 339.079 & Sec. 3, ch. 604, OL 2015 (Enrolled HB 3499)
Hist.: ODE 7-2016, f. & cert. ef. 2-5-16

581-020-0615
Target Districts

The Department shall identify the:

(1) The technical assistance to be provided to ELL target districts.

(2) Establish the expected growth in student progress indicators, and the expected benchmarks for student progress indicators, for English language learners of the district.

Stat. Auth.: Sec. 3, ch. 604, OL 2015 (Enrolled HB 3499)
Stats. Implemented: ORS 339.079 & Sec. 3, ch. 604, OL 2015 (Enrolled HB 3499)
Hist.: ODE 7-2016, f. & cert. ef. 2-5-16

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Rule Caption: Requires truancy notices to parents, inform parents they may request evaluation or IEP review.

Adm. Order No.: ODE 8-2016
Filed with Sec. of State: 2-5-2016
Certified to be Effective: 2-5-16
Notice Publication Date: 11-1-2015
Rules Amended: 581-021-0077
Subject: Requires that truancy notices sent to parents include a statement informing parents of their right to request a special education evaluation or review of an existing IEP. If a parent makes this request, an attendance conference cannot be scheduled or a citation issued until an evaluation is complete or IEP has been held.
Rules Coordinator: Cindy Hunt—(503) 947-5651

581-021-0077
Compulsory Attendance Notices and Citation

(1) Definitions for purposes of this rule:

(a) "Parent" means parent, guardian or other person having control of a minor child who has not completed the 12th grade or is not otherwise legally exempt from compulsory attendance under ORS 339.030.

(b) "Student" means a minor between the ages of 7 and 18 who has not completed the 12th grade, and who is not exempt from compulsory attendance under ORS 339.030.

(c) "Superintendent" means the superintendent of a public school district or the superintendent's designee.

(d) "Attendance supervisor" means an official appointed under ORS 339.040.

(e) "Regular attendance" means attendance which does not include more than eight unexcused one-half day absences, or the equivalent thereof, in any four-week period in which the school is in session.

(2) Notice of Attendance Supervisor. When an attendance supervisor determines a parent has failed to enroll his or her child and to maintain such child in regular attendance at a public school, the attendance supervisor shall give written notification to the parent within 24 hours of being informed of the failure. The notice may be served personally or by certified mail.

(a) The notice shall state that the student must appear at the public school on the next school day following receipt of the notice and maintain regular attendance for the remainder of the school year.

(b) The notice shall state that the parent has the right to request for a child who does not have an Individualized Education Program, an evaluation to determine if the child should have an Individualized Education Program; or for a child who has an Individualized Education Program, a review of the Individualized Education Program.

(c) The attendance officer, at the time the notice is served to the parent, shall notify the district superintendent, principal or other appropriate school official.

(3) Notice of Superintendent. If the parent receiving the notice of the attendance supervisor does not comply with that notice, the attendance officer, within three days of knowledge of such noncompliance, shall notify the superintendent. Upon notification by the attendance officer, the superintendent may issue a citation as set forth in Attachment A of this rule.

(4) Prior to issuing the citation set forth in Attachment A, the superintendent, by personal service or certified mail, shall serve the parent written notification that:

(a) States that the student is required to regularly attend a full-time school;

(b) Explains that the failure to send the student and to maintain the student in regular attendance is a Class C violation;

(c) States that the superintendent may issue a citation;

(d) Requires the parent and the student to attend a conference with a designated school official; and

(e) States that the parent has the right to request for a child who does not have an Individualized Education Program, an evaluation to determine if the child should have an Individualized Education Program; or for a child who has an Individualized Education Program, a review of the Individualized Education Program.

(f) Is written in the native language of the parent or guardian of the student.

(5) The superintendent shall schedule the conference described in section (4)(d) of this rule. A conference may not be scheduled until after any evaluations or reviews described in in subsections 2(b) and 4(e) of this rule have been completed. If the parent does not attend the conference or fails to send the child to public school after the conference, the superintendent may issue a citation provided by the Department of Education in the form set forth as Attachment A which is incorporated by reference into this rule. The citation shall be served in person.

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

Stat. Auth.: ORS 8.665, 153.110 - 153.310, 153.990, 339.010 - 339.090, 339.925 & 339.990
Stats. Implemented: ORS 339.090, 339.925, 339.990 & 8.665
Hist.: EB 33-1993(Temp), f. & cert. ef. 11-15-93; EB 4-1994, f. & cert. ef. 4-29-94; ODE 8-2000(Temp), f. 2-23-00, cert. ef. 2-23-00 thru 8-20-00; ODE 21-2000, f. & cert. ef. 5-23-00; ODE 8-2016, f. & cert. ef. 2-5-16

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Rule Caption: Amends rules for District Collaboration Grant to align with SB 216.
Adm. Order No.: ODE 9-2016
Filed with Sec. of State: 2-5-2016
Certified to be Effective: 2-5-16
Notice Publication Date: 11-1-2015
Rules Amended: 581-018-0110, 581-018-0120
Subject: Amends OAR to align with SB 216. Provides a $50,000 supplement to districts under 1,500 ADMw to hire a Project Director, and caps their award at $150,000. Includes a stipulation for an additional 10% of grant funds to be provided to districts who implement a new, research-based program to increase student achievement, and removes the provision to include district consortiums.
Rules Coordinator: Cindy Hunt—(503) 947-5651

581-018-0110
Criteria

(1) The Oregon Department of Education shall establish a request for proposal solicitation and approval process to be conducted each biennium for when District Implementation and Design Collaboration grant funds are available. The Department shall notify eligible applicants of the proposal process and the due dates, and make available necessary guidelines and application forms.

(2) All proposals must comply with the requirements of ORS 329.838 and ORS 342.950 and rules adopted to implement those laws. Grants shall be awarded based on whether the grant application identifies how the funds will be used to improve education outcomes identified by the Department of Education or set forth in ORS 351.009.

(3) Prior to applying for a grant, the school district must receive the approval to apply for the grant from:

(a) The exclusive bargaining representative for the teachers of the school districts, or if the teachers are not represented by an exclusive bargaining representative, from the teachers of the school districts;

(b) The chairperson of the school district board; and

(c) The superintendent of the school district.

(4) Districts shall establish a collaborative leadership team to oversee the design and implementation process. The collaborative leadership team shall include the exclusive bargaining representative for the teachers of the school district or, if the teachers are not represented by an exclusive bargaining representative, the teachers of the school district.

(5) Districts shall display readiness and eligibility for an implementation grant by submitting detailed blueprints, developed collaboratively by teachers, administrators, and the teacher bargaining unit, in the four required areas:

(a) Career pathways processes for teachers and administrators;

(b) Evaluation processes for teachers and administrators;

(c) Compensation models for teachers and administrators, and

(d) Enhanced professional development opportunities for teachers and administrators.

(6) The Department of Education shall award design and implementation grants based on the evaluation of the district application, eligibility criteria, and the following considerations:

(a) Geographic location of districts to insure geographic diversity within the recipients of grant program funds throughout the state;

(b) Districts that have an achievement gap as defined in 581-018-0005;

(c) Districts that have a high level of economically disadvantaged students as defined in 581-018-0005.

Stat. Auth.: ORS 329.838
Stats. Implemented: ORS 329.838
Hist.: ODE 18-2013(Temp), f. & cert. ef. 8-15-13 thru 2-11-14; ODE 33-2013, f. & cert. ef. 12-18-13; ODE 18-2015(Temp), f. 9-25-15, cert. ef. 9-28-15 thru 3-15-16; ODE 9-2016, f. & cert. ef. 2-5-16

581-018-0120
Implementation Grant Funding

(1) The Department of Education shall determine for each fiscal year the total amount available for distribution to school districts as implementation grants.

(2) The Department of Education shall determine the grant amount to be awarded to each district that is eligible to receive a grant based on the following formula:

Grant Amount = school district ADMw x (the total amount available for distribution for an implementation grant in a fiscal year through the School District Collaboration Grant Program / the total ADMw of the School Districts that receive an implementation grant for the fiscal year.

(3) Notwithstanding subsection (2) of this section, a school district may receive a grant for an amount that is 10 percent more than the amount calculated under subsection (2) of this section if the Department approves a school district's supplemental plan to design and implement new approaches to improve student achievement that are in addition to the approaches identified in OAR 581-015-0110(5) and that are research-based best practices.

(4) In addition to any amounts received under subsections (2) and (3), a school district that has an average daily membership of less than 1,500 may receive

a supplemental amount of up to $50,000 if:

(a) The supplemental amount is used for expenses incurred in relation to a grant manager who:

(A) Manages the use of a grant received under this paragraph;

(B) Supports the school district's committees related to the grant;

(C) Monitors and measures the implementation of new approaches funded by the grant;

(D) Ensures timely and accurate communications with educators in the school district;

(E) Completes all Department of Education requirements related to the grant; and

(F) Attends meetings and collaborates with other school districts; and

(b) The total of the implementation grant and the supplemental amount does not exceed $150,000.

Stat. Auth.: ORS 329.838
Stats. Implemented: ORS 329.838
Hist.: ODE 18-2013(Temp), f. & cert. ef. 8-15-13 thru 2-11-14; ODE 33-2013, f. & cert. ef. 12-18-13; ODE 18-2015(Temp), f. 9-25-15, cert. ef. 9-28-15 thru 3-15-16; ODE 9-2016, f. & cert. ef. 2-5-16

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Rule Caption: Implement provisions of SB 217 amending strategic initiatives including the Regional Promise Replication Grant Program.
Adm. Order No.: ODE 10-2016
Filed with Sec. of State: 2-5-2016
Certified to be Effective: 2-5-16
Notice Publication Date: 11-1-2015
Rules Amended: 581-017-0350, 581-017-0353, 581-017-0356, 581-017-0359, 581-017-0362
Subject: The 2015 adopted SB 217 which amended the former Eastern Promise Replication Grant provisions to provide more flexibility to the Department of Education for administration of the grant. The legislation and Department budget also provided that the grant was intended for Regional Promise Grants and no longer to specifically fund the Eastern Promise. The rule amendments allow for different membership in consortia applying for a grant, specify competitive priorities for grant awards, change terminology and address prior grant recipients.
Rules Coordinator: Cindy Hunt—(503) 947-5651

581-017-0350
Definitions

The following definitions apply to OAR 581-017-0350 to 581-017-0362:

(1) "Consortium" means the equal partnership developed to form the cross-sector collaboration between eligible educational institutions.

(2) "Opportunity Gap" means the gap in opportunities that often exists between students who are economically disadvantaged, students with disabilities, students learning English as a second language, African American, Hispanic or Native American when compared to their peers who do not share these characteristics. This can often lead to a gap in achievement (state test scores in reading, writing, and mathematics as well as diploma and post-secondary degree attainment).

(3) "Postsecondary Institution" means:

(a) A community college operated under ORS chapter 341 or,

(b) The following public universities:

(A) University of Oregon
(B) Oregon State University
(C) Portland State University
(D) Oregon Institute of Technology
(E) Western Oregon University
(F) Southern Oregon University
(G) Eastern Oregon University
(H) Oregon Health and Science University

(c) An Oregon-based accredited not-for-profit institution of higher education

(4) "Private post-secondary institution" means an Oregon-based, general accredited, not-for-profit institution of higher education.

(5) "Significant population" means to serve the majority of underserved students within the consortiums region.

(6) "Underserved student" means a student (English language learner, student of color, an economically disadvantaged student or a student with disabilities) who has not historically taken high school accelerated courses and may not have considered enrolling in a post-secondary education program.

(7) "Variety" means students having access to a choice of courses offered in core academic subjects, in different forums (which include yet are not limited to distance learning, high school campus, college campus, by proficiency assessment or through credit for prior learning), that are eligible for transfer.

Stat. Auth.: ORS 327.800
Stat. Implemented: ORS 327.820
Hist.: ODE 3-2014(Temp), f. & cert. ef. 2-19-14 thru 8-17-14; ODE 29-2014, f. & cert. ef. 6-24-14; ODE 17-2015(Temp), f. 9-25-15, cert. ef. 9-28-15 thru 3-14-16; ODE 10-2016, f. & cert. ef. 2-5-16

581-017-0353
Regional Promise Grant Program Establishment

(1) The Regional Promise Grant is established as part of the Connecting the World to Work Program Strategic Investment under ORS 327.820.

(2) The purposes of the grant are to:

(a) Connect students to the World of Work and post-secondary education/training opportunities;

(b) Develop consortiums of school districts, education service districts and post-secondary institutions of higher education committed to developing innovative and flexible pathways for students in grades 6 through 12 and in community colleges; and

(c) Distribute moneys to consortia that include at least three school districts, at least one education service district, and at least one public post-secondary institution of higher education to design and deliver individualized, innovative and flexible ways of delivering content, awarding high school and college credit, and increasing the number of historically underserved students participating in accelerated college credit courses.

Stat. Auth.: ORS 327.800
Stat. Implemented: ORS 327.820
Hist.: ODE 3-2014(Temp), f. & cert. ef. 2-19-14 thru 8-17-14; ODE 29-2014, f. & cert. ef. 6-24-14; ODE 10-2016, f. & cert. ef. 2-5-16

581-017-0356
Eligibility

The Department of Education shall allocate funds for the Regional Promise Program grant to consortia that consist of at least three school districts, at least one education service district, and at least one public post-secondary institution.

Stat. Auth.: ORS 327.800
Stat. Implemented: ORS 327.820
Hist.: ODE 3-2014(Temp), f. & cert. ef. 2-19-14 thru 8-17-14; ODE 29-2014, f. & cert. ef. 6-24-14; ODE 10-2016, f. & cert. ef. 2-5-16

581-017-0359
Implementation of Grant Funding

(1) The Department of Education will make awards between $300,000 and $750,000 (adjusted by justifiable need) for replication of the Eastern Promise program.

(2) The Oregon Department of Education shall establish a request for proposal solicitation and approval process to be conducted for the Regional Promise program funds. All proposals will comply with the requirements of ORS 327.800 and 327.820(3)(a)(D) and rules adopted to implement those sections.

(3) Awards will be based on the following criteria:

(a) Whether the proposal identifies how the funds will be used to reach the 40-40-20 goal by using a regional approach and strengthening relationships and aligning outcomes and expectations across education sectors to implement the 5 main components of the Regional Promise Program (based on the 5 pillars of Eastern Promise).

(b) Whether the applicant proposal demonstrates support, commitment and readiness to design or revise programming specifically targeted at closing opportunity gaps.

(c) Whether there is a commitment to cross-sector collaboration between education service district(s), school districts, and post-secondary institutions of higher education.

(d) Whether there is a commitment and capacity to provide students with a variety of accelerated learning opportunities, such as on-campus experiences, dual credit, Advanced Placement, International Baccalaureate, and to ensuring students receive support and specific instruction around the knowledge, skills and behaviors necessary to be successful in college-level coursework.

(e) Whether there is a commitment and capacity to develop cross-sector professional learning, including faculty and teachers from post-secondary institution and ESD/high schools of like disciplines. The consortium will ensure that all levels of instruction are represented and participate in discussing and establishing the appropriate curriculum, instruction, and parallel assessment to measure outcomes.

(f) Whether there is a commitment and capacity to foster a college-going culture, which refers to the environment, attitudes, and practices in schools and communities that encourage students and their families to obtain the information, tools, and perspective to enhance access to and success in postsecondary education. The applicant should describe a plan for one or more, programs servicing students, beginning in middle grades, that:

(A) Helps students learn about options for their future, careers and the education they require;

(B) Convey the expectation that all students can prepare for the opportunity to attend and be successful in post-secondary education; and

(C) Ensure schools, families, and communities give students the same message of high expectations for their future.

(4) The Department shall give priority to proposals that meet the minimum criteria and:

(a) Previously funded projects that will use the grant to ensure sustainability of the program.

(b) The extent to which the applicant clearly documents its capacity to implement and carry out programming.

(5) The Department of Education shall allocate funds for the grant program based on the evaluation of the grant application and the following considerations:

(a) Programs representing the five main components of the Regional Promise Program.

(b) Competitive priority will be given to applications that include both a local community college and a 4-year university in their consortium.

(c) Programs that exhibit innovative and flexible ways of delivering content, awarding high school and college credit and providing development education for students in high school or in the first two years of post-secondary education.

(d) The number of students the Regional Promise Program will serve.

(e) Programs with a detailed process to identify, enroll, support and retain underserved students.

(f) Programs that have a high level of underserved students who historically have not taken college credit in high school.

(g) Geographic locations of the program organization to ensure geographic representation of the targeted student groups are included throughout the state.

(6) Each award may be between $300,000 and $750,000.

(7) Grant recipients shall use funds received for the planning, implementation, and evaluation of the grant for activities outlined in the request for proposal.

(8) Grant recipients must be able to expend the funds for allowable purposes specified in the request for proposal within the grant timeline according to acceptable accounting procedures.

(9) Grant recipients will document and account for each student participating in, enrolled in, and completing accelerated college courses supported by the grant before the final distribution of grant funds.

Stat. Auth.: ORS 327.800
Stat. Implemented: ORS 327.820
Hist.: ODE 3-2014(Temp), f. & cert. ef. 2-19-14 thru 8-17-14; ODE 29-2014, f. & cert. ef. 6-24-14; ODE 10-2016, f. & cert. ef. 2-5-16

581-017-0362
Timelines and Performance Measures

The Regional Promise program shall provide award recipients a template for an interim, legislative, and final grant report. Recipients are required to submit the all reports and teacher and student data prior to their final request for funds.

Stat. Auth.: ORS 327.800
Stat. Implemented: ORS 327.820
Hist.: ODE 3-2014(Temp), f. & cert. ef. 2-19-14 thru 8-17-14; ODE 29-2014, f. & cert. ef. 6-24-14; ODE 17-2015(Temp), f. 9-25-15, cert. ef. 9-28-15 thru 3-14-16; ODE 10-2016, f. & cert. ef. 2-5-16

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Rule Caption: Establishes Farm to School Program Grant.
Adm. Order No.: ODE 11-2016
Filed with Sec. of State: 2-5-2016
Certified to be Effective: 2-5-16
Notice Publication Date: 11-1-2015
Rules Adopted: 581-017-0432, 581-017-0435, 581-017-0438, 581-017-0441, 581-017-0444, 581-017-0447
Subject: The legislature modified the Oregon Farm to School Grant Program in 2015, creating a noncompetitive grant available to all school districts and a competitive grant. These proposed rules will govern the competitive grant. School districts, nonprofit organizations, and commodity commissions or counsels organized under ORS 576.051 to 576.455 or ORS chapter 577 or 578, may apply for a competitive grant to assist in paying costs of providing food-based, agriculture-based, or garden-based educational activities in a school district.

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.
Rules Coordinator: Cindy Hunt—(503) 947-5651

581-017-0432
Definitions

As used in OAR 581-017-0432 to 581-017-0447:

(1) "Commodity commissions or councils" means a commodity commission or council organized under ORS 576.051 to 576.455, the Oregon Beef Council, and the Oregon Wheat Commission.

(2) "Including" means including but not limited to.

(3) "Nonprofit organization" means:

(a) A nonprofit business corporation incorporated under ORS chapter 65;

(b) A foreign nonprofit business corporation authorized to transact business in the state of Oregon; or

(c) An organization that is recognized as tax exempt under section 501(c)(3) of the Internal Revenue Code of 1986.

(4)(a) "School district" means an Oregon common school district, joint school district, union high school district, or public charter school.

(b) "School district" does not include an education service district.

Stat. Auth.: OL 2015, ch. 840, sec.13
Stats. Implemented: OL 2015, ch. 840, sec.13
Hist. : ODE 11-2016, f. & cert. ef. 2-5-16

581-017-0435
Purpose

(1) The purpose of the competitive Oregon Farm to School Program grant is to assist entities in paying the costs they incur providing food-based, agriculture-based, or garden-based educational activities in a school district.

(2) A school district, nonprofit organization, or commodity commission or council that receives a competitive Oregon Farm to School Program grant may use the grant for costs directly associated with the educational activities offered to children enrolled in either a public school or public charter school within a school district, including staff time, supplies, equipment, and travel.

Stat. Auth.: OL 2015, ch. 840, sec.13
Stats. Implemented: OL 2015, ch. 840, sec.13
Hist. : ODE 11-2016, f. & cert. ef. 2-5-16

581-017-0438
Eligibility

(1) A school district, nonprofit organization, or commodity commission or council may apply for a competitive Oregon Farm to School Program grant.

(2)(a) A school district, nonprofit organization, or commodity commission or council that applies for a competitive Oregon Farm to School Program grant may partner with one or more organizations to provide food-based, agriculture-based, or garden-based educational activities in a school district. Grant applicants that partner with other organizations to provide educational activities must serve as the fiscal agent for the partnered organizations.

(b) Fiscal agents are responsible for:

(A) Ensuring that their partner organizations comply with the terms and conditions of the competitive Oregon Farm to School Program grant;

(B) Overseeing the delivery of food-based, agriculture-based, or garden-based educational activities to children enrolled in either a public school or public charter school within a school district;

(C) Ensuring that the educational activities offered satisfy the criteria identified in OAR 581-017-0441, the request for proposals, and any related guidance documents produced by the Oregon Department of Education;

(D) Maintaining all records regarding the educational activities offered using, and costs paid for with, grant funds; and

(E) Delivering those records and any completion reports regarding the educational activities funded with, and the expenditure of, grant funds to the Oregon Department of Education.

(3) A school district, nonprofit organization, or commodity commission or council may lose its eligibility to apply for a competitive Oregon Farm to School Program grant during the succeeding biennium, or continue receiving a previously awarded grant, if the school district, nonprofit organization, or commodity commission or council does not:

(a) Comply with the applicable provisions of Oregon Laws 2015, chapter 840, section 13 (Enrolled Senate Bill 501);

(b) Comply with the provisions of OAR 581-017-0432 to 581-017-0447;

(c) Comply with the grant criteria printed in the competitive Oregon Farm to School Program grant request for proposal and any related guidance documents produced by the Oregon Department of Education;

(d) If awarded a competitive Oregon Farm to School Program grant, spend the entire amount of the grant award during the biennium for with the grant was awarded; or

(e) If awarded a competitive Oregon Farm to School Program grant, spend the majority of the grant award on food-based, agriculture-based, or garden-based educational activities for the benefit of children enrolled in either a public school or public charter school within a school district.

Stat. Auth.: OL 2015, ch. 840, sec.13
Stats. Implemented: OL 2015, ch. 840, sec.13
Hist. : ODE 11-2016, f. & cert. ef. 2-5-16

581-017-0441
Application Process and Criteria

(1) The Oregon Department of Education shall establish a request for proposal solicitation and approval process to be conducted each biennium for which competitive Oregon Farm to School Program grant funds are available.

(2) The department shall notify school districts, nonprofit organizations, and commodity commissions or councils of the proposal process and the dates when proposals are due, and make available necessary guidelines and application forms.

(3)(a) School districts, nonprofit organizations, and commodity commissions or councils must submit their grant proposals on the most current form prescribed by the department. The department shall publish the current request for proposals solicitation forms on the department's website.

(b) If a school district, nonprofit organization, or commodity commission or council that has applied for a competitive Oregon Farm to School Program grant is unable to provide the information required in the request for proposals, then the grant applicant must provide an explanation why the information cannot be provided. Grant applicants may submit additional information that will aid the department in evaluating their grant proposals.

(4) To be considered by the department, the grant proposals submitted by school districts, nonprofit organizations, or commodity commissions or councils must include the following information:

(a) The name of school district in which the educational activities will be offered;

(b) The name of person who will serve as the grant applicant's primary contact regarding the grant proposal and that person's contact information, including the primary contact's email address and telephone number;

(c) The name of the organizations which the grant applicant either has partnered, or is intending to partner, with for the purpose of providing food-based, agriculture-based, or garden-based educational activities for the benefit of children enrolled in either a public school or public charter school within a school district;

(d) The name and contact information of the persons who will serve as the partner organizations' primary contacts regarding the grant proposal and the educational activities the grant applicant and its partner organizations intend to provide;

(e) A description of the educational activities the grant applicant proposes to offer;

(f) An explanation of how the educational activities the grant applicant proposes to offer with grant funds will address the grant criteria and benefit children enrolled in either a public school or public charter school within a school district;

(g) An estimate of the costs associated with providing the proposed educational activities; and

(h) An analysis of the proposed educational activities and the proposed means of delivering those programs using the Equity Lens adopted under OAR 581-017-0010.

(5) Grant applicants' proposals will be reviewed for completeness and how well they address the evaluation criteria adopted by the department. Educational activities proposed by grant applicants must:

(a) Be well designed;

(b) Promote healthy food activities;

(c) Have clear educational objectives mapped to applicable state standards;

(d) Involve parents, the local community, nutrition services staff, teachers, or school administrators;

(e) Be connected to a school district's farm-to-school procurement activities; and

(f) Be culturally relevant to the students being served.

(6) Additional information may be required and additional criteria may be identified in the applicable request for proposal and guidelines published by the department.

(7) Recipients of a competitive Oregon Farm to School Program grant will represent a variety of school sizes and geographic locations, and schools that serve a high percentage of children who qualify for free or reduced price school meals under the United States Department of Agriculture's National School Lunch Program.

Stat. Auth.: OL 2015, ch. 840, sec.13
Stats. Implemented: OL 2015, ch. 840, sec.13
Hist. : ODE 11-2016, f. & cert. ef. 2-5-16

581-017-0444
Awarding and Using Competitive Oregon Farm to School Program Grants

(1) The Oregon Department of Education shall allocate funds for competitive Oregon Farm to School Program grants.

(2) Competitive Oregon Farm to School Program grants will be awarded to those school districts, nonprofit organizations, or commodity commissions or councils whose grant proposals are judged by the department as best addressing the applicable evaluation criteria.

(3) The department will notify those school districts, nonprofit organizations, or commodity commissions or councils selected for a proposed competitive grant award by either mail or email. Within two weeks of receiving notice, the entity must notify the department whether it accepts the award.

(4) The department will award the first competitive Oregon Farm to School Program grants for the biennium beginning on July 1, 2015, and ending on June 30, 2017. If funding is available, additional competitive grants will be awarded in subsequent biennia.

(5) The amount of each competitive Oregon Farm to School Program grants awarded by the department in any biennia will be at least $2,000.00 and no more than $100,000.00.

(6) A school district, nonprofit organization, or commodity commission or council which is awarded a competitive Oregon Farm to School Program grant may use up to ten percent of the total amount awarded for each of the following:

(a) Administrative costs, including administrative labor and supplies; and

(b) Costs associated with developing and implementing the food-based, agriculture-based, or garden-based educational activities the grant recipient proposes to offer for the benefit of children enrolled in either a public school or public charter school within a school district.

(7) Grant funds awarded for use in one biennium may not be carried over to the following biennium, and will revert to the department at the end of the biennium, unless otherwise determined by the department.

(8) Each competitive Oregon Farm to School Program grant award will be disbursed in two phases.

(a) The payments disbursed in the first phase may not exceed forty percent of the total amount of the grant award and are for planning.

(b) The payments disbursed in the second phase are for implementation.

(9) Grant recipients must deposit the grant funds they receive in a separate account, or assign them a separate account or index number. Grant funds may only be used for the purpose of providing the food-based, agriculture-based, or garden-based educational activities it proposed to offer for the benefit of children enrolled in either a public school or public charter school within a school district.

(10) Grant recipients may not charge indirect costs to their grant award.

Stat. Auth.: OL 2015, ch. 840, sec.13
Stats. Implemented: OL 2015, ch. 840, sec.13
Hist. : ODE 11-2016, f. & cert. ef. 2-5-16

581-017-0447
Performance measures and reporting

(1) The Oregon Department of Education shall publish performance measures for recipients of a competitive Oregon Farm to School Program grant in the request for proposals solicitation forms and any related guidance documents produced by the department.

(2) The department shall provide grant recipients with a template for an interim and final grant report. To receive the final disbursement of grant funds, grant recipients must submit both a completed interim and final grant report to the department.

Stat. Auth.: OL 2015, ch. 840, sec.13
Stats. Implemented: OL 2015, ch. 840, sec.13
Hist. : ODE 11-2016, f. & cert. ef. 2-5-16

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Rule Caption: Establishes Oregon CTE Teacher Preparation Program.
Adm. Order No.: ODE 12-2016
Filed with Sec. of State: 2-5-2016
Certified to be Effective: 2-5-16
Notice Publication Date: 11-1-2015
Rules Adopted: 581-017-0450, 581-017-0453, 581-017-0456, 581-017-0459, 581-017-0462
Subject: The purpose of the Oregon CTE Teacher Preparation Program is to facilitate the recruitment and retention of industry professionals into the education profession as classroom teachers in career and technical education through preparation in a Teacher Standards and Practices approved educator program. To accomplish the purpose of the CTE Teacher Preparation Program, the Oregon Department of Education shall distribute funds to establish: (a) A consortia of Teacher Standards and Practices Commission approved teacher education institutions responsible for developing coursework that fulfills licensure requirements established by the Oregon Teacher Standards and Practice Commission for career and technical education teachers; and (b) A network of providers of professional development for both pre-service and in-service career and technical education teachers.

The rules establish eligibility, criteria, funding and reporting requirements.

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.
Rules Coordinator: Cindy Hunt—(503) 947-5651

581-017-0450
Establishment

(1) The Oregon CTE Teacher Preparation Program is established pursuant to sections 1 and 11, chapter 763, Oregon Laws 2015 (Enrolled HB 3072).

(2) The purpose of the Oregon CTE Teacher Preparation Program is to facilitate the recruitment and retention of industry professionals into the education profession as classroom teachers in career and technical education through preparation in a Teacher Standards and Practices approved educator program.

(3) To accomplish the purpose of the CTE Teacher Preparation Program, the Oregon Department of Education shall distribute funds to establish:

(a) A consortia of Teacher Standards and Practices Commission approved teacher education institutions responsible for developing coursework that fulfills licensure requirements established by the Oregon Teacher Standards and Practice Commission for career and technical education teachers; and

(b) A network of providers of professional development for both pre-service and in-service career and technical education teachers.

Stat. Auth.: 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)
Stat. Implemented: 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)
Hist. : ODE 12-2016, f. & cert. ef. 2-5-16

581-017-0453
Eligibility

(1) The Department of Education will award grants to support the creation of the CTE Teacher Preparation Program to the following eligible recipients:

(a) Teacher Standards and Practices Commission approved teacher education institutions for the purpose of developing and maintaining coursework for that fulfills licensure requirements established by the Oregon Teacher Standards and Practice Commission for career and technical education teachers; and

(b) Teacher Standards and Practices Commission approved teacher education institutions, community Colleges, education service districts, school districts, public schools, and charter schools, for the purpose of providing professional development for both pre-service and in-service career and technical education teachers.

(2) Eligible recipients may use funds received through the CTE Teacher Preparation Program to contract with private businesses and nonprofits for the purpose of providing experiential learning opportunities for teachers.

Stat. Auth.: 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)
Stat. Implemented: 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)
Hist. : ODE 12-2016, f. & cert. ef. 2-5-16

581-017-0456
Criteria

(1) The Department of Education shall establish a request for application solicitation and approval process for the consortia of Teacher Standards and Practices Commission approved teacher education institutions responsible for developing and maintaining coursework.

(2) The Department of Education may only award grants for developing and maintaining coursework to eligible entities that meet the following minimum criteria:

(a) A commitment to participate in the consortia established by the CTE Teacher Preparation Program;

(b) A commitment to work with other members of the consortia to develop a shared curriculum that fulfills licensure requirements established by the Oregon Teacher Standards and Practice Commission for career and technical education teachers;

(c) A demonstrated record of success educating teachers; and

(d) Official program recognition and accreditation through the Teachers Standards and Practices Commission.

(3) The Department of Education shall establish a request for proposal solicitation and approval process for the network of providers of professional development.

(4) The Department of Education may only award grants for professional development to eligible entities that have a demonstrated record of success in, or a clearly established plan for, providing professional development, recruitment, and retention of both pre-service and in-service CTE teachers designed around Oregon Career Learning Areas, the Common Career Technical Core, or the National College and Career Readiness Standards.

(5) In allocating funds, the Department of Education may take into consideration the evaluation of the grant application and geographic location to ensure geographic diversity within the recipients of grant program funds throughout the state.

Stat. Auth.: 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)
Stat. Implemented: 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)
Hist. : ODE 12-2016, f. & cert. ef. 2-5-16

581-017-0459
Funding

(1) The Department of Education shall determine for each biennium the portion of the funds available for the consortia of Teacher Standards and Practices Commission approved teacher education institutions responsible for developing and maintaining coursework and for the network of providers of professional development.

(2) CTE Teacher Preparation Program funds received under this section must be separately accounted for and may be used only to provide funding for the purposes described in the application of the grant recipient.

Stat. Auth.: 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)
Stat. Implemented: 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)
Hist. : ODE 12-2016, f. & cert. ef. 2-5-16

581-017-0462
Reporting

Recipients of the CTE Teacher Preparation Program grant must report on the grant to the Department of Education. The report must include metrics developed by the Department of Education.

Stat. Auth.: 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)
Stat. Implemented: 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)
Hist. : ODE 12-2016, f. & cert. ef. 2-5-16

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Rule Caption: Clarifies school district role when requested by tribe to display tribal flag.
Adm. Order No.: ODE 13-2016
Filed with Sec. of State: 2-5-2016
Certified to be Effective: 2-5-16
Notice Publication Date: 11-1-2015
Rules Adopted: 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, "Sovereign tribal governments" means a federally recognized Indian tribe, band, nation, pueblo, Rancheria, community, or Native village in the United States.

(2) Upon request from a 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 except in unsuitable weather.

(3) The school district may determine the location of the flag.

(4) A school district may not charge for displaying the flag if the sovereign tribal government or an individual provides a flag to the district.

Stat. Auth.: ORS 326.051
Stat. Implemented: ORS 326.051
Hist.: ODE 13-2016, f. & cert. ef. 2-5-16

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Rule Caption: Changes poverty eligibility update to twice during the State School Fund calendar not three times.
Adm. Order No.: ODE 14-2016
Filed with Sec. of State: 2-5-2016
Certified to be Effective: 2-5-16
Notice Publication Date: 11-1-2015
Rules Amended: 581-023-0102
Subject: Changes poverty eligibility update to twice during the State School Fund calendar instead of three times. This will provide more predictability and stability for the districts while still providing updated poverty data for the state.
Rules Coordinator: Cindy Hunt—(503) 947-5651

581-023-0102
Poverty Eligibility Determination for Purposes of State School Fund Distribution

(1) The following definitions and abbreviations apply to this rule:

(a) "ADM" means Average Daily Membership as defined under ORS 327.006 and OAR 581-023-0006;

(b) "Census Bureau" means the United State Census Bureau;

(c) "SAIPE" means the Small Area Income Poverty Estimate published by the Census Bureau every year and available to the public on the Census Bureau's website at: http://www.census.gov/did/www/saipe/.

(2) Pursuant to ORS 327.013(1)(c)(A)(v)(i) the Department of Education will determine poverty using Census Bureau data and ADM data from the school districts.

(3) The Department will obtain SAIPE data published on the Census Bureau website for all Oregon school districts annually as it is released.

(4)(a) The Department will divide the concurrent year's ADM data by the total children ages 5 to 17 as reported in the SAIPE data;

(b) For those districts where the ratio of the ADM divided by total children ages 5 to 17 as reported in SAIPE data is greater than 100%, the Department will reduce the ratio to 100%.

(5) The Department will multiply the population ages 5 to 17 in families in poverty as reported by the SAIPE by the percentage calculated above.

(6) The Department will round the resulting product to two decimal places.

(7) The Department will use the final number to calculate weighted average daily membership for poverty pursuant to ORS 327.013(1)(c)(A)(v).

(8) The Department will use the poverty weights determined from the latest SAIPE data to estimate future weighting for poverty until the next SAIPE data is available and annually obtained by the Department.

Stat. Auth.: ORS 327.013 & 327.125
Stats. Implemented: ORS 327.013
Hist.: ODE 9-2014, f. 2-19-14, cert. ef. 7-1-14; ODE 14-2016, f. & cert. ef. 2-5-16

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Oregon Department of Education, Early Learning Division
Chapter 414

Rule Caption: Child Care Program for Special Populations Under the Child Care and Development Fund Block Grant
Adm. Order No.: ELD 1-2016
Filed with Sec. of State: 1-25-2016
Certified to be Effective: 1-25-16
Notice Publication Date: 6-1-2015
Rules Adopted: 414-150-0140, 414-150-0150, 414-150-0160, 414-150-0170
Rules Amended: 414-150-0050, 414-150-0055, 414-150-0060, 414-150-0070, 414-150-0110, 414-150-0120, 414-150-0130
Rules Repealed: 414-150-0080, 414-150-0090, 414-150-0100
Subject: Modifies provisions relating to Special Populations Child Care Subsidy Program administered by the Early Learning Division, Oregon Department of Education
Rules Coordinator: Lisa Pinheiro—(503) 910-8135

414-150-0050
Purpose

(1) The purpose of these rules is to set forth standards to be followed when entering into contracts with programs to provide child care services to Special Population clients.

(2) These rules implement elements of federal Child Care and Development (CCDF) State Plan for funds received under the federal Child Care and Development **Block Grant Act of 2014**, and **Chapter 45, Code of Federal Regulations**, **Parts 98** and **99**.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 329A
Stats. Implemented: ORS 329.A.010
Hist.: HR 7-1992(Temp), f. 2-27-92, cert. ef. 3-1-92; HR 26-1992, f. & cert. ef. 8-27-92; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 410-100-0050; ELD 1-2016, f. & cert. ef 1-25-16

414-150-0055
Definitions

(1) "Administrator" means the Administrator of the Child Care and Development Fund for the Department of Education, Early Learning Division.

(2) "Alcohol and Drug Treatment Program" means a program that provides services to the eligible child whose parent(s) is in a program for the treatment of alcohol or drug/substance abuse.

(3) "CCDF" means federal Child Care and Development Fund which is the federal funding awarded to the Department of Education under the Child Care and Development Block Grant.

(4) "CCDF Grant Plan" means the Oregon Plan approved by the Department of Health and Human Services for child care and related programs funded by the Block Grant.

(5) "CCR&R" means Child Care Resource and Referral Agency.

(6) "Department" means the State of Oregon. Department of Education, which is the lead agency for the Child Care and Development Fund.

(7) "Early Learning Division" is the division of the Department that administers funding and contracts under the federal Child Care and Development Fund.

(8) "Early Learning Hub" means the local coordinating body for early learning services contracted by the Early Learning Division.

(9) "Employment Related Day Care" means the program administered by the Department of Human Services that provides child care services to low-income working families.

(10) "Office of Child Care" means a unit of the Early Learning Division that regulates child care facilities and provides contract administration services to low-income working families.

(11) "Parent" means parent, custodian or guardian who exercises care and custody of a child.

(12) "Program" means community or school-based teen parent education program, or licensed women-specific alcohol and drug treatment program.

(13) "Provider" means a person or program responsible for direct child care, supervision of children, and guidance of children in approved child care setting.

(14) "Special Needs Child" means a child under the age of 18 who requires a level of care over and above the norm for his/her age due to a physical, developmental, behavioral, mental or medical disability.

(15) "Special Populations" means families considered:

(a) To be at high risk of instability;

(b) Have high needs for child care services;

(c) Have very low incomes; and

(d) Are not eligible for child care subsidy from the Department of Human Services under either the Employment Related Day Care or TANF JOBS programs.

(16) "TANF JOBS program recipient" means a family receiving services through the Temporary Assistance to Needy Families program administered by the Department of Human Services and is receiving child care services under the Jobs Opportunity and Basic Skills (JOBS) program.

(17) "Teen Parent" means a parenting or pregnant adolescent age 21 and under who is attending high school or participating in an approved high school completion program.

Stat. Auth.: ORS 657A
Stats. Implemented: ORS 657A.010
Hist.: HR 7-1992(Temp), f. 2-27-92, cert. ef. 3-1-92; HR 26-1992, f. & cert. ef. 8-27-92; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 410-100-0055; CCD 6-2003, f. 12-23-03, cert. ef. 12-28-03; ELD 1-2016, f. & cert. ef 1-25-16

414-150-0060
Program Administration and Funding Allocations

(1) The Department of Education, Early Learning Division, is the designated state agency responsible for administration of the Child Care and Development Fund.

(2) The division Administrator is responsible for coordination of CCDF-funded programs in Oregon and for the administration of child care services for Special Populations described by these rules.

(3) Federal funds for the Special Populations child care services program are contracted by the Administrator to state-licensed or state-approved alcohol and drug treatment programs, to school districts for school-based programs, and to local non-profits or counties for community-based programs.

(4) After annual federal appropriations for the Child Care and Development Fund are awarded to the state, the Administrator allocates funds to contractors in paragraph (3) of this rule and forwards this information to the local Early Learning Hubs.

(5) The Early Learning Division shall have final responsibility for developing a contract with recommended programs as outlined in OAR 414-150-0120.

Stat. Auth.: ORS 329A
Stats. Implemented: ORS 329A.010
Hist.: HR 7-1992(Temp), f. 2-27-92, cert. ef. 3-1-92; HR 26-1992, f. & cert. ef. 8-27-92; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 410-100-0060; ELD 1-2016, f. & cert. ef 1-25-16

414-150-0070
Overview of and Eligibility for Special Populations Child Care Services

(1) The Special Populations Child Care Services Program is established for specific low-income populations having demonstrable need for child care services.

(2) Special Populations eligible for services include Teen Parent(s) and parent(s) receiving treatment for alcohol or drug abuse.

(3) Teen Parents. To be eligible for services, the Teen Parent:

(a) Must be attending high school or participating in an approved high school completion program sponsored by a local school district, community college, community-based non-profit, or certified private school, and the parent requires child care in order to attend and complete a program leading to a GED or high school diploma;

(b) Must be attending a school-based or approved high school completion program that meets program standards approved by the Department of Education under ORS 329A.385.

(c) Must enroll eligible child(ren) in child care services provided by a facility certified or registered by the Office of Child Care, which is located on the same campus as the teen parent/child development program the teen parent is attending.

(4) Parents receiving treatment for alcohol or drug abuse. To be eligible, the parent:

(a) Must be enrolled in and have a diagnosis for treatment with a state-licensed or state-approved alcohol or drug abuse treatment program in order to receive subsidized child care services.

(b) Child care services must be provided at the facility site where the parent is undergoing supervised treatment and counseling for substance abuse, or at a nearby facility under supervision of a state licensed or state-approved treatment program.

(5) Child Care Services. For child care services, the following standards apply:

(a) The child receiving services must meet the following conditions:

(A) Be under 13 years of age or a child with Special Needs under 18 years of age.

(B) Be a U.S. citizen or have legal immigration status.

(b) Parental income must be at or below 185 percent of the Federal Poverty Level as published in the most recent Federal Register.

(c) The child being placed for services is residing with a parent or parents who are either participating in an approved education program or participating in an alcohol or drug treatment program;

(d) The parent making the application for services must reside in Oregon;

(e) The determination of income shall be based on a review of all parental income for the preceding 30 calendar days prior to application for child care services.

(f) Review and calculation of income for the Teen Parent shall be limited to the Teen Parent income only and not include income received by other members of the same household.

(g) For the purpose of the child care subsidy, all Teen Parents are considered single parents regardless of marital status. Family size and income will be limited to the Teen Parent and their child(ren).

(h) Parents eligible for child care services through the TANF JOBS program must access that program for services and do not qualify for the Special Populations child care services program.

Stat. Auth.: ORS 329A
Stat. Implemented: ORS 329A.010
Hist.: HR 7-1992(Temp), f. 2-27-92, cert. ef. 3-1-92; HR 26-1992, f. & cert. ef. 8-27-92; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 410-100-0070; ELD 1-2016, f. & cert. ef 1-25-16

414-150-0110
Application for Services

(1) Families that qualify under Special Populations criteria and eligibility standards of this rule shall make application for child care services directly through a contracting program. Application must be made on an Office of Child Care approved form and signed by both applying parent and program staff. In completing application, the parent shall be required to declare, and provide verification as required, information on:

(a) Parents and dependent members of the household;

(b) U.S. citizenship or legal immigration status of children who are to receive subsidized child care;

(c) Place of residence;

(d) Employment status of parents;

(e) Participation in job training, substance abuse treatment, or enrollment in school programs; and

(f) Parent income.

(2) The Administrator shall send notification regarding contracted programs to CCR&R agencies located throughout the state. Parents seeking assistance may contact local resource and referral agencies for information on programs having a child care services contract.

(3) Child care availability for Special Populations is limited in all regions of the state, and shall, therefore, be assigned to parents on a first-come, first-served basis. The parent signature date on the application form will be used as the basis for determining priority of access to services.

(4) Eligibility for continuing child care services shall be subject to redetermination by the program:

(a) At the end of every 12-month service period; or

(b) Whenever a change of circumstances occurs that may affect a parent's eligibility status. Parents are responsible for notifying the program of changes; or

(c) At the beginning of each school year for Teen Parent participants.

Stat. Auth.: ORS 329A
Stats. Implemented: ORS 329A.010
Hist.: HR 7-1992(Temp), f. 2-27-92, cert. ef. 3-1-92; HR 26-1992, f. & cert. ef. 8-27-92; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 410-100-0110; ELD 1-2016, f. & cert. ef 1-25-16

414-150-0120
Service Standards

(1) Prior to accepting a child for care under these rules, the program shall sign a contract with the Early Learning Division. The contract shall include, but is not limited to, the following provisions:

(a) Term of the contract;
(b) Description of services;
(c) Facility and service standards;
(d) Program responsibilities;
(e) Payment for services; and
(f) Compliance with appropriate state and federal regulations.

(2) A program or a provider certified by the Office of Child Care for operation of a child care center shall be in compliance with the standards defined in OAR 414-300-0000 through 414-300-0410.

(3) A program or provider certified by the Office of Child Care for operation of a certified family child care home shall be in compliance with the standards defined in OAR 414-350-0000 through 414-350-0400.

(4) A family child care provider registered with the Office of Child Care shall be in compliance with the standards defined in OAR 414-205-0000 through 414-205-0170.

(5) If a program or a provider is operating a child care facility that is specifically excluded by Oregon law from state certification or registration requirements under ORS 329A.250 to 329A.290, the standards for service shall be defined by the Office of Child Care in contract. The Office of Child Care may require information regarding the status of certification or registration. The Department requires a criminal record check and enrollment of all providers and caregivers in the Office of Child Care, Central Background Registry.

Stat. Auth.: ORS 329A
State Implemented: ORS 329A.010
Hist.: HR 7-1992(Temp), f. 2-27-92, cert. ef. 3-1-92; HR 26-1992, f. & cert. ef. 8-27-92; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 410-100-0120; CCD 6-2003, f. 12-23-03, cert. ef. 12-28-03; ELD 1-2016, f. & cert. ef 1-25-16

414-150-0130
Payment for Services

(1) The maximum rates the Early Learning Division pays for the Special Populations Child Care Program are determined by the most recent Department of Human Services market price survey and shall be stated in the contract.

(2) Payment for child care services shall be made by the Department directly to the program of behalf of the client after services for the month have been rendered.

(3) To receive payment, the program shall submit an invoice to the Department on a form approved by the Early Learning Division.

(4) The program shall be responsible for collection of any copayments from the parent. Copayment will be determined from the Department of Human Services Employment Related Day Care Copayment Standard established in OAR 461-155-0150.

Stat. Auth.: ORS 329A
Stat. Implemented: ORS 329A.010
Hist.: HR 7-1992(Temp), f. 2-27-92, cert. ef. 3-1-92; HR 26-1992, f. & cert. ef. 8-27-92; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 410-100-0130; ELD 1-2016, f. & cert. ef 1-25-16

414-150-0140
Limits on Disclosure

(1) No employee or volunteer of the Early Learning Division, or other agency, may disclose information about clients except as provided by Oregon Revised Statutes 192.410 to 192.505, or at the direction of a court of competent jurisdiction, or upon advice of the Attorney General.

(2) The Early Learning Division may disclose information in order to administer its programs and provide services when it is in the best interest of the applicant's family, unless specifically forbidden by statutes, these rules or by court order. Reasons for disclosure include, but are not limited to, providing information to a social service agency, or service provider for the purpose of arranging appropriate child care services for the applicant's family.

Stat. Auth: ORS 329A
Stat. Implemented: ORS 329A.010
Hist.: ELD 1-2016, f. & cert. ef 1-25-16

414-150-0150
Exception

(1) Specific exception to any section of these rules may be granted for good and just cause by the Early Learning Division.

(2) The exception must be requested in writing to the Early Learning Division and show how the intent of the rule(s) will be met. All exceptions will remain on file.

(3) No exception will be granted which may jeopardize the health, safety, and well-being of any child in care.

(4) The granting of an exception shall not constitute a precedent for any other care provider or client family.

Stat. Auth: ORS 329A
Stat. Implemented: ORS 329A.010
Hist.: ELD 1-2016, f. & cert. ef 1-25-16

414-150-0160
Parent Complaints

(1) All Contractors for the Special Populations child care services program shall establish a process through which families may present a grievance or complaint regarding child care services.

(2) Records of all complaints shall be maintained and the Early Learning Division must be notified in writing of all grievance and complaints within ten (10) working days of receipt.

Stat. Auth: ORS 329A
Stat. Implemented: ORS 329A.010
Hist.: ELD 1-2016, f. & cert. ef 1-25-16

414-150-0170
Mandatory Reporter

As required by Oregon Revised Statues (ORS) 419B.005 through 419B.050, contractor must immediately inform either the local office of the Department of Human Services or a law enforcement agency when they have reasonable cause to believe any child with whom the contractor comes in contact has suffered abuse, or any person with whom the contractor comes in contact has abused a child. Oregon Law recognizes child abuse to be physical injury; neglect or maltreatment; sexual abuse and sexual exploitation; threat of harm; mental injury; and child selling. Report must be made immediately upon awareness of the incident.

Stat. Auth: ORS 329A
Stat. Implemented: ORS 329A.010
Hist.: ELD 1-2016, f. & cert. ef 1-25-16

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Oregon Health Authority, Division of Medical Assistance Programs
Chapter 410

Rule Caption: General Financial Reporting and Financial Solvency Matters; CCO Reporting Method
Adm. Order No.: DMAP 2-2016
Filed with Sec. of State: 2-3-2016
Certified to be Effective: 3-1-16
Notice Publication Date: 1-1-2016
Rules Amended: 410-141-3345
Rules Repealed: 410-141-3345(T)
Subject: This rule requires CCOs to demonstrate they are able to provide coordinated care service efficiently, effectively, and economically. This rule also provides CCOs with the parameters for three alternative methods for a CCO's solvency plan and reporting requirements, depending on the status of the CCO, as described in rule.
Rules Coordinator: Sandy Cafourek—(503) 945-6430

410-141-3345
General Financial Reporting and Financial Solvency Matters; CCO Reporting Method

(1) Each CCO must demonstrate that it is able to provide coordinated care services efficiently, effectively, and economically. CCOs shall maintain sound financial management procedures, maintain protections against insolvency, and generate periodic financial reports as provided in these rules.

(2) The Authority shall collaborate with the Department of Consumer and Business Services (DCBS) to review CCO financial reports and evaluate financial solvency. CCOs are not required to file financial reports with both OHA and DCBS except as provided in this section or as outlined in the CCO contract:

(a) Initial applicants for certification as a CCO shall submit all required information to the Authority as part of the application process, and the Authority shall transmit that information to DCBS for its review. In making its determination about the qualifications of the applicant, the Authority shall consult with DCBS about the financial materials and reports submitted with the application;

(b) For purposes of these financial reporting and solvency rules, DCBS is authorized to make recommendations to the Authority and to act in conjunction with the Authority in accordance with these rules. If quarterly reports or other evidence suggest that a CCO's financial solvency is in jeopardy, the Authority shall act as necessary to protect the public interest.

(3) The Authority may address any proper inquiries to any CCO or its officers in relation to the activities or condition of the CCO or any other matter connected with its transactions. The person shall promptly and truthfully reply to the inquiries using the form of communication requested by the Authority. The reply shall be timely, accurate, and complete and, if the Authority requires, verified by an officer of the CCO. A reply is subject to the provisions of ORS 731.260.

(4) OAR 410-141-3345 through 410-141-3395 provide for three alternative methods for a CCO's solvency plan and financial reporting requirements, depending on the status of the CCO as described in this rule:

(a) The Authority reporting CCO: The CCO complies with restricted reserve and net worth requirements the Authority used to regulate financial solvency of MCOs on July 1, 2012, submitting financial information and reports to the Authority as detailed in the CCO contract. Under this approach, the Authority shall monitor the CCO's financial solvency utilizing the same reporting format and financial standards that the Authority used for MCOs on July 1, 2012;

(b) DCBS reporting CCO: The CCO complies with financial requirements as detailed in the CCO contract and in OAR 410-141-3345 through 410-141-3395, including risk-based capital and NAIC reporting requirements. These requirements shall be monitored by DCBS;

(c) Certificate of Authority: The CCO has a certificate of authority and complies with financial reporting and solvency requirements applicable to licensed health entities pursuant to applicable DCBS requirements under the Oregon insurance code and DCBS rules. In addition, the CCO shall report to the Authority the schedules outlined in the CCO contract.

(5) CCO Status. The method described in this rule that applies to a CCO is determined as follows:

(a) If the CCO is a licensed health entity, the CCO shall use the method described in this rule for certificate of authority. The CCO shall submit a copy of its certificate of authority to the Authority, not later than the readiness review document submission date under the initial CCO contract, and annually thereafter, not later than August 31. The CCO shall report to the Authority immediately at any time that this certificate of authority is suspended or terminated;

(b) If the CCO is neither a converting MCO nor a licensed health entity, the CCO shall use the method described in this rule for DCBS reporting CCO;

(c) If the CCO is a converting MCO and is not a licensed health entity, the CCO shall elect either the method described in this rule for the Authority reporting CCO or the method described in this rule for DCBS reporting CCO. The CCO shall notify the Authority of its election no later than the readiness review document submission date under the initial CCO contract. The CCO shall comply with the requirements applicable to its elected method until it notifies the Authority of its intent to change its election. If the CCO expects to change its election, any elements of the solvency plan, or solvency protection arrangements, the CCO shall provide written advance notice to the Authority, at least 90-calendar days before the proposed effective date of change. Such changes are subject to written approval from the Authority.

(6) CCOs may be required to use specific required reporting forms or items in order to supply information related to financial responsibility, financial solvency, and financial management. The Authority or DCBS, as applicable, shall provide supplemental instructions about the use of these forms.

(7) The standards established in OAR 410-141-3350 through 410-141-3395 are intended to be consistent with, and may utilize procedures and standards common to insurers and to DCBS in its administration of financial reporting and solvency requirements. Any reference in these rules to the insurance code or to rules adopted by DCBS under the insurance code may not be deemed to require a CCO to be an insurer but is adopted and incorporated by reference as the Authority standard.

Stat. Auth.: ORS 413.042, 414.615, 414.625, 414.635 & 414.651
Stats. Implemented: ORS 414.610 - 414.685
Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12; DMAP 37-2012, f. & cert. ef. 8-1-12; DMAP 81-2015(Temp), f. 12-23-15, cert. ef. 1-1-16 thru 6-28-16; DMAP 2-2016, f. 2-3-16, cert. ef. 3-1-16

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Rule Caption: Update Ostomy and Complex Rehabilitation Code Tables and Rule Language
Adm. Order No.: DMAP 3-2016
Filed with Sec. of State: 2-3-2016
Certified to be Effective: 2-3-16
Notice Publication Date: 1-1-2016
Rules Amended: 410-122-0186
Subject: Amending this rule to attach the correct tables for Ostomy and Complex Rehabilitation Codes to the rule on the Secretary of State website and update rule language.
Rules Coordinator: Sandy Cafourek—(503) 945-6430

410-122-0186
Payment Methodology

(1) The Division of Medical Assistance Programs (Division) utilizes a payment methodology for covered durable medical equipment, prosthetics, orthotics and supplies (DMEPOS) that is generally based on the 2012 Medicare fee schedule:

(a) The Division fee schedule amount is 82.6 percent of 2012 Medicare Fee Schedule for items covered by Medicare and the Division, except for:

(A) Ostomy supplies fee schedule amounts are 93.3 percent of 2012 Medicare Fee Schedule (See Table 122-0186-1 for list of Ostomy codes subject to this pricing); and

(B) Prosthetic and Orthotic fee schedule amounts (L-codes) are 82.6 percent of 2012 Medicare Fee Schedule; and

(C) Complex Rehabilitation items and services other than power wheelchairs, fee schedule amounts are 88 percent of 2012 Medicare Fee Schedule (See Table 122-0186-2 for list of Complex Rehabilitation codes subject to this pricing); and

(D) Group 1 power wheelchairs (K0813-K0816) and Group 2 power wheelchairs with no added power option (K0820-K0829) fee schedule amounts are 55 percent of 2012 Medicare Fee Schedule;

(E) Group 3 power wheelchairs (K0835-K0864) fee schedule amounts are 58.7 percent of 2012 Medicare Fee Schedule;

(b) For items that are not covered by Medicare but covered by the Division, the fee schedule amount shall be 99 percent of the Division's published rate effective 7/31/11;

(c) For new codes added by the Center for Medicare and Medicaid Services (CMS), payment shall be based on the most current Medicare fee schedule and shall follow the same payment methodology as stated in section (1)(a)(A-E) of this rule. New codes that do not appear on the current Medicare fee schedule shall be manually priced as indicated in section (4)(a-c) of this rule.

(2) Payment is calculated using the lesser of the following:

(a) The Division fee schedule amount, using the above methodology in section (1) (a) and (b); or

(b) The manufacturer's suggested retail price (MSRP); or

(c) The actual charge submitted.

(3) The Division shall reimburse for the lowest level of service that meets medical appropriateness. (See OAR 410-120-1280 Billing; and 410-120-1340 Payment).

(4) The Division shall reimburse miscellaneous codes E1399 (durable medical equipment, miscellaneous) and K0108 (wheelchair component or accessory, not otherwise specified), and any code that requires manual pricing, using the lesser of the following:

(a) Seventy-five percent of MSRP verifiable with quote, invoice, or bill from the manufacturer that clearly states the amount indicated is MSRP; or

(b) If MSRP is not available then reimbursement shall be acquisition cost plus 20 percent, verifiable with quote, invoice, or bill from the manufacturer that clearly states the amount indicated is acquisition cost; or

(c) Actual charge submitted by the provider.

(5) Reimbursement on miscellaneous codes E1399 and K0108 shall be capped at $3,200.

(6) Prior authorization (PA) is required for miscellaneous codes E1399, K0108, and A4649 (surgical supply; miscellaneous) when the cost is greater than $150, and the DMEPOS provider must submit the following documentation:

(a) A copy of the items from section (4)(a) and (b) that will be used to bill; and,

(b) Name of the manufacturer, description of the item, including product name or model name and number, serial number when applicable, and technical specifications;

(c) A picture of the item upon request by the Division.

(7) The DMEPOS provider shall submit verification for items billed with miscellaneous codes A4649, E1399, and K0108 when no specific Healthcare Common Procedure Coding System (HCPCS) code is available. Providers may submit verification from an organization such as the Medicare Pricing, Data Analysis and Coding (PDAC) contractor.

(8) The Division may review items that exceed the maximum allowable or cap on a case-by-case basis and may ask the provider submit the following documentation for reimbursement:

(a) Documentation which supports that the client meets all of the coverage criteria for the less costly alternative; and,

(b) A comprehensive evaluation by a licensed clinician (who is not an employee of or otherwise paid by a provider) that clearly explains why the less costly alternative is not sufficient to meet the client's medical needs, and;

(c) The expected hours of usage per day, and;

(d) The expected outcome or change in the client's condition.

(9) PA is not required for codes A4649, E1399, and K0108 when the cost is $150.00 or less per each unit:

(a) Only items that have received an official product review coding decision from an organization such as PDAC with codes A4649, E1399, or K0108 shall be billed to the Division. These products may be listed in the PDAC Durable Medical Equipment Coding System Guide (DMECS) DMEPOS Product Classification Lists;

(b) Subject to service limitations of the Division's rules;

(c) The amount billed to the Division may not exceed 75 percent of MSRP. The provider must retain documentation of the quote, invoice, or bill to allow the Division to verify through audit procedures.

(10) For rented equipment, the equipment is considered paid for and owned by the client when the Division fee schedule allowable is met or the actual charge from the provider is met, whichever is lowest. The provider must transfer title of the equipment to the client.

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

Stat. Auth.: ORS 413.042 & 414.065

Stats. Implemented: ORS 414.065

Hist.: OMAP 44-2004, f. & cert. ef. 7-1-04; OMAP 44-2005, f. 9-9-05, cert. ef. 10-1-05; OMAP 47-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 12-2007, f. 6-29-07, cert. ef. 7-1-07; DMAP 17-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 15-2009 f. 6-12-09, cert. ef. 7-1-09; DMAP 22-2011(Temp), f. 7-29-11, cert. ef. 8-1-11 thru 1-25-12; DMAP 42-2011, f. 12-21-11, cert. ef. 1-1-12; DMAP 31-2012(Temp), f. 6-29-12, cert. ef. 7-1-12 thru 12-27-12; DMAP 57-2012, f. & cert. ef 12-27-12; DMAP 2-2014(Temp), f. 1-15-14, cert. ef. 2-1-14 thru 7-31-14; DMAP 44-2014, f. & cert. ef. 7-11-14; DMAP 3-2016, f. & cert. ef. 2-3-16

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Rule Caption: Updating Rate Table Incorporated by Reference and Web Address
Adm. Order No.: DMAP 4-2016(Temp)
Filed with Sec. of State: 2-5-2016
Certified to be Effective: 2-7-16 thru 8-4-16
Notice Publication Date:
Rules Amended: 410-170-0110
Subject: The Authority needs to update the BRS rate table that is incorporated by reference and the web address that links to the website where the table can be found. The date that the table is valid will be updated to July 1, 2015.
Rules Coordinator: Sandy Cafourek—(503) 945-6430

410-170-0110
Billing and Payment for Services and Placement Related Activities

(1) The BRS contractor is compensated for a billable care day (service and placement related activities rates) on a fee-for-service basis, except as otherwise provided for in these rules. The Authority does not make payments for any calendar day that does not meet the definition of a billable care day under this rule.

(2) Billable care 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. The BRS Rates Table is available at http://www.oregon.gov/OHA/healthplan/pages/brs.aspx. A printed copy may be obtained from the agency.

(3) Billable Care Day:

(a) For purposes of computing a billable care day, the BRS client must be in the direct care of the BRS provider at 11:59 p.m. of that day or be on an authorized home visit in accordance with section (4) of this rule;

(b) A billable care day does not include any day where the BRS client is on runaway status, in detention, an inpatient in a hospital, or has not yet entered or has been discharged from the BRS contractor's or BRS provider's program.

(4) Home Visits:

(a) The BRS contractor shall only include a maximum of eight calendar days of home visits in a month as billable care days;

(b) In order to qualify as an authorized home visit day, the BRS contractor must:

(A) Ensure that the home visit is tied to the BRS client's ISP or MSP;

(B) Work with the BRS client and the BRS client's family or substitute family on goals for the home visit and receive regular reports from the family on the BRS client's progress while on the home visit;

(C) Have staff available to answer calls from the BRS client and BRS client's family or substitute family and to provide services to the BRS client during the time planned for the home visit if the need arises;

(D) Document communications with the BRS client's family or substitute family; and

(E) Document the BRS client's progress on goals set for the home visits.

(5) Invoice form:

(a) The BRS contractor must submit a monthly billing form to the agency 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 provided to each BRS client in that month;

(b) The BRS contractor must provide, upon request in a format that meets the agency's approval, written documentation of each BRS client's location for each day claimed as a billable care day;

(c) The BRS contractor may only submit a claim for a billable care day consistent with the agency's prior authorization.

(6) Payment for a Billable Care Day:

(a) The agency shall pay the service and placement related activities rates to the BRS contractor for each billable care day in accordance with the BRS Rates Table described in section (2) of this rule;

(b) Notwithstanding section (6)(a) of this rule, the Authority shall only pay the service rate for each billable care day to a public child-caring agency, who by rule or contract provides the local match share for Medicaid claims under OAR 410-120-0035 and 42 CFR 433 Subpart B. The Authority may not pay the placement related activities rate for each billable care day to these types of public child-caring agencies;

(c) To the extent the payment for services is funded by Medicaid and CHIP funds, the BRS contractor and the BRS provider are subject to Medicaid billing and payment requirements in these rules and the Authority's general rules (OAR 410-120-0000 to 410-120-1980).

(7) Third Party Resources:

(a) The Authority's BRS contractors must make reasonable efforts to obtain payment first from other resources consistent with OAR 410-120-1280(16);

(b) The Department's and OYA's BRS contractors are not required to review or pursue third party resources. The Department and OYA must make reasonable efforts to obtain payment first from other resources consistent with OAR 410-120-1280(16) for Medicaid-eligible BRS clients.

(8) Public child-caring agencies who are responsible by rule or contract for the local match share portion of eligible Medicaid claims must comply with OAR 410-120-0035 and 42 CFR 433 Subpart B.

(9) In cases where the BRS contractor is not also the BRS provider, the BRS contractor is responsible for compensating the BRS provider for billable care days pursuant to the agency-approved subcontract between the BRS contractor and the BRS provider.

(10) The Authority may not be financially responsible for the payment of any claim that the Centers for Medicare and Medicaid Services (CMS) disallows under the Medicaid or CHIP program. If the Authority has previously paid the agency or BRS contractor for any claim that CMS disallows, the payment shall be recouped pursuant to OAR 410-120-1397. The Authority shall recoup or recover any other overpayments as described in 410-120-1397 and 943-120-0350 and 943-120-0360.

Stat. Auth.: ORS 413.042 & 414.065

Stats. Implemented: ORS 414.065

Hist.: DMAP 63-2013, f. 11-14-13, cert. ef. 1-1-14; DMAP 42-2015(Temp), f. & cert. ef. 8-11-15 thru 2-6-16; DMAP 4-2016(Temp), f. 2-5-16, cert. ef. 2-7-16 thru 8-4-16

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

Adm. Order No.: DMAP 5-2016(Temp)
Filed with Sec. of State: 2-9-2016
Certified to be Effective: 2-9-16 thru 6-28-16
Notice Publication Date:
Rules Amended: 410-123-1260
Subject: 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.
Rules Coordinator: Sandy Cafourek—(503) 945-6430

410-123-1260
OHP Dental Benefits

(1) GENERAL:

(a) Early and Periodic Screening, Diagnosis and Treatment (EPSDT):

(A) Refer to Code of Federal Regulations (42 CFR 441, Subpart B) and OAR chapter 410, division 120 for definitions of the EPSDT program, eligible clients, and related services. EPSDT dental services include, but are not limited to:

(i) Dental screening services for eligible EPSDT individuals; and

(ii) Dental diagnosis and treatment that is indicated by screening at as early an age as necessary, needed for relief of pain and infections, restoration of teeth, and maintenance of dental health;

(B) Providers shall provide EPSDT services for eligible Division of Medical Assistance Programs (Division) clients according to the following documents:

(i) The Dental Services Program administrative rules (OAR chapter 410, division 123), for dentally appropriate services funded on the Oregon Health Evidence Review Commission's Prioritized List of Health Services (Prioritized List); and

(ii) The "Oregon Health Plan (OHP) — Recommended Dental Periodicity Schedule," dated January 1, 2010, incorporated in rule by reference and posted on the Division website in the Dental Services Provider Guide document at www.oregon.gov/oha/healthplan/Pages/dental.aspx;

(b) Restorative, periodontal, and prosthetic treatments:

(A) Documentation shall be included in the client's charts to support the treatment. Treatments shall be consistent with the prevailing standard of care and may be limited as follows:

(i) When prognosis is unfavorable;

(ii) When treatment is impractical;

(iii) A lesser-cost procedure would achieve the same ultimate result; or

(iv) The treatment has specific limitations outlined in this rule;

(B) Prosthetic treatment, including porcelain fused to metal crowns, are limited until rampant progression of caries is arrested and a period of adequate oral hygiene and periodontal stability is demonstrated; periodontal health needs to be stable and supportive of a prosthetic.

(2) ENHANCED ORAL HEALTH SERVICES IN PRIMARY CARE SETTINGS:

(a) Topical fluoride treatment:

(A) For children under 19 years of age, topical fluoride varnish may be applied by a licensed medical practitioner during a medical visit. Providers must bill:

(i) The Division directly when the client is fee-for-service (FFS), is enrolled in a Coordinated Care Organization (CCO) that does not include integrated medical and dental services, or is enrolled in a PHP that does not include integrated medical and dental services;

(ii) The client's CCO if the client is enrolled in a CCO that includes integrated medical and dental services;

(iii) Using a professional claim format with either the appropriate Current Dental Terminology (CDT) code (D1206-Topical Fluoride Varnish) or the appropriate Current Procedural Terminology (CPT) code (99188 - Application of topical fluoride varnish by a physician or other qualified health care professional);

(B) Topical fluoride treatment from a medical practitioner counts toward the overall maximum number of fluoride treatments, as described in subsection (4) of this rule;

(b) Assessment of a patient:

(A) For children under six years of age, CDT code D0191-Assessment of a Patient is covered as an enhanced oral health service in medical settings;

(B) For reimbursement in a medical setting, D0191-Assessment of a patient must include all of the following components:

(i) Caries risk assessment using a standardized tool endorsed by Oregon Oral Health Coalition, the American Dental Association, the American Academy of Pediatric Dentistry, or the American Academy of Pediatrics;

(ii) Anticipatory guidance and counseling with the client's caregiver on good oral hygiene practices and nutrition;

(iii) Referral to a dentist in order to establish a dental home;

(iv) Documentation in medical chart of risk assessment findings and service components provided;

(C) For reimbursement, the performing provider must meet all of the following criteria:

(i) Be a physician (MD or DO), an advance practice nurse, or a licensed physician assistant; and

(ii) Hold a certificate of completion from one of the following approved training programs within the previous three years:

(I) Smiles for Life; or

(II) First Tooth through the Oregon Oral Health Coalition;

(D) For reimbursement, the medical practitioners must bill:

(i) The Division directly when the client is fee-for-service (FFS), is enrolled in a Coordinated Care Organization (CCO) that does not include integrated medical and dental services, or is enrolled in a PHP that does not include integrated medical and dental services;

(ii) The client's CCO if the client is enrolled in a CCO that includes integrated medical and dental services;

(iii) Using a professional claim format with the appropriate CDT code (D0191-Assessment of a Patient);

(E) D0191 Assessment of a Patient may be reimbursed under this subsection up to a maximum of once every 12 months;

(F) D0191 Assessment of a Patient from a medical practitioner does not count toward the maximum number of CDT code D0191-Assessment of a Patient services performed by a dental practitioner described in subsection three (3) of this rule;

(c) For tobacco cessation services provided during a medical visit, follow criteria outlined in OAR 410-130-0190;

(3) DIAGNOSTIC SERVICES:

(a) Exams:

(A) For children under 19 years of age:

(i) The Division shall reimburse exams (billed as CDT codes D0120, D0145, D0150, or D0180) a maximum of twice every 12 months with the following limitations:

(I) D0150: once every 12 months when performed by the same practitioner;

(II) D0150: twice every 12 months only when performed by different practitioners;

(III) D0180: once every 12 months;

(ii) The Division shall reimburse D0160 only once every 12 months when performed by the same practitioner;

(B) For adults 19 years of age and older, the Division shall reimburse exams (billed as CDT codes D0120, D0150, D0160, or D0180) once every 12 months;

(C) For problem focused exams (urgent or emergent problems), the Division shall reimburse D0140 for the initial exam. The Division shall reimburse D0170 for related problem-focused follow-up exams. Providers must not bill D0140 and D0170 for routine dental visits;

(D) The Division only covers oral exams performed by medical practitioners when the medical practitioner is an oral surgeon;

(E) As the American Dental Association's Current Dental Terminology (CDT) codebook specifies, the evaluation, diagnosis, and treatment planning components of the exam are the responsibility of the dentist. The Division may not reimburse dental exams when performed by a dental hygienist (with or without an expanded practice permit);

(b) Assessment of a patient (D0191):

(A) When performed by a dental practitioner, the Division shall reimburse:

(i) If performed by a dentist outside of a dental office;

(ii) If performed by a dental hygienist with an expanded practice dental hygiene permit;

(iii) Only if an exam (D0120-D0180) is not performed on the same date of service. Assessment of a patient (D0191) is included as part of an exam (D0120-D0180);

(iv) For children under 19 years of age, a maximum of twice every 12 months; and

(v) For adults age 19 and older, a maximum of once every 12 months;

(B) An assessment does not take the place of the need for oral evaluations/exams;

(c) Radiographs:

(A) The Division shall reimburse for routine radiographs once every 12 months;

(B) The Division shall reimburse bitewing radiographs for routine screening once every 12 months;

(C) The Division shall reimburse a maximum of six radiographs for any one emergency;

(D) For clients under age six, radiographs may be billed separately every 12 months as follows:

(i) D0220 — once;

(ii) D0230 — a maximum of five times;

(iii) D0270 — a maximum of twice, or D0272 once;

(E) The Division shall reimburse for panoramic (D0330) or intra-oral complete series (D0210) once every five years, but both cannot be done within the five-year period;

(F) Clients shall be a minimum of six years old for billing intra-oral complete series (D0210). The minimum standards for reimbursement of intra-oral complete series are:

(i) For clients age six through 11- a minimum of ten periapicals and two bitewings for a total of 12 films;

(ii) For clients ages 12 and older - a minimum of ten periapicals and four bitewings for a total of 14 films;

(G) If fees for multiple single radiographs exceed the allowable reimbursement for a full mouth complete series (D0210), the Division shall reimburse for the complete series;

(H) Additional films may be covered if dentally or medically appropriate, e.g., fractures (Refer to OAR 410-123-1060 and 410-120-0000);

(I) If the Division determines the number of radiographs to be excessive, payment for some or all radiographs of the same tooth or area may be denied;

(J) The exception to these limitations is if the client is new to the office or clinic and the office or clinic is unsuccessful in obtaining radiographs from the previous dental office or clinic. Supporting documentation outlining the provider's attempts to receive previous records shall be included in the client's records;

(K) Digital radiographs, if printed, shall be on photo paper to assure sufficient quality of images.

(4) PREVENTIVE SERVICES:

(a) Prophylaxis:

(A) For children under 19 years of age — Limited to twice per 12 months;

(B) For adults 19 years of age and older — Limited to once per 12 months;

(C) Additional prophylaxis benefit provisions may be available for persons with high risk oral conditions due to disease process, pregnancy, medications, or other medical treatments or conditions, severe periodontal disease, rampant caries and for persons with disabilities who cannot perform adequate daily oral health care;

(D) Are coded using the appropriate Current Dental Terminology (CDT) coding:

(i) D1110 (Prophylaxis — Adult) — Use for clients 14 years of age and older; and

(ii) D1120 (Prophylaxis — Child) — Use for clients under 14 years of age;

(b) Topical fluoride treatment:

(A) For adults 19 years of age and older — Limited to once every 12 months;

(B) For children under 19 years of age — Limited to twice every 12 months;

(C) Additional topical fluoride treatments may be available, up to a total of four treatments per client within a 12-month period, when high-risk conditions or oral health factors are clearly documented in chart notes for clients who:

(i) Have high-risk oral conditions due to disease process, medications, other medical treatments or conditions, or rampant caries;

(ii) Are pregnant;

(iii) Have physical disabilities and cannot perform adequate, daily oral health care;

(iv) Have a developmental disability or other severe cognitive impairment that cannot perform adequate, daily oral health care; or

(v) Are under seven years old with high-risk oral health factors, such as poor oral hygiene, deep pits and fissures (grooves) in teeth, severely crowded teeth, poor diet, etc.;

(D) Fluoride limits include any combination of fluoride varnish (D1206) or other topical fluoride (D1208);

(c) Sealants (D1351):

(A) Are covered only for children under 16 years of age;

(B) The Division limits coverage to:

(i) Permanent molars; and

(ii) Only one sealant treatment per molar every five years, except for visible evidence of clinical failure;

(d) Tobacco cessation:

(A) For services provided during a dental visit, bill as a dental service using CDT code D1320 when the following brief counseling is provided:

(i) Ask patients about their tobacco-use status at each visit and record information in the chart;

(ii) Advise patients on their oral health conditions related to tobacco use and give direct advice to quit using tobacco and a strong personalized message to seek help; and

(iii) Refer patients who are ready to quit, utilizing internal and external resources, to complete the remaining three A's (assess, assist, arrange) of the standard intervention protocol for tobacco;

(B) The Division allows a maximum of ten services within a three-month period;

(e) Space management:

(A) The Division shall cover fixed and removable space maintainers (D1510, D1515, D1520, and D1525) only for clients under 19 years of age;

(B) The Division may not reimburse for replacement of lost or damaged removable space maintainers.

(f) The Division limits reimbursement for interim caries arresting medicament application (D1354) to silver diamine fluoride applications, with a maximum of two applications per year.

(5) RESTORATIVE SERVICES:

(a) Amalgam and resin-based composite restorations, direct:

(A) Resin-based composite crowns on anterior teeth (D2390) are only covered for clients under 21 years of age or who are pregnant;

(B) The Division reimburses posterior composite restorations at the same rate as amalgam restorations;

(C) The Division limits payment for replacement of posterior composite restorations to once every five years;

(D) The Division limits payment of covered restorations to the maximum restoration fee of four surfaces per tooth. Refer to the American Dental Association (ADA) CDT codebook for definitions of restorative procedures;

(E) Providers shall combine and bill multiple surface restorations as one line per tooth using the appropriate code. Providers may not bill multiple surface restorations performed on a single tooth on the same day on separate lines. For example, if tooth #30 has a buccal amalgam and a mesial-occlusal-distal (MOD) amalgam, then bill MOD, B, using code D2161 (four or more surfaces);

(F) The Division may not reimburse for an amalgam or composite restoration and a crown on the same tooth;

(G) Interim therapeutic restoration on primary dentition (D2941) is covered to restore and prevent progression of dental caries. Interim therapeutic restoration is not a definitive restoration.

(H) Reattachment of tooth fragment (D2921) is covered once in the lifetime of a tooth when there is no pulp exposure and no need for endodontic treatment.

(I) The Division reimburses for a surface not more than once in each treatment episode regardless of the number or combination of restorations;

(J) The restoration fee includes payment for occlusal adjustment and polishing of the restoration;

(b) Indirect crowns and related services:

(A) General payment policies:

(i) The fee for the crown includes payment for preparation of the gingival tissue;

(ii) The Division shall cover crowns only when:

(I) There is significant loss of clinical crown and no other restoration will restore function; and

(II) The crown-to-root ratio is 50:50 or better, and the tooth is restorable without other surgical procedures;

(iii) The Division shall cover core buildup (D2950) only when necessary to retain a cast restoration due to extensive loss of tooth structure from caries or a fracture and only when done in conjunction with a crown. Less than 50 percent of the tooth structure must be remaining for coverage of the core buildup.

(iv) Reimbursement of retention pins (D2951) is per tooth, not per pin;

(B) The Division shall not cover the following services:

(i) Endodontic therapy alone (with or without a post);

(ii) Aesthetics (cosmetics);

(iii) Crowns in cases of advanced periodontal disease or when a poor crown/root ratio exists for any reason;

(C) The Division shall cover the following only for clients under 21 years of age or who are pregnant:

(i) Prefabricated plastic crowns (D2932) are allowed only for anterior teeth, permanent or primary;

(ii) Stainless steel crowns (D2930/D2931) are allowed only for anterior primary teeth and posterior permanent or primary teeth;

(iii) Prefabricated stainless steel crowns with resin window (D2933) are allowed only for anterior teeth, permanent or primary;

(iv) Prefabricated post and core in addition to crowns (D2954/D2957);

(v) Permanent crowns (resin-based composite — D2710 and D2712, and porcelain fused to metal (PFM) — D2751 and D2752) as follows:

(I) Limited to teeth numbers 6–11, 22 and 27 only, if dentally appropriate;

(II) Limited to four in a seven-year period. This limitation includes any replacement crowns allowed according to (E)(i) of this rule;

(III) Only for clients at least 16 years of age; and

(IV) Rampant caries are arrested, and the client demonstrates a period of oral hygiene before prosthetics are proposed;

(vi) PFM crowns (D2751 and D2752) shall also meet the following additional criteria:

(I) The dental practitioner has attempted all other dentally appropriate restoration options and documented failure of those options;

(II) Written documentation in the client's chart indicates that PFM is the only restoration option that will restore function;

(III) The dental practitioner submits radiographs to the Division for review; history, diagnosis, and treatment plan may be requested. (See OAR 410-123-1100 Services Reviewed by the Division);

(IV) The client has documented stable periodontal status with pocket depths within 1–3 millimeters. If PFM crowns are placed with pocket depths of 4 millimeters and over, documentation shall be maintained in the client's chart of the dentist's findings supporting stability and why the increased pocket depths will not adversely affect expected long-term prognosis;

(V) The crown has a favorable long-term prognosis; and

(VI) If the tooth to be crowned is a clasp/abutment tooth in partial denture, both prognosis for the crown itself and the tooth's contribution to partial denture shall have favorable expected long-term prognosis;

(D) Crown replacement:

(i) Permanent crown replacement limited to once every seven years;

(ii) All other crown replacement limited to once every five years; and

(iii) The Division may make exceptions to crown replacement limitations due to acute trauma, based on the following factors:

(I) Extent of crown damage;

(II) Extent of damage to other teeth or crowns;

(III) Extent of impaired mastication;

(IV) Tooth is restorable without other surgical procedures; and

(V) If loss of tooth would result in coverage of removable prosthetic;

(E) Crown repair (D2980) is limited to only anterior teeth.

(6) ENDODONTIC SERVICES:

(a) Endodontic therapy:

(A) Pulpal therapy on primary teeth (D3230 and D3240) is covered only for clients under 21 years of age;

(B) For permanent teeth:

(i) Anterior and bicuspid endodontic therapy (D3310 and D3320) is covered for all OHP Plus clients; and

(ii) Molar endodontic therapy (D3330):

(I) For clients through age 20, is covered only for first and second molars; and

(II) For clients age 21 and older who are pregnant, is covered only for first molars;

(C) The Division covers endodontics only if the crown-to-root ratio is 50:50 or better and the tooth is restorable without other surgical procedures;

(b) Endodontic retreatment and apicoectomy:

(A) The Division does not cover retreatment of a previous root canal or apicoectomy for bicuspid or molars;

(B) The Division limits either a retreatment or an apicoectomy (but not both procedures for the same tooth) to symptomatic anterior teeth when:

(i) Crown-to-root ratio is 50:50 or better;

(ii) The tooth is restorable without other surgical procedures; or

(iii) If loss of tooth would result in the need for removable prosthodontics;

(C) Retrograde filling (D3430) is covered only when done in conjunction with a covered apicoectomy of an anterior tooth;

(c) The Division does not allow separate reimbursement for open-and-drain as a palliative procedure when the root canal is completed on the same date of service or if the same practitioner or dental practitioner in the same group practice completed the procedure;

(d) The Division covers endodontics if the tooth is restorable within the OHP benefit coverage package;

(e) Apexification/recalcification procedures:

(A) The Division limits payment for apexification to a maximum of five treatments on permanent teeth only;

(B) Apexification/recalcification procedures are covered only for clients under 21 years of age or who are pregnant.

(7) PERIODONTIC SERVICES:

(a) Surgical periodontal services:

(A) Gingivectomy/Gingivoplasty (D4210 and D4211) — limited to coverage for severe gingival hyperplasia where enlargement of gum tissue occurs that prevents access to oral hygiene procedures, e.g., Dilantin hyperplasia; and

(B) Includes six months routine postoperative care;

(C) The Division shall consider gingivectomy or gingivoplasty to allow for access for restorative procedure, per tooth (D4212) as part of the restoration and will not provide a separate reimbursement for this procedure;

(b) Non-surgical periodontal services:

(A) Periodontal scaling and root planing (D4341 and D4342):

(i) For clients through age 20, allowed once every two years;

(ii) For clients age 21 and over, allowed once every three years;

(iii) A maximum of two quadrants on one date of service is payable, except in extraordinary circumstances;

(iv) Quadrants are not limited to physical area, but are further defined by the number of teeth with pockets 5 mm or greater:

(I) D4341 is allowed for quadrants with at least four or more teeth with pockets 5 mm or greater;

(II) D4342 is allowed for quadrants with at least two teeth with pocket depths of 5 mm or greater;

(v) Prior authorization for more frequent scaling and root planing may be requested when:

(I) Medically/dentally necessary due to periodontal disease as defined above is found during pregnancy; and

(II) Client's medical record is submitted that supports the need for increased scaling and root planing;

(B) Full mouth debridement (D4355):

(i) For clients through age 20, allowed only once every two years;

(ii) For clients age 21 and older, allowed once every three years;

(c) Periodontal maintenance (D4910):

(A) For clients through age 20, allowed once every six months;

(B) For clients age 21 and older:

(i) Limited to following periodontal therapy (surgical or non-surgical) that is documented to have occurred within the past three years;

(ii) Allowed once every twelve months;

(iii) Prior authorization for more frequent periodontal maintenance may be requested when:

(I) Medically/dentally necessary, such as due to presence of periodontal disease during pregnancy; and

(II) Client's medical record is submitted that supports the need for increased periodontal maintenance (chart notes, pocket depths and radiographs);

(d) Records shall clearly document the clinical indications for all periodontal procedures, including current pocket depth charting and/or radiographs;

(e) The Division may not reimburse for procedures identified by the following codes if performed on the same date of service:

(A) D1110 (Prophylaxis — adult);

(B) D1120 (Prophylaxis — child);

(C) D4210 (Gingivectomy or gingivoplasty — four or more contiguous teeth or bounded teeth spaces per quadrant);

(D) D4211 (Gingivectomy or gingivoplasty — one to three contiguous teeth or bounded teeth spaces per quadrant);

(E) D4341 (Periodontal scaling and root planning — four or more teeth per quadrant);

(F) D4342 (Periodontal scaling and root planning — one to three teeth per quadrant);

(G) D4355 (Full mouth debridement to enable comprehensive evaluation and diagnosis); and

(H) D4910 (Periodontal maintenance).

(8) REMOVABLE PROSTHODONTIC SERVICES:

(a) Clients age 16 years and older are eligible for removable resin base partial dentures (D5211-D5212) and full dentures (complete or immediate, D5110-D5140);

(b) The Division limits full dentures for clients age 21 and older to only those clients who are recently edentulous:

(A) For the purposes of this rule:

(i) "Edentulous" means all teeth removed from the jaw for which the denture is being provided; and

(ii) "Recently edentulous" means the most recent extractions from that jaw occurred within six months of the delivery of the final denture (or, for fabricated prosthetics, the final impression) for that jaw;

(B) See OAR 410-123-1000 for detail regarding billing fabricated prosthetics;

(c) The fee for the partial and full dentures includes payment for adjustments during the six-month period following delivery to clients;

(d) Resin partial dentures (D5211-D5212):

(A) The Division may not approve resin partial dentures if stainless steel crowns are used as abutments;

(B) For clients through age 20, the client shall have one or more anterior teeth missing or four or more missing posterior teeth per arch with resulting space equivalent to that loss demonstrating inability to masticate. Third molars are not a consideration when counting missing teeth;

(C) For clients age 21 and older, the client shall have one or more missing anterior teeth or six or more missing posterior teeth per arch with documentation by the provider of resulting space causing serious impairment to mastication. Third molars are not a consideration when counting missing teeth;

(D) The dental practitioner shall note the teeth to be replaced and teeth to be clasped when requesting prior authorization (PA);

(e) Replacement of removable partial or full dentures, when it cannot be made clinically serviceable by a less costly procedure (e.g., reline, rebase, repair, tooth replacement), is limited to the following:

(A) For clients at least 16 years and under 21 years of age, the Division shall replace full or partial dentures once every ten years, only if dentally appropriate. This does not imply that replacement of dentures or partials shall be done once every ten years, but only when dentally appropriate;

(B) For clients 21 years of age and older, the Division may not cover replacement of full dentures but shall cover replacement of partial dentures once every ten (10) years only if dentally appropriate;

(C) The ten year limitations apply to the client regardless of the client's OHP or Dental Care Organization (DCO)/Coordinated Care Organization (CCO) enrollment status at the time the client's last denture or partial was received. For example: A client receives a partial on February 1, 2002, and becomes a FFS OHP client in 2005. The client is not eligible for a replacement partial until February 1, 2012. The client gets a replacement partial on February 3, 2012 while FFS and a year later enrolls in a DCO or CCO. The client would not be eligible for another partial until February 3, 2022, regardless of DCO, CCO, or FFS enrollment;

(D) Replacement of partial dentures with full dentures is payable ten years after the partial denture placement. Exceptions to this limitation may be made in cases of acute trauma or catastrophic illness that directly or indirectly affects the oral condition and results in additional tooth loss. This pertains to, but is not limited to, cancer and periodontal disease resulting from pharmacological, surgical, and medical treatment for aforementioned conditions. Severe periodontal disease due to neglect of daily oral hygiene may not warrant replacement;

(f) The Division limits reimbursement of adjustments and repairs of dentures that are needed beyond six months after delivery of the denture as follows for clients 21 years of age and older:

(A) A maximum of four times per year for:

(i) Adjusting complete and partial dentures, per arch (D5410-D5422);

(ii) Replacing missing or broken teeth on a complete denture, each tooth (D5520);

(iii) Replacing broken tooth on a partial denture, each tooth (D5640);

(iv) Adding tooth to existing partial denture (D5650);

(B) A maximum of two times per year for:

(i) Repairing broken complete denture base (D5510);

(ii) Repairing partial resin denture base (D5610);

(iii) Repairing partial cast framework (D5620);

(iv) Repairing or replacing broken clasp (D5630);

(v) Adding clasp to existing partial denture (D5660);

(g) Replacement of all teeth and acrylic on cast metal framework (D5670, D5671):

(A) Is covered for clients age 16 and older a maximum of once every ten (10) years, per arch;

(B) Ten years or more shall have passed since the original partial denture was delivered;

(C) Is considered replacement of the partial so a new partial denture may not be reimbursed for another ten years; and

(D) Requires prior authorization as it is considered a replacement partial denture;

(h) Denture rebase procedures:

(A) The Division shall cover rebases only if a reline may not adequately solve the problem;

(B) For clients through age 20, the Division limits payment for rebase to once every three years;

(C) For clients age 21 and older:

(i) There shall be documentation of a current reline that has been done and failed; and

(ii) The Division limits payment for rebase to once every five years;

(D) The Division may make exceptions to this limitation in cases of acute trauma or catastrophic illness that directly or indirectly affects the oral condition and results in additional tooth loss. This pertains to, but is not limited to, cancer and periodontal disease resulting from pharmacological, surgical, and medical treatment for aforementioned conditions. Severe periodontal disease due to neglect of daily oral hygiene may not warrant rebasing;

(i) Denture reline procedures:

(A) For clients through age 20, the Division limits payment for reline of complete or partial dentures to once every three years;

(B) For clients age 21 and older, the Division limits payment for reline of complete or partial dentures to once every five years;

(C) The Division may make exceptions to this limitation under the same conditions warranting replacement;

(D) Laboratory relines:

(i) Are not payable prior to six months after placement of an immediate denture; and

(ii) For clients through age 20, are limited to once every three years;

(iii) For clients age 21 and older, are limited to once every five years;

(j) Interim partial dentures (D5820-D5821, also referred to as "flippers"):

(A) Are allowed if the client has one or more anterior teeth missing; and

(B) The Division shall reimburse for replacement of interim partial dentures once every five years but only when dentally appropriate;

(k) Tissue conditioning:

(A) Is allowed once per denture unit in conjunction with immediate dentures; and

(B) Is allowed once prior to new prosthetic placement;

(9) MAXILLOFACIAL PROSTHETIC SERVICES:

(a) Fluoride gel carrier (D5986) is limited to those patients whose severity of oral disease causes the increased cleaning and fluoride treatments allowed in rule to be insufficient. The dental practitioner shall document failure of those options prior to use of the fluoride gel carrier;

(b) All other maxillofacial prosthetics (D5900-D5999) are medical services. Refer to the "Covered and Non-Covered Dental Services" document and OAR 410-123-1220:

(A) Bill for medical maxillofacial prosthetics using the professional (CMS1500, DMAP 505 or 837P) claim format:

(B) For clients receiving services through a CCO or PHP, bill medical maxillofacial prosthetics to the CCO or PHP;

(C) For clients receiving medical services through FFS, bill the Division.

(10) ORAL SURGERY SERVICES:

(a) Bill the following procedures in an accepted dental claim format using CDT codes:

(A) Procedures that are directly related to the teeth and supporting structures that are not due to a medical condition or diagnosis, including such procedures performed in an ambulatory surgical center (ASC) or an inpatient or outpatient hospital setting;

(B) Services performed in a dental office setting or an oral surgeon's office:

(i) Such services include, but are not limited to, all dental procedures, local anesthesia, surgical postoperative care, radiographs, and follow-up visits;

(ii) Refer to OAR 410-123-1160 for any PA requirements for specific procedures;

(b) Bill the following procedures using the professional claim format and the appropriate American Medical Association (AMA) CPT procedure and ICD-10 diagnosis codes:

(A) Procedures that are a result of a medical condition (i.e., fractures, cancer);

(B) Services requiring hospital dentistry that are the result of a medical condition/diagnosis (i.e., fracture, cancer);

(c) Refer to the "Covered and Non-Covered Dental Services" document to see a list of CDT procedure codes on the Prioritized List that may also have CPT medical codes. See OAR 410-123-1220. The procedures listed as "medical" on the table may be covered as medical procedures, and the table may not be all-inclusive of every dental code that has a corresponding medical code;

(d) For clients enrolled in a DCO or CCO responsible for dental services, the DCO or CCO shall pay for those services in the dental plan package;

(e) Oral surgical services performed in an ASC or an inpatient or outpatient hospital setting:

(A) Require PA;

(B) For clients enrolled in a CCO or FCHP, the CCO or FCHP shall pay for the facility charge and anesthesia services. For clients enrolled in a Physician Care Organization (PCO), the PCO shall pay for the outpatient facility charge (including ASCs) and anesthesia. Refer to the current Medical Surgical Services administrative rules in OAR chapter 410, division 130 for more information;

(C) If a client is enrolled in a CCO or PHP, the provider shall contact the CCO or PHP for any required authorization before the service is rendered;

(f) All codes listed as "by report" require an operative report;

(g) The Division covers payment for tooth re-implantation only in cases of traumatic avulsion where there are good indications of success;

(h) Biopsies collected are reimbursed as a dental service. Laboratory services of biopsies are reimbursed as a medical service;

(i) The Division does not cover surgical excisions of soft tissue lesions (D7410-D7415);

(j) Extractions — Includes local anesthesia and routine postoperative care, including treatment of a dry socket if done by the provider of the extraction. Dry socket is not considered a separate service;

(k) Surgical extractions:

(A) Include local anesthesia and routine post-operative care;

(B) The Division limits payment for surgical removal of impacted teeth or removal of residual tooth roots to treatment for only those teeth that have acute infection or abscess, severe tooth pain, or unusual swelling of the face or gums;

(C) The Division does not cover alveoloplasty in conjunction with extractions (D7310 and D7311) separately from the extraction;

(D) The Division covers alveoplasty not in conjunction with extractions (D7320-D7321) only for clients under 21 years of age or who are pregnant;

(l) Frenulectomy/frenulotomy (D7960) and frenuloplasty (D7963):

(A) The Division covers either frenulectomy or frenuloplasty once per lifetime per arch only for clients under age 21;

(B) The Division covers maxillary labial frenulectomy only for clients age 12 through 20;

(C) The Division shall cover frenulectomy/frenuloplasty in the following situations:

(i) When the client has ankyloglossia;

(ii) When the condition is deemed to cause gingival recession; or

(iii) When the condition is deemed to cause movement of the gingival margin when the frenum is placed under tension;

(m) The Division covers excision of pericoronal gingival (D7971) only for clients under age 21 or who are pregnant.

(11) ORTHODONTIA SERVICES:

(a) The Division limits orthodontia services and extractions to eligible clients:

(A) With the ICD-10-CM diagnosis of:

(i) Cleft palate; or

(ii) Cleft palate with cleft lip; and

(B) Whose orthodontia treatment began prior to 21 years of age; or

(C) Whose surgical corrections of cleft palate or cleft lip were not completed prior to age 21.

(b) PA is required for orthodontia exams and records. A referral letter from a physician or dentist indicating diagnosis of cleft palate or cleft lip shall be included in the client's record and a copy sent with the PA request;

(c) Documentation in the client's record shall include diagnosis, length, and type of treatment;

(d) Payment for appliance therapy includes the appliance and all follow-up visits;

(e) Orthodontists evaluate orthodontia treatment for cleft palate/cleft lip as two phases. Stage one is generally the use of an activator (palatal expander), and stage two is generally the placement of fixed appliances (banding). The Division shall reimburse each phase separately;

(f) The Division shall pay for orthodontia in one lump sum at the beginning of each phase of treatment. Payment for each phase is for all orthodontia-related services. If the client transfers to another orthodontist during treatment, or treatment is terminated for any reason, the orthodontist shall refund to the Division any unused amount of payment after applying the following formula: Total payment minus $300.00 (for banding) multiplied by the percentage of treatment remaining;

(g) The Division shall use the length of the treatment plan from the original request for authorization to determine the number of treatment months remaining;

(h) As long as the orthodontist continues treatment, the Division may not require a refund even though the client may become ineligible for medical assistance sometime during the treatment period;

(i) Code:

(A) D8660 — PA required (reimbursement for required orthodontia records is included);

(B) Codes D8010-D8690 — PA required.

(12) ADJUNCTIVE GENERAL AND OTHER SERVICES:

(a) Fixed partial denture sectioning (D9120) is covered only when extracting a tooth connected to a fixed prosthesis and a portion of the fixed prosthesis is to remain intact and serviceable, preventing the need for more costly treatment;

(b) Anesthesia:

(A) Only use general anesthesia or IV sedation for those clients with concurrent needs: age; physical, medical or mental status; or degree of difficulty of the procedure (D9223 and D9243);

(B) The Division reimburses providers for general anesthesia or IV sedation as follows:

(i) D9223 or D9243: For each 15-minute period, up to three and a half hours on the same day of service.

(ii) Each 15-minute period represents a quantity of one. Enter this number in the quantity column;

(C) The Division reimburses administration of Nitrous Oxide (D9230) per date of service, not by time;

(D) Oral pre-medication anesthesia for conscious sedation (D9248):

(i) Limited to clients under 13 years of age;

(ii) Limited to four times per year;

(iii) Includes payment for monitoring and Nitrous Oxide; and

(iv) Requires use of multiple agents to receive payment;

(E) Upon request, providers shall submit a copy of their permit to administer anesthesia, analgesia, and sedation to the Division;

(F) For the purpose of Title XIX and Title XXI, the Division limits payment for code D9630 to those oral medications used during a procedure and is not intended for "take home" medication;

(c) The Division limits reimbursement of house/extended care facility call (D9410) only for urgent or emergent dental visits that occur outside of a dental office. This code is not reimbursable for provision of preventive services or for services provided outside of the office for the provider or facilities' convenience;

(d) Oral devices/appliances (E0485, E0486):

(A) These may be placed or fabricated by a dentist or oral surgeon but are considered a medical service;

(B) Bill the Division, CCO, or the PHP for these codes using the professional claim format.

Stat. Auth.: ORS 413.042 & 414.065
Stats. Implemented: ORS 414.065

Hist.: HR 3-1994, f. & cert. ef. 2-1-94; HR 20-1995, f. 9-29-95, cert. ef. 10-1-95; 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; OMAP 55-2004, f. 9-10-04, cert. ef. 10-1-04; OMAP 12-2005, f. 3-11-05, cert. ef. 4-1-05; DMAP 25-2007, f. 12-11-07, cert, ef. 1-1-08; DMAP 18-2008, f. 6-13-08, cert. ef. 7-1-08; 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 28-2013(Temp), f. 6-26-13, cert. ef. 7-1-13 thru 12-28-13; DMAP 68-2013, f. 12-5-13, cert. ef. 12-23-13; DMAP 75-2013(Temp), f. 12-31-13, cert. ef. 1-1-14 thru 6-30-14; DMAP 10-2014(Temp), f. & cert. ef. 2-28-14 thru 8-27-14; DMAP 19-2014(Temp), f. 3-28-14, cert. ef. 4-1-14 thru 6-30-14; DMAP 36-2014, f. & cert. ef. 6-27-14; DMAP 56-2014, f. 9-26-14, cert. ef. 10-1-14; 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 51-2015, f. 9-22-15, cert. ef. 10-1-15; DMAP 65-2015, f. 11-13-15, cert. ef. 12-1-15; DMAP 74-2015(Temp), f. 12-18-15, cert. ef. 1-1-16 thru 6-28-16; DMAP 5-2016(Temp), f. & cert. ef. 2-9-16 thru 6-28-16

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Rule Caption: Amending Prior Authorization Approval Criteria Guide
Adm. Order No.: DMAP 6-2016(Temp)
Filed with Sec. of State: 2-11-2016
Certified to be Effective: 2-12-16 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:

(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 co-morbid 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 February 12, 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

Oregon Health Authority,
Health Policy and Analytics
Chapter 409

Rule Caption: Adding additional licensing boards required to submit information to Health Care Workforce Database
Adm. Order No.: OHP 2-2016(Temp)
Filed with Sec. of State: 2-8-2016
Certified to be Effective: 2-8-16 thru 8-2-16
Notice Publication Date:
Rules Amended: 409-026-0100, 409-026-0110, 409-026-0120, 409-026-0130, 409-026-0140
Subject: The Oregon Health Authority is filing a temporary rule amendment to implement changes to the health care workforce database administrative rules to comply with Senate Bill 230, enacted in the 2015 legislative session. The legislation added several additional licensing boards to report health care workforce information. The Authority is reducing the fee amount and updating language in the rule to reflect the current organizational structure.

ORS 676.410 and Senate Bill 230 authorizes the establishment of fees that are reasonably calculated to reimburse the actual cost of collecting, maintaining, analyzing, and reporting health care workforce information. The Oregon Health Authority has amended the maximum fee from $5 per licensee for biennial renewal and $2.50 per licensee for annual renewal to $4.00 and $2.00 per licensee, respectively. The health care workforce regulatory boards may incur separate costs to amend their systems to collect and submit the required health care workforce information to the Authority.
Rules Coordinator: Zarie Haverkate—(503) 931-6420

409-026-0100
Definitions

The following definitions apply to OAR 409-026-0100 to 409-026-0140:

(1) "Authority" means the Oregon Health Authority.

(2) "Electronic media" means an electronic data storage medium.

(3) "Health care workforce information" means data collected using the license renewal process for selected Oregon health care professionals.

(4) "Health care workforce regulatory board" means the following:

(a) Board of Licensed Dietitians;

(b) Board of Medical Imaging;

(c) Occupational Therapy Licensing Board;

(d) Oregon Board of Dentistry;

(e) Oregon Board of Examiners for Speech-Language Pathology and Audiology;

(f) Oregon Board of Licensed Professional Counselors and Therapists;

(g) Oregon Board of Naturopathic Medicine;

(h) Oregon Board of Optometry;

(i) Oregon Medical Board;

(j) Oregon State Board of Licensed Social Workers;

(k) Oregon State Board of Nursing;

(l) Physical Therapist Licensing Board;

(m) Respiratory Therapist and Polysomnographic Technologist Licensing Board;

(n) State Board of Chiropractic Examiners;

(o) State Board of Massage Therapists;

(p) State Board of Pharmacy; and

(q) State Board of Psychologist Examiners.

Stat. Auth.: ORS 676.410
Stats. Implemented: ORS 676.410
Hist.: OHP 4-2009, f. 12-23-09, cert. ef. 1-1-10; OHP 2-2016(Temp), f. & cert. ef. 2-8-16 thru 8-2-16

409-026-0110
Data Elements

(1) Pursuant to ORS 676.410, a health care workforce regulatory board must collaborate with the Oregon Health Authority to collect health care workforce information. The information may include but is not limited to the following:

(a) Gender;

(b) Race;

(c) Ethnicity

(d) Languages spoken;

(e) Year of birth;

(f) Educational background;

(g) Specialty training or certification;

(h) Practice status and hours;

(i) Practice type and setting;

(j) Geographic location of practice; and

(k) Future practice plans.

(2) The Authority may not include any health care workforce information relating to licensees' disciplinary actions or criminal background.

(3) The Authority shall collaborate with health care workforce regulatory boards to determine data elements and specifications and communicate the information to the health care workforce regulatory boards no later than six months prior to data collection.

(4) The Authority shall provide a data collection tool that health care workforce regulatory boards may use to collect required data elements.

(5) The healthcare workforce regulatory boards that utilize the Authority's data collection tool shall provide verification information to the Authority, which may include:

(a) License number;

(b) Name;

(c) Birth year; and

(d) Original license date.

Stat. Auth.: ORS 676.410
Stats. Implemented: ORS 676.410
Hist.: OHP 4-2009, f. 12-23-09, cert. ef. 1-1-10; OHP 2-2016(Temp), f. & cert. ef. 2-8-16 thru 8-2-16

409-026-0120
Reporting Schedule and Format

(1) Health care licensing boards shall include data collection set forth OAR 409-026-0110 in the license renewal process, using the Authority's provided data collection tool or other tool agreed upon by the Authority.

(2) Collection of the health care workforce information required by this rule shall begin on the following dates:

(a) For health care professionals licensed by the Oregon State Board of Nursing; May 1, 2009;

(b) For health care professionals licensed by the Oregon Medical Board; October 1, 2009;

(c) For health care professionals licensed by the Oregon Occupational Therapy Licensing Board, the Oregon Board of Dentistry, the Oregon Physical Therapist Licensing Board, the State Board of Pharmacy, and the Board of Examiners of Licensed Dieticians; for license renewal periods on or after January 1, 2010.

(d) For health care professionals licensed by the Respiratory Therapist and Polysomnographic Technologist Licensing Board, and Oregon State Board of Social Workers; June 1, 2016.

(e) For chiropractic physicians licensed by the Oregon Board of Chiropractic Examiners; June 1, 2016. For chiropractic assistants licensed by the Oregon Board of Chiropractic Examiners; June 1, 2017.

(f) For health care professionals licensed by the Oregon Board of Massage Therapists, Oregon State Board of Licensed Professional Counselors and Therapists, and Oregon State Board of Psychologist Examiners; July 1, 2016.

(g) For the health care professionals licensed by the Oregon Board of Medical Imaging; September 1, 2016.

(h) For health care professionals licensed by the Oregon Board of Naturopathic Medicine; November 1, 2016.

(i) For the health care professionals licensed by the Oregon Board of Optometry; June 1, 2017.

(j) For the health care professionals licensed by the Oregon Board of Examiners for Speech-language Pathology and Audiology; November 1, 2017.

(3) Health care workforce regulatory boards shall submit required information to the Authority according to the following schedule:

(a) For health care workforce regulatory boards with a fixed licensing period or periods, the information shall be submitted within 90 days of the close of each period;

(b) For health care workforce regulatory boards with rolling licensing periods, the information shall be submitted annually, no later than July 1 of each year, or a date agreed upon by the Authority.

(4) The health care workforce information shall be submitted in one file that includes unique records for each individual license renewed during the reporting period.

(5) The records must be assembled in the format proscribed by the Authority and must be submitted electronically or on electronic media.

Stat. Auth.: ORS 676.410
Stats. Implemented: ORS 676.410

Hist.: OHP 4-2009, f. 12-23-09, cert. ef. 1-1-10; OHP 2-2016(Temp), f. & cert. ef. 2-8-16 thru 8-2-16

409-026-0130
Fees

(1) The Authority shall establish a per-license fee to cover the cost of collecting and reporting health care workforce information. The fee shall be calculated by adding the costs necessary to compile, maintain, and analyze the health care workforce information and dividing that cost by the approximate number of individuals licensed in Oregon.

(2) Each health care licensing board shall submit, in a format agreed to by the Authority and each Board, the total number of individuals renewed in accordance with the schedule set forth in OAR 409-026-0120 for use in determination of fee calculation for the previous license period.

(3) The fee may not exceed $4.00 per individual licensed for two years and $2.00 per individual licensed for one year for individuals renewing on or after January 1, 2016. If the per-license fee calculation results in a figure above $4.00, the Authority shall review the process for calculating the fee with a stakeholder group with representation from each health care workforce regulatory board.

(4) The health care workforce information fees collected by health care workforce regulatory boards shall be paid to the Authority on a schedule agreed to by the Authority and each health care workforce regulatory board.

(5) Late payments are subject to recovery in accordance with the laws of the State of Oregon.

Stat. Auth.: ORS 676.410
Stats. Implemented: ORS 676.410
Hist.: OHP 4-2009, f. 12-23-09, cert. ef. 1-1-10; OHP 2-2016(Temp), f. & cert. ef. 2-8-16 thru 8-2-16

409-026-0140
Data Access

(1) For purposes of planning or analysis, the Authority may share de-identified, individual-level health care workforce data with other state agencies, including but not limited to:

(a) Agencies, offices, or contractors of the Authority.

(b) The Oregon Employment Department.

(2) The Authority may not provide individual-level public data sets to a non-governmental agency without written consent from the relevant health care workforce regulatory board.

Stat. Auth.: ORS 676.410
Stats. Implemented: ORS 676.410
Hist.: OHP 4-2009, f. 12-23-09, cert. ef. 1-1-10; OHP 2-2016(Temp), f. & cert. ef. 2-8-16 thru 8-2-16

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Oregon Health Authority, Public Health Division
Chapter 333

Rule Caption: New school, children's facility and health department immunization reporting requirements; removal of old religious exemptions
Adm. Order No.: PH 1-2016
Filed with Sec. of State: 1-20-2016
Certified to be Effective: 1-20-16
Notice Publication Date: 12-1-2015
Rules Amended: 333-050-0010, 333-050-0040, 333-050-0050, 333-050-0080, 333-050-0095, 333-050-0100, 333-050-0110
Rules Repealed: 333-050-0010(T), 333-050-0040(T), 333-050-0050(T), 333-050-0080(T), 333-050-0095(T), 333-050-0100(T), 333-050-0110(T)
Subject: The Oregon Health Authority, Public Health Division is permanently amending administrative rules in chapter 333, division 50, relating to school immunization law. These rule amendments remove the provision allowing old religious exemptions signed prior to March 1, 2014. Parents of children with religious exemptions signed prior to March 1, 2014 will be required to submit updated documentation. These rule amendments clarify reporting requirements for schools and children's facilities, and add requirements for reporting immunization and nonmedical exemption status by vaccine for children in attendance for whom vaccine status is required to be documented. These rule amendments change the time by which a certified letter must be sent to a non-compliant school or children's facility from six calendar days to five working days. These rule amendments clarify notice to parents of susceptible children of exclusion when there is a case of a restrictable disease. These rule amendments describe new requirements for schools, children's facilities and local health departments to make immunization rates available.
Rules Coordinator: Brittany Sande—(971) 673-1291

333-050-0010
Definitions Used in the Immunization Rules

As used in OAR 333-050-0010 through 333-050-0140:

(1) "Certificate of Immunization Status" means a form provided or approved by the Public Health Division on which to enter the child's immunization record.

(2) "Complete" means a category assigned to any child whose record indicates that the child is fully immunized or has immunity documentation as specified by OAR 333-050-0050(2) or (6).

(3) "Contraindication" means either a child or a household member's physical condition or disease that renders a particular vaccine improper or undesirable in accordance with the current recommendations of the Advisory Committee on Immunization Practices, Department of Health and Human Services, Centers for Disease Control and Prevention, and the American Academy of Pediatrics.

(4) "County Immunization Status Report" means a report submitted by the local health department (or school or facility if there is no local health department) to the Public Health Division to report annually the number of children as specified, in the area served, and the number susceptible to the vaccine preventable diseases covered by these rules.

(5) "Evidence of Immunization" means an appropriately signed and dated statement indicating the month, day and year each dose of each vaccine was received.

(6) "Exclude" or "Exclusion" means not being allowed to attend a school or facility pursuant to an Exclusion Order from the local health department based on non-compliance with the requirements of ORS 433.267(1), and these rules.

(7) "Exclusion Order for Incomplete Immunization or Insufficient Information" means a form provided or approved by the Public Health Division for local health department and Public Health Division use in excluding a child who, based on the child's record, is in non-compliance with the vaccine requirements of OAR 333-050-0050(2) or who has insufficient information on his or her record to determine whether the child is in compliance. Forms submitted for approval must contain the substantive content of the Public Health Division form.

(8) "Exclusion Order for No Record" means a form provided or approved by the Public Health Division for local health department, Public Health Division and school or facility use in excluding a child with no record. Forms submitted for approval must contain the substantive content of the Public Health Division form.

(9) "Exempted Children's Facilities" are those that:

(a) Are primarily for supervised training in a specific subject, including, but not limited to, dancing, drama, or music;

(b) Are primarily an incident of group athletic or social activities sponsored by or under the supervision of an organized club or hobby group;

(c) Are operated at a facility where children may only attend on a limited basis not exceeding four different days per year; or

(d) Are operated on an occasional basis by a person, sponsor, or organization not ordinarily engaged in providing child care.

(10) "Exemption" means either a documented medical or nonmedical exemption.

(11) "Health Care Practitioner" means a practitioner of the healing arts who has within the scope of the practitioner's license, the authority to order immunizations, to include: M.D., D.O., N.D., nurse practitioners, and physician assistants, or a registered nurse working under the direction of an M.D., D.O., N.D. or nurse practitioner.

(12) "Immunity Documentation" means a written statement signed by a physician or an authorized representative of the local health department that the child should be exempted from receiving specified immunizations due to a disease history based on a health care practitioner's diagnosis or the results of an immune titer.

(13) "Incomplete" means a category assigned to any child whose record indicates, on or before the date the Primary Review Summary form is due at the local health department, that the child:

(a) Is not fully immunized as required in OAR 333-050-0050(2); and

(b) Does not have a completed exemption or immunity documentation for a vaccine for which the child is not fully immunized.

(14) "Insufficient" means a category assigned to any child whose record does not have enough information to make a proper determination

about the child's immunization status, including unsigned records, vaccine dates before day of birth, dates out of sequence, and missing doses in the middle of a vaccine series. This category does not apply to signed but undated records.

(15) "Local Health Department" means the District or County Board of Health, Public Health Officer, Public Health Administrator or local public health agency having jurisdiction within the area.

(16) "Main Office" means a central administrative location at the school or children's facility where immunization rates are made available to parents.

(17) "Medical Exemption" means a document signed by a physician or an authorized representative of the local health department stating that the child should be exempted from receiving specified immunizations based on a medical diagnosis resulting from a specific medical contraindication.

(18) "New Enterer" means a child who meets one of the following criteria:

(a) Infants or preschoolers attending an Oregon facility;

(b) Infants or preschoolers attending a drop-in facility on five or more different days within one year;

(c) Children initially attending a school at the entry level (prekindergarten, kindergarten or the first grade, whichever is the entry level);

(d) Children from a home-school setting initially attending a school or facility at any grade (preschool through 12th grade); or

(e) Children initially attending a school or facility after entering the United States from a foreign country at any grade (preschool through 12th grade).

(19) "Non-Compliance" means failure to comply with any requirement of ORS 433.267(1) or these rules.

(20) "Nonmedical Exemption" means a document, on a form prescribed by the Public Health Division, signed by the parent stating that the parent is declining one or more immunizations on behalf of the child, and including documentation of completion of the vaccine educational module or a signature from a health care practitioner verifying discussion of risks and benefits of immunization.

(21) "Post-Secondary Education Institution" means:

(a) A state institution of higher education under the jurisdiction of the State Board of Higher Education;

(b) A community college operated under ORS chapter 341;

(c) A school or division of Oregon Health and Science University; or

(d) An Oregon-based, generally accredited, private institution of higher education, where:

(A) Oregon-based, generally accredited includes any post-secondary institution described in OAR 583-030-0005(2) or classified as exempt under ORS 348.604; and

(B) Private institution refers to any non-public post-secondary education institution.

(22) "Primary Review Summary" means a form provided or approved by the Public Health Division to schools and facilities for enclosure with records forwarded to the local health department for secondary review and follow up. Forms submitted for approval must contain the substantive content of the Public Health Division form.

(23) "Primary Review Table" means a document provided by the Public Health Division for the judgment of compliance or non-compliance with the required immunizations.

(24) "Public Health Division" means the Oregon Health Authority, Public Health Division.

(25) "Record" means a statement relating to compliance with the requirements of ORS 433.267(1)(a) through (c) and these rules.

(26) "Restrictable Disease" means a communicable disease for which the local health department or administrator has the authority to exclude a child as described in OAR 333-019-0010 through 333-019-0014.

(27) "School Year" means an academic year as adopted by the school or school district (usually September through June).

(28) "Susceptible" means being at risk of contracting one of the diseases covered by these rules, by virtue of being in one or more of the following categories:

(a) Not being complete on the immunizations required by these rules;

(b) Possessing a medical exemption from any of the vaccines required by these rules due to a specific medical diagnosis based on a specific medical contraindication; or

(c) Possessing a nonmedical exemption for any of the vaccines required by these rules.

(29) "These Rules" means OAR 333-050-0010 through 333-050-0140.

(30) "Transferring Child" means a child moving from:

(a) One facility to another facility, only when records are requested in advance of attendance from a previous facility;

(b) One school in this state to another school in this state when the move is not the result of a normal progression of grade level; or

(c) A school in another state to a school in this state.

(31) "Up-to-Date" means not complete, currently on schedule and not subject to exclusion, based on the immunization schedule for spacing doses, as prescribed in OAR 333-050-0120.

(32) "Vaccine Educational Module" means a resource approved by the Public Health Division to fulfill the requirement of receiving information about the risks and benefits of immunization in order to claim a nonmedical exemption.

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

Stat. Auth.: ORS 433.004 & 433.273

Stats. Implemented: ORS 433.001, 433.004, 433.006 & 433.235 - 433.284

Hist.: HD 21-1981, f. & ef. 10-21-81; HD 17-1982, f. & ef. 8-13-82; HD 12-1983, f. & ef. 8-1-83; HD 22-1983, f. & ef. 11-1-83; HD 15-1986, f. & ef. 7-15-86; HD 8-1987, f. & ef. 7-15-87; HD 6-1991, f. & cert. ef. 5-15-91; HD 9-1992, f. & cert. ef. 8-14-92; HD 29-1994, f. & cert. ef. 12-2-94; HD 16-1997, f. & cert. ef. 12-3-97; OHD 14-2001, f. & cert. ef. 7-12-01, Renumbered from 333-019-0021; OHD 26-2001, f. & cert. ef. 12-4-01; OHD 21-2002, f. & cert. ef. 12-13-02; PH 35-2004(Temp), f. & cert. ef. 11-10-04 thru 5-6-05; PH 2-2005, f. & cert. ef. 2-3-05; PH 1-2006, f. & cert. ef. 1-27-06; PH 12-2007, f. & cert .ef. 9-27-07; PH 6-2008, f. & cert. ef. 3-17-08; PH 24-2010, f. & cert. ef. 9-30-10; PH 3-2014, f. 1-30-14, cert. ef. 3-1-14; PH 13-2015(Temp), f. & cert. ef. 8-24-15 thru 2-19-16; PH 1-2016, f. & cert. ef. 1-20-16

333-050-0040

Statements (Records) Required

(1) The statement initially documenting evidence of immunization, immunity or exemption under ORS 433.267(1)(a) through (c) must be on a Certificate of Immunization Status form or a form approved by the Public Health Division and include one or more of the following:

(a) Evidence of immunization signed by the parent, health care practitioner or an authorized representative of the local health department;

(b) A written statement of medical exemption signed by a physician or authorized representative of the local health department and approved by an authorized representative of the local health department;

(c) A written statement of immunity documentation approved by an authorized representative of the local health department;

(d) A written statement of nonmedical exemption signed by the parent, including documentation of completion of a vaccine educational module approved by the Public Health Division or signature of a health care practitioner verifying that the risks and benefits of immunizations have been discussed with the parent; or

(e) A written statement of disease history (immunity documentation) for varicella signed by a parent, physician or authorized representative of the local health department.

(2) If age appropriate, required for the child's grade level, and the child has not claimed an exemption or immunity documentation, a minimum of one dose each of the following vaccines must be received for new enterers prior to attendance: Polio, Measles, Mumps, Rubella, Hepatitis B, Hepatitis A, Varicella, Haemophilus influenzae Type b vaccine and Diphtheria/Tetanus/Pertussis containing vaccine. (See Primary Review Table); [Table not included. See ED. NOTE.]

(3) Evidence of immunization shall include the month, day and year of each dose of each vaccine received and must be appropriately signed and dated to indicate verification by the signer.

(a) If evidence of immunization includes the month and year, but the day of the dose is not provided, the administrator shall attempt to get the day of immunization from the parent, the ALERT Immunization Information System or another source. If no day is obtainable, the administrator may use the last day of the month to assess the immunization status for the child.

(b) Pre-signed Certificate of Immunization Status forms without vaccine dates are not allowed.

(c) If a Certificate of Immunization Status form is signed but not dated, the person who receives the form at the school or facility may date the form with the date it was received.

(4) The school or facility may choose to complete or update a Certificate of Immunization Status form, by transcribing dates from, attaching and referencing on the form, one or more of the following records listed in subsections (a) through (f) of this section.

(a) A health care practitioner documented immunization record;

(b) An unsigned record on health care practitioner or clinic letterhead;

(c) An unsigned record printout from the statewide immunization information system, ALERT IIS. ALERT IIS records may be placed in the student's file without transcription onto a Certificate of Immunization

Status as long as the printout represents a complete or up-to-date immunization history. If the ALERT IIS record is an update to the Certificate of Immunization Status, it may be attached to the original certificate without transcription;

(d) An unsigned record printout from a computer system approved by the Public Health Division as specified in OAR 333-050-0060(5). Record printouts for Public Health Division-approved computer systems may be placed in the student's file without transcription onto a Certificate of Immunization Status as long as the printout represents a complete or up-to-date immunization history, and includes a history of chickenpox disease if present;

(e) A written statement signed and dated by the parent; or

(f) A statement electronically mailed by the parent.

(5) The Certificate of Immunization Status form must be signed and dated by the person transcribing the information.

(6) When a transferring student enters an Oregon school, the receiving school will attempt to obtain immunization records from the previous school. If immunization records are not immediately available, the receiving school may, according to school policy, allow the student to enroll conditionally. If immunization records are not received, the school will include the student on the Primary Review Summary report.

(7) If the student transfers to a new school district, except when the move is due to the normal progression of grade levels, such as to a junior high or senior high from a feeder school, the receiving school shall ensure that the transferred records are on a signed Certificate of Immunization Status form or another Public Health Division-approved form. The original transferred records that are not on an approved form shall be attached to a Certificate of Immunization Status form and the form shall be marked with a reference to the attached records, signed, and dated by the person transcribing the information on the form.

(8) The records relating to the immunization status of children in schools shall be transferred to the receiving schools pursuant to ORS 326.575(2) within 30 days.

(9) When a new enterer is admitted in error to a school or facility without an immunization history, immunity documentation or appropriately signed exemption, the school or facility may contact the local health department to request that an Exclusion Order for No Record be issued, or include the student on the Primary Review Summary report.

(10) When a child is determined by the facility, school or school district to be homeless and does not have a completed Certificate of Immunization Status on file with the school, the student will be allowed to enroll conditionally.

(a) If immunization records are not received the school will include the student on the Primary Review Summary report or contact the local health department to request that an Exclusion Order for No Record be issued with an exclusion date of not less than 30 days after initial attendance.

(b) School staff shall make every effort to help the family compile an immunization record for the student, including requesting a record from a previous school, ALERT IIS or a previous medical provider.

(11) Where a child attends both a facility and a school, the school is responsible for reporting and for enforcing these rules in accordance with the school and facility vaccine requirements. However, because of the need for outbreak control when school is not in session, the facility administrator will be responsible for requesting that the parent also provide an up-to-date Certificate of Immunization Status to the facility. If the parent does not comply, the facility administrator shall inform the parent that in the event of a case of vaccine preventable disease the child may be excluded until it is determined that the child is not susceptible or the local health authority has determined that the risk of exposure within the school or facility has passed.

(12) Evidence of nonmedical exemption must include documentation that the parent has completed a vaccine educational module approved by the Public Health Division or signature from a health care practitioner verifying that risks and benefits of immunization have been discussed with the parent. Information provided must be consistent with information published by the Centers for Disease Control and Prevention, including epidemiology, the prevention of disease through use of vaccination, and the safety and efficacy of vaccines.

(a) The Public Health Division will make available to parents a no-cost internet based vaccine educational module.

(A) Criteria for the vaccine educational module must include:

(i) Information consistent with information published by the Centers for Disease Control and Prevention;

(ii) Information about the benefits and risks of each vaccine for which a parent is claiming a nonmedical exemption;

(iii) Information about the epidemiology, prevention of disease through use of vaccination, and the safety and efficacy of vaccines; and

(B) A person who wishes to have a vaccine educational module approved by the Oregon Health Authority shall submit the module to the medical director of the Public Health Division, Immunization Program. For approval, the vaccine educational module must contain the substantive content of the internet based vaccine educational module made available by the Public Health Division. The medical director must review the module to determine if it meets the criteria in these rules including the requirement that a vaccine educational module present information that is consistent with information published by the Centers for Disease Control and Prevention. Approval or disapproval shall be made in writing. If the module is disapproved the medical director must explain the reasons for disapproval.

(C) An official certification receipt to provide documentation of completion of the vaccine educational module must be in a form approved by the Public Health Division, Immunization Program.

(b) A health care practitioner may discuss with the parent the risks and benefits of immunization and provide documentation for the parent to claim a nonmedical exemption.

(A) The information provided by the health care practitioner must contain the substantive content of Internet based vaccine educational module made available by the Public Health Division. The content may be adjusted to meet individual parents' concerns.

(B) The health care practitioner will provide documentation to parents on a form prescribed by the Public Health Division that the practitioner has provided vaccine information to the parent.

(c) Parents claiming a nonmedical exemption must provide documentation of completion of a vaccine educational module or a signed document from a health care practitioner to the administrator.

(d) The administrator must keep a copy of the documentation of nonmedical exemption with the child's Certificate of Immunization Status.

(13) The evidence of nonmedical exemption from a health care practitioner or the viewing of the educational module must:

(a) Have occurred within 12 months of the parent signing of the nonmedical exemption; and

(b) Specify the vaccines about which information about the benefits and risks has been provided and for which a nonmedical exemption may be claimed for the child.

(14) When a child reaches the age of medical consent in Oregon, 15 years of age, the child may sign his or her own Certificate of Immunization Status and complete the process for obtaining a nonmedical exemption.

Stat. Auth.: ORS 433.004 & 433.273

Stats. Implemented: ORS 433.001, 433.004, 433.006 & 433.235 - 433.284

Hist.: HD 21-1981, f. & ef. 10-21-81; HD 17-1982, f. & ef. 8-13-82; HD 12-1983, f. & ef. 8-1-83; HD 15-1986, f. & ef. 7-15-86; HD 8-1987, f. & ef. 7-15-87; HD 6-1991, f. & cert. ef. 5-15-91; HD 9-1992, f. & cert. ef. 8-14-92; HD 16-1997, f. & cert. ef. 12-3-97; OHD 14-2001, f. & cert. ef. 7-12-01, Renumbered from 333-019-0030; OHD 26-2001, f. & cert. ef. 12-4-01; OHD 21-2002, f. & cert. ef. 12-13-02; PH 35-2004(Temp), f. & cert. ef. 11-10-04 thru 5-6-05; PH 2-2005, f. & cert. ef. 2-3-05; PH 1-2006, f. & cert. ef. 1-27-06; PH 12-2007, f. & cert .ef. 9-27-07; PH 6-2008, f. & cert. ef. 3-17-08; PH 24-2010, f. & cert. ef. 9-30-10; PH 3-2014, f. 1-30-14, cert. ef. 3-1-14; PH 13-2015(Temp), f. & cert. ef. 8-24-15 thru 2-19-16; PH 1-2016, f. & cert. ef. 1-20-16

333-050-0050
Immunization Requirements

(1) For purposes of this section, immunization against the following diseases means receipt of any vaccine licensed by the United States Food and Drug Administration (or the foreign equivalent) for the prevention of that disease.

(2) For purposes of ORS 433.267(1), immunizations are required as follows (see Primary Review Table to determine the number of required doses for a child's age or grade):

(a) Diphtheria/Tetanus/Pertussis containing vaccine (DTaP) — Five doses must be received unless:

(A) The fourth dose was given at, within four days prior to or after the fourth birthday, in which case the child is complete with four doses; or

(B) The third dose of Diphtheria/Tetanus containing vaccine was received at, within four days prior to or after the seventh birthday, in which case the child is complete with three doses.

(b) Polio — Four doses must be received unless:

(A) The third dose was given at, within four days prior to or after the fourth birthday, in which case the child is complete with three doses of polio vaccine; or

(B) The student is 18 years of age or older. Polio vaccination at or after the 18th birthday is not required.

(c) Measles — Two doses must be received at or after 12 months of age. Vaccine doses given four days or fewer before 12 months of age are acceptable. The second dose must be received at least 24 days after first dose.

(d) Rubella — One dose must be received at or after 12 months of age. Vaccine doses given four days or fewer before 12 months of age are acceptable.

(e) Mumps — One dose must be received at or after 12 months of age. Vaccine doses given four days or fewer before 12 months of age are acceptable.

(f) Haemophilus influenzae Type b (Hib) — Up to four doses depending on the child's current age and when previous doses were administered.

(g) Hepatitis B — Up to three doses must be received. If the first dose was received at or after 11 years of age and the second dose is received at least four months after dose one, the child is complete with two doses. Vaccine doses given four days or fewer before the 11th birthday are acceptable.

(h) Varicella — Up to two doses must be received, depending on the child's age when the first dose was administered. The first dose must be received at or after 12 months of age. Vaccine doses given four days or fewer before 12 months of age are acceptable. Second dose, if required, must be received at least 24 days after first dose.

(i) Hepatitis A — Two doses must be received at or after 12 months of age. Vaccine doses given four days or fewer before 12 months of age are acceptable. Beginning school year 2008–2009, the requirement for Hepatitis A vaccine will be phased in by grade. (See Primary Review Table.) [Table not included. See ED. NOTE.]

(j) Tetanus/Diphtheria/Pertussis booster (Tdap) — One dose must be received at or after seven years of age, unless the last Diphtheria/Tetanus containing vaccine was given less than five years ago.

(3) Interrupted series: If there is a lapse of time between doses longer than that recommended by the standard described in OAR 333-050-0120, the schedule should not be restarted. Immunization may resume with the next dose in the series.

(4) A child shall not be excluded from school for failing to receive a required vaccine if the State Health Officer has determined that there is a vaccine shortage and that is the reason the child has not received the vaccine. Any vaccine that has been waived due to a vaccine shortage will be required at the next review cycle, once the shortage has been lifted. The Public Health Division shall notify local health departments, schools and facilities of any shortages that affect their procedures under these rules.

(5) The local public health officer, after consultation with the Public Health Division, may allow a child to attend a school or facility without meeting the minimum immunization requirements in case of temporary local vaccine shortage.

(a) The local health department shall provide a letter signed by the local health officer to the parent of the affected student detailing which vaccines the student is being exempted from. The letter must state that the student will receive an Exclusion Order if the student's record is not updated with the missing doses prior to the next exclusion cycle.

(b) A copy of the letter must be attached to the student's Certificate of Immunization Status on file at the school or facility.

(c) A photocopied form letter signed by the local health officer may be used by the local health department when the shortage is expected to affect more than one child.

(d) If the vaccine is still unavailable at the next exclusion cycle, the local health department, with the agreement of the Public Health Division, will not issue Exclusion Orders for the unavailable vaccine.

(6) The following immunity documentation satisfies the immunization requirements for the specified vaccines:

(a) Immunity documentation for Measles, Mumps or Rubella vaccination due to a disease history may be certified by a physician or an authorized representative of the local health department for a child who has immunity based on a health care practitioner's diagnosis;

(b) Immunity documentation for Measles, Mumps or Rubella vaccination due to a documented immune titer may be certified by a physician or an authorized representative of the local health department;

(c) Immunity documentation for Hib vaccination may be certified by a physician or authorized representative of the local health department for a child who experienced invasive Haemophilus influenzae Type b disease at 24 months of age or older;

(d) Immunity documentation for Varicella vaccine may be signed by the parent for history of varicella. The date of the disease is not required. This immunity documentation will be automatically authorized by the local health department.

(e) Immunity documentation for Varicella based on laboratory confirmation of immunity may be certified by a physician or authorized representative of the local health department;

(f) Immunity documentation for Hepatitis B vaccination based on laboratory confirmation of immunity or confirmation of carrier status may be certified by a physician or authorized representative of the local health department; and

(g) Immunity documentation for Hepatitis A vaccination based on laboratory confirmation of immunity may be certified by a physician or authorized representative of the local health department.

(7) Children possessing the following medical exemptions are susceptible to the diseases for which they are exempt from vaccination:

(a) Exemption for Measles, Mumps, Rubella or Varicella vaccination may be certified by a physician or an authorized representative of the local health department for a post-pubertal female when she is currently pregnant or there is a significant risk of her becoming pregnant within one month; and

(b) Exemption for one or more immunizations shall be established by a diagnosis based on a specific medical contraindication certified in a letter from the physician or an authorized representative of the local health department. The vaccines, medical diagnosis, practitioner's name, address and phone number must be documented and attached to the record.

(8) Exemptions and immunity documentation submitted to the school or facility must be in English.

(9) A child may attend a school or facility under ORS 433.267(1) if the child is up-to-date and remains up-to-date and in compliance with immunization schedules for spacing between doses presented in OAR 333-050-0120.

(10) If evidence is presented to the local health department that an Exclusion Order was issued in error because a vaccine was given within the four-day grace period recommended by the Advisory Committee on Immunization Practices as published in the General Recommendations on Immunization, the local health department shall rescind the Exclusion Order. The local health department shall notify the child's school or facility when an Exclusion Order is rescinded.

(11) In situations where a child's vaccine history presents an unusual problem not covered by these rules, the local health department may use its judgment to make a final determination of the child's immunization status.

(12) A nonmedical exemption from immunization requirement is allowed for one or more of the vaccines. Parents claiming a nonmedical exemption must select which vaccines a child is being exempted from by checking the appropriate boxes on the Certificate of Immunization Status and submit the Certificate of Immunization status and the documentation specified in OAR 333-050-0040(12)(a)(C) or 333-050-0040(12)(b)(B) to the school or facility.

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

Stat. Auth.: ORS 433.004 & 433.273

Stats. Implemented: ORS 433.001, 433.004, 433.006 & 433.235 - 433.284

Hist.: HD 21-1981, f. & ef. 10-21-81; HD 17-1982, f. & ef. 8-13-82; HD 12-1983, f. & ef. 8-1-83; HD 8-1987, f. & ef. 7-15-87; HD 6-1991, f. & cert. ef. 5-15-91; HD 10-1991, f. & cert. ef. 7-23-91; HD 9-1992, f. & cert. ef. 8-14-92; HD 16-1997, f. & cert. ef. 12-3-97; OHD 12-2000, f. & cert. ef. 12-26-00; OHD 14-2001, f. & cert. ef. 7-12-01, Renumbered from 333-019-0035; OHD 26-2001, f. & cert. ef. 12-4-01; OHD 21-2002, f. & cert. ef. 12-13-02; PH 35-2004(Temp), f. & cert. ef. 11-10-04 thru 5-6-05; PH 2-2005, f. & cert. ef. 2-3-05; PH 1-2006, f. & cert. ef. 1-27-06; PH 12-2007, f. & cert .ef. 9-27-07; PH 1-2008(Temp), f. & cert. ef. 1-8-08 thru 6-30-08; PH 6-2008, f. & cert. ef. 3-17-08; PH 16-2008(Temp), f. & cert. ef. 10-27-08 thru 4-20-09; Administrative correction 5-20-09; PH 13-2009(Temp), f. 12-17-09, cert. ef. 12-21-09 thru 6-18-10; Administrative correction 7-27-10; PH 24-2010, f. & cert. ef. 9-30-10; PH 3-2014, f. 1-30-14, cert. ef. 3-1-14; PH 13-2015(Temp), f. & cert. ef. 8-24-15 thru 2-19-16; PH 1-2016, f. & cert. ef. 1-20-16

333-050-0080
Exclusion

(1) The date of exclusion shall be the third Wednesday in February.

(a) If additional exclusion cycles are conducted, the exclusion dates shall be set at no less than 14 calendar days from the date that the Exclusion Orders are mailed.

(b) Exclusion occurs when records have not been received or updated by the starting time of the school or facility on the specified exclusion day.

(2) The local health department shall use an Exclusion Order for Incomplete Immunization or Insufficient Information or an Exclusion Order for No Record depending upon the reason the child is found to be in non-compliance with ORS 433.267(1) and these rules:

(a) At least 14 days before the exclusion day, the local health department shall mail by first class mail an appropriately completed and signed order of exclusion to the parent of each child determined to be out of compliance with these rules.

(b) If a student is listed by the school as the "person responsible," the Exclusion Order will be sent to the student.

(c) In the event that the local health department has knowledge that the address of the parent provided on the Primary Review Summary form is incorrect, the local health department shall use all reasonable means to notify the parent, including inquiries to the school or facility administrator, to establish the appropriate mailing address and sending home from the school a copy of the Exclusion Order with the child.

(d) For all orders issued, one copy of the Exclusion Order shall be sent to the administrator and the local health department shall retain one copy. The local health department shall also retain copies of the records of children to be excluded until notification from the school or facility that such children are in compliance, or for one year.

(3) On the specified date of exclusion, the administrator shall exclude from school or facility attendance all children so ordered by the local health department until the requirements specified by the local health department are verified by the administrator in accordance with section (9) of this rule.

(4) The local health department shall maintain copies of immunization records of children excluded and shall maintain contact with administrators regarding the status of such children.

(5) If children whose records are not updated on the specified exclusion day arrive at their school or facility, the administrator shall make every effort to contact their parent by phone. The administrator shall place excluded children in a space away from the other children until their parent arrives to pick them up or until they are returned home by regular school district transportation.

(6) If the excluded children do not meet the requirements specified by the local health department in accordance with section (9) of this rule and do not return to school within four school days, it is the responsibility of the public school administrator, as proper authority, to notify the attendance supervisor of the unexcused absence. The attendance supervisor is required to proceed as required in ORS 339.080 and 339.090.

(7) Children who have been issued an Exclusion Order are not entitled to begin or continue in attendance in any school or facility in Oregon while the Exclusion Order is still in effect. Administrators who receive or are otherwise made aware of the records of a child from another school or facility containing an Exclusion Order that has not been cancelled shall notify the parent and immediately exclude the child until the requirements specified on the Exclusion Order are met and verified by the administrator.

(8) Students in treatment facilities or court-mandated residential correctional facilities, including but not limited to Oregon Youth Authority closed custody sites, are not subject to exclusion. The administrator of such treatment or residential correctional facilities must comply with all other provisions of these rules, including submission of the required reports as specified by these rules. The administrator must ensure that students have complete or up-to-date immunization records, a medical or nonmedical exemption or immunity documentation for all vaccines required for the student's grade.

(9) Compliance:

(a) For children excluded for insufficient information or incomplete immunizations, compliance will be achieved by submitting to the administrator one of the statements allowed in OAR 333-050-0040(1);

(b) For children excluded for no record, compliance will be achieved by submitting to the administrator evidence of immunizations that includes at least one dose of each vaccine required for that grade or age, a medical or nonmedical exemption or immunity documentation.

(c) When the administrator verifies that the required information has been provided or that an appropriate immunity documentation or medical or nonmedical exemption has been provided, the child shall be in compliance with ORS 433.267(1) and these rules and qualified for school or facility attendance.

(10) Twelve calendar days after the mandatory exclusion date, the administrator shall ensure that:

(a) The Primary Review Summary form returned from the local health department is updated by appropriately marking the current status of each child as specified (including children listed as having no record);

(b) The mathematics on the Primary Review Summary form are accurate including the number of children in the full school or children's facility, kindergarten and seventh grade with:

(A) The specified number of doses of each vaccine or all the doses required for the child's grade;

(B) Nonmedical exemptions for each vaccine;

(C) Nonmedical exemptions from each source, whether documentation from a health care practitioner or vaccine educational module;

(D) Nonmedical exemptions;

(E) Medical exemptions; and

(F) No record.

(c) A copy of the revised Primary Review Summary form is submitted to the local health department on that day. The administrator shall maintain a file copy of the updated Primary Review Summary form.

(11) The local health department shall review the updated Primary Review Summary form for mathematical accuracy. Any errors should be corrected by contacting the affected school or facility.

Stat. Auth.: ORS 433.004 & 433.273

Stats. Implemented: ORS 433.001, 433.004, 433.006 & 433.235 - 433.284

Hist.: HD 21-1981, f. & ef. 10-21-81; HD 23-1981, f. & ef. 11-17-81; HD 17-1982, f. & ef. 8-13-82; HD 12-1983, f. & ef. 8-1-83; HD 22-1983, f. & ef. 11-1-83; HD 8-1987, f. & ef. 7-15-87; HD 6-1991, f. & cert. ef. 5-15-91; HD 9-1992, f. & cert. ef. 8-14-92; HD 16-1997, f. & cert. ef. 12-3-97; OHD 14-2001, f. & cert. ef. 7-12-01, Renumbered from 333-019-0050; OHD 26-2001, f. & cert. ef. 12-4-01; OHD 21-2002, f. & cert. ef. 12-13-02; PH 35-2004(Temp), f. & cert. ef. 11-10-04 thru 5-6-05; PH 2-2005, f. & cert. ef. 2-3-05; PH 1-2006, f. & cert. ef. 1-27-06; PH 12-2007, f. & cert .ef. 9-27-07; PH 6-2008, f. & cert. ef. 3-17-08; PH 24-2010, f. & cert. ef. 9-30-10; PH 3-2014, f. 1-30-14, cert. ef. 3-1-14; PH 13-2015(Temp), f. & cert. ef. 8-24-15 thru 2-19-16; PH 1-2016, f. & cert. ef. 1-20-16

333-050-0095
School/Facility Compliance

(1) In the event that a school or facility fails to comply with these rules, the local health department shall make a verbal, documented contact with the non-compliant school or facility that covers:

(a) The specific requirements of the state's immunization law and rules; and

(b) Establishes a four-working-day time frame for the school or facility administrator to comply.

(2) If the school or facility still fails to comply, the local health department shall notify the Public Health Division of the name and address of the school or facility.

(3) The local health department shall send to the Public Health Division, via mail, electronic mail or facsimile, documentation of contacts made with the non-compliant school or facility.

(4) Within five working days of notification by the local health department, the Public Health Division shall send a certified letter to the non-compliant school or facility that:

(a) Notifies the school or facility that it is out of compliance and how it is out of compliance with the immunization law and rules;

(b) Establishes seven calendar days to comply before the matter is referred to the Attorney General's office; and

(c) Notifies the school or facility that a civil penalty may be imposed if the school or facility does not comply within seven calendar days.

(5) The Public Health Division shall send copies of the letter to the Child Care Division of the Employment Department, the Department of Education and/or the school district superintendent as appropriate.

(6) The Public Health Division shall notify the local health department of the new due date for compliance.

(7) If the school or facility does not comply by the new due date, the local health department shall notify the Public Health Division.

(8) The Public Health Division may impose a civil penalty on a school or facility that does not comply with the immunization law or rules after a notification of non-compliance. Civil penalties will be imposed as follows:

(a) One day late in complying: $100;

(b) Two days late in complying: $200;

(c) Three days late in complying: $300;

(d) Four days late in complying: $400;

(e) Five days or more late in complying: $500 per day until there is compliance.

(9) A notice of imposition of civil penalties shall comply with ORS 183.745.

(10) The Public Health Division shall forward all documentation of contacts to the Attorney General's office for action if the school or facility does not comply by the new date.

Stat. Auth.: ORS 431.262, 433.004, 433.273

Stats. Implemented: ORS 431.262, 433.001, 433.004, 433.006 & 433.235 - 433.284

Hist.: OHD 26-2001, f. & cert. ef. 12-4-01; PH 12-2007, f. & cert .ef. 9-27-07; PH 6-2008, f. & cert. ef. 3-17-08; PH 24-2010, f. & cert. ef. 9-30-10; PH 13-2015(Temp), f. & cert. ef. 8-24-15 thru 2-19-16; PH 1-2016, f. & cert. ef. 1-20-16

333-050-0100
Follow Up

(1) In the event that the local health department receives records that are original documents from a school or facility, the local health department shall return such records to the administrator.

(2) The administrator shall be responsible for updating records each time the parents, health care practitioner, or an authorized representative of the local health department provides evidence of immunization or exemption for each child.

(3) Information on disease restrictions for schools and facilities can be found in OAR 333-019-0010 and 333-019-0014. When there is a case of restrictable disease, the parent of a susceptible child must be notified verbally or in writing by the local health department, school or children's facility administrator or designee when the child is to be excluded and for how long the exclusion will occur.

(4) The administrator shall maintain a system to track and report susceptible persons. The local health department may request that the list of persons susceptible to a disease be sorted by classroom, grade, or school. The administrator will provide the list within one calendar day of the local health department's request in order to facilitate appropriate disease control measures.

(5) The local health department or the Public Health Division may conduct school or facility record validation surveys to ensure compliance with ORS 433.235 through 433.280 and these rules.

(6) The local health department may issue Exclusion Orders as needed for compliance with these rules during the validation survey process.

(7) The Public Health Division may issue Exclusion Orders when the Public Health Division is the recognized Public Health Authority in the county.

Stat. Auth.: ORS 433.004 & 433.273
Stats. Implemented: ORS 433.001, 433.004, 433.006 & 433.235 - 433.284
Hist.: HD 21-1981, f. & ef. 10-21-81; HD 17-1982, f. & ef. 8-13-82; HD 12-1983, f. & ef. 8-1-83; HD 6-1991, f. & cert. ef. 5-15-91; HD 9-1992, f. & cert. ef. 8-14-92; OHD 14-2001, f. & cert. ef. 7-12-01, Renumbered from 333-019-0055; OHD 26-2001, f. & cert. ef. 12-4-01; OHD 21-2002, f. & cert. ef. 12-13-02; PH 35-2004(Temp), f. & cert. ef. 11-10-04 thru 5-6-05; PH 2-2005, f. & cert. ef. 2-3-05; PH 1-2006, f. & cert. ef. 1-27-06; PH 12-2007, f. & cert .ef. 9-27-07; PH 6-2008, f. & cert. ef. 3-17-08; PH 3-2014, f. 1-30-14, cert. ef. 3-1-14; PH 13-2015(Temp), f. & cert. ef. 8-24-15 thru 2-19-16; PH 1-2016, f. & cert. ef. 1-20-16

333-050-0110
Annual Reporting Requirements

(1) The local health department shall submit a County Immunization Status Report to the Public Health Division annually no later than 23 calendar days after the third Wednesday in February.

(2) On or before the last day of April, the Public Health Division shall publicize a summary of the immunization status of children in schools, children's facilities, kindergarten and seventh grade attending schools and facilities for each local public health jurisdiction.

(3) On or before May 15, the local health department shall make available immunization rates to each school and children's facility in the area served by the local health department, by disease, of children in the local area:

(a) Compiled from school reports for kindergarten through 12th grade combined; and

(b) Calculated from ALERT IIS for children 19 months up to kindergarten age.

(4) The local health department may request assistance from the Oregon Health Authority in calculating the rates described in section (3) of this rule.

(5) The administrator of the school or children's facility must make available a summary of the immunization status, for the school or children's facility and local area, by 30 days after the first day of school and by 30 days after the third Wednesday in February.

(a) The summary of immunization status for the school or children's facility must include:

(A) The percentage of children with all the doses required for each child's age or grade, by vaccine, for the school or children's facility and for the local area;

(B) The percentage of children with nonmedical exemptions by vaccine for the school or children's facility;

(C) The percentage of children with no record for the school or children's facility;

(D) The percentage of children with medical exemptions for one or more vaccine for the school or children's facility;

(E) The number of children for whom documentation of immunization status is required at the school or children's facility;

(F) The number of enrolled children for whom documentation of immunization status is not required at the school or children's facility;

(G) The number of children 18 months of age and younger in attendance at the school or children's facility who are not required to have completed the full series of vaccines required before kindergarten because of their age.

(b) Rates must be made available:

(A) In the main office;

(B) On the school or children's facility website, if available. Rates may be posted on a social media website, such as Facebook, if this is the primary website for the school or children's facility. Public school rates must also be made available on the district website. If individual school webpages are linked to a district website, a central district webpage containing the required information for each school may be used to comply with this requirement; and

(C) By sending to a parent of each child for whom documentation of immunization status is required at the school or children's facility, in electronic or paper format, in a clear and easy to understand manner.

(c) Children's facilities shall make rates available based on the school calendar in the local area.

(d) Rates may include immunization data collected in the previous school year.

(6) Schools and children's facilities for which immunization records are required for fewer than 10 children in attendance 18 months of age up to kindergarten are exempt from the requirements of OAR 333-050-0110(5) for these children. These sites must still comply with the reporting requirements specified in OAR 333-050-0060 and 333-050-0080.

(7) Schools and children's facilities for which immunization records for a vaccine are required for fewer than 10 students in attendance in kindergarten grade and older are exempt from the requirements of OAR 333-050-0110(5) for that vaccine for these students. These sites must still comply with the reporting requirements specified in OAR 333-050-0060 and 333-050-0080.

Stat. Auth.: ORS 433.004 & 433.273
Stats. Implemented: ORS 433.001, 433.004, 433.006 & 433.235 - 433.284
Hist.: HD 21-1981, f. & ef. 10-21-81; HD 23-1981, f. & ef. 11-17-81; HD 17-1982, f. & ef. 8-13-82; HD 12-1983, f. & ef. 8-1-83; HD 8-1987, f. & ef. 7-15-87; HD 6-1991, f. & cert. ef. 5-15-91; HD 16-1997, f. & cert. ef. 12-3-97; OHD 14-2001, f. & cert. ef. 7-12-01, Renumbered from 333-019-0060; OHD 26-2001, f. & cert. ef. 12-4-01; PH 12-2007, f. & cert .ef. 9-27-07; PH 6-2008, f. & cert. ef. 3-17-08; PH 24-2010, f. & cert. ef. 9-30-10; PH 3-2014, f. 1-30-14, cert. ef. 3-1-14; PH 13-2015(Temp), f. & cert. ef. 8-24-15 thru 2-19-16; PH 1-2016, f. & cert. ef. 1-20-16

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Rule Caption: Required certification for Local School Dental Sealant Programs
Adm. Order No.: PH 2-2016
Filed with Sec. of State: 1-29-2016
Certified to be Effective: 1-29-16
Notice Publication Date: 12-1-2015
Rules Adopted: 333-028-0300, 333-028-0310, 333-028-0320, 333-028-0330, 333-028-0340, 333-028-0350
Subject: The Oregon Health Authority (OHA), Public Health Division, Oral Health Program is permanently adopting administrative rules in chapter 333, division 28 to certify and provide oversight of local school dental sealant programs. Senate Bill 660 (Oregon Laws 2015, chapter 791), which passed during the 2015 legislative session, requires local school dental sealant programs to be certified by the Oregon Health Authority before dental sealants can be provided in a school setting. Certification will provide schools and parents with assurance that a minimum set of standards will be met while delivering dental sealant services. The adopted rules provide guidance for local school dental sealant programs on the requirements for certification; application process for certification and recertification; monitoring of local school dental sealant programs; and decertification or provisional certification for programs out of compliance.
Rules Coordinator: Brittany Sande—(971) 673-1291

333-028-0300
Purpose

(1) The Oral Health Program supports communities in improving the oral health of the school-age population through evidence-based best practice within a public health framework. The Association of State and Territorial Dental Directors (ASTDD), Centers for Disease Control and Prevention (CDC), and the Community Preventive Services Task Force have all determined that school-based dental sealant programs are evidence-based best practices with strong evidence of effectiveness in preventing tooth decay among children.

(2) These rules (OAR 333-028-0300 through 333-028-0350) establish the procedure and criteria the Oregon Health Authority shall use to certify, train, suspend, decertify, and monitor and collect data from Local School Dental Sealant Programs. Certification of a Local School Dental Sealant Program by the State Oral Health Program is mandatory before dental sealants can be provided in a school setting.

Stat. Auth.: OL 2015, ch. 791
Stats. Implemented: OL 2015, ch. 791
Hist. : PH 2-2016, f. & cert. ef. 1-29-16

333-028-0310
Definitions

(1) "Authority" means the Oregon Health Authority.

(2) "Certification" means the Local School Dental Sealant Program has been authorized by the Oregon Health Authority to operate in an elementary or middle school setting. Certification by the Program is mandatory before dental sealants can be provided in a school setting.

(3) "Certification training" is a mandatory one-time training for Local School Dental Sealant Programs provided by the Program that must be taken before an application for certification is submitted. Training topics shall include:

(a) Research and evidence-based practices;

(b) Utilizing hygienists and dental assistants;

(c) Cultural competency and health literacy;

(d) Recruiting and working with schools;

(e) Providing services in a school setting;

(f) Equipment and supplies needed;

(g) Protocols for quality;

(h) Data collection and reporting; and

(i) Continuous quality improvement.

(4) "Certification year" means a one-year period beginning on August 1 and ending on July 31.

(5) "Clinical training" is an annual training provided by the Local School Dental Sealant Program or Program to update skills in determining the need for and appropriateness of dental sealants, and sealant application techniques.

(6) "Local School Dental Sealant Program" is an entity outside of the Oregon Health Authority where dental sealants are one of the services being provided in a school setting. Only Local School Dental Sealant Programs, and not individual dental hygienists, can be certified.

(7) "Program" means the Oregon Health Authority, Public Health Division, Oral Health Program.

(8) "Recertification" means the Local School Dental Sealant Program has been authorized by the Oregon Health Authority to operate in a school setting for the next certification year.

Stat. Auth.: OL 2015, ch. 791
Stats. Implemented: OL 2015, ch. 791
Hist. : PH 2-2016, f. & cert. ef. 1-29-16

333-028-0320
Certification Requirements

To be certified, a Local School Dental Sealant Program must meet all requirements for certification.

(1) A representative responsible for coordinating and implementing the Local School Dental Sealant Program must attend a one-time certification training provided by the Program. If the Local School Dental Sealant Program experiences personnel changes that impact the representative responsible for coordinating and implementing the Local School Dental Sealant Program, then a new representative must attend the one-time certification training before applying for recertification. Any templates or materials provided by the Program during the certification training that are modified or utilized by the Local School Dental Sealant Program must acknowledge the Program on such templates or materials.

(2) A Local School Dental Sealant Program must provide an annual clinical training to all providers rendering care within their scope of practice in a school setting. This requirement may be met by one of these methods:

(a) A Local School Dental Sealant Program develops and implements its own training.

(b) A Local School Dental Sealant Program sends their providers to an annual training provided by the Program.

(3) Before initially contacting any school to offer services, a Local School Dental Sealant Program must contact the Coordinated Care Organizations (CCOs) operating in the community. In consultation with the Program, the CCO will determine which Local School Dental Sealant Program is best able to provide services. A CCO must contact the Program before any decision is made. This collaboration will ensure access and minimize the duplication of services. Priorities should be given to the most cost-effective dental sealant delivery model that meets certification requirements. Existing relationships with schools and providers should be considered when multiple delivery models meet requirements. The Program will provide the CCOs with a list of school dental sealant programs and the schools they serve from the Certification Application and Renewal Certification Application forms.

(4) A Local School Dental Sealant Program must ensure all Medicaid encounters are entered into the Medicaid system.

(5) A Local School Dental Sealant Program shall first target elementary and middle schools where 40 percent or greater of all students attending the school are eligible to receive assistance under the United States Department of Agriculture's National School Lunch Program.

(6) A Local School Dental Sealant Program must offer, at a minimum, screening and dental sealant services to students with parental/guardian permission regardless of insurance status, race, ethnicity or socio-economic status in these grade levels:

(a) Elementary school students in first and second grades or second and third grades; and

(b) Middle school students in sixth and seventh grades or seventh and eighth grades.

(7) A Local School Dental Sealant Program must develop and implement a plan to increase parental/guardian permission return rates.

(8) A Local School Dental Sealant Program must adhere to these standards for school dental sealant programs:

(a) Dental equipment must be used on school grounds during school hours;

(b) A medical history is required on the parent/guardian permission form;

(c) Use the four-handed technique to apply sealants in elementary schools;

(d) Use the two-handed technique using an Isolite or equivalent Program approved device or the four-handed technique to apply sealants in middle and high schools; and

(e) Apply resin-based sealants.

(9) A Local School Dental Sealant Program must comply with all scope of practice laws as determined by the Oregon Board of Dentistry.

(10) A Local School Dental Sealant Program must comply with Oregon Board of Dentistry oral health screening guidelines.

(11) A Local School Dental Sealant Program must comply with infection control guidelines established in OAR 818-012-0040.

(12) A Local School Dental Sealant Program must comply with the Health Insurance Portability and Accountability Act (HIPAA) and Federal Educational Rights and Privacy Act (FERPA) requirements.

(13) A Local School Dental Sealant Program must respect classroom time and limit demands on school staff. Services must be delivered efficiently to ensure a child's time out of the classroom is minimal.

(14) A Local School Dental Sealant Program must conduct retention checks at one year for quality assurance.

(15) A Local School Dental Sealant Program must submit a data report to the Program annually. The information required to be included in such data report will be defined by the Program. Aggregate-level data will be required for each school.

(16) A Local School Dental Sealant Program must include the certification logo provided by the Program on all parent/guardian permission forms and written communication to schools, or provide schools with a letter provided by the Program indicating the Local School Dental Sealant Program is certified.

Stat. Auth.: OL 2015, ch. 791
Stats. Implemented: OL 2015, ch. 791
Hist. : PH 2-2016, f. & cert. ef. 1-29-16

333-028-0330
Certification and Recertification Process

(1) Only an individual with legal authority to act on behalf of the Local School Dental Sealant Program can apply for initial certification by submitting a Certification Application to the Authority via electronic mail to the Program's electronic mail address posted on the Program's website or by mail to the mailing address posted on the Program's website, www.healthoregon.org/sealantcert. Instructions and criteria for submitting a Certification Application is posted on the Program's website.

(2) The Program shall review the application within 15 days of receiving the application to determine whether it is complete.

(3) If the Program determines the application is not complete, it will be returned to the applicant for completion and resubmission.

(4) If the Program determines the application is complete, it will be reviewed to determine if it meets certification requirements described in OAR 333-028-0320.

(5) If the Program determines the Local School Dental Sealant Program meets the certification requirements, the Program shall:

(a) Inform the applicant in writing that the application has been approved; and

(b) Schedule on-site verification reviews.

(6) If a Local School Dental Sealant Program does not meet certification requirements in their certification application, the Program shall choose one of the following two actions:

(a) Certification will be denied if the Local School Dental Sealant Program does not meet the requirements of these rules. The Program will provide the applicant with a clear description of reasons for denial based on the certification requirements in the denial letter. An applicant may request that the Program reconsider the denial of certification. A request for reconsideration must be submitted in writing to the Program within 30 days of the date of the denial letter and must include a detailed explanation of why the applicant believes the Program's decision is in error along with any supporting documentation. The Program shall inform the applicant in writing whether it has reconsidered its decision; or

(b) Provisional certification will be provided based on an agreed upon timeline for a corrective action plan for the non-compliant requirements. The Local School Dental Sealant Program must submit a waiver to the Program that includes an explanation of the non-compliant requirements, a plan for corrective action, and date for meeting compliance.

(7) Once a Local School Dental Sealant Program is certified, the certification status is effective for the certification year of August 1 – July 31. A Local School Dental Sealant Program must notify the Program and Coordinated Care Organizations (CCOs) operating in the community if it terminates services for a scheduled school during a certification year.

(8) A certified Local School Dental Sealant Program must renew its certification no later than July 15 each year via the Program's online Renewal Certification Application form in order to remain certified. A Local School Dental Sealant Program must submit the annual data report to the Program before applying for renewal certification.

(9) The Program will notify a Local School Dental Sealant Program of their certification renewal status by August 1 of each year.

(10) The Program will notify Coordinated Care Organizations (CCOs) operating in the community of the certification and recertification status of a Local School Dental Sealant Program.

Stat. Auth.: OL 2015, ch. 791
Stats. Implemented: OL 2015, ch. 791
Hist. : PH 2-2016, f. & cert. ef. 1-29-16

333-028-0340
Verification

(1) The Program shall conduct on-site verification review of each approved Local School Dental Sealant Program. A representative sample of schools being served by the certified program will be reviewed each certification year.

(2) The Program will work with a Local School Dental Sealant Program to schedule a verification review. A Local School Dental Sealant Program will have at least 20 days advance notice before a review will occur.

(3) A Local School Dental Sealant Program must coordinate with the Program to access the school and staff operating the sealant program on the verification review date.

(4) The verification review must include, but is not limited to:

(a) Review of documents, policies and procedures, and records;

(b) Review of techniques used while providing dental sealants;

(c) Review of infection control practices; and

(d) On-site observation of the client environment and physical set-up.

(5) Following a review, Program staff may conduct an exit interview with the Local School Dental Sealant Program representative(s). During the exit interview Program staff shall:

(a) Inform the Local School Dental Sealant Program representative(s) of the preliminary findings of the review; and

(b) Give the Local School Dental Sealant Program representative(s) 10 working days to submit additional facts or other information to the Program staff in response to the findings.

(6) Within four weeks of the on-site visit, Program staff must prepare and provide the Local School Dental Sealant Program with a written report of the findings from the on-site review.

(7) If no certification deficiencies are found during the review, the Program shall issue written findings to the Local School Dental Sealant Program indicating no deficiencies were found.

(8) If certification deficiencies are found during the on-site review, the Program may take action in compliance with OAR 333-028-0350.

(9) At any time, a Local School Dental Sealant Program may request an administrative review of compliance, which includes one on-site visit. The review will be considered a "no penalty" review with the exception of gross violation or negligence that may require temporary suspension of services.

Stat. Auth.: OL 2015, ch. 791
Stats. Implemented: OL 2015, ch. 791
Hist. : PH 2-2016, f. & cert. ef. 1-29-16

333-028-0350
Compliance

(1) A Local School Dental Sealant Program must notify the Program within 10 working days of any change that brings the Local School Dental Sealant Program out of compliance with the certification requirements. A Local School Dental Sealant Program must submit a waiver to the Program that includes:

(a) Explanation of the non-compliant requirement;

(b) Plan for corrective action; and

(c) Date for compliance.

(2) The Program will review the waiver request and inform the Local School Dental Sealant Program of approval or denial of the waiver within 10 working days of submission. Services may be provided until the Local School Dental Sealant Program has been notified of its waiver request.

(3) If the waiver is approved, the Local School Dental Sealant Program will be provided provisional certification and must comply with certification requirements by the proposed date of compliance.

(4) If a waiver is denied; a Local School Dental Sealant Program does not come into compliance by the date of compliance stated on the waiver; or a Local School Dental Sealant Program is out of compliance with certification requirements and has not submitted a waiver, the Program, in its discretion, shall:

(a) Require the Local School Dental Sealant Program to complete an additional waiver with an updated plan for corrective action and updated date for compliance;

(b) Require the Local School Dental Sealant Program to complete a waiver to satisfy the requirements in section (1) of this rule;

(c) Issue a written warning with a timeline for corrective action; or

(d) Issue a letter of non-compliance with the notification of a suspension or decertification status. The Program will notify the CCO operating in the community and Local School Dental Sealant Program schools that a Local School Dental Sealant Program has been suspended or decertified. Dental sealants may not be provided in the school until the Local School Dental Sealant Program is certified.

(5) A Local School Dental Sealant Program that had been decertified may be reinstated after reapplying for certification.

(6) A Local School Dental Sealant Program with suspended certification status may have its suspension lifted once the Program determines that compliance with certification requirements has been satisfactorily achieved. The Program will notify the Coordinated Care Organizations (CCOs) operating in the community and schools that the Local School Dental Sealant Program's suspension has been lifted and that dental sealants may now be provided in the school.

(7) If there are updates to the current rules that require a Local School Dental Sealant Program to make any operational changes, the Program will allow the Local School Dental Sealant Program until the beginning of the next certification year or a minimum of 90 days to come into compliance.

Stat. Auth.: OL 2015, ch. 791
Stats. Implemented: OL 2015, ch. 791
Hist. : PH 2-2016, f. & cert. ef. 1-29-16

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Rule Caption: Training on Lifesaving Treatments
Adm. Order No.: PH 3-2016
Filed with Sec. of State: 2-8-2016
Certified to be Effective: 2-8-16
Notice Publication Date: 12-1-2015
Rules Amended: 333-055-0000, 333-055-0006, 333-055-0015, 333-055-0021, 333-055-0030, 333-055-0035
Subject: The Oregon Health Authority (Authority), Public Health Division is permanently amending Oregon Administrative Rules relating to the training of lifesaving treatments in response to legislation passed in 2015 (SB 875). SB 875 (Oregon Laws 2015, chapter 676) adds a training requirement for school personnel on the treat-

ment of adrenal crisis when a parent notifies a school that a student has been diagnosed with adrenal insufficiency.

The amended rules address the following:

- Adds definitions;

- Creates provisions for training school personnel on the treatment of adrenal crisis; and

- Updates the title of division 55 to more accurately reflect the subject of the rules within that division.

Rules Coordinator: Brittany Sande—(971) 673-1291

333-055-0000
Purpose

(1) The purpose of OAR 333-055-0000 through 333-055-0035 is to describe the circumstances under which these rules apply and to define the procedures for authorizing certain individuals, when a licensed health care professional is not immediately available, to administer:

(a) Epinephrine to a person who has a severe allergic response to an allergen;

(b) Glucagon to a person who is experiencing severe hypoglycemia when other treatment has failed or cannot be initiated; and

(c) Medication that treats adrenal insufficiency to a student who is experiencing an adrenal crisis.

(2) Severe allergic reactions requiring epinephrine will occur in a wide variety of circumstances.

(3) Severe hypoglycemia requiring glucagon, in settings where children prone to severe hypoglycemia are known to lay providers and where arrangements for the availability of glucagon have been made, will occur primarily in, but not limited to, school settings, sports activities, and camps.

(4) An adrenal crisis for students diagnosed with adrenal insufficiency will occur in a wide variety of circumstances. The administration of medication to treat a student experiencing an adrenal crisis may be provided by trained school personnel in accordance with OAR 581-021-0037 whose parent or guardian has provided the necessary medication and equipment for administration.

Stat. Auth.: ORS 433.805 & 433.810
Stats. Implemented: ORS 433.800 - 433.830
Hist.: HD 10-1982, f. & ef. 5-25-82; HD 23-1990(Temp), f. & cert. ef. 8-15-90; OHD 7-1998, f. & cert. ef. 7-28-98; OSHA 4-2012, f. 9-19-12, cert. ef. 1-1-13; PH 14-2012, f. & cert. ef. 9-19-12; PH 3-2016, f. & cert. ef. 2-8-16

333-055-0006
Definitions

(1) "Adrenal crisis" means a sudden, severe worsening of symptoms associated with adrenal insufficiency, such as severe pain in the lower back, abdomen or legs; vomiting; diarrhea; dehydration; low blood pressure or loss of consciousness.

(2) "Adrenal insufficiency" means a hormonal disorder that occurs when the adrenal glands do not produce enough adrenal hormones.

(3) "Allergen" means a substance, usually a protein, that evokes a particular adverse response in a sensitive individual.

(4) "Allergic response" means a medical condition caused by exposure to an allergen, with physical symptoms that range from localized itching to severe anaphylactic shock and that may be life threatening.

(5) "Emergency Medical Services Provider (EMS Provider)" means a person who has received formal training in pre-hospital and emergency care and is state-licensed to attend to any ill, injured or disabled person. Police officers, fire fighters, funeral home employees and other personnel serving in a dual capacity, one of which meets the definition of "emergency medical services provider" are "emergency medical services providers" within the meaning of ORS Chapter 682.

(6) "Hypoglycemia" means a condition in which a person experiences low blood sugar, producing symptoms such as drowsiness, loss of muscle control so that chewing or swallowing is impaired, irrational behavior in which food intake is resisted, convulsions, fainting or coma.

(7) "Other treatment" means oral administration of food containing glucose or other forms of carbohydrate, such as jelly or candy.

(8) "Other treatment has failed" means a hypoglycemic student's symptoms have worsened after the administration of a food containing glucose or other form of carbohydrate or a hypoglycemic student has become incoherent, unconscious or unresponsive.

(9) "Paramedic" means a person who is licensed by the Oregon Health Authority as a Paramedic.

(10) "Supervising professional" means a physician licensed under ORS Chapter 677, or a nurse practitioner licensed under ORS Chapter 678 to practice in this state and who has prescription writing authority.

Stat. Auth.: ORS 433.810
Stats. Implemented: ORS 433.800 - 433.830
Hist: PH 14-2012, f. & cert. ef. 9-19-12; PH 3-2016, f. & cert. ef. 2-8-16

333-055-0015
Educational Training

(1) Individuals to be trained to administer glucagon and school personnel to be trained to administer a medication that treats a student who has adrenal insufficiency and who is experiencing symptoms of adrenal crisis based on the student's health plan must be trained by:

(a) A physician licensed under ORS Chapter 677;

(b) A nurse practitioner licensed under ORS Chapter 678; or

(c) A registered nurse licensed under ORS Chapter 678.

(2) Individuals to be trained to administer epinephrine must be trained by:

(a) A physician licensed under ORS Chapter 677;

(b) A nurse practitioner licensed under ORS Chapter 678;

(c) A registered nurse licensed under ORS Chapter 678 as assigned by a supervising professional to teach the OHA-Public Health Division Treatment of Severe Allergic Reaction training and distributes a Certificate of Completion and Authorization to Obtain Epinephrine in accordance with OAR 333-055-0030(1); or

(d) A paramedic as delegated by an EMS Medical Director defined in OAR chapter 333, division 265.

(3) The training described in sections (1) and (2) of this rule must follow the Oregon Health Authority, Public Health Division training protocol, or an Authority approved equivalent. The Public Health Division approved training protocol for emergency glucagon providers is available on the Internet at http://healthoregon.org/diabetes. The training protocols for the treatment of severe allergic reaction or treatment of adrenal crisis are available on the Internet at http://healthoregon.org/ems.

Stat. Auth.: ORS 433.810
Stats. Implemented: ORS 433.815 & 433.817
Hist.: HD 10-1982, f. & ef. 5-25-82; HD 23-1990(Temp), f. & cert. ef. 8-15-90; OHD 7-1998, f. & cert. ef. 7-28-98; PH 10-2004, f. & cert. ef. 3-23-04; PH 14-2012, f. & cert. ef. 9-19-12; PH 3-2016, f. & cert. ef. 2-8-16

333-055-0021
Eligibility for Training

In order to be eligible for training under OAR 333-055-0015, a person must:

(1) Be 18 years of age or older; and

(2) Have, or reasonably expect to have, responsibility for or contact with at least one other person as a result of the eligible person's occupational or volunteer status, such as, but not limited to, a camp counselor, scout leader, forest ranger, school employee, tour guide or chaperone.

Stat. Auth.: ORS 433.810
Stats. Implemented: ORS 433.820
Hist: PH 14-2012, f. & cert. ef. 9-19-12; PH 3-2016, f. & cert. ef. 2-8-16

333-055-0030
Certificates of Completion of Training

(1) Persons who successfully complete educational training under OAR 333-055-0000 through 333-055-0035 shall be given a Public Health Division statement of completion signed by the individual conducting the training. The statement of completion for the treatment of allergic response training may also be used as an authorization to obtain epinephrine if fully completed and personally signed by a nurse practitioner or a physician responsible for the training program. (a) A statement of completion for the treatment of allergic response training may be obtained from the Oregon Health Authority, Public Health Division, 800 NE Oregon Street, Suite 290, Portland, Oregon 97232, Phone: (971) 673-1230.

(b) A statement of completion for emergency glucagon providers is included in the training protocol available at http://healthoregon.org/diabetes.

(c) A statement of completion for school personnel trained in the administration of a medication to treat adrenal crisis is included in the treatment of adrenal insufficiency protocol available at http://healthoregon.org/ems.

(2) The statement of completion and authorization to obtain epinephrine form allows a pharmacist to generate a prescription and dispense an emergency supply of epinephrine for not more than one child and one adult in an automatic injection device if signed by a nurse practitioner or physician. Whenever such a statement of completion form for an emergency supply of epinephrine is presented, the pharmacist shall write upon the back of the statement of completion form in non-erasable ink the date that the prescription was filled, returning the statement of completion to the holder. The prescription may be filled up to four times. The pharmacist who dispenses an emergency supply of epinephrine under this rule shall also reduce

the prescription to writing for his files, as in the case of an oral prescription for a non-controlled substance, and file the same in the pharmacy.

(3) A person who has successfully competed educational training in the administration of glucagon may receive, from the parent or guardian of a student, doses of glucagon prescribed by a health care professional with appropriate prescriptive privileges licensed under ORS chapters 677 or 678, and the necessary paraphernalia for administration.

(4) A person who has successfully competed educational training in the administration of a medication to treat adrenal crisis may receive, from the parent or guardian of a student, medication that treats adrenal insufficiency prescribed by a health care professional with appropriate prescriptive privileges licensed under ORS Chapters 677 or 678, and the necessary paraphernalia for administration.

(5) Completion of a training program and receipt of a statement of completion does not guarantee the competency of the individual trained.

(6) A statement of completion and authorization to obtain epinephrine shall expire three years after the date of training identified on the statement of completion. Individuals trained to administer epinephrine, glucagon or a medication to treat adrenal insufficiency must be trained every three years in accordance with OAR 333-055-0015 in order to obtain a new statement of completion.

(7) Individuals trained to administer epinephrine, glucagon or a medication to treat adrenal crisis may be asked to provide copies of a current statement of completion to their employers or to organizations or entities to which they volunteer.

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

Stat. Auth.: ORS 433.810

Stats. Implemented: ORS 433.815, 433.817 & 433.825

Hist.: HD 10-1982, f. & ef. 5-25-82; HD 23-1990(Temp), f. & cert. ef. 8-15-90; OHD 7-1998, f. & cert. ef. 7-28-98; PH 10-2004, f. & cert. ef. 3-23-04; PH 14-2012, f. & cert. ef. 9-19-12; PH 3-2016, f. & cert. ef. 2-8-16

333-055-0035

Circumstances in Which Trained Persons May Administer Epinephrine, Glucagon or a Medication to Treat Adrenal Crisis

(1) A person who holds a current statement of completion pursuant to OAR 333-055-0030 may, in an emergency situation when a licensed health care professional is not immediately available, administer epinephrine to any person suffering a severe allergic response to an insect sting or other allergen. The decision to give epinephrine should be based upon recognition of the signs of a systemic allergic reaction and need not be postponed for purposes of identifying the specific antigen which caused the reaction.

(2) A person who holds a current statement of completion pursuant to OAR 333-055-0030 may, in an emergency situation involving an individual who is experiencing hypoglycemia and when a licensed health care professional is not immediately available, administer health care professional-prescribed glucagon to a person for whom glucagon is prescribed, when other treatment has failed or cannot be initiated. The decision to give glucagon should be based upon recognition of the signs of severe hypoglycemia and the inability to correct it with oral intake of food or drink.

(3) School personnel who hold a current statement of completion pursuant to OAR 333-055-0030 may, in an emergency situation involving a student diagnosed with adrenal insufficiency who is experiencing symptoms of adrenal crisis and when a licensed health care professional is not immediately available, administer health care professional-prescribed medication to treat adrenal insufficiency. The decision to give medication to a student with adrenal insufficiency should be based upon the student's health plan in accordance with OAR 581-021-0037 and recognition of the signs of adrenal crisis and need not be postponed.

Stat. Auth.: ORS 433.810

Stats. Implemented: ORS 433.825

Hist.: HD 10-1982, f. & ef. 5-25-82; OHD 7-1998, f. & cert. ef. 7-28-98; PH 10-2004, f. & cert. ef. 3-23-04; PH 14-2012, f. & cert. ef. 9-19-12; PH 3-2016, f. & cert. ef. 2-8-16

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Rule Caption: New effective date of marijuana labeling and product serving size and concentration limits requirements

Adm. Order No.: PH 4-2016(Temp)

Filed with Sec. of State: 2-8-2016

Certified to be Effective: 2-8-16 thru 6-28-16

Notice Publication Date:

Rules Amended: 333-007-0010, 333-007-0200

Subject: The Oregon Health Authority, Public Health Division is temporarily amending administrative rules in chapter 333, division 7 related to marijuana labeling, serving size and concentration limits. The temporary amendments are to extend the effective date of the labeling and product serving size and concentration limits requirements from April 1, 2016 to June 1, 2016 due to the time needed for dispensaries and producers to adhere to rule changes. The Oregon Health Authority is currently working with a rules advisory committee on permanent rules related to marijuana labeling, serving size and concentration limits, and the permanent rules will have different requirements than what is currently adopted in temporary rules filed November 13, 2015. An extension of the effective date from April 1, 2016 to June 1, 2016 will allow medical marijuana dispensaries and producers to only have to adhere to the final permanent rule changes, rather than have to comply with one standard on April 1, 2016, and then a different standard when the permanent rules are filed and effective.

Rules Coordinator: Brittany Sande—(971) 673-1291

333-007-0010

Purpose, Scope and Effective Date

(1) The purpose of OAR 333-007-0010 through 333-007-0100 is to set the minimum standards for the labeling of marijuana items that are sold to a consumer. These minimum standards are applicable to:

(a) A Commission licensee as that is defined in OAR 845-025-1015; and

(b) A person registered with the Authority under ORS 475.300 to 475.346 who is not exempt from the labeling requirements as described in section (2) of this rule.

(2) The labeling requirements in these rules do not apply to:

(a) A grower if the grower is transferring usable marijuana or an immature marijuana plant to:

(A) A patient who designated the grower to grow marijuana for the patient; or

(B) A designated primary caregiver of the patient who designated the grower to grow marijuana for the patient; or

(b) A designated primary caregiver of a patient if the caregiver is transferring a marijuana item to a patient of the designated primary caregiver.

(3) Nothing in these rules prohibits the Commission or the Authority from:

(a) Imposing additional labeling requirements in their respective rules governing licensees and registrants, including but not limited to labeling requirements that apply to marijuana packaged for sale to other licensees or labeling requirements for testing samples, as long as those additional labeling requirements are not inconsistent with these rules; or

(b) Requiring licensees or registrants to provide informational material to a consumer at the point of sale.

(4) On and after June 1, 2016:

(a) A marijuana item received or transferred by a dispensary must meet the labeling requirements in these rules; and

(b) A dispensary may not transfer a marijuana item that does not meet the labeling requirements in these rules.

(5) By June 1, 2016, a dispensary must have either transferred marijuana items that do not meet the labeling requirements in these rules to a patient or caregiver or must have returned any marijuana item that does not meet labeling requirements in these rules to the individual who transferred the item to the dispensary, and must document who the item was returned to, what was returned and the date of the return.

Stat. Auth.: ORS 475B.605 & 475B.625

Stats. Implemented: ORS 475B.605 & 475B.625

Hist.: PH 22-2015(Temp), f. 11-13-15, cert. ef. 1-1-16 thru 6-28-16; PH 4-2016(Temp), f. & cert. ef. 2-8-16 thru 6-28-16

333-007-0200

Definitions, Purpose, Scope, Effective Date

(1) In accordance with section 105, chapter 614, Oregon Laws 2015, the Authority must establish, for marijuana items sold or transferred to a consumer through a Commission licensed marijuana retailer or medical marijuana dispensary:

(a) The maximum concentration of THC permitted in a single serving of a cannabinoid product or cannabinoid concentrate or extract; and

(b) The number of servings permitted in a cannabinoid product container or cannabinoid concentrate or extract container.

(2) The concentration of THC permitted under OAR 333-007-0210 through 333-007-0220 must take into account both the amount of Delta-9 THC in the cannabinoid product or cannabinoid concentrate or extract and the amount of tetrahydrocannabinolic acid (THCA) in the cannabinoid product or cannabinoid concentrate or extract that if heated would convert THCA to THC. A cannabinoid product or cannabinoid concentrate or

extract that contains a high amount of THCA must meet the concentration limits established in OAR 333-007-0200 through 333-007-0220 even if heated.

(3) The amounts of THC listed on a label are based on an average from samples taken from a harvest or process lot and may not represent the exact amount of THC in a marijuana item purchased by a consumer.

(4) On and after June 1, 2016:

(a) A marijuana item received or transferred by a dispensary must meet the concentration and serving size limits in OAR 333-007-0210 or 333-007-0220; and

(b) A dispensary may not receive or transfer a marijuana item that does not meet the concentration and serving size limits in OAR 333-007-0210 or 333-007-0220.

(5) By June1, 2016, a dispensary must have either transferred marijuana items that do not meet the concentration and serving size limits in OAR 333-007-0210 or 333-007-0220 to a patient or caregiver or must have returned any marijuana item that does not meet the requirements to the individual who transferred the item to the dispensary, and must document who the item was returned to, what was returned and the date of the return.

(6) A marijuana item that falls within the category of a cannabinoid edible, even if that item also falls within another category, for example the category of a cannabinoid concentrate, must meet the concentration and serving size limits applicable to a cannabinoid edible.

(7) For purposes of OAR 333-007-0200 through 333-007-0220:

(a) The definitions in OAR 333-007-0020 apply, unless otherwise specified:

(b) "Scorable" means to physically demark a cannabinoid edible that is in solid form at room temperature in a way that enables a reasonable person to:

(A) Intuitively determine how much of the product constitutes a single serving; and

(B) Easily physically separate the edible into single servings either by hand or with a common utensil, such as a knife.

Stat. Auth.: ORS 475B.605 & 475B.625
Stats. Implemented: ORS 475B.605 & 475B.625
Hist.: PH 22-2015(Temp), f. 11-13-15, cert. ef. 1-1-16 thru 6-28-16; PH 4-2016(Temp), f. & cert. ef. 2-8-16 thru 6-28-16

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Rule Caption: Primacy to enforce federal regulations providing protection against microbiological contamination and waivers for organic chemicals
Adm. Order No.: PH 5-2016
Filed with Sec. of State: 2-10-2016
Certified to be Effective: 4-1-16
Notice Publication Date: 10-1-2015
Rules Adopted: 333-061-0078
Rules Amended: 333-061-0020, 333-061-0030, 333-061-0031, 333-061-0032, 333-061-0036, 333-061-0040, 333-061-0042, 333-061-0043, 333-061-0045, 333-061-0050, 333-061-0060, 333-061-0063, 333-061-0065, 333-061-0070, 333-061-0071, 333-061-0075, 333-061-0076, 333-061-0077, 333-061-0090, 333-061-0097, 333-061-0235
Subject: The Oregon Health Authority (Authority), Public Health Division is permanently amending and adopting Oregon Administrative Rules in chapter 333, division 61 relating to protection against microbiological contamination in public drinking water systems and the prevention of waterborne illness. The rulemaking will ensure that Authority rules are no less stringent than corresponding federal regulations and that the Authority will be granted primary enforcement responsibility (primacy) for the Revised Total Coliform Rule as adopted by the U.S. Environmental Protection Agency (EPA). Amended rules will also ensure primacy for regulations related to monitoring for organic chemicals as well as provide clarification by removing old rule language with no current or future applicability.
Rules Coordinator: Brittany Sande—(971) 673-1291

333-061-0020
Definitions

As used in these rules, unless the context indicates otherwise:

(1) "Act" means the Oregon Drinking Water Quality Act of 1981 (ORS 448.115-448.990 as amended).

(2) "Action Level" means the concentration of lead or copper in water which determines, in some cases, the treatment requirements that a water system is required to complete.

(3) "Administrator" means the Director of the Oregon Health Authority or his/her designee.

(4) "Analytical Run" means the process during which a set of analytical drinking water samples along with an appropriate number of blanks, matrix spikes, or quality control samples are analyzed according to National Environmental Laboratory Accreditation Conference (NELAC) requirements to determine the presence, absence, or concentration of a specific target analyte or analytes. An analytical run is complete when the instrument performing the sample analysis generates a report of the sample analysis.

(5) "Approval" or "Approved" means approved in writing.

(6) "Approved Air Gap (AG)" means a physical separation between the free-flowing discharge end of a potable water supply pipeline and an open or non-pressurized receiving vessel. An "Approved Air Gap" shall be at least twice the diameter of the supply pipe measured vertically above the overflow rim of the vessel and in no case less than 1 inch (2.54 cm), and in accord with Oregon Plumbing Specialty Code.

(7) "Approved Backflow Prevention Assembly" means a Reduced Pressure Principle Backflow Prevention Assembly, Reduced Pressure Principle-Detector Backflow Prevention Assembly, Double Check Valve Backflow Prevention Assembly, Double Check-Detector Backflow Prevention Assembly, Pressure Vacuum Breaker Backsiphonage Prevention Assembly, or Spill-Resistant Pressure Vacuum Breaker Backsiphonage Prevention Assembly, of a make, model, orientation, and size approved by the Authority. Assemblies listed in the currently approved backflow prevention assemblies list developed by the University of Southern California, Foundation for Cross-Connection Control and Hydraulic Research, or other testing laboratories using equivalent testing methods, are considered approved by the Authority.

(8) "Aquifer" means a water saturated and permeable geological formation, group of formations, or part of a formation that is capable of transmitting water in sufficient quantity to supply wells or springs.

(9) "Aquifer Parameter" means a characteristic of an aquifer, such as thickness, porosity or hydraulic conductivity.

(10) "Aquifer Test" means pumping a well in a manner that will provide information regarding the hydraulic characteristics of the aquifer.

(11) "Area of public health concern" means an area of the state with a confirmed presence of groundwater contaminants likely to cause adverse human health effects.

(12) "Atmospheric Vacuum Breaker (AVB)" means a non-testable device consisting of an air inlet valve or float check, a check seat and an air inlet port(s). This device is designed to protect against a non-health hazard or a health hazard under a backsiphonage condition only. Product and material approval is under the Oregon Plumbing Specialty Code.

(13) "Authority" means the Oregon Health Authority or its designee.

(14) "Auxiliary Water Supply" means any supply of water used to augment the supply obtained from the public water system, which serves the premises in question.

(15) "Average Groundwater Velocity" means the average velocity at which groundwater moves through the aquifer as a function of hydraulic gradient, hydraulic conductivity and porosity.

(16) "AWWA" means the American Water Works Association.

(17) "Backflow" means the flow of water or other liquids, mixtures, or substances into the distributing pipes of a potable supply of water from any sources other than its intended source, and is caused by backsiphonage or backpressure.

(18) "Backflow Preventer" means a device, assembly or method to prevent backflow into the potable water system.

(19) "Backflow Prevention Assembly" means a backflow prevention assembly such as a Pressure Vacuum Breaker Backsiphonage Prevention Assembly, Spill-Resistant Pressure Vacuum Breaker Backsiphonage Prevention Assembly, Double Check Valve Backflow Prevention Assembly, Double Check-Detector Backflow Prevention Assembly, Reduced Pressure Principle Backflow Prevention Assembly, or Reduced Pressure Principle-Detector Backflow Prevention Assembly and the attached shutoff valves on the inlet and outlet ends of the assembly, assembled as a complete unit.

(20) "Backpressure" means an elevation of pressure downstream of the distribution system that would cause, or tend to cause, water to flow opposite of its intended direction.

(21) "Backsiphonage" means a drop in distribution system pressure below atmospheric pressure (partial vacuum), that would cause, or tend to cause, water to flow opposite of its intended direction.

(22) "Bank Filtration" means a water treatment process that uses a horizontal or vertical well to recover surface water that has naturally infiltrated into groundwater through a river bed or bank(s). Infiltration is typically enhanced by the hydraulic gradient imposed by a nearby pumping water supply.

(23) "Best Available Technology" or "BAT" means the best technology, treatment techniques, or other means which the EPA finds, after examination for efficacy under field conditions and not solely under laboratory conditions, are available (taking cost into consideration).

(24) "Bore-Sighted Drain to Daylight" means an unrestricted straight-line opening in an enclosure that vents to grade, and is sized and constructed to adequately drain the full flow discharge from a reduced pressure principle backflow prevention assembly thus preventing any potential for submersion of the assembly.

(25) "Bottled Water" means potable water from a source approved by the Authority for domestic use which is placed in small, easily transportable containers.

(26) "Calculated Fixed Radius" means a technique to delineate a wellhead protection area, based on the determination of the volume of the aquifer needed to supply groundwater to a well over a given length of time.

(27) "CFR" means the Code of Federal Regulations. Specifically, it refers to those sections of the code which deal with the National Primary and Secondary Drinking Water Regulations.

(28) "Check Valve" means a valve, which allows flow in only one direction.

(29) "Coagulation" means a process using coagulant chemicals and mixing by which colloidal and suspended materials are destabilized and agglomerated into floc.

(30) "Coliform Investigation" means an evaluation to identify the possible presence of sanitary defects, defects in distribution system coliform monitoring practices, and (when possible) the likely reason that the investigation was triggered at the water system. Coliform investigations are classified as level 1 or level 2 as prescribed by OAR 333-061-0078.

(31) "Coliform-Positive" means the presence of coliform bacteria in a water sample.

(32) "Combined distribution system" means the interconnected distribution system consisting of the distribution systems of wholesale water systems and of the purchasing water systems that receive finished water.

(33) "Community Water System" means a public water system that has 15 or more service connections used by year-round residents, or that regularly serves 25 or more year-round residents.

(34) "Compliance Cycle" means the nine-year calendar year cycle during which public water systems must monitor. Each compliance cycle consists of three three-year compliance periods. The first calendar year cycle begins January 1, 1993 and ends December 31, 2001.

(35) "Compliance Period" means a three-year calendar year period within a compliance cycle. Each compliance cycle has three three-year compliance periods. Within the first compliance cycle, the first compliance period runs from January 1, 1993 to December 31, 1995; the second from January 1, 1996 to December 31, 1998; and the third from January 1, 1999 to December 31, 2001.

(36) "Comprehensive performance evaluation (CPE)" means a thorough review and analysis of a treatment plant's performance-based capabilities and associated administrative, operation and maintenance practices. It is conducted to identify factors that may be adversely impacting a plant's capability to achieve compliance and emphasizes approaches that can be implemented without significant capital improvements. The CPE must consist of at least the following components: Assessment of plant performance; evaluations of major unit processes; identification and prioritization of performance limiting factors; assessment of the applicability of comprehensive technical assistance; and preparation of a CPE report.

(37) "Conceptual Model" means a three-dimensional representation of the groundwater system, including the location and extent of the hydrogeologic units, areas of recharge and discharge, hydrogeologic boundaries and hydraulic gradient.

(38) "Confined Well" means a well completed in a confined aquifer. More specifically, it is a well which produces water from a formation that is overlain by an impermeable material of extensive area. This well shall be constructed according to OAR chapter 690, division 200 "Well Construction and Maintenance" standards.

(39) "Confluent Growth" means a continuous bacterial growth covering the entire filtration area of a membrane filter, or a portion thereof, in which bacterial colonies are not discrete.

(40) "Constructed Conveyance" means any human-made conduit such as ditches, culverts, waterways, flumes, mine drains, canals or any human-altered natural water bodies or waterways as determined by the Authority.

(41) "Contaminant" means any physical, chemical, biological, or radiological substance or matter in water that creates a health hazard.

(42) "Contingency Plan" means a document setting out an organized, planned and coordinated course of action to be followed in the event of a loss of capacity to supply water to the distribution system or in case of a fire, explosion or release of hazardous waste which could threaten human health or the environment.

(43) "Continuing Education Unit (CEU)" means a nationally recognized unit of measurement for assigning credits for education or training that provides the participant with advanced or post high school learning. One CEU is awarded for every 10 classroom hours of lecture or the equivalent of participation in an organized education experience, conducted under responsible sponsorship, capable direction and qualified instruction as determined by the Authority or its designee.

(44) "Conventional Filtration Treatment Plant" means a water treatment plant using conventional or direct filtration to treat surface water or groundwater under the direct influence of surface water.

(45) "Corrosion Inhibitor" means a substance capable of reducing the corrosivity of water toward metal plumbing materials, especially lead and copper, by forming a protective film on the interior surface of those materials.

(46) "Cross Connection" means any actual or potential unprotected connection or structural arrangement between the public or user's potable water system and any other source or system through which it is possible to introduce into any part of the potable system any used water, industrial fluid, gas, or substances other than the intended potable water with which the system is supplied. Bypass arrangements, jumper connections, removable sections, swivel, or change-over devices, and other temporary or permanent devices through which, or because of which, backflow can occur are considered to be cross connections.

(47) "CT" means the product of the residual disinfectant concentration "C" (measured in mg/l) and disinfectant contact time(s), "T" (measured in minutes).

(48) "Degree of Hazard" means either pollution (non-health hazard) or contamination (health hazard) and is determined by an evaluation of hazardous conditions within a system.

(49) "Delineation" means the determination of the extent, orientation and boundaries of a wellhead protection area using factors such as geology, aquifer characteristics, well pumping rates and time of travel.

(50) "Demonstration Study" means a series of tests performed to prove an overall effective removal or inactivation rate of a pathogenic organism through a treatment or disinfection process.

(51) "Direct Responsible Charge (DRC)" means an individual designated by the owner or authorized agent to make decisions regarding the daily operational activities of a public water system, water treatment facility or distribution system, that will directly impact the quality or quantity of drinking water.

(52) "Discharge" means the volume rate of loss of groundwater from the aquifer through wells, springs or to surface water.

(53) "Disinfectant Contact Time" means the time in minutes that it takes for water to move from the point of disinfectant application or the previous point of disinfection residual measurement to a point before or at the point where residual disinfectant concentration is measured.

(54) "Disinfectant Residual Maintenance" means a process where public water systems add chlorine (or other chemical oxidant) for the purpose of maintaining a disinfectant residual in the distribution system, when the source(s) is not at risk of microbial contamination.

(55) "Disinfection" means a process which inactivates pathogenic organisms in water by chemical oxidants or equivalent agents.

(56) "Disinfection profile" means a summary of Giardia lamblia inactivation through the treatment plant.

(57) "Distribution System" means that portion of the water system in which water is stored or conveyed from the water treatment plant or other supply point to the premises of a consumer.

(58) "Domestic" means provided for human consumption.

(59) "Domestic or other non-distribution system plumbing problem" means a coliform contamination problem in a public water system with

more than one service connection that is limited to the specific service connection from which the coliform-positive sample was taken.

(60) "Dose Equivalent" means the product of the absorbed dose from ionizing radiation and such factors as account for differences in biological effectiveness due to the type of radiation and its distribution in the body as specified by the International Commission on Radiological Units and Measurements (ICRU).

(61) "Double Check-Detector Backflow Prevention Assembly (DCDA)" means a specially designed assembly composed of a line size approved double check valve assembly assembled with a bypass containing a specific water meter and an approved double check valve assembly. The meter shall register accurately for only very low rates of flow up to three gallons per minute and shall show a registration for all rates of flow. This assembly is designed to protect against a non-health hazard.

(62) "Double Check Valve Backflow Prevention Assembly (DC)" means an assembly of two independently acting approved check valves, including tightly closing resilient seated shutoff valves attached at each end of the assembly and fitted with properly located resilient seated test cocks. This assembly is designed to protect against a non-health hazard.

(63) "Drawdown" means the difference, measured vertically, between the static water level in the well and the water level during pumping.

(64) "Drinking Water Protection" means implementing strategies within a drinking water protection area to minimize the potential impact of contaminant sources on the quality of water being used as a drinking water source by a Public Water System.

(65) "Drinking Water Protection Area (DWPA)" means the source area supplying drinking water to a Public Water System. For a surface water-supplied drinking water source the DWPA is all or a specifically determined part of a lake's, reservoir's or stream's watershed that has been certified by the Department of Environmental Quality. For a groundwater-supplied drinking water source the DWPA is the area on the surface that directly overlies that part of the aquifer that supplies groundwater to a well, well field or spring that has been certified by the Authority.

(66) "Drinking Water Protection Plan" means a plan, certified by the Department of Environmental Quality according to OAR 340-040-0160 to 340-040-0180, which identifies the actions to be taken at the local level to protect a specifically defined and certified drinking water protection area. The plan is developed by the local Responsible Management Authority or team and includes a written description of each element, public participation efforts, and an implementation schedule.

(67) "Dual sample set" means a set of two samples collected at the same time and same location, with one sample analyzed for TTHM and the other for HAA5. Dual sample sets are collected for the purposes of conducting an Initial Distribution System Evaluation (IDSE) as prescribed in 333-061-0036(4)(b) of these rules, and for determining compliance with the maximum contaminant levels for TTHM and HAA5 listed in OAR 333-061-0030(2)(b).

(68) "Effective Corrosion Inhibitor Residual" means a concentration sufficient to form a passivating film on the interior walls of a pipe.

(69) "Effective Porosity" means the ratio of the volume of interconnected voids (openings) in a geological formation to the overall volume of the material.

(70) "Element" means one of seven objectives considered by the U.S. EPA as the minimum required components in any state wellhead protection program: specification of duties, delineation of the wellhead protection area, inventory of potential contaminant sources, specification of management approaches, development of contingency plans, addressing new (future) wells, and ensuring public participation.

(71) "Emergency" means a condition resulting from an unusual calamity such as a flood, storm, earthquake, drought, civil disorder, volcanic eruption, an accidental spill of hazardous material, or other occurrence which disrupts water service at a public water system or endangers the quality of water produced by a public water system.

(72) "Emergency Response Plan" means a written document establishing contacts, operating procedures, and actions taken for a public water system to minimize the impact or potential impact of a natural disaster, accident, or intentional act which disrupts or damages, or potentially disrupts or potentially damages the public water system or drinking water supply, and returns the public water system to normal operating condition.

(73) "Enhanced coagulation" means the addition of sufficient coagulant for improved removal of disinfection byproduct precursors by conventional filtration treatment.

(74) "Enhanced softening" means the improved removal of disinfection byproduct precursors by precipitative softening.

(75) "EPA" means the United States Environmental Protection Agency.

(76) "Filter profile" means a graphical representation of individual filter performance, based on continuous turbidity measurements or total particle counts versus time for an entire filter run, from start-up to backwash inclusively, that includes an assessment of filter performance while another filter is being backwashed.

(77) "Filtration" means a process for removing particulate matter from water through porous media.

(a) "Bag filtration" means a pressure-driven separation process that removes particulate matter using engineered media. It is typically constructed of a non-rigid, fabric filtration media housed in a pressure vessel in which the direction of flow is from the inside of the bag to the outside.

(b) "Cartridge filtration" means a pressure-driven separation process that removes particulate matter using engineered media. It is typically constructed of rigid or semi-rigid, self-supporting filter elements housed in a pressure vessel in which flow is from the outside of the cartridge to the inside.

(c) "Conventional Filtration Treatment" means a series of processes including coagulation (requiring the use of a primary coagulant and rapid mix), flocculation, sedimentation, and filtration resulting in substantial particulate removal.

(d) "Direct Filtration Treatment" means a series of processes including coagulation (requiring the use of a primary coagulant and rapid mix) and filtration but excluding sedimentation resulting in substantial particulate removal.

(e) "Diatomaceous Earth Filtration" means a process resulting in substantial particulate removal in which:

(A) A precoat cake of diatomaceous earth filter media is deposited on a support membrane (septum); and

(B) While the water is filtered by passing through the cake on the septum, additional filter media, known as body feed, is continuously added to the feed water, in order to maintain the permeability of the filter cake.

(f) "Membrane filtration" means a pressure or vacuum driven separation process in which particulate matter larger than one micrometer is rejected by engineered media, primarily through a size-exclusion mechanism, and which has a measurable removal efficiency of a target organism that can be verified through the application of a direct integrity test. This definition includes the common membrane technologies of microfiltration, ultrafiltration, nanofiltration, and reverse osmosis.

(g) "Slow Sand Filtration" means a process involving passage of raw water through a bed of sand at low velocity (generally less than 235 gallons per square foot per day) resulting in substantial particulate removal by both physical and biological mechanisms.

(78) "Filtration Endorsement" means a special certification that may be added to an operator's water treatment level 2 certification, and is related to the operator's experience with and knowledge of the operation of conventional and direct filtration treatment.

(79) "Finished water" means water that is introduced into the distribution system of a public water system and intended for distribution and consumption without further treatment, except as necessary to maintain water quality in the distribution system such as booster disinfection or the addition of corrosion control chemicals.

(80) "First Customer" means the initial service connection or tap on a public water supply after any treatment processes.

(81) "First Draw Sample" means a one-liter sample of tap water that has been standing in plumbing pipes at least 6 hours and is collected without flushing the tap.

(82) "Flocculation" means a process to enhance agglomeration or collection of smaller floc particles into larger, more easily settleable particles through gentle stirring by hydraulic or mechanical means.

(83) "Flowing stream" means a course of running water flowing in a definite channel.

(84) "Future Groundwater Sources" means wells or springs that may be required by the public water system in the future to meet the needs of the system.

(85) "GAC 10" means granular activated carbon filter beds with an empty-bed contact time of 10 minutes based on average daily flow and a carbon reactivation frequency of every 180 days, except that the reactivation frequency for GAC10 used as a best available technology for compliance with OAR 333-061-0030(2)(b) shall be 120 days.

(86) "GAC 20" means granular activated carbon filter beds with an empty-bed contact time of 20 minutes based on average daily flow and a carbon reactivation frequency of every 240 days.

(87) "Gross Alpha Particle Activity" means the total radioactivity due to alpha particle emission as inferred from measurements on a dry sample.

(88) "Gross Beta Particle Activity" means the total radioactivity due to beta particle emission as inferred from measurements on a dry sample.

(89) "Groundwater" means any water, except capillary moisture, beneath the land surface or beneath the bed of any stream, lake, reservoir or other body of surface water within the boundaries of this state, whatever may be the geologic formation or structure in which such water stands, flows, percolates or otherwise moves.

(90) "Groundwater System" means any public water system that uses groundwater, including purchasing water systems that receive finished groundwater, but excluding public water systems that combine all of their groundwater with surface water or groundwater under the direct influence of surface water prior to treatment.

(91) "Groundwater under the direct influence of surface water" or "GWUDI" means any water beneath the surface of the ground with significant occurrence of insects or other macro-organisms, algae or large-diameter pathogens such as Giardia lamblia or Cryptosporidium, or significant and relatively rapid shifts in water characteristics such as turbidity, temperature, conductivity, or pH which closely correlate to climatological or surface water conditions.

(92) "Haloacetic acids (five)" or "HAA5" means the sum of the concentrations in milligrams per liter of the haloacetic acid compounds (monochloroacetic acid, dichloroacetic acid, trichloroacetic acid, monobromoacetic acid and dibromoacetic acid), rounded to two significant figures after addition.

(93) "Hauled Water" means water for human consumption transported from a Public Water System in a manner approved by the Authority.

(94) "Health Hazard (Contamination)" means an impairment of the quality of the water that could create an actual hazard to the public health through poisoning or through the spread of disease by sewage, industrial fluids, waste, or other substances.

(95) "Human Consumption" means water used for drinking, personal hygiene bathing, showering, cooking, dishwashing, and maintaining oral hygiene.

(96) "Hydraulic Conductivity" means the capacity of the medium, for example, soil, aquifer, or any hydrogeological unit of interest, to transmit water.

(97) "Hydraulic Connection" refers to a well, spring or other groundwater collection system in which it has been determined that part of the water supplied by the collection system is derived, either naturally or induced, from a surface water source.

(98) "Hydraulic Gradient" means the slope of the water table or potentiometric surface, calculated by dividing the change in hydraulic head between two points by the horizontal distance between the points in the direction of groundwater flow.

(99) "Hydraulic Head" means the energy possessed by the water mass at a given point, related to the height above the datum plane that water resides in a well drilled to that point. In a groundwater system, the hydraulic head is composed of elevation head and pressure head.

(100) "Hydrogeologic Boundary" means physical features that bound and control direction of groundwater flow in a groundwater system. Boundaries may be in the form of a constant head, for example, streams, or represent barriers to flow, for example, groundwater divides and impermeable geologic barriers.

(101) "Hydrogeologic Mapping" means characterizing hydrogeologic features (for example, hydrogeologic units, hydrogeologic boundaries, etc.) within an area and determining their location, areal extent and relationship to one another.

(102) "Hydrogeologic Unit" means a geologic formation, group of formations, or part of a formation that has consistent and definable hydraulic properties.

(103) "Impermeable Material" means a material that limits the passage of water.

(104) "Impounding Reservoir" means an uncovered body of water formed behind a dam across a river or stream, and in which water is stored.

(105) "Infiltration Gallery" means a system of perforated pipes laid along the banks or under the bed of a stream or lake installed for the purpose of collecting water from the formation beneath the stream or lake.

(106) "Initial Compliance Period" means the 1993-95 three-year compliance period for systems with 150 or more service connections and the 1996-98 three-year compliance period for systems having fewer than 150 service connections for the contaminants prescribed in OAR 333-061-0036(2)(a), 333-061-0036(3)(a) and (3)(b).

(107) "Interfering Wells" means wells that, because of their proximity and pumping characteristics, and as a result of the aquifer's hydraulic properties, produce drawdown cones that overlap during simultaneous pumping. The result is a lowering of the pumping level in each well below what it would be if that well were pumping by itself.

(108) "Inventory of Potential Contaminant Sources" means the reconnaissance level location of land use activities within the Drinking Water Protection Area that as a category have been associated with groundwater or surface water contamination in Oregon and elsewhere in the United States.

(109) "Lake/reservoir" means a natural or man-made basin or hollow on the Earth's surface in which water collects or is stored that may or may not have a current or single direction of flow.

(110) "Lead Free" means:

(a) Not containing more than 0.2 percent lead when used with respect to solders and flux; and

(b) Not more than a weighted average of 0.25 percent lead when used with respect to the wetted surfaces of pipes, pipe fittings, plumbing fittings, and fixtures.

(111) "Lead Service Line" means a service line made of lead, which connects the water main to the building inlet and any pigtail, gooseneck or other fitting, which is connected to such lead line.

(112) "Legionella" means a genus of bacteria, some species of which have caused a type of pneumonia called Legionnaires Disease.

(113) "Local Administrative Authority" means the individual official, board, department or agency established and authorized by a state, county or city to administer and enforce the provisions of the Oregon State Plumbing Specialty Code adopted under OAR 918-750-0110.

(114) "Locational running annual average (LRAA)" means the arithmetic average of analytical results for samples taken at a specific monitoring location during the previous four calendar quarters.

(115) "Major Additions or Modifications" means changes of considerable extent or complexity including, but not limited to, projects involving water sources, treatment facilities, facilities for continuous disinfection, finished water storage, pumping facilities, transmission mains, and distribution mains, except main replacements of the same length and diameter.

(116) "Man-made Beta Particle and Photon Emitters" means all radionuclides emitting beta particles or photons listed in Maximum Permissible Body Burdens and Maximum Permissible Concentration of Radionuclides in Air or Water for Occupational Exposure, NBS Handbook 69, except the daughter products of Thorium-232, Uranium-235 and Uranium-238.

(117) "Master Plan" means an overall plan, which shows the projected development of a distribution system and alternatives for source development.

(118) "Maximum Contaminant Level" or "MCL" means the maximum allowable level of a contaminant in water delivered to the users of a public water system, except in the case of turbidity where the maximum allowable level is measured at the point of entry to the distribution system.

(119) "Maximum Residual Disinfectant Level (MRDL)" means a level of a disinfectant added for water treatment that may not be exceeded at the consumer's tap without an unacceptable possibility of adverse health effects.

(120) "Multi-purpose Piping System" means a piping system within residential dwellings intended to serve both domestic and fire protection needs. This type of system is considered part of a potable water system.

(121) "New Groundwater Sources" means additional or modified wells or springs owned by the Public Water System.

(122) "Non-Health Hazard (Pollution)" means an impairment of the quality of the water to a degree that does not create a hazard to the public health, but does adversely affect the aesthetic qualities of such water for potable use.

(123) "Non-Transient Non-Community Water System (NTNC)" means a public water system that is not a Community Water System and that regularly serves at least 25 of the same persons over 6 months per year.

(124) "Open Interval" means in a cased well, the sum of the length(s) of the screened or perforated zone(s) and in an uncased (open-hole) well, the sum of the thickness(es) of the water-bearing zones or, if undeterminable, 10 percent of the length of the open hole.

(125) "Operating Experience" means knowledge gained through the direct performance of duties, tasks, and responsibilities at a drinking water system or in a related field.

(126) "Operational Decision Making" means the act of making decisions about alternatives in the performance of a water treatment plant or

distribution system relating to water quality or water quantity that may affect public health.

(127) "Operator," means a person responsible for the operation of a water treatment plant or distribution system.

(128) "Optimal Corrosion Control Treatment" means the corrosion control treatment that minimizes the lead and copper concentrations at users' taps while insuring that the treatment does not cause the water system to violate any national primary drinking water regulations.

(129) "Pathogenic" means a specific agent (bacterium, virus or parasite) causing or capable of causing disease.

(130) "Peak Daily Demand" means the maximum rate of water use, expressed in gallons per day, over the 24-hour period of heaviest consumption.

(131) "Permit" means official permission granted by the Authority for a public water system which exceeds maximum contaminant levels to delay, because of economic or other compelling factors, the installation of water treatment facilities which are necessary to produce water which does not exceed maximum contaminant levels.

(132) "Person" means any individual, corporation, association, firm, partnership, municipal, state or federal agency, or joint stock company and includes any receiver, special master, trustee, assignee, or other similar representative thereof.

(133) "Picocurie (pCi)" means that quantity of radioactive material producing 2.22 nuclear transformations per minute.

(134) "Pilot Study" means the construction and operation of a scaled down treatment system during a given period of time to determine the feasibility a full-scale treatment facility.

(135) "Plant intake" means the works or structures at the head of a conduit through which water is diverted from a source, such as a river or lake, into a treatment plant.

(136) "Plug Flow" means movement of water in a pipe such that particles pass through the pipe and are discharged in the same sequence in which they entered.

(137) "Point of Delivery (POD)" means the point of connection between a public water system and the user's water system. Beyond the point of delivery, the Oregon Plumbing Specialty Code applies. See "Service Connection."

(138) "Point of Disinfectant Application" is the point where the disinfectant is applied and water downstream of that point is not subject to recontamination by surface water runoff.

(139) "Point-of-Entry Treatment Device" is a treatment device applied to the drinking water entering a house or building for the purpose of reducing contaminants in the drinking water distributed throughout the house or building.

(140) "Point-of-Use Treatment Device" is a treatment device applied to a single tap used for the purpose of reducing contaminants in drinking water at that one tap.

(141) "Pollutant" means a substance that creates an impairment of the quality of the water to a degree which does not create a hazard to the public health, but which does adversely affect the aesthetic qualities of the water.

(142) "Porous Media Assumption" means the assumption that groundwater moves in the aquifer as if the aquifer were granular in character, that is moves directly down-gradient, and the velocity of the groundwater can be described by Darcy's Law.

(143) "Post High School Education" means that education acquired through programs such as short schools, bona fide correspondence courses, trade schools, colleges, universities, formalized workshops or seminars that are acceptable to the Authority and for which college or continuing education credit is issued by the training sponsor.

(144) "Potable Water" See Safe Drinking Water.

(145) "Potential Contaminant Source Inventory" means the determination of the location within the wellhead protection area of activities known to use or produce materials that can contaminate groundwater.

(146) "Potential Cross Connection" means a cross connection that would most likely occur, but may not be taking place at the time of an inspection.

(147) "Potentiometric Surface" means a surface that denotes the variation of hydraulic head in the given aquifer across an area.

(148) "Premises" means real estate and the structures on it.

(149) "Premises Isolation" means the practice of protecting the public water supply from contamination or pollution by installing backflow prevention assemblies at, or near, the point of delivery where the water supply enters the premises. Premises isolation does not guarantee protection to persons on the premises.

(150) "Presedimentation" means a preliminary treatment process used to remove gravel, sand and other particulate material from the source water through settling before the water enters the primary clarification and filtration processes in a treatment plant.

(151) "Pressure Vacuum Breaker Backsiphonage Prevention Assembly (PVB)" means an assembly consisting of an independently operating, internally loaded check valve and an independently operating loaded air inlet valve located on the discharge side of the check valve. This assembly is to be equipped with properly located resilient seated test cocks and tightly closing resilient seated shutoff valves attached at each end of the assembly. This assembly is designed to protect against a non-health hazard or a health hazard under backsiphonage conditions only.

(152) "Provisional Delineation" means approximating the wellhead protection area for a well by using the wellhead protection area from another well in the same hydrogeologic setting or by using generalized values for the aquifer characteristics to generate an approximate wellhead protection area for the well. Used only for the purpose of evaluating potential siting of new or future groundwater sources. Not an acceptable way to formally delineate a wellhead protection area.

(153) "Public Health Hazard" means a condition, device or practice which is conducive to the introduction of waterborne disease organisms, or harmful chemical, physical, or radioactive substances into a public water system, and which presents an unreasonable risk to health.

(154) "Public Water System" means a system for the provision to the public of piped water for human consumption, if such system has more than three service connections, or supplies water to a public or commercial establishment that operates a total of at least 60 days per year, and that is used by 10 or more individuals per day. Public water system also means a system for the provision to the public of water through constructed conveyances other than pipes to at least 15 service connections or regularly serves at least 25 individuals daily at least 60 days of the year. A public water system is either a "Community Water System," a "Transient Non-Community Water System," a "Non-Transient Non-Community Water System" or a "State Regulated Water System."

(155) "Purchasing Water System" means a public water system which obtains its water in whole or in part from one or more public water systems. Delivery may be through a direct connection or through the distribution system of one or more purchasing water systems.

(156) "Recharge" means the process by which water is added to a zone of saturation, usually by downward infiltration from the surface.

(157) "Recharge Area" means a land area in which water percolates to the zone of saturation through infiltration from the surface.

(158) "Recovery" means the rise in water level in a well from the pumping level towards the original static water level after pumping has been discontinued.

(159) "Reduced Pressure Principle Backflow Prevention Assembly (RP)" means an assembly containing two independently acting approved check valves, together with a hydraulically operating, mechanically independent pressure differential relief valve located between the check valves and at the same time below the first check valve. The unit shall include properly located resilient seated test cocks and tightly closing resilient seated shutoff valves at each end of the assembly. This assembly is designed to protect against a non-health hazard or a health hazard.

(160) "Reduced Pressure Principle-Detector Backflow Prevention Assembly (RPDA)" means a specifically designed assembly composed of a line size approved reduced pressure principle backflow prevention assembly with a bypass containing a specific water meter and an approved reduced pressure principle backflow prevention assembly. The meter shall register accurately for only very low rates of flow up to three gallons per minute and shall show a registration for all rates of flow. This assembly is designed to protect against a non-health hazard or a health hazard.

(161) "Rem" means the unit of dose equivalent from ionizing radiation to the total body or any internal organ or organ system. A "millirem (mrem)" is 1/1000 of a rem.

(162) "Repeat Compliance Period" means any subsequent compliance period after the initial compliance period.

(163) "Residual disinfectant concentration" means the concentration of disinfectant measured in mg/l in a representative sample of water.

(164) "Responsible Management Authority" means the Public Water System whose water supply is being protected and any government entity having management, rule or ordinance-making authority to implement wellhead protection management strategies within the wellhead protection area. The Responsible Management Authority is responsible for implementation of the Wellhead Protection Plan and includes cities, counties, special districts, Indian tribes, state/federal entities as well as public water systems.

(165) "Safe Drinking Water" means water which has sufficiently low concentrations of microbiological, inorganic chemical, organic chemical, radiological or physical substances so that individuals drinking such water at normal levels of consumption, will not be exposed to disease organisms or other substances which may produce harmful physiological effects.

(166) "Sanitary Defect" means a defect that could provide a pathway of entry for microbial contamination into the distribution system or that is indicative of a failure or imminent failure in a barrier that is already in place.

(167) "Sanitary Survey (Water System Survey)" means an on-site review of the water source(s), facilities, equipment, operation, maintenance and monitoring compliance of a public water system to evaluate the adequacy of the water system, its sources and operations in the distribution of safe drinking water. The sanitary survey also identifies sources of contamination by using the results of source water assessments where available.

(168) "Seasonal water system" means a water system operated as a non-community public water system only part of each year and that is started up at the beginning and shut down at the end of each operating season.

(169) "Secondary Contaminant" means those contaminants, which, at the levels generally found in drinking water, do not present an unreasonable risk to health, but do:

(a) Have adverse effects on the taste, odor and color of water;

(b) Produce undesirable staining of plumbing fixtures; or

(c) Interfere with treatment processes applied by water suppliers.

(170) "Secondary Maximum Contaminant Level (SMCL)" means the level of a secondary contaminant which when exceeded may adversely affect the aesthetic quality of the drinking water which thereby may deter public acceptance of drinking water provided by public water systems or may interfere with water treatment methods.

(171) "Sedimentation" means a process for removal of solids before filtration by gravity or separation.

(172) "Seller's Designee" means the person assigned by the seller to complete the necessary paperwork and submit the lab results to the Authority and can be the seller's attorney, real estate agent or broker, the person conducting the tests or a private party.

(173) "Sensitivity" means the intrinsic characteristics of a drinking water source such as depth to the aquifer for groundwater or highly erodible soils in a watershed that increase the potential for contamination to take place if a contaminant source is present.

(174) "Service Connection" means the piping connection by means of which water is conveyed from a distribution main of a public water system to a user's premises. For a community water system, the portion of the service connection that conveys water from the distribution main to the user's property line, or to the service meter, where provided, is under the jurisdiction of the water supplier.

(175) "Significant Deficiency" means a defect in design, operation, or maintenance, or a malfunction of the source(s), treatment, storage, or distribution system that has been determined to cause or have the potential for causing the introduction of contamination into the water delivered to consumers.

(176) "Single Connection System" means a public water system serving only one installation, such as a restaurant, campground or place of employment.

(177) "Single Family Structure" means a building constructed as a single-family residence that is currently used as either a residence or a place of business.

(178) "Small Water System," for the purposes of OAR 333-061-0210 through 0272, means a community or non-transient non-community water system serving 150 service connections or less using only groundwater or purchasing finished water from another public water system.

(179) "Source Water Assessment" means the information compiled by the Authority and the Department of Environmental Quality (DEQ), consisting of the delineation, inventory and susceptibility analyses of the drinking water source, which enable public water systems to develop and implement drinking water protection plans.

(180) "Specific Ultraviolet Absorption (SUVA) at 254 nanometers" means an indicator of the humic content of water as a calculated parameter obtained by dividing a sample's ultraviolet absorption at a wavelength of 254 nanometers (UV254) by its concentration of dissolved organic carbon (DOC) (in milligrams per liter).

(181) "Spill Resistant Pressure Vacuum Breaker Backsiphonage Prevention Assembly (SVB)" means an assembly containing an independently operating, internally loaded check valve and independently operating loaded air inlet valve located on the discharge side of the check valve. The assembly is to be equipped with a properly located resilient seated test cock, a properly located bleed/vent valve, and tightly closing resilient seated shutoff valves attached at each end of the assembly. This assembly is designed to protect against a non-health hazard or a health hazard under a backsiphonage condition only.

(182) "Spring" means a naturally occurring discharge of flowing water at the ground surface, or into surface water where the flow of water is the result of gravity or artesian pressure. Springs can be derived from groundwater or they can be surface water influenced.

(183) "Stand-alone Fire Suppression System" means a piping system within a premises intended to only serve as a fire protection system separated from the potable water system.

(184) "State Regulated Water System" means a public water system, which serves 4 to 14 service connections or serves 10 to 24 people. Monitoring requirements for these systems are the same as those for Transient Non-Community water systems.

(185) "Static Water Level" means the vertical distance from ground surface to the water level in the well when the well is at rest, that is, the well has not been pumped recently and the water level is stable. This is the natural level of water in the well.

(186) "Submeter" means a water meter by which a property owner (or association of property owners) meters individual water use after the water passes through a master meter. For the purposes of OAR 333-061-0010, submetering does not constitute applying a direct charge for water or directly selling water to a person.

(187) "Surface Water" means all water, which is open to the atmosphere and subject to surface runoff.

(188) "Susceptibility" means the potential, as a result of the combination of land use activities and source water sensitivity, that contamination of the drinking water source may occur.

(189) "Team" means the local Wellhead Protection team, which includes representatives from the Responsible Management Authorities and various interests and stakeholders potentially affected by the Wellhead Protection Plan.

(190) "Thermal Expansion" means the pressure increase due to a rise in water temperature that occurs in water piping systems when such systems become "closed" by the installation of a backflow prevention assembly or other means, and will not allow for expansion beyond that point of installation.

(191) "These Rules" means the Oregon Administrative Rules encompassed by OAR 333-061-0005 through 333-061-0335.

(192) "Time-of-Travel (TOT)" means the amount of time it takes groundwater to flow to a given well. TOT is the criterion that effectively determines the radius in the calculated fixed radius method and the up-gradient distance to be used for the analytical and numerical models during delineation of the wellhead protection area.

(193) "Too Numerous to Count (TNTC)" means that the total number of bacterial colonies exceeds 200 on a 47 mm diameter membrane filter used for coliform bacteria detection.

(194) "Total Organic Carbon (TOC)" means total organic carbon in milligrams per liter measured using heat, oxygen, ultraviolet irradiation, chemical oxidants, or combinations of these oxidants that convert organic carbon to carbon dioxide, rounded to two significant figures.

(195) "Total Trihalomethanes" or "TTHM" means the sum of the concentrations in milligrams per liter of the trihalomethane compounds bromodichloromethane, dibromochloromethane, tribromomethane (bromoform) and trichloromethane (chloroform), rounded to two significant figures after addition.

(196) "Transient Non-Community Water System (TNC)" means a public water system that serves a transient population of 25 or more persons.

(197) "Turbidity" means a measure of the cloudiness of water caused by suspended particles. The units of measure for turbidity are nephelometric turbidity units (NTU).

(198) "Two-stage lime softening" means a process in which a chemical addition and hardness precipitation occur in each of two distinct unit clarification processes in series prior to filtration.

(199) "Unconfined Well" means a well completed in an unconfined aquifer, and more specifically, a well which produces water from a formation that is not overlaying by impermeable material. This well shall be constructed according to OAR chapter 690, division 200 "Well Construction and Maintenance" standards.

(200) "Uncovered finished water storage facility" means a tank, reservoir, or other facility used to store water that will undergo no further treatment to reduce microbial pathogens except residual disinfection and is directly open to the atmosphere.

(201) "University of Southern California, Foundation for Cross-Connection Control and Hydraulic Research (USC FCCCHR)" is an agency that conducts laboratory and field tests to evaluate and grant "Certificates of Approval" to backflow prevention assemblies meeting approved standards.

(202) "Vadose Zone" means the zone between the ground surface and the water table where the available open spaces between soil and sediment particles, in rock fractures, etc., are most filled with air.

(203) "Variance" means official permission granted by the Authority for public water systems to exceed maximum contaminant levels because the quality of the raw water is such that the best available treatment techniques are not capable of treating the water so that it complies with maximum contaminant levels, and there is no unreasonable risk to health.

(204) "Vault" means an approved enclosure above or below ground to house a backflow prevention assembly that complies with the local administrative authority having jurisdiction.

(205) "Virus" means a virus of fecal origin, which is infectious to humans by waterborne transmission.

(206) "Vulnerability" has the same meaning as susceptibility.

(207) "Waiver" means official permission from the Authority for a public water system to deviate from the construction standards set forth in these rules.

(208) "Water-bearing Zone" means that part or parts of the aquifer encountered during drilling that yield(s) water to a well.

(209) "Waterborne disease outbreak" means the significant occurrence of acute infectious illness, epidemiologically associated with the ingestion of water from a public water system which is deficient in treatment, as determined by the Authority.

(210) "Water Source" means any lake, stream, spring, groundwater supply, impoundment or other source of water from which water is obtained for a public water system. In some cases, a public water system can be the source of supply for one or more other public water systems.

(211) "Water Supplier" means a person, group of persons, municipality, district, corporation or other entity, which owns or operates a public potable water system.

(212) "Water System" means a system for the provision of piped water for human consumption.

(213) "Water System Operations Manual" means a written document describing the actions and procedures necessary to operate and maintain the entire water system.

(214) "Water Table" means the upper surface of an unconfined aquifer, the surface of which is at atmospheric pressure and fluctuates seasonally. It is defined by the levels at which water stands in wells that penetrate the aquifer.

(215) "Water Treatment" means a process of altering water quality by physical or chemical means and may include domestic, industrial or commercial applications.

(216) "Water Treatment Plant" means that portion of a water system that in some way alters the physical, chemical, or bacteriological quality of the water being treated.

(217) "Well" means an artificial opening or artificially altered natural opening, however made, by which ground water is sought or through which ground water flows under natural pressure or is artificially withdrawn or injected, provided that this definition shall not include a natural spring, or wells drilled for the purpose of exploration or production of oil or gas.

(218) "Wellfield" means two or more drinking water wells, belonging to the same water system that are within 2,500 feet, or as determined by the Authority, and produce from the same and no other aquifer.

(219) "Wellhead Protection." See Drinking Water Protection.

(220) "Wellhead Protection Area (WHPA)." See Drinking Water Protection Area.

(221) "Wellhead Protection Plan." See Drinking Water Protection Plan.

(222) "Wholesale system" means a public water system that treats source water as necessary to produce finished water and then delivers some or all of that finished water to another public water system. Delivery may be through a direct connection or through the distribution system of one or more purchasing water systems.

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

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 431.110, 431.150, 448.131, 448.150, 448.273, 448.279

Hist.: HD 106, f. & ef. 2-6-76; HD 4-1980, f. & ef. 3-21-80; HD 10-1981, f. & ef. 6-30-81; HD 17-1981(Temp), f. & ef. 8-28-81; HD 4-1982, f. & ef. 2-26-82; Renumbered from 333-042-0205, HD 2-1983, f. & ef. 2-23-83; HD 21-1983, f. 10-20-83, ef. 11-1-83; HD 11-1985, f. & ef. 7-2-85; HD 30-1985, f. & ef. 12-4-85; HD 3-1987, f. & ef. 2-17-87; HD 3-1988(Temp), f. & cert. ef. 2-12-88; HD 17-1988, f. & cert. ef. 7-27-88; HD 9-1989, f. & cert. ef. 11-13-89; HD 26-1990, f. 12-26-90, cert. ef. 12-29-90; HD 7-1992, f. & cert. ef. 6-9-92; HD 12-1992, f. & cert. ef. 12-7-92; HD 3-1994, f. & cert. ef. 1-14-94; HD 1-1996, f. 1-2-96, cert. ef. 1-5-96; HD 14-1997, f. & cert. ef. 10-31-97; OHD 4-1999, f. 7-14-99, cert. ef. 7-15-99; OHD 3-2000, f. 3-8-00, cert. ef. 3-15-00; OHD 7-2000, f. 7-11-00, cert. ef. 7-15-00; OHD 23-2001, f. & cert. ef. 10-31-01; OHD 17-2002, f. & cert. ef. 10-25-02; PH 16-2004(Temp), f. & cert. ef. 4-9-04 thru 10-5-04; PH 20-2004, f. & cert. ef. 6-18-04; PH 33-2004, f. & cert. ef. 10-21-04; PH 34-2004, f. & cert. ef. 11-2-04; PH 2-2006, f. & cert. ef. 1-31-06; PH 4-2009, f. & cert. ef. 5-18-09; PH 7-2010, f. & cert. ef. 4-19-10; PH 5-2011(Temp), f. & cert. ef. 7-1-11 thru 12-27-11; PH 11-2011, f. & cert. ef. 10-27-11; PH 13-2012, f. & cert. ef. 9-10-12; PH 14-2014, f. & cert. ef. 5-8-14; PH 5-2016, f. 2-10-16, cert. ef. 4-1-16

333-061-0030

Maximum Contaminant Levels and Action Levels

(1) Maximum contaminant levels (MCLs) and action levels (ALs) for inorganic chemicals apply to all community and non-transient non-community water systems and are listed in Table 1, except the MCL for fluoride which applies only to community water systems and the MCL for nitrate which applies to all water systems. [Table not included. See ED. NOTE.]

(a) Compliance with the maximum contaminant levels for inorganic contaminants is calculated pursuant to OAR 333-061-0036(2)(i).

(b) Exceeding the secondary contaminant level for fluoride as specified in section (6) of this rule requires a special public notice as specified in OAR 333-061-0042(7).

(c) The lead action level is exceeded if the concentration of lead in more than 10 percent of tap water samples collected during any monitoring period conducted in accordance with OAR 333-061-0036(2)(c)(A) through (E) is greater than 0.015 mg/L (that is, if the "90th percentile" lead level is greater than 0.015 mg/L). The copper action level is exceeded if the concentration of copper in more than 10 percent of tap water samples collected during any monitoring period conducted in accordance with OAR 333-061-0036(2)(c)(A) through (E) is greater than 1.3 mg/L (that is, if the "90th percentile" copper level is greater than 1.3 mg/L).

(A) The 90th percentile lead and copper levels shall be computed as follows: The results of all lead or copper samples taken during a monitoring period shall be placed in ascending order from the sample with the lowest concentration to the sample with the highest concentration. Each sampling result shall be assigned a number, ascending by single integers beginning with the number 1 for the sample with the lowest contaminant level. The number assigned to the sample with the highest contaminant level shall be equal to the total number of samples taken. The number of samples taken during the monitoring period shall be multiplied by 0.9. The contaminant concentration in the numbered sample yielded by this calculation is the 90th percentile contaminant level.

(B) For water systems serving fewer than 100 people that collect five samples per monitoring period, the 90th percentile is computed by taking the average of the highest and second highest concentrations. For a water system allowed by the Authority to collect fewer than five samples the sample result with the highest concentration is considered the 90th percentile value.

(2) Maximum contaminant levels for organic chemicals:

(a) The maximum contaminant levels for synthetic organic chemicals are shown in Table 2 and apply to all community and non-transient non-community water systems. Compliance with MCLs shall be calculated pursuant to OAR 333-061-0036(3)(a)(H) and (I). [Table not included. See ED. NOTE.]

(b) The maximum contaminant levels for disinfection byproducts are shown in Table 3 and apply to all community and non-transient non-community water systems that add a disinfectant (oxidant) to the water supply at any point in the treatment process or deliver water in which a disinfectant has been added to the water supply. [Table not included. See ED. NOTE.]

(A) Compliance with the MCLs for TTHM and HAA5 shall be calculated as a locational running annual arithmetic average according to OAR 333-061-0036(4)(c).

(B) Compliance with the MCL for bromate shall be calculated as a running annual arithmetic average pursuant to OAR 333-061-0036(4)(h).

(C) Compliance with the MCL for chlorite shall be calculated as a running annual arithmetic average pursuant to OAR 333-061-0036(4)(g).

(c) The maximum contaminant levels for volatile organic chemicals are indicated in Table 4 and apply to all community and non-transient non-community water systems. Compliance with MCLs shall be calculated pursuant to OAR 333-061-0036(3)(b)(H) and (I). [Table not included. See ED. NOTE.]

(d) When the Authority has reason to believe that a water supply has been contaminated by a toxic organic chemical, it will determine whether a public health hazard exists and whether control measures must be carried out;

(e) The Authority may establish maximum contaminant levels for additional organic chemicals as deemed necessary when there is reason to

suspect that the use of those chemicals will impair water quality to an extent that poses an unreasonable risk to the health of the water users;

(f) Persons who apply pesticides within watersheds above surface water intakes of public water systems shall comply with federal and state pesticide application requirements. (Safe Drinking Water Act (EPA), Clean Water Act (EPA), Federal Insecticide, Fungicide and Rodenticide Act (EPA), ORS 536.220 to 536.360 (Water Resources), 468B.005 (DEQ), 527.610 to 527.990 (DOF), 634.016 to 634.992 (Department of Agriculture)). Any person who has reasonable cause to believe that his or her actions have led to organic chemical contamination of a public water system shall report that fact immediately to the water supplier.

(3) Maximum contaminant levels for turbidity are applicable to all public water systems using surface water sources or groundwater sources under the direct influence of surface water in whole or in part. Compliance with MCLs shall be calculated pursuant to OAR 333-061-0036(5).

(a) The maximum contaminant levels for turbidity at water systems where filtration treatment is not provided are as follows:

(A) The turbidity level cannot exceed 5 NTU in representative samples of the source water immediately prior to the first or only point of disinfectant application unless:

(i) The Authority determines that any such event was caused by circumstances that were unusual and unpredictable; and

(ii) As a result of any such event, there have not been more than two events in the past 12 months the system served water to the public, or more than five events in the past 120 months the system served water to the public, in which the turbidity level exceeded 5 NTU. An "event" is a series of consecutive days during which at least one turbidity measurement each day exceeds 5 NTU. Turbidity measurements must be collected as required by OAR 333-061-0036(5)(a)(B).

(b) Beginning no later than 18 months after the failure to meet the requirements of OAR 333-061-0032(1) through (3), the maximum contaminant levels for turbidity in drinking water measured at a point representing filtered water prior to any storage are as follows:

(A) Conventional filtration treatment or direct filtration treatment.

(i) At water systems where conventional filtration or direct filtration treatment is used, the turbidity level of representative samples of a system's filtered water, measured as soon after filtration as possible and prior to any storage, must be less than or equal to 0.3 NTU in at least 95 percent of the measurements taken each month, measured as specified in OAR 333-061-0036(5).

(ii) At water systems where conventional filtration or direct filtration treatment is used, the turbidity level of representative samples of a system's filtered water, measured as soon after filtration as possible and prior to any storage, must at no time exceed 1 NTU measured as specified in OAR 333-061-0036(5).

(B) Slow sand filtration.

(i) At water systems where slow sand filtration is used, the turbidity level of representative samples of filtered water, measured as soon after filtration as possible and prior to any storage, must be less than or equal to 1 NTU in at least 95 percent of the measurements taken each month, measured as specified in OAR 333-061-0036(5)(b), except that if the Authority determines there is no significant interference with disinfection at a higher turbidity level, the Authority may substitute this higher turbidity limit for that system.

(ii) The turbidity level of representative samples of filtered water must at no time exceed 5 NTU, measured as specified in OAR 333-061-0036(5)(b).

(C) Diatomaceous earth filtration.

(i) At water systems where diatomaceous earth filtration is used, the turbidity level of representative samples of filtered water, measured as soon after filtration as possible and prior to any storage, must be less than or equal to 1 NTU in at least 95 percent of the measurements taken each month, measured as specified in OAR 333-061-0036(5)(b).

(ii) The turbidity level of representative samples of filtered water must at no time exceed 5 NTU, measured as specified in OAR 333-061-0036(5)(b).

(D) Other filtration technologies. At water systems where filtration technologies other than those listed in paragraphs (3)(b)(A) through (C) of this rule are used, the turbidity level must be less than or equal to 1 NTU in at least 95 percent of the measurements taken each month and at no time exceed 5 NTU, as specified in OAR 333-061-0036(5)(b)(A). The Authority may substitute a lower turbidity value(s) if it is determined that the above limit(s) cannot achieve the required level of treatment. The water supplier must demonstrate to the Authority that the alternative filtration technology in combination with disinfection treatment as specified in OAR 333-061-0032 and monitored as specified by OAR 333-061-0036 consistently achieves 99.9 percent removal or inactivation of Giardia lamblia cysts and 99.99 percent removal or inactivation of viruses, and for all of those systems serving at least 10,000 people and beginning January 1, 2005 for all of those systems serving less than 10,000 people, 99 percent removal of Cryptosporidium oocysts.

(4) The maximum contaminant level for E. coli applies to all public water systems as specified in this section.

(a) A water system exceeds or violates the MCL for E. coli if any of the conditions identified in paragraphs (4)(a)(A) through (4)(a)(D) of this rule occur.

(A) An E. coli-positive repeat sample follows a total coliform-positive routine sample.

(B) A total coliform-positive repeat sample follows an E. coli-positive routine sample.

(C) All required repeat samples are not collected following an E. coli-positive routine sample.

(D) Any repeat sample is not analyzed for E. coli when it tests positive for total coliform.

(b) Exceeding the MCL for E. coli may pose an acute risk to health and requires the distribution of public notification as specified in OAR 333-061-0042.

(5) Maximum contaminant levels for radionuclides are applicable only to community water systems and are indicated in Table 5: [Table not included. See ED. NOTE.]

(a) The average annual concentration of beta particle and photon radioactivity from man-made sources shall not produce an annual dose equivalent to the total body or any internal organ greater than 4 millirem per year according to the criteria listed in the National Bureau of Standards Handbook 69 as amended August, 1963. If two or more radionuclides are present, the sum total of their annual dose equivalent to the total body or to any organ shall not exceed 4 millirem/year.

(A) The average annual concentration of tritium assumed to produce a total body dose of 4 mrem/year is 20,000 pCi/L;

(B) The average annual concentration of strontium-90 assumed to produce a bone marrow dose of 4 mrem/year is 8 pCi/L.

(b) Compliance with the MCLs shall be calculated pursuant to OAR 333-061-0036(7)(c).

(6) Contaminant levels for secondary contaminants are applicable to all public water systems. These are indicated in Table 6. (Also note OAR 333-061-0036(8)). [Table not included. See ED. NOTE.]

(a) Exceeding the secondary contaminant level for fluoride requires a special public notice as specified in OAR 333-061-0042(7).

(b) Exceeding the maximum contaminant level for fluoride as specified in section (1) of this rule requires public notification as specified in OAR 333-061-0042(2)(b)(A).

(7) Acrylamide and Epichlorohydrin. For every public water system, the water supplier must certify annually to the state in writing, using third party certification approved by the state or manufacturer's certification, that when acrylamide and epichlorohydrin are used in drinking water systems, the combination, or product, of dose and monomer level does not exceed the levels specified as follows:

(a) Acrylamide: 0.05 percent dosed at 1 ppm or equivalent.

(b) Epichlorohydrin: 0.01 percent dosed at 20 ppm or equivalent.

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

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 431.110, 431.150, 448.131, 448.150 & 448.273

Hist.: HD 106, f. & ef. 2-6-76; HD 17-1981(Temp), f. & ef. 8-28-81; HD 4-1982, f. & ef. 2-26-82; Renumbered from 333-042-0210, HD 2-1983, f. & ef. 2-23-83; HD 21-1983, f. 10-20-83, ef. 11-1-83; HD 11-1985, f. & ef. 7-2-85; HD 30-1985, f. & ef 12-4-85; HD 9-1989, f. & cert, ef. 11-13-89; HD 26-1990, f. 12-26-90, cert. ef. 12-29-90; HD 9-1991(Temp), f. & cert. ef. 6-24-91; HD 1-1992, f. & cert. ef. 3-5-92; HD 7-1992, f. & cert. ef. 6-9-92; HD 12-1992, f. & cert. ef. 12-7-92; HD 3-1994, f. & cert. ef. 1-14-94; HD 11-1994, f. & cert. ef. 4-11-94; HD 1-1996, f. 1-2-96, cert. ef. 1-5-96; HD 1-1996, f. 1-2-96, cert. ef. 1-5-96; HD 14-1997, f. & cert. ef. 10-31-97; OHD 7-2000, f. 7-11-00, cert. ef. 7-15-00; OHD 23-2001, f. & cert. ef. 10-31-01; OHD 17-2002, f. & cert. ef. 10-25-02; PH 12-2003, f. & cert. ef. 8-15-03; PH 33-2004, f. & cert. ef. 10-21-04; PH 2-2006, f. & cert. ef. 1-31-06; PH 2-2008, f. & cert. ef. 2-15-08; PH 4-2009, f. & cert. ef. 5-18-09;PH 7-2010, f. & cert. ef. 4-19-10; PH 3-2013, f. & cert. ef. 1-25-13; PH 5-2016, f. 2-10-16, cert. ef. 4-1-16

333-061-0031

Maximum Residual Disinfectant Levels

Maximum residual disinfectant levels (MRDLs) are enforceable in the same manner as maximum contaminant levels and are specified in Table 7: [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 431.110, 431.150, 448.131, 448.150 & 448.273

Hist.: OHD 7-2000, f. 7-11-00, cert. ef. 7-15-00; OHD 23-2001, f. & cert. ef. 10-31-01; PH 4-2009, f. & cert. ef. 5-18-09; PH 5-2016, f. 2-10-16, cert. ef. 4-1-16

333-061-0032

Treatment Requirements and Performance Standards for Surface Water, Groundwater Under Direct Influence of Surface Water, and Groundwater

(1) General requirements for all public water systems supplied by a surface water source or a groundwater source under the direct influence of surface water.

(a) These regulations establish criteria under which filtration is required and treatment technique requirements in lieu of maximum contaminant levels for the following contaminants: Giardia lamblia, viruses, heterotrophic plate count bacteria, Legionella, Cryptosporidium, and turbidity. Each public water system with a surface water source or a groundwater source under the direct influence of surface water must provide treatment of that source water that complies with these treatment technique requirements. The treatment technique requirements consist of installing and properly operating water treatment processes which reliably achieve:

(A) At least 99.9 percent (3-log) removal or inactivation of Giardia lamblia cysts between a point where the raw water is not subject to recontamination by surface water runoff and a point downstream before or at the first customer, and

(B) At least 99.99 percent (4-log) removal or inactivation of viruses between a point where the raw water is not subject to recontamination by surface water runoff and a point downstream before or at the first customer.

(C) At least 99 percent (2-log) removal of Cryptosporidium between a point where the raw water is not subject to recontamination by surface water runoff and a point downstream before or at the first customer for filtered systems, or Cryptosporidium control under the watershed control plan for unfiltered systems; and

(D) Compliance with any applicable disinfection profiling and benchmark requirements as specified in OAR 333-061-0036(4)(l) and OAR 333-061-0060(1)(e).

(E) Sampling and Bin Classification for Cryptosporidium:

(i) All water suppliers must conduct an initial and second round of source water monitoring, as prescribed in subsection 333-061-0036(5)(e) of these rules, for each plant that treats a surface water or GWUDI source to determine what level, if any, of additional Cryptosporidium treatment they must provide.

(ii) Filtered systems must determine their Cryptosporidium treatment bin classification as prescribed in subsection (4)(f) of this rule and provide additional treatment for Cryptosporidium, if required, as prescribed in subsection (4)(g) of this rule. All unfiltered systems must provide treatment for Cryptosporidium as prescribed in subsections (3)(e) through (g) of this rule. Filtered and unfiltered systems must implement Cryptosporidium treatment according to the schedule in paragraph (1)(a)(F) of this rule.

(iii) Systems required to provide additional treatment for Cryptosporidium must implement microbial toolbox options that are designed and operated as prescribed in sections (13) through (17) of this rule and in OAR 333-061-0036(5)(c), OAR 333-061-0050(4) and OAR 333-061-0050(5)(k).

(F) Schedule for compliance with Cryptosporidium treatment requirements.

(i) Following initial bin classification as prescribed in subsection (4)(f) of this rule, filtered water systems must provide the level of treatment for Cryptosporidium required under subsection (4)(g) of this rule according to the schedule in subparagraph (1)(a)(F)(iii) of this rule.

(ii) Following initial determination of the mean Cryptosporidium level as prescribed by subsection (2)(c) of this rule, unfiltered water systems must provide the level of treatment for Cryptosporidium required under subsection (3)(e) of this rule according to the schedule in subparagraph (1)(a)(F)(iii) of this rule.

(iii) Cryptosporidium treatment compliance dates. The Authority may allow up to an additional two years from the date specified below for water systems making capital improvements.

(I) Water systems that serve at least 100,000 people must comply with Cryptosporidium treatment by April 1, 2012.

(II) Water systems that serve from 50,000 to 99,999 people must comply with Cryptosporidium treatment by October 1, 2012.

(III) Water systems that serve from 10,000 to 49,999 people must comply with Cryptosporidium treatment by October 1, 2013.

(IV) Water systems that serve fewer than 10,000 people must comply with Cryptosporidium treatment by October 1, 2014.

(V) State-Regulated public water systems must comply with Cryptosporidium treatment by October 1, 2015.

(iv) If the bin classification for a filtered water system changes following the second round of source water monitoring as prescribed in subsection (4)(f) of this rule, the water system must provide the level of treatment for Cryptosporidium required by subsection (4)(g) of this rule on a schedule approved by the Authority.

(v) If the mean Cryptosporidium level for an unfiltered water system changes following the second round of monitoring as prescribed by paragraph (2)(c)(A) of this rule, the water system must provide the level of Cryptosporidium treatment required by subsection (3)(e) of this rule, due to the change, following a schedule approved by the Authority.

(b) A public water system using a surface water source or a ground water source under the direct influence of surface water is considered to be in compliance with the requirements of this rule if:

(A) The system meets the requirements for avoiding filtration in section (2) of this rule and the disinfection requirements in section (3) of this rule, and the disinfection benchmarking requirements of OAR 333-061-0060(1)(e); or

(B) The system meets the filtration requirements in section (4) of this rule and the disinfection requirements in section (5) of this rule and the disinfection benchmarking requirements of OAR 333-061-0060(1)(e).

(c) Water systems that utilize sources that have been determined to be under the direct influence of surface water according to section (8) of this rule have 18 months to meet the requirements of sections (2) and (3) of this rule, or the requirements of sections (4) and (5) of this rule. During that time, the system must meet the following Interim Standards:

(A) The turbidity of water entering the distribution system must never exceed 5 NTU. Turbidity measurements must be taken a minimum of once per day. If continuous turbidimeters are in place, measurements should be taken every four hours; and

(B) Disinfection must be sufficient to reliably achieve at least 1.0 log inactivation of Giardia lamblia cysts prior to the first user. Daily disinfection "CT" values must be calculated and recorded daily, including pH and temperature measurements, and disinfection residuals at the first customer.

(C) Reports must be submitted to the Authority monthly as prescribed in OAR 333-061-0040.

(D) If these interim standards are not met, the owner or operator of the water system must notify customers of the failure as required in OAR 333-061-0042(2)(b)(A).

(2) Requirements for public water systems utilizing surface water or GWUDI sources without filtration.

(a) Source water quality conditions.

(A) The fecal coliform concentration must be equal to or less than 20/100 ml, or the total coliform concentration must be equal to or less than 100/100 ml, in samples collected as prescribed by OAR 333-061-0036(5)(a)(A), in at least 90 percent of the measurements made for the 6 previous months that a water system served water to the public on an ongoing basis. If a water supplier measures both fecal and total coliform as specified in this paragraph, only the fecal coliform criterion must be met.

(B) The turbidity level cannot exceed the maximum contaminant level prescribed in OAR 333-061-0030(3)(a)(A).

(b) Site-specific conditions.

(A) Water systems must meet the disinfection requirements as prescribed in section (3) of this rule at least 11 of the 12 previous months that the system served water to the public, on an ongoing basis, unless a system fails to meet the requirements during 2 of the 12 previous months that the system served water to the public, and the Authority determines that at least one of these failures was caused by circumstances that were unusual and unpredictable.

(B) Water suppliers must maintain a comprehensive watershed control program which minimizes the potential for contamination by Giardia lamblia cysts, Cryptosporidium oocysts, and viruses in the source water. For water systems using GWUDI, and at the discretion of the Authority, a certified drinking water protection plan (OAR 340-040-0160 to 340-040-0180) that addresses both the groundwater and surface water components of the drinking water supply may be substituted for a watershed control program. The watershed control program shall be developed according to guidelines in OAR 333-061-0075. The public water system must demonstrate through ownership or written agreements with landowners within the watershed that it can control all human activities which may have an adverse impact on the microbiological quality of the source water. The system must submit an annual report to the Authority identifying any special concerns about the watershed, the procedures used to resolve the concern, current activities affecting water quality, and projections of future adverse impacts or activities and the means to address them. At a minimum, the watershed control program must:

(i) Characterize the watershed hydrology and land ownership;

(ii) Identify watershed characteristics and activities which have or may have an adverse effect on source water quality; and

(iii) Monitor the occurrence of activities which may have an adverse effect on source water quality.

(C) Water systems must be subject to an annual on-site inspection of the watershed control program and the disinfection treatment process by the Authority. The on-site inspection must indicate to the Authority's satisfaction that the watershed control program and disinfection treatment process are adequately designed and maintained including the adequacy limiting the potential contamination by Cryptosporidium oocysts. The inspection must include:

(i) A review of the effectiveness of the watershed control program;

(ii) A review of the physical condition of the source intake and how well it is protected;

(iii) A review of the system's equipment maintenance program to ensure there is low probability for failure of the disinfection process;

(iv) An inspection of the disinfection equipment for physical deterioration;

(v) A review of operating procedures;

(vi) A review of data records to ensure that all required tests are being conducted and recorded and disinfection is effectively practiced; and

(vii) Identification of any improvements which are needed in the equipment, system maintenance and operation, or data collection.

(D) Water systems must not have been identified by the Authority as the source of waterborne disease outbreak under the system's current configuration. If such an outbreak occurs, the water system's treatment process must be sufficiently modified, as determined by the Authority, to prevent any future such occurrence.

(E) Water systems must meet each of the following conditions on an ongoing basis for at least 11 of the 12 previous months that the water system served water to the public unless the Authority determines that failure to meet this requirement was not caused by a deficiency in treatment of the source water.

(i) The MCL for E. coli as prescribed by OAR 333-061-0030(4) was not exceeded at the water system.

(ii) The equivalent to either of the level one coliform investigation triggers specified in OAR 333-061-0078(2)(a)(A) or (B) was not exceeded at the water system prior to March 31, 2016 if applicable.

(F) Water systems must be in compliance with the requirements for total trihalomethanes, haloacetic acids (five), bromate, chlorite, chlorine, chloramines, and chlorine dioxide as specified in OAR 333-061-0036(4).

(c) Determination of mean Cryptosporidium level.

(A) Unfiltered water systems must calculate the arithmetic average of all Cryptosporidium sample concentrations following completion of the initial and second round of source water monitoring conducted in accordance with OAR 333-061-0036(5)(e). Systems must report this value to the Authority for approval no later than 6 months after the date the system was required to complete the required monitoring.

(B) If the frequency of monthly Cryptosporidium sampling varies, water systems must calculate a monthly average for each month of sampling. Systems must then use these monthly average concentrations, rather than individual sample concentrations, in the calculation of the mean Cryptosporidium level prescribed in paragraph (2)(c)(A) of this rule.

(C) The report to the Authority of the mean Cryptosporidium levels calculated in accordance with paragraph (2)(c)(A) of this rule must include a summary of the source water monitoring data used for the calculation.

(D) Failure to comply with the conditions of subsection (2)(c) of this rule is a violation of treatment technique requirements.

(d) A public water system which fails to meet any of the criteria in section (2) of this rule is in violation of a treatment technique requirement. The Authority can require filtration to be installed where it determines necessary.

(3) Disinfection requirements for systems utilizing surface water or GWUDI sources without filtration. Each public water system that does not provide filtration treatment must provide disinfection treatment as follows:

(a) The disinfection treatment must be sufficient to ensure at least 99.9 percent (3-log) inactivation of Giardia lamblia cysts and 99.99 percent (4-log) inactivation of viruses, every day the system serves water to the public, except any one day each month. Each day a system serves water to the public, the public water system must calculate the CT value(s) from the system's treatment parameters, using the procedure specified in OAR 333-061-0036(5)(a)(C) and determine whether this value(s) is sufficient to achieve the specified inactivation rates for Giardia lamblia cysts and viruses. If a system uses a disinfectant other the chlorine, the system must demonstrate to the Authority through the use of an approved protocol for on-site disinfection demonstration studies or other information satisfactory to the Authority that the system is achieving the required inactivation rates on a daily basis instead of meeting the "CT" values in this rule.

(b) Systems for chemical disinfection must have either:

(A) Redundant components, including an auxiliary power supply with automatic start-up and alarm to ensure that disinfectant application is maintained continuously while water is being delivered to the distribution system; or

(B) Automatic shut-off of delivery of water to the distribution system whenever there is less than 0.2 mg/l of residual disinfectant concentration in the water, or if the ultraviolet light system fails. If the Authority determines than automatic shut-off would cause unreasonable risk to health or interfere with fire protection, the system must comply with paragraph (3)(b)(A) of this rule.

(c) The residual disinfectant concentration in the water entering the distribution system, measured as specified in OAR 333-061-0036(5)(a)(E), cannot be less than 0.2 mg/l for more than four hours.

(d) Disinfectant residuals in the distribution system. The residual disinfectant concentration in the distribution system, measured as total chlorine, combined chlorine, or chlorine dioxide, as specified in OAR 333-061-0036(5)(a)(F), cannot be undetectable in more than 5 percent of the samples each month, for any two consecutive months that the system serves water to the public.

(e) Unfiltered water systems must provide the level of Cryptosporidium inactivation specified in this subsection, based on their mean Cryptosporidium levels, and determined in accordance with subsection (2)(c) of this rule and according to the schedule in subsection (1)(a) of this rule.

(A) Unfiltered systems with a mean Cryptosporidium level of 0.01 oocysts/L or less must provide at least 2-log Cryptosporidium inactivation.

(B) Unfiltered systems with a mean Cryptosporidium level of greater than 0.01 oocysts/L must provide at least 3-log Cryptosporidium inactivation.

(f) Inactivation treatment technology requirements. Unfiltered systems must use chlorine dioxide, ozone, or UV as prescribed by OAR 333-061-0036(5)(c) to meet the Cryptosporidium inactivation requirements of this section.

(A) Systems that use chlorine dioxide or ozone and fail to achieve the Cryptosporidium inactivation required in subsection (3)(e) of this rule on more than one day in the calendar month are in violation of the treatment technique requirement.

(B) Systems that use UV light and fail to achieve the Cryptosporidium inactivation required in subsection (3)(e) of this rule because they do not to meet the criteria specified in subsection (18)(c) of this rule are in violation of the treatment technique requirement.

(g) Use of two disinfectants. Unfiltered water systems must meet the combined Cryptosporidium inactivation requirements of subsection (3)(e) of this rule, and the Giardia lamblia and virus inactivation requirements of subsection (3)(a) of this rule using a minimum of two disinfectants. Each of the two disinfectants must achieve by itself, the total inactivation required for at least one of the following pathogens: Cryptosporidium, Giardia lamblia, or viruses.

(4) Requirements for systems utilizing surface water or GWUDI sources that provide filtration:

(a) A public water system that uses a surface water source or a groundwater source under the direct influence of surface water, and does not meet all of the criteria in sections (1), (2), and (3) of this rule for avoiding filtration, violates a treatment technique and must provide treatment consisting of both disinfection, as specified in section (5) of this rule, and filtration treatment which complies with the requirements of either subsection (4)(b), (c), (d), or (e) of this rule by June 29, 1993 or within 18 months of the failure to meet the criteria in section (2) of this rule for avoiding filtration, whichever is later. Failure to install a required treatment by the prescribed dates is a violation of the treatment technique requirements.

(b) Conventional filtration treatment or direct filtration. Systems using conventional filtration treatment or direct filtration treatment shall meet the turbidity requirements as specified in OAR 333-0061-0030(3)(b)(A)(i) and (ii).

(c) Slow sand filtration. Systems using slow sand filtration treatment shall meet the turbidity requirements prescribed in OAR 333-061-0030(3)(b)(B).

(d) Diatomaceous earth filtration. Systems using diatomaceous earth filtration treatment shall meet the turbidity requirements prescribed in OAR 333-061-0030(3)(b)(C).

(e) Other filtration technologies. Systems using other filtration technologies shall meet the turbidity requirements prescribed in OAR 333-061-0030(3)(b)(D).

(A) GWUDI systems using bank filtration as an alternate filtration technology must meet the requirements listed in section (9) of this rule.

(B) Systems using membrane filtration must conduct continuous indirect integrity testing and daily direct integrity testing in accordance with OAR 333-061-0036(5)(d)(B) and (C).

(f) Cryptosporidium Bin classification for filtered water systems. Following completion of the initial round of source water monitoring required by OAR 333-061-0036(5)(e), filtered water systems must calculate an initial Cryptosporidium bin concentration for each plant for which monitoring was required. Calculation of the bin concentration must be based upon the Cryptosporidium results reported in accordance with OAR 333-061-0036(5)(e), and must comply with paragraphs (4)(f)(A) through (F) of this rule.

(A) For water systems that collect 48 or more samples, the bin concentration is equal to the arithmetic average of all sample concentrations.

(B) For water systems that collect at least 24 samples, but not more than 47 samples, the bin concentration is equal to the highest arithmetic average of all sample concentrations in any 12 consecutive months during which Cryptosporidium samples were collected.

(C) For water systems that serve fewer than 10,000 people and only collect Cryptosporidium samples for 12 months, that is, collect 24 samples in 12 months, the bin concentration is equal to the arithmetic average of all sample concentrations.

(D) For water systems with plants operating only part of the year, and that monitor fewer than 12 months per year as prescribed by OAR 333-061-0036(5)(e)(E), the bin concentration is equal to the highest arithmetic average of all sample concentrations during any year of Cryptosporidium monitoring.

(E) If the monthly Cryptosporidium sampling frequency varies, water systems must first calculate a monthly average for each month of monitoring. Water systems must then use these monthly average concentrations, rather than individual sample concentrations, in the applicable calculation for bin classification of this subsection.

(F) Bin classification table.

(i) Filtered water systems must determine their initial bin classification from Table 8 as follows and using the Cryptosporidium bin concentration calculated under subsection (4)(f) of this rule: [Table not included. See ED. NOTE.]

(ii) Following completion of the second round of source water monitoring required as prescribed by OAR 333-061-0036(5)(e)(B), filtered water systems must recalculate their Cryptosporidium bin concentration based upon the sample results reported in accordance with OAR 333-061-0036(5)(e)(B) and following the procedures specified in paragraphs (4)(f)(A) through (D) of this rule. Water systems must then re-determine their bin classification using Table 8 in paragraph (4)(f)(F) of this rule. [Table not included. See ED. NOTE.]

(G) Filtered water systems must report their bin classification as prescribed by paragraph (4)(f)(F) of this rule to the Authority for approval no later than 6 months after the system is required to complete the initial and second round of source water monitoring based on the schedule in OAR 333-061-0036(5)(e)(C).

(H) The bin classification report to the Authority must include a summary of source water monitoring data and the calculation procedure used to determine bin classification. Failure to comply with the conditions of this paragraph is a violation of treatment technique requirements.

(g) Additional Cryptosporidium treatment requirements.

(A) Filtered water systems must provide the level of additional treatment for Cryptosporidium specified in Table 9 based on their bin classification as determined under subsection (4)(f) of this rule, and according to the schedule in paragraph (1)(a)(F) of this rule. [Table not included. See ED. NOTE.]

(B) Filtered water systems must use one or more of the treatment and management options listed in section (13) of this rule, termed the microbial toolbox, to comply with the additional Cryptosporidium treatment required by paragraph (4)(g)(A) of this rule.

(C) Systems classified in Bin 3 or Bin 4 must achieve at least 1-log of the additional Cryptosporidium treatment, as required by paragraph (4)(g)(A) of this rule, using either one or a combination of the following: bag filters, bank filtration, cartridge filters, chlorine dioxide, membranes, ozone, or UV, as described in sections (14) through (18) of this rule and in OAR 333-061-0036(5)(c).

(i) Failure by a water system, in any month, to achieve the treatment credit required by sections (14) through (18) of this rule and OAR 333-061-0036(5)(c) that is at least equal to the level of treatment required by paragraph (4)(g)(A) of this rule, is a violation of treatment technique requirements.

(ii) If the Authority determines during a sanitary survey or equivalent source water assessment, that after a system completed the monitoring conducted as required by OAR 333-061-0036(5)(e)(A) or (B), significant changes occurred in the system's watershed that could lead to increased contamination of the source water by Cryptosporidium, the system must take action as specified by the Authority to address the contamination. These actions may include additional source water monitoring or implementing microbial toolbox options specified in section (13) of this rule.

(5) Disinfection requirements for systems utilizing surface water or GWUDI sources with filtration:

(a) The disinfection treatment must be sufficient to ensure that the total treatment processes of that system achieve at least 99.9 percent (3-log) inactivation or removal of Giardia lamblia cysts and at least 99.99 percent (4-log) inactivation or removal of viruses as determined by the Authority.

(b) The residual disinfectant concentration in the water entering the distribution system, measured as specified in OAR 333-061-0036(5)(b)(D), cannot be less than 0.2 mg/l for more than 4 hours.

(c) The residual disinfectant concentration in the distribution system, measured as total chlorine, combined chlorine, or chlorine dioxide, as specified is OAR 333-061-0036(5)(b)(D) cannot be undetectable in more than 5 percent of the samples each month, for any two consecutive months that the system serves water to the public.

(6) Requirements for water systems using groundwater sources.

(a) Water suppliers responsible for groundwater systems as defined by OAR 333-061-0020(90) must comply with the requirements of this section when a significant deficiency is identified or a groundwater source sample collected according to OAR 333-061-0036(6)(j) is E. coli positive. The Authority may require a water supplier to comply with the provisions of this section when a groundwater source sample collected according to OAR 333-061-0036(6)(i) or (k) is E. coli positive.

(b) When a significant deficiency is identified at a public water system that uses both groundwater and surface water or groundwater under the direct influence of surface water, the water supplier must comply with provisions of this section except in cases where the Authority determines that the significant deficiency is in a portion of the distribution system that is served solely by surface water or groundwater under the direct influence of surface water.

(c) Water suppliers must consult with the Authority regarding the appropriate corrective action within 30 days of receiving written notice from the Authority of a significant deficiency, written notice from a laboratory that a groundwater source sample collected in accordance with OAR 333-061-0036(6)(j) was E. coli -positive, or direction from the Authority that an E. coli -positive collected in accordance with OAR 333-061-0036(6)(i) or (k) requires corrective action.

(d) Within 120 days (or earlier if directed by the Authority) of receiving written notification from the Authority of a significant deficiency, written notice from a laboratory that a groundwater source sample collected in accordance with OAR 333-061-0036(6)(j) was found to be E. coli positive, or direction from the Authority that a E. coli -positive sample collected in accordance with OAR 333-061-0036(6)(i) or (k) requires corrective action, the water supplier must either:

(A) Have completed corrective action in accordance with applicable Authority plan review processes or other Authority guidance, including any Authority-specified interim measures; or

(B) Be in compliance with an Authority approved corrective action plan and schedule subject to the following conditions:

(i) Any subsequent modifications to an approved corrective action plan and schedule must be approved by the Authority; and

(ii) If the Authority specifies interim measures for the protection of public health pending Authority approval of the corrective action plan and schedule, or pending completion of the corrective action plan, the water supplier must comply with these interim measures as well as with any schedule specified by the Authority.

(e) Water suppliers subject to the requirements of this section must, upon approval by the Authority, implement one or more of the following corrective action alternatives:

(A) Correct all significant deficiencies;

(B) Disconnect the groundwater source from the water system and provide an alternate source of water. If a disconnected well is or will be

within 100 feet of a public water supply well, the disconnected well must be abandoned in accordance with 333-061-0050(2)(a)(E);

(C) Eliminate the source of contamination; or

(D) Provide treatment for the groundwater source that reliably achieves at least 4-log inactivation, removal, or a combination of inactivation and removal of viruses before or at the first customer. If the groundwater source does not meet all of the applicable construction standards specified in OAR 333-061-0050(2)(a) or (b), and the Authority determines that reconstruction of the groundwater source will add a significant measure of public health protection, then the groundwater source must be made to meet all of the applicable construction standards specified in OAR 333-061-0050(2)(a) or (b) before treatment is applied as prescribed by OAR 333-061-0050(5)(b).

(f) Water suppliers responsible for water systems using fecally contaminated groundwater sources must provide continuous disinfection as prescribed by OAR 333-061-0050(5) when disinfection is approved by the Authority as a corrective action.

(g) If three or more coliform investigations are triggered within a rolling 12 month period or four or more coliform investigations are triggered within a rolling two year period, water suppliers must install and utilize treatment for disinfectant residual maintenance. For the purposes of this subsection, only coliform investigations triggered as specified in OAR 333-061-0078(2)(a)(A) or (B) or (2)(b)(A) will be considered.

(A) Treatment must be installed and operating within six months unless the Authority approves an alternate schedule.

(B) Disinfectant residuals must be monitored as prescribed by OAR 333-061-0036(9).

(h) A water supplier violates this rule if any of the situations specified in paragraphs (6)(h)(A) through (C) of this rule occur. Violation of this rule is a violation of treatment technique requirements and requires a tier two public notice be published as specified by OAR 333-061-0042.

(A) Within 120 days (or earlier if directed by the Authority) of receiving written notice from the Authority of a significant deficiency, a water supplier:

(i) Fails to complete corrective action in accordance with applicable Authority plan review processes or other Authority guidance, including Authority specified interim actions and measures; or

(ii) Fails to be in compliance with an Authority approved corrective action plan and schedule.

(B) Within 120 days (or earlier if directed by the Authority) of receiving notification of an E. coli-positive groundwater source sample collected according to OAR 333-061-0036(6)(j) and not invalidated according to OAR 333-061-0036(6)(l), a water supplier:

(i) Fails to complete corrective action according to applicable Authority plan review processes or other Authority guidance, including interim actions and measures; or

(ii) Fails to be in compliance with an Authority approved corrective action plan and schedule.

(C) A water supplier fails to correct any disruption in treatment within four hours of determining a disruption is occurring at a groundwater system subject to the requirements of subsection (7)(b) of this rule and required to maintain at least 4-log treatment of viruses (using inactivation, removal, or an Authority approved combination of 4-log virus inactivation and removal) before or at the first customer.

(7) Compliance monitoring requirements for groundwater systems that provide at least 4-log treatment of viruses. Water systems must comply with the requirements of (7)(a) through (7)(c) of this rule.

(a) A groundwater system that is not required to meet the source water monitoring requirements of 333-061-0036(6)(i) or (j) of these rules, because it provides at least 4-log treatment of viruses (using inactivation, removal, or an Authority-approved combination of 4-log virus inactivation and removal) before or at the first customer for any groundwater source, must comply with the requirements of this subsection within 30 days of placing the groundwater source in service, whichever is later.

(A) The water system must notify the Authority in writing, that it provides at least 4-log treatment of viruses (using inactivation, removal, or an Authority approved combination of 4-log virus inactivation and removal) before or at the first customer for the groundwater source. Notification to the Authority must include engineering, operational, or other information that the Authority requests to evaluate the submission.

(B) The system must conduct compliance monitoring as required by subsection (7)(b) of this rule.

(C) The system must conduct groundwater source monitoring under OAR 333-061-0036(6) if the system subsequently discontinues 4-log treatment of viruses (using inactivation, removal, or an Authority-approved combination of 4-log virus inactivation and removal) before or at the first customer for the groundwater source.

(b) Monitoring requirements. A groundwater system subject to the requirements of section (6) or subsection (7)(a) of this rule must monitor the effectiveness and reliability of treatment for that groundwater source before or at the first customer as follows:

(A) Chemical Disinfection:

(i) Groundwater systems serving greater than 3,300 people must continuously monitor the residual disinfectant concentration using analytical methods as specified in OAR 333-061-0036(1), at a location approved by the Authority, and must record the lowest residual disinfectant concentration each day that water from the groundwater source is served to the public. The groundwater system must maintain the Authority-determined residual disinfectant concentration every day the groundwater system serves water from the groundwater source to the public. If there is a failure in the continuous monitoring equipment, the groundwater system must conduct grab sampling every four hours until the continuous monitoring equipment is returned to service. The system must resume continuous residual disinfectant monitoring within 14 days.

(ii) Groundwater systems serving 3,300 or fewer people must monitor the residual disinfectant concentration using analytical methods as specified in OAR 333-061-0036(1), at a location approved by the Authority, and record the residual disinfection concentration each day that water from the groundwater source is served to the public. The groundwater system must maintain the Authority-determined residual disinfectant concentration every day the groundwater system serves water from the groundwater source to the public. The groundwater system must take a daily grab sample during the hour of peak flow or at another time specified by the Authority. If any daily grab sample measurement falls below the Authority-determined residual disinfectant concentration, the groundwater system must take follow-up samples every four hours until the residual disinfectant concentration is restored to the Authority-determined level. Alternately, a groundwater system that serves 3,300 or fewer people may monitor continuously and meet the requirements of subparagraph (7)(b)(A)(i) of this rule.

(B) Membrane filtration. A groundwater system that uses membrane filtration to achieve at least 4-log removal of viruses must monitor and operate the membrane filtration process in accordance with all Authority-specified monitoring and compliance requirements. A groundwater system that uses membrane filtration is in compliance with the requirement to achieve at least 4-log removal of viruses when:

(i) The membrane has an absolute molecular weight cut-off (MWCO), or an alternate parameter describing the exclusion characteristics of the membrane, that can reliably achieve at least 4-log removal of viruses;

(ii) The membrane process is operated in accordance with Authority-specified compliance requirements; and

(iii) The integrity of the membrane is intact as verified per OAR 333-061-0050(4)(c)(I).

(C) Alternative treatment. A groundwater system that uses an Authority-approved alternative treatment to provide at least 4-log treatment of viruses (using inactivation, removal, or an Authority-approved combination of 4-log virus inactivation and removal) before or at the first customer must:

(i) Monitor the alternative treatment in accordance with all Authority-specified monitoring requirements; and

(ii) Operate the alternative treatment in accordance with all compliance requirements that the Authority determines to be necessary to achieve at least 4-log treatment of viruses.

(c) Discontinuing treatment. A groundwater system may discontinue 4-log treatment of viruses (using inactivation, removal, or an Authority-approved combination of 4-log virus inactivation and removal) before or at the first customer for a groundwater source if the Authority determines, and documents in writing, that 4-log treatment of viruses is no longer necessary for that groundwater source. A system that discontinues 4-log treatment of viruses is subject to the source water monitoring requirements of OAR 333-061-0036(6).

(8) Determination of groundwater under the direct influence of surface water (GWUDI)

(a) Except for wells using only a handpump, all groundwater sources must be evaluated for the potential of surface water influence if the source is in proximity to perennial or intermittent surface water and meets one of the hydrogeologic setting-surface water setback criteria identified in paragraph (A) and either paragraph (B) or (C). Hydrogeologic setting is identified by the Source Water Assessment or some other hydrogeologic study approved by the Authority.

(A) The groundwater source draws water from:

(i) A sand aquifer and is within 75 feet of surface water;

(ii) A sand and gravel aquifer and is within 100 feet of surface water;

(iii) A coarse sand, gravel, and boulder aquifer and is within 200 feet of surface water;

(iv) A fractured bedrock aquifer or layered volcanic aquifer and is within 500 feet of surface water; or

(v) Greater distances if geologic conditions or historical monitoring data indicate additional risk at the source; and

(B) There is a history of microbiological contamination in the source; or

(C) The Source Water Assessment or some other hydrogeologic study approved by the Authority determines the source is highly sensitive as a result of aquifer characteristics, vadose zone characteristics, monitoring history or well construction.

(b) Except as provided by subsection (8)(c) of this rule, water suppliers must conduct sampling for any groundwater source(s) meeting the criteria specified in subsection (8)(a) of this rule. Sampling must be conducted according to the following criteria:

(A) Collection of twelve consecutive monthly source water samples when the source is used year-round, or every month the source provides water to the public during one operational season for water sources used seasonally;

(B) Samples must be analyzed for E. coli in accordance with all the applicable provisions of OAR 333-061-0036(1); and

(C) Samples must be collected at the water source prior to any treatment unless the Authority approves an alternate sampling location that is representative of source water quality.

(c) Public water systems that are required to evaluate their source(s) for direct influence of surface water may submit results of a hydrogeologic assessment completed by an Oregon registered geologist or other licensed professional with demonstrated experience and competence in hydrogeology in accordance with ORS 672.505 through 672.705 to demonstrate that the source is not potentially under the direct influence of surface water. The assessment must be consistent with the Oregon State Board of Geologist Examiners "Hydrology Report Guidelines," must be completed within a timeframe specified by the Authority and must include the following:

(A) Well characteristics: well depth, screened or perforated interval, casing seal placement;

(B) Aquifer characteristics: thickness of the vadose zone, hydraulic conductivity of the vadose zone and the aquifer, presence of low permeability zones in the vadose zone, degree of connection between the aquifer and surface water;

(C) Hydraulic gradient: gradient between the aquifer and surface water source during pumping conditions, variation of static water level and surface water level with time; and

(D) Groundwater flow: flow of water from the surface water source to the groundwater source during pumping conditions, estimated time-of-travel for groundwater from the surface water source(s) to the well(s), spring(s), etc.

(d) If a source water sample collected in accordance with subsection (8)(b) of this rule is reported as E. coli positive, then the water supplier must collect five additional source water samples within 24 hours of receiving notification of the positive sample result.

(e) If any of the five additional source water samples specified in subsection (8)(d) of this rule is E. coli positive then the original E. coli positive sample is considered confirmed, and the water supplier must have the groundwater source analyzed for surface water influence according to subsection (8)(h) of this rule. Further E. coli monitoring is not required.

(f) A water supplier may be required to have the groundwater source analyzed for surface water influence according to subsection (8)(h) of this rule at the discretion of the Authority if source water samples are consistently total coliform positive.

(g) Emergency groundwater sources that meet the criteria of subsection (8)(a) of this rule can either be evaluated as prescribed in subsection 8(b) or (8)(c) of this rule, or the evaluation can be waived if a Tier 2 public notice as prescribed in OAR 333-061-0042 is issued each time the source is used. The notice must explain that the source has been identified as potentially under the direct influence of surface water, but has not been fully evaluated, and therefore may not be treated sufficiently to inactivate pathogens such as Giardia lamblia and Cryptosporidium.

(h) Determination of surface water influence on a groundwater source must be based upon a minimum of two samples conducted according to the "Consensus Method for Determining Groundwaters under the Direct Influence of Surface Water Using Microscopic Particulate Analysis (MPA)." Both water samples must be collected during a period of high runoff or streamflow and separated by a period of at least four weeks, or at other times as determined by the Authority. Scoring for diatoms, other algae, and insects/larvae is partially modified according to Table 10. Scoring for Giardia lamblia, coccidia, rotifers, and plant debris remains unchanged. [Table not included. See ED. NOTE.]

(i) A water source will be classified as groundwater or GWUDI as follows:

(A) If the two initial microscopic particulate analyses have a risk score of less than 10, the water system source is classified as groundwater;

(B) If any microscopic particulate analysis (MPA) risk score is greater than 19, or each risk score is greater than 14, the water source is classified as GWUDI;

(C) If at least one of the two MPA risk scores is between 10 and 19, two additional microscopic particulate analyses must be conducted, and water source classification will be made as follows:

(i) If all of the MPA risk scores are less than 15, the water system source is classified as groundwater;

(ii) If any MPA risk score is greater than 19, or two or more are greater than 14, the water system source is classified as under the direct influence of surface water; or

(iii) If only one of four MPA risk scores is greater than 14, two additional microscopic particulate analyses must be conducted, and water source classification will be based upon further evaluation by the Authority.

(j) If an infiltration gallery, Ranney well, or dug well has been classified as groundwater under this rule, the turbidity of the source must be monitored and recorded daily and kept by the water system operator. If the turbidity exceeds 5 NTU or if the surface water body changes course such that risk to the groundwater source is increased, an MPA must be conducted at that time. Reevaluation may be required by the Authority at any time.

(k) The Authority may determine a groundwater source to be under the direct influence of surface water if the criteria in subsection (8)(a) of this rule are met and there are significant or relatively rapid shifts in groundwater characteristics, such as turbidity, which closely correlate to changes in weather or surface water conditions.

(l) The Authority may require reevaluation of a groundwater source, as specified in this section, if geologic conditions, water quality trends, or other indicators change despite any data previously collected or any determination previously made.

(m) The Authority may determine that a source is not under direct influence of surface water based on criteria other than MPAs including the Source Water Assessment, source water protection, and other water quality parameters. The determination shall be based on the criteria indicating that the water source has a very low susceptibility to contamination by parasites, including Giardia lamblia and Cryptosporidium. The Authority may impose additional monitoring or disinfection treatment requirements to ensure that the risk remains low.

(9) Requirements for groundwater sources under the direct influence of surface water seeking alternative filtration credit through bank filtration:

(a) Water systems with all MPA risk scores less than 30 may choose the option to evaluate for bank filtration credit. The water system must conduct a demonstration of performance study that includes an assessment of the ability of the local hydrogeologic setting to provide a minimum of 2-log reduction in the number of particles and microorganisms in the Giardia and Cryptosporidium size range between surface water and the groundwater source. The bank filtration study must include the following elements or other Authority approved methods:

(A) The bank filtration study must involve the collection of data on removal of biological surrogates and particles in the Cryptosporidium size range of 2–5 microns or other surrogates approved by the Authority, and related hydrogeologic and water quality parameters during the full range of operating conditions. The demonstration study methods shall be reviewed and approved by the Authority prior to implementation. Final assessment of removal credit granted to the well shall be made by the Authority based on the study results.

(b) If a GWUDI system using bank filtration as an alternative filtration technology violates the MCL for turbidity specified in OAR 333-061-0030(3)(b)(D), the water system must investigate the cause of the high turbidity within 24 hours of the exceedance. Pending the results of the investigation by the water system, the Authority may require a new bank filtration study.

(10) Disinfection Byproduct Control Requirements:

(a) This rule establishes criteria under which community water systems and Non-transient, Non-community water systems which add a chem-

ical disinfectant to the water in any part of the drinking water treatment process must modify their practices to meet MCLs and MRDLs in OAR 333-061-0030 and 0031, respectively. This rule also establishes the treatment technique requirements for disinfection byproduct precursors, and the criteria under which transient non-community water systems that use chlorine dioxide as a disinfectant or oxidant must modify their practices to meet the MRDL for chlorine dioxide as specified in OAR 333-061-0031.

(b) Water systems may increase residual disinfectant levels in the distribution system of chlorine or chloramines (but not chlorine dioxide) to a level and for a time necessary to protect public health, to address specific microbiological contamination problems caused by circumstances such as, but not limited to, distribution line breaks, storm run-off events, source water contamination events, or cross connection events.

(c) Enhanced coagulation or enhanced softening are authorized treatment techniques to control the level of disinfection byproduct precursors for water systems using surface water or groundwater under the direct influence of surface water and conventional filtration treatment. Community and Non-transient Non-community water systems using conventional filtration treatment must operate with enhanced coagulation or enhanced softening to achieve the total organic carbon (TOC) percent removal levels specified in subsection (10)(d) of this rule unless the system meets at least one of the alternative compliance criteria listed in paragraph (10)(c)(A) or (10)(c)(B) of this rule.

(A) Alternative compliance criteria for enhanced coagulation and enhanced softening systems. Water systems may use the alternative compliance criteria in subparagraphs (10)(c)(A)(i) through (vi) of this rule in lieu of complying with the performance criteria specified in subsection (e) of this section. Systems must still comply with monitoring requirements specified in OAR 333-061-0036(4)(k).

(i) The system's source water TOC level is less than 2.0 mg/L, calculated quarterly as a running annual average.

(ii) The system's treated water TOC level is less than 2.0 mg/L, calculated quarterly as a running annual average.

(iii) The system's source water TOC is less than 4.0 mg/L, calculated quarterly as a running annual average; the source water alkalinity is greater than 60 mg/L (as CaCO3 calculated quarterly as a running annual average; and the TTHM and HAA5 running annual averages are no greater than 0.040 mg/L and 0.030 mg/L, respectively.

(iv) The TTHM and HAA5 running annual averages are no greater than 0.040 mg/L and 0.030 mg/L, respectively, and the system uses only chlorine for primary disinfection and maintenance of a residual in the distribution system.

(v) The system's source water SUVA, prior to any treatment and measured monthly is less than or equal to 2.0 L/mg-m, calculated quarterly as a running annual average.

(vi) The system's finished water SUVA, measured monthly is less than or equal to 2.0 L/mg-m, calculated quarterly as a running annual average.

(B) Additional alternative compliance criteria for softening systems. Systems practicing enhanced softening that cannot achieve the TOC removals required by paragraph (10)(d)(B) of this rule may use the alternative compliance criteria in subparagraphs (10)(c)(B)(i) and (ii) of this rule in lieu of complying with subsection (10)(d) of this rule. Systems must still comply with monitoring requirements in specified in OAR 333-061-0036(4)(k).

(i) Softening that results in lowering the treated water alkalinity to less than 60 mg/L (as CaCO3), measured monthly and calculated quarterly as a running annual average.

(ii) Softening that results in removing at least 10 mg/L of magnesium hardness (as CaCO3), measured monthly and calculated quarterly as a running annual average.

(d) Enhanced coagulation and enhanced softening performance requirements.

(A) Systems must achieve the percent reduction of TOC specified in paragraph (10)(d)(B) in this rule between the source water and the combined filter effluent, unless the Authority approves a system's request for alternate minimum TOC removal (Step 2) requirements under paragraph (10)(d)(C) of this rule.

(B) Required Step 1 TOC reductions, specified in Table 11, are based upon specified source water parameters. Systems practicing softening are required to meet the Step 1 TOC reductions in the far-right column (Source water alkalinity >120 mg/L) for the specified source water TOC: [Table not included. See ED. NOTE.]

(C) Water systems that cannot achieve the Step 1 TOC removals required by paragraph (10)(d)(B) of this rule due to water quality parameters or operational constraints must apply to the Authority, within three months of failure to achieve the TOC removals required by paragraph (10)(d)(B) of this rule, for approval of alternative minimum TOC (Step 2) removal requirements submitted by the water system. If the Authority approves the alternative minimum TOC removal (Step 2) requirements, the Authority may make those requirements retroactive for the purposes of determining compliance. Until the Authority approves the alternate minimum TOC removal (Step 2) requirements, the water system must meet the Step 1 TOC removals contained in paragraph (10)(d)(B) of this rule.

(D) Alternate minimum TOC removal (Step 2) requirements. Applications made to the Authority by enhanced coagulation systems for approval of alternative minimum TOC removal (Step 2) requirements under paragraph (10)(d)(C) of this rule must include, as a minimum, results of bench-scale or pilot-scale testing conducted under subparagraph (10)(d)(D)(i) of this rule. The submitted bench-scale or pilot scale testing must be used to determine the alternate enhanced coagulation level.

(i) Alternate enhanced coagulation level is defined as coagulation at a coagulant dose and pH as determined by the method described in subparagraphs (10)(d)(D)(i) through (v) of this rule such that an incremental addition of 10 mg/L of alum (or equivalent amount of ferric salt) results in a TOC removal of less than or equal to 0.3 mg/ L. The percent removal of TOC at this point on the "TOC removal versus coagulant dose" curve is then defined as the minimum TOC removal required for the system. Once approved by the Authority, this minimum requirement supersedes the minimum TOC removal required by the Table 11 in paragraph (10)(d)(B) of this rule. This requirement will be effective until such time as the Authority approves a new value based on the results of a new bench-scale and pilot-scale test. Failure to achieve Authority-set alternative minimum TOC removal levels is a violation. [Table not included. See ED. NOTE.]

(ii) Bench-scale or pilot-scale testing of enhanced coagulation must be conducted by using representative water samples and adding 10 mg/L increments of alum (or equivalent amounts of ferric salt) until the pH is reduced to a level less than or equal to the enhanced coagulation Step 2 target pH as specified in Table 12: [Table not included. See ED. NOTE.]

(iii) For waters with alkalinities of less than 60 mg/L for which addition of small amounts of alum or equivalent addition of iron coagulant drives the pH below 5.5 before significant TOC removal occurs, the system must add necessary chemicals to maintain the pH between 5.3 and 5.7 in samples until the TOC removal of 0.3 mg/L per 10 mg/L alum added (or equivalent addition of iron coagulant) is reached.

(iv) The system may operate at any coagulant dose or pH necessary, consistent with these rules to achieve the minimum TOC percent removal approved under paragraph (10)(d)(C) of this rule.

(v) If the TOC removal is consistently less than 0.3 mg/L of TOC per 10 mg/L of incremental alum dose at all dosages of alum (or equivalent addition of iron coagulant), the water is deemed to contain TOC not amenable to enhanced coagulation. The water system may then apply to the Authority for a waiver of enhanced coagulation requirements.

(e) Compliance calculations.

(A) Water systems other than those identified in paragraphs (10)(c)(A) or (d)(B) of this rule must comply with requirements contained in paragraph (10)(d)(B) or (C) of this rule. Systems must calculate compliance quarterly, beginning after the system has collected 12 months of data, by determining an annual average using the following method:

(i) Determine actual monthly TOC percent removal, equal to: {1-(treated water TOC/source water TOC)}x100

(ii) Determine the required monthly TOC percent removal (from either Table 11 in paragraph (10)(d)(B) of this rule or from paragraph (10)(d)(C) of this rule). [Table not included. See ED. NOTE.]

(iii) Divide the value in subparagraph (10)(e)(A)(i) of this rule by the value in subparagraph (10)(e)(A)(ii) of this rule.

(iv) Add together the results of subparagraph (10)(e)(A)(iii) of this rule for the last 12 months and divide by 12.

(v) If the value calculated in subparagraph (10)(e)(A)(iv) of this rule is less than 1.00, the water system is not in compliance with the TOC percent removal requirements.

(B) Water systems may use the provisions in subparagraphs (10)(e)(B)(i) through (v) of this rule in lieu of the calculations in subparagraph (10)(e)(A)(i) through (v) of this rule to determine compliance with TOC percent removal requirements.

(i) In any month that the water system's treated or source water TOC level is less than 2.0 mg/L, the water system may assign a monthly value of 1.0 (in lieu of the value calculated in subparagraph (10)(e)(A)(iii) of this rule) when calculating compliance under the provisions of paragraph (10)(e)(A) of this rule.

(ii) In any month that a system practicing softening removes at least 10 mg/L of magnesium hardness (as CaCO3), the water system may assign a monthly value of 1.0 (in lieu of the value calculated in subparagraph (10)(e)(A)(iii) of this rule) when calculating compliance under the provisions of paragraph (10)(e)(A) of this rule.

(iii) In any month that the water system's source water SUVA, prior to any treatment is less than or equal to 2.0 L/mg-m, the water system may assign a monthly value of 1.0 (in lieu of the value calculated in subparagraph (10)(e)(A)(iii) of this rule) when calculating compliance under the provisions of paragraph (10)(e)(A) of this rule.

(iv) In any month that the water system's finished water SUVA is less than or equal to 2.0 L/mg-m, the system may assign a monthly value of 1.0 (in lieu of the value calculated in subparagraph (10)(e)(A)(iii) of this rule) when calculating compliance under the provisions of paragraph (10)(e)(A) of this rule.

(v) In any month that a system practicing enhanced softening lowers alkalinity below 60 mg/L (as CaCO3), the water system may assign a monthly value of 1.0 (in lieu of the value calculated in subparagraph (10)(e)(A)(iii) of this rule) when calculating compliance under the provisions of paragraph (10)(e)(A) of this rule.

(C) Water systems using conventional treatment may also comply with the requirements of this section by meeting the criteria in paragraph (10)(c)(A) or (B) of this rule.

(11) Requirements for Water Treatment Plant Recycled Water

(a) Any water system using surface water or groundwater under the direct influence of surface water that uses conventional filtration treatment or direct filtration treatment and that recycles spent filter backwash water, thickener, supernatant, or liquids from dewatering processes must meet the requirements of subsections (11)(b) and (c) of this rule and OAR 333-061-0040(2)(i).

(b) A water system must notify the Authority in writing by December 8, 2003 if that water system recycles spent filter backwash water, thickener supernatant, or liquids from dewatering processes. This notification must include, at a minimum, the information specified in paragraphs (11)(b)(A) and (B) of this rule.

(A) A water treatment plant schematic showing the origin of all flows which are recycled (including, but not limited to, spent filter backwash water, thickener supernatant, and liquids from dewatering processes), the hydraulic conveyance used to transport them, and the location where they are re-introduced back into the water treatment plant.

(B) Typical recycle flow in gallons per minute (gpm), the highest observed water treatment plant flow experienced in the previous year (gpm), the design flow for the water treatment plant (gpm), and the operating capacity of the water treatment plant (gpm) that has been determined by the Authority where the Authority has made such determinations.

(c) Any water system that recycles spent filter backwash water, thickener supernatant, or liquids from dewatering processes must return these flows through the processes of a system's existing conventional filtration treatment plant or direct filtration treatment plant as defined by these rules or at an alternate location approved by the Authority by June 8, 2004. If capital improvements are required to modify the recycle location to meet this requirement, all capital improvements must be completed no later than June 8, 2006.

(12) Water systems using uncovered finished water storage facilities must comply with the conditions of either subsections (12)(a) or (b) of this rule for each uncovered finished water storage facility, or be in compliance with an Authority approved schedule to meet these conditions no later than April 1, 2009.

(a) Water systems must cover any uncovered finished water storage facility; or

(b) Treat the discharge from the uncovered finished water storage facility into the distribution system to achieve at least 4-log virus, 3-log Giardia lamblia, and 2-log Cryptosporidium inactivation or removal using a protocol approved by the Authority.

(c) Failure to comply with the requirements of this section is a violation of the treatment technique requirement.

(13) Summary and General Requirements of Microbial toolbox options for meeting Cryptosporidium treatment requirements. Filtered water systems are eligible for the treatment credits listed in Table 13 of this section by meeting the conditions for microbial toolbox options described in sections (14) through (18) of this rule and in OAR 333-061-0036(5)(c). Unfiltered water systems are eligible only for the treatment credits specified as inactivation toolbox options in Table 13. Water systems apply these treatment credits to meet the requirements of subsections (3)(e) or (4)(g) of this rule, as applicable. [Table not included. See ED. NOTE.]

(14) Source toolbox components for meeting Cryptosporidium treatment requirements.

(a) Watershed control program. Water systems receive 0.5-log Cryptosporidium treatment credit for implementing a watershed control program that meets the requirements of this subsection.

(A) Water systems must notify the Authority of the intent to apply for the watershed control program credit no later than two years prior to the treatment compliance date applicable to the system in subsection (1)(a) of this rule.

(B) Water systems must submit a proposed watershed control plan to the Authority no later than one year before the applicable treatment compliance date in subsection (1)(a) of this rule. The Authority must approve the watershed control plan for the water system to receive the applicable treatment credit. The watershed control plan must include the following elements:

(i) Identification of an area of influence, outside of which the likelihood of Cryptosporidium or fecal contamination affecting the treatment plant intake is not significant. This is the area to be evaluated in future watershed surveys under subparagraph (14)(a)(E)(ii) of this rule;

(ii) Identification of both potential and actual sources of Cryptosporidium contamination, and an assessment of the relative impact of these contamination sources on the water system's source water quality;

(iii) An analysis of the effectiveness and feasibility of control measures that could reduce Cryptosporidium loading from sources of contamination to the system's source water; and

(iv) A statement of goals and specific actions the system will undertake to reduce source water Cryptosporidium levels. The plan must explain how the actions are expected to contribute to specific goals, identify watershed partners and their roles, identify resource requirements and commitments, and include a schedule for plan implementation with deadlines for completing specific actions identified in the plan.

(C) Water Systems with existing watershed control programs are eligible to seek this credit, but must meet the requirements prescribed in paragraph (14)(a)(B) of this rule, and must specify ongoing and future actions that will reduce source water Cryptosporidium levels.

(D) If the Authority does not respond to a water system regarding approval of a watershed control plan submitted in accordance with this section, and the system meets the other requirements of this section, the watershed control program will be considered approved and a 0.5 log Cryptosporidium treatment credit will be awarded unless the Authority subsequently withdraws such approval.

(E) Water systems must complete the actions specified in this paragraph to maintain the 0.5-log credit.

(i) Water systems must submit an annual watershed control program status report to the Authority. The status report must describe the water system's implementation of the approved plan, and assess the adequacy of the plan to meet its goals. It must explain how the water system is addressing any deficiencies in plan implementation, including those previously identified by the Authority, or as the result of the watershed survey conducted in accordance with subparagraph (14)(a)(E)(ii) of this rule. The watershed control program status report must also describe any significant changes that have occurred in the watershed since the last watershed sanitary survey.

(ii) Water systems must undergo a watershed sanitary survey every three years for community water systems and every five years for non-community water systems and submit the survey report to the Authority. The survey must be conducted according to Authority guidelines and by persons the Authority approves.

(I) The watershed sanitary survey must meet the following criteria: encompass the region identified in the Authority approved watershed control plan as the area of influence; assess the implementation of actions to reduce source water Cryptosporidium levels; and identify any significant new sources of Cryptosporidium.

(II) If the Authority determines that significant changes may have occurred in the watershed since the previous watershed sanitary survey, water systems must undergo another watershed sanitary survey by a date determined by the Authority regardless of the regular date specified in subparagraph (14)(a)(E)(ii) of this rule.

(iii) The water system must make the watershed control plan, annual status reports, and watershed sanitary survey reports available to the public upon request. These documents must be in a plain language style and include criteria by which to evaluate the success of the program in achieving plan goals. The Authority may approve withholding portions of the annual status report, watershed control plan, and watershed sanitary survey from the public based on water supply security considerations.

(F) If the Authority determines that a water system is not implementing the approved watershed control plan, the Authority may withdraw the watershed control program treatment credit.

(G) If a water system determines, during implementation, that making a significant change to its approved watershed control program is necessary, the system must notify the Authority prior to making any such changes. If any change is likely to reduce the level of source water protection, the system must notify the Authority of the actions the water system will take to mitigate this effect.

(b) Alternative source. A water system may conduct source water monitoring that reflects a different intake location (either in the same source or from an alternate source), or a different procedure for the timing or level of withdrawal from the source. If the Authority approves, a system may determine its bin classification under subsection (4)(f) of this rule based on the alternative source monitoring results.

(A) If a water system conducts alternative source monitoring as prescribed by this subsection, the water system must also monitor their current plant intake concurrently as prescribed by OAR 333-061-0036(5)(e).

(B) Alternative source monitoring as prescribed by this subsection must meet the requirements for source monitoring to determine bin classification, as described in OAR 333-061-0036(1), OAR 333-061-0036(5)(e) through (g), and OAR 333-061-0040(1)(o). Water systems must report the alternative source monitoring results to the Authority, including supporting information that documents the operating conditions under which the samples were collected.

(C) If a system determines its bin classification according to subsection (4)(f) of this rule using alternative source monitoring results that reflect a different intake location or a different procedure for managing the timing or level of withdrawal from the source, the system must relocate the intake or permanently adopt the withdrawal procedure, as applicable, no later than the applicable treatment compliance date in subsection (1)(a) of this rule.

(15) Pre-filtration treatment toolbox components for meeting Cryptosporidium treatment requirements.

(a) Presedimentation. Systems receive 0.5-log Cryptosporidium treatment credit for a presedimentation basin during any month the process meets the criteria specified in this paragraph:

(A) The presedimentation basin must be in continuous operation, and must treat the entire plant flow taken from a surface water or GWUDI source;

(B) The water system must continuously add a coagulant to the presedimentation basin; and

(C) The presedimentation basin must achieve the performance criteria specified in this paragraph.

(i) The basin must demonstrate at least 0.5-log mean reduction of influent turbidity. This reduction must be determined using daily turbidity measurements of the presedimentation process influent and effluent, and must be calculated as follows: log10(monthly mean of daily influent turbidity)-log10(monthly mean of daily effluent turbidity).

(ii) The basin must also comply with Authority-approved performance criteria that demonstrates at least 0.5-log mean removal of micron-sized particulate material through the presedimentation process.

(b) Two-stage lime softening. Systems receive an additional 0.5-log Cryptosporidium treatment credit for a two-stage lime softening plant if chemical addition and hardness precipitation occur in two separate and sequential softening stages prior to filtration. Both softening stages must treat the entire plant flow taken from a surface water or GWUDI source.

(c) Bank filtration. Water systems receive Cryptosporidium treatment credit for bank filtration that serves as pretreatment to a filtration plant by meeting the criteria specified in this section. Water systems using bank filtration when they begin source water monitoring according to OAR 333-061-0036(5)(e) must collect samples as prescribed by OAR 333-061-0036(5)(g) and are not eligible for this credit.

(A) Wells with a groundwater flow path of at least 25 feet receive 0.5-log treatment credit. Wells with a groundwater flow path of at least 50 feet receive 1.0-log treatment credit. The groundwater flow path must be determined as specified in paragraph (D) of this subsection.

(B) Only wells in granular aquifers are eligible for treatment credit. Granular aquifers are those comprised of sand, clay, silt, rock fragments, pebbles or larger particles, and minor cement. A water system must characterize the aquifer at the well site to determine aquifer properties.

(i) Water systems must extract a core from the aquifer and demonstrate that in at least 90 percent of the core length, grains less than 1.0 mm in diameter constitute at least 10 percent of the core material.

(C) Only horizontal and vertical wells are eligible for treatment credit.

(D) For vertical wells, the groundwater flow path is the measured distance from the edge of the surface water body under high flow conditions (as determined by the 100 year floodplain elevation boundary or by the floodway, as defined in Federal Emergency Management Agency flood hazard maps) to the well screen. For horizontal wells, the groundwater flow path is the measured distance from the bed of the river under normal flow conditions to the closest horizontal well lateral screen.

(E) Water systems must monitor each wellhead for turbidity at least once every four hours while the bank filtration process is in operation. If monthly average turbidity levels, based on daily maximum values in the well, exceed 1 NTU, the system must report this result to the Authority and conduct an assessment within 30 days to determine the cause of the high turbidity levels in the well. If the Authority determines that microbial removal has been compromised, the Authority may revoke treatment credit until the water system implements Authority-approved corrective actions to remediate the problem.

(F) Springs and infiltration galleries are not eligible for treatment credit under this section, but are eligible for a treatment credit in accordance with subsection (16)(c) of this rule.

(G) Bank filtration demonstration of performance. The Authority may approve Cryptosporidium treatment credit for bank filtration based on a demonstration of performance study that meets the criteria in this paragraph. This treatment credit may be greater than 1.0-log and may be awarded to bank filtration that does not meet the criteria in (15)(c)(A) through (E) of this rule.

(i) The study must follow an Authority approved protocol, and must include the collection of data on the removal of Cryptosporidium or a surrogate for Cryptosporidium and related hydrogeologic and water quality parameters during the full range of operating conditions.

(ii) The study must include sampling from both the production well(s) and monitoring wells that are screened and located along the shortest flow path between the surface water source and the production well(s).

(16) Treatment performance toolbox components for meeting Cryptosporidium treatment requirements.

(a) Combined filter performance. Water systems using conventional filtration treatment or direct filtration treatment receive an additional 0.5-log Cryptosporidium treatment credit during any month that the water system meets the criteria in this subsection. Combined filter effluent (CFE) turbidity must be less than or equal to 0.15 NTU in at least 95 percent of the measurements. Turbidity must be measured as described in OAR 333-061-0036(5)(a)(B).

(b) Individual filter performance. Water systems using conventional filtration treatment or direct filtration treatment receive 0.5-log Cryptosporidium treatment credit, which can be in addition to the 0.5-log credit under subsection (16)(a) of this rule, during any month the system meets the criteria in this subsection. Compliance with this criteria must be based on individual filter turbidity monitoring as described in OAR 333-061-0036(5)(d).

(A) The filtered water turbidity for each individual filter must be less than or equal to 0.15 NTU in at least 95 percent of the measurements recorded each month.

(B) No individual filter may have a measured turbidity greater than 0.3 NTU in two consecutive measurements taken 15 minutes apart.

(C) Any system that has received treatment credit for individual filter performance and fails to meet the requirements of paragraphs (16)(b)(A) or (B) of this rule, during any month, is in violation of treatment technique requirements as prescribed by subsection (4)(g) of this rule unless the Authority determines the following:

(i) The failure was due to unusual and short-term circumstances that could not reasonably be prevented through optimizing treatment plant design, operation, or maintenance; and

(ii) The system has experienced no more than two such failures in any calendar year.

(c) Demonstration of performance. The Authority may approve Cryptosporidium treatment credit for water treatment processes based on a demonstration of performance study that meets the criteria in this subsection. This treatment credit may be greater than or less than the prescribed treatment credits in subsection (4)(g) or sections (15) through (18) of this rule and may be awarded to treatment processes that do not meet the criteria for the prescribed credits.

(A) Water systems cannot receive the prescribed treatment credit for any toolbox option in sections (15) through (18) of this rule, if that toolbox option is included in a demonstration of performance study for which treatment credit is awarded under this subsection.

(B) The demonstration of performance study must follow an Authority approved protocol, and must demonstrate the level of Cryptosporidium reduction achieved by the treatment process under the full range of expected operating conditions for the water system.

(C) Approval by the Authority must be in writing, and may include monitoring and treatment performance criteria that the system must demonstrate and report on an ongoing basis to remain eligible for the treatment credit. The Authority may require such criteria where necessary to verify that the conditions under which the demonstration of performance credit was approved are maintained during routine operation.

(17) Additional filtration toolbox components for meeting Cryptosporidium treatment requirements.

(a) Bag and cartridge filters. Systems receive Cryptosporidium treatment credit of up to 2.0-log for individual bag or cartridge filters and up to 2.5-log for bag or cartridge filters operated in series by meeting the requirements in OAR 333-061-0050(4)(c)(J). To be eligible for this credit, water systems must report to the Authority, the results of challenge testing conducted in accordance with OAR 333-061-0050(4)(c)(J). The filters must treat the entire plant flow.

(b) Membrane filtration. Systems receive Cryptosporidium treatment credit for membrane filtration that meets the requirements of this paragraph. Membrane cartridge filters that meet the definition of membrane filtration in OAR 333-061-0020(77)(f) are eligible for this credit. The level of treatment credit a system receives is equal to the lower of the values determined under OAR 333-061-0050(4)(c)(H)(i) and (ii).

(c) Second stage filtration. Water systems receive 0.5-log Cryptosporidium treatment credit for a separate second stage of Authority-approved filtration that consists of sand, dual media, GAC, or other fine grain media following granular media filtration. To be eligible for this credit, the first stage of filtration must be preceded by a coagulation step and, both filtration stages must treat the entire plant flow taken from a surface water or GWUDI source. The Authority must assign the treatment credit based on an assessment of the design characteristics of the filtration process. A cap (added layer of filter media), such as GAC, on a single stage of filtration is not eligible for this credit.

(d) Slow sand filtration (as secondary filter). Water systems are eligible to receive 2.5-log Cryptosporidium treatment credit for a slow sand filtration process that follows a separate stage of filtration if both filtration stages treat the entire plant flow taken from a surface water or GWUDI source, and no disinfectant residual is present in the influent water to the slow sand filtration process. The Authority must assign the treatment credit based on an assessment of the design characteristics of the filtration process. This subsection does not apply to treatment credit awarded to slow sand filtration used as a primary filtration process.

(18) Inactivation toolbox components for meeting Cryptosporidium treatment requirements.

(a) If Chlorine Dioxide is used, CT values in Table 30 must be met. [Table not included. See ED. NOTE.]

(b) If Ozone is used, CT values in Table 31 must be met. [Table not included. See ED. NOTE.]

(c) To receive treatment credit for UV light, water systems must treat at least 95 percent of the water delivered to the public during each month by UV reactors operating within validated conditions for the required UV dose, as prescribed by OAR 333-061-0036(5)(c)(D) and OAR 333-061-0050(5)(k)(I). Systems must demonstrate compliance with this condition by the monitoring required in OAR 333-061-0036(5)(c)(D)(ii).

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

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 431.110, 431.150, 448.175 & 448.273

Hist.: HD 26-1990, f. 12-26-90, cert. ef. 12-29-90; HD 7-1992, f. & cert. ef. 6-9-92; HD 12-1992, f. & cert. ef. 12-7-92; HD 14-1997, f. & cert. ef. 10-31-97; OHD 4-1999, f. 7-14-99, cert. ef. 7-15-99; OHD 7-2000, f. 7-1-00, cert. ef. 7-15-00; OHD 23-2001, f. & cert. ef. 10-31-01; OHD 17-2002, f. & cert. ef. 10-25-02; PH 12-2003, f. & cert. ef. 8-15-03; PH 33-2004, f. & cert. ef. 10-21-04; PH 2-2006, f. & cert. ef. 1-31-06; PH 2-2008, f. & cert. ef. 2-15-08; PH 4-2009, f. & cert. ef. 5-18-09; PH 7-2010, f. & cert. ef. 4-19-10; PH 13-2012, f. & cert. ef. 9-10-12; PH 3-2013, f. & cert. ef. 1-25-13; PH 5-2016, f. 2-10-16, cert. ef. 4-1-16

333-061-0036

Sampling and Analytical Requirements

(1) General:

(a) Samples required by these rules must be analyzed using EPA approved methods set forth in 40 CFR 141 by a laboratory accredited according to OAR chapter 333, division 064 and the Oregon Environmental Laboratory Accreditation Program (ORELAP). The laboratory must be certified to analyze drinking water samples using the specific method for the contaminant being analyzed.

(A) The Authority will only accept sample results that have been handled and documented in accordance with ORELAP standards, except as prescribed by subsection (1)(i) of this rule.

(B) Samples required by these rules must be collected after the water has been allowed to flow from the sample tap for a sufficient length of time to assure that the collected sample is representative of water in the distribution system or from the water source as applicable, except samples for lead or copper in tap water which must be collected as prescribed by paragraph (2)(c)(B) of this rule.

(b) Accredited laboratories will be considered a primary or subcontracted laboratory as specified by paragraphs (1)(b)(A) and (B) of this rule.

(A) A primary laboratory is the first accredited laboratory that receives a compliance sample for analysis, and is responsible for chain of custody documentation (if applicable), performing the analytical method on a compliance sample (if applicable), final report review, and submission of results to the water system and the Authority as specified in OAR 333-061-0040(1)(b)(B). Primary laboratories must hold primary or secondary ORELAP accreditation.

(B) A subcontracted laboratory is an accredited laboratory that performs the analytical method on a compliance sample, and is responsible for sample analysis and result reporting to the primary laboratory as specified in OAR 333-061-0040(1)(b)(B). Subcontracted laboratories must hold ORELAP primary or secondary accreditation for the appropriate method(s).

(c) Alternate Analytical Methods:

(A) With the written permission of the Authority, and concurred in by the Administrator of the U.S. EPA, an alternate analytical method may be employed on the condition that it is substantially equivalent to the prescribed test in both precision and accuracy as it relates to the determination of compliance with any MCL; and

(B) The use of the alternate analytical method shall not decrease the frequency of sampling required by these rules.

(d) Monitoring of purchasing water systems:

(A) When a public water system obtains its water, in whole or in part, from one or more public water systems, the monitoring requirements imposed by these rules on the purchasing water system may be modified by the Authority to the extent that the system supplying the water is in compliance with its source monitoring requirements. When a public water system supplies water to one or more other public water systems, the Authority may modify monitoring requirements imposed by this rule to the extent that the interconnection of the systems justifies treating them as a single system for monitoring purposes.

(B) Any modified monitoring shall be conducted pursuant to a schedule specified by the Authority and concurred in by the Administrator of the US Environmental Protection Agency.

(e) Water suppliers shall monitor each water source individually for contaminants listed in OAR 333-061-0030 (Maximum Contaminant Levels), except for coliform bacteria, HAA5s, TTHMs and corrosion by-products, at the entry point to the distribution system except as described below. Any such modified monitoring shall be conducted pursuant to a schedule prescribed by the Authority.

(A) If the system draws water from more than one source and sources are combined before distribution, the system may be allowed to sample at an entry point to the distribution system during normal operating conditions, where justified, taking into account operational considerations, geologic and hydrologic conditions, and other factors.

(B) If a system draws water from multiple ground water sources which are not combined before distribution, the system may be allowed to sample at a representative source or sources, where justified, taking into account geologic and hydrogeologic conditions, land uses, well construction, and other factors.

(f) Compliance with MCLs shall be based on each sampling point as described in this section. If any point is determined to be out of compliance, the system shall be deemed out of compliance. If an entirely separated portion of a water system is out of compliance, then only that portion of the system shall be deemed out of compliance.

(g) The Authority may require additional sampling and analysis for the contaminants included in OAR 333-061-0030 (Maximum Contaminant Levels) when necessary to determine whether an unreasonable risk to health exists. The Authority may also require sampling and analysis for additional contaminants not included in OAR 333-061-0030 (Maximum Contaminant Levels) when necessary for public health protection.

(h) Water suppliers and their appointed representatives shall collect water samples from representative locations in the water system as prescribed in this rule and shall employ proper sampling procedures and techniques. Samples submitted to laboratories for analysis shall be clearly iden-

tified and shall include the name of the water system, public water system identification number, sampling date, and time, sample location identifying the sample tap, the name of the person collecting the sample and be labeled as follows:

(A) Routine: These are samples collected from established sampling locations within a water system at specified frequencies to satisfy monitoring requirements as prescribed in this rule. These samples are used to calculate compliance with maximum contaminant levels prescribed in OAR 333-061-0030(4);

(B) Repeat: These are samples collected as a follow-up to a routine sample that has exceeded a maximum contaminant level as prescribed in OAR 333-061-0030. Repeat samples are also used to calculate compliance with maximum contaminant levels prescribed in OAR 333-061-0030(4);

(C) Special: These are samples collected to supplement routine monitoring samples and are not required to be reported to the Authority. Samples of this type are not considered representative of the water system and are outside the scope of normal quality assurance and control procedures or the established compliance monitoring program. Special samples include, but are not limited to, samples taken for special studies, user complaints, post construction/repair disinfection, sources not in service and raw water prior to treatment, except as required by this rule.

(i) Measurements for turbidity, disinfectant residual, temperature, alkalinity, calcium, conductivity, chlorite, bromide, TOC, SUVA, dissolved organic carbon, UV254, orthophosphate, silica and pH may be performed on site using approved methods by individuals trained in sampling and testing techniques. Daily chlorite samples measured at the entrance to the distribution system must be performed by a party approved by the Authority.

(j) Nothing in these rules shall be construed to preclude the Authority or any of its duly authorized representatives from taking samples and from using the results of such samples to determine compliance with applicable requirements of these rules.

(k) Wellfield Determination

(A) Water systems possessing two or more wells that separately supply water to the distribution system may be eligible to have those wells considered as a wellfield source for monitoring purposes provided the requirements of this rule are met. Information pertinent to determining whether the wellfield designation is appropriate can be found in the water system's Source Water Assessment Report.

(B) To be classified as a wellfield, the wells must meet the following criteria:

(i) The wells must be within 2,500 feet of one another or as determined in a state approved hydrogeological study to minimize inter-well interference drawdowns. For wells located in a low-impact land use area, this criterion may be waived at the discretion of the Authority.

(ii) The wells must produce from the same and no other aquifer. This criterion is determined using source water assessment results, based on well reports, maps and other hydrogeological information.

(C) To be considered for wellfield designation, the water supplier must submit the following to the Authority:

(i) A schematic drawing showing all sources, entry points and relevant sample taps;

(ii) A map and description of the land use activities within the respective wellhead protection areas (using the inventory section of the Source Water Assessment Report); and

(iii) A description of the pumping patterns.

(D) If a water system's wells are considered to comprise a wellfield, the susceptibility analysis conducted during the source water assessment is utilized to determine the sampling point(s). Table 14 summarizes the alternatives: [Table not included. See ED. NOTE.]

(E) To determine the most susceptible well, the area within the two-year time-of-travel is considered. The Authority will consider the potential contaminant source inventory determined during the source water assessment, the aquifer sensitivity, pumping patterns and other pertinent hydrogeological information.

(F) The Authority may still designate more than one entry point within the wellfield as a sampling point if well construction or land use practices warrant. For a large area containing numerous wells, sub-wellfields may be identified, each with its own sample site designation.

(2) Inorganic chemicals:

(a) Antimony, Arsenic, Barium, Beryllium, Cadmium, Chromium, Cyanide, Fluoride, Mercury, Nickel, Selenium and Thallium.

(A) Sampling of water systems for regulated Inorganic Chemicals shall be conducted as follows:

(i) Community and Non-Transient Non-Community Water systems using surface water sources or groundwater sources under the direct influence of surface water solely or a combination of surface and ground water sources shall sample at each point in the distribution system representative of each source after treatment or at entry points to the distribution system after any application of treatment. Surface water systems shall collect samples annually at each sampling point beginning in the initial compliance period according to the schedule in subsection (2)(j) of this rule. The water system shall take each sample at the same sampling point unless conditions make another sampling point more representative of each source or treatment plant.

(ii) Community and Non-Transient Non-Community Water systems using ground water sources shall sample at each point in the distribution system representative of each source after treatment or at entry points to the distribution system representative of each source after any application of treatment. Ground water systems shall collect samples once every three years at each sampling point beginning in the initial compliance period according to the schedule in subsection (2)(j) of this rule. The water system shall take each sample at the same sampling point unless conditions make another sampling point more representative of each source or treatment plant.

(iii) All new Transient Non-Community and State Regulated water systems or existing Transient Non-Community, and State Regulated water systems with new sources shall sample once for arsenic. Samples are to be collected at the entry points to the distribution system representative of each source after any application of treatment.

(iv) If a system draws water from more than one source and the sources are combined before distribution, the system must sample at an entry point to the distribution system during periods of normal operating conditions when water is representative of all the sources being used.

(v) A water system with two or more wells that have been determined to constitute a "wellfield" as specified in subsection (1)(k) of this rule may reduce sampling to only those entry point(s) designated by the Authority.

(B) The Authority may allow compositing of samples from a maximum of 5 sampling points, provided that the detection limit of the method used for analysis is less than one-fifth of the MCL. Compositing of samples is to be done in the laboratory. Composite samples must be analyzed within 14 days of collection. If the concentration in the composite sample is equal to or greater than one-fifth of the MCL of any inorganic chemical listed in section (2) of this rule, then a follow-up sample must be taken for the contaminants which exceeded one-fifth of the MCL within 14 days at each sampling point included in the composite. If duplicates of the original sample taken from each sampling point used in the composite are available, the system may use these instead of resampling. The duplicates must be analyzed and the results reported to the Authority within 14 days of collection. If the population served by the water system is >3,300 persons, then compositing can only be allowed within the system. In systems serving ≤3,300 persons, compositing is allowed among multiple systems provided the 5 sample limit is maintained.

(C) Water systems may apply to the Authority for a waiver from the monitoring frequencies specified in paragraph (2)(a)(A) of this rule on the condition that the system shall take a minimum of one sample while the waiver is effective and the effective period for the waiver shall not exceed one nine-year compliance cycle.

(i) The Authority may grant a waiver provided surface water systems have monitored annually for at least three years and groundwater systems have conducted a minimum of three rounds of monitoring (at least one sample shall have been taken since January 1, 1990), and all analytical results are less than the maximum contaminant levels prescribed in OAR 333-061-0030 for inorganic chemicals. Systems that use a new water source are not eligible for a waiver until three rounds of monitoring from the new source have been completed.

(ii) Waivers granted by the Authority shall be in writing and shall set forth the basis for the determination. The Authority shall review and revise, where appropriate, its determination of the appropriate monitoring frequency when the system submits new monitoring data or where other data relevant to the system's appropriate monitoring frequency become available. In determining the appropriate reduced monitoring frequency, the Authority shall consider the reported concentrations from all previous monitoring; the degree of variation in reported concentrations; and other factors which may affect concentrations such as changes in groundwater pumping rates, changes in the system's configuration, changes in the system's operating procedures, or changes in stream flows or characteristics.

(D) Systems which exceed the maximum contaminant levels as calculated in subsection (2)(i) of this rule shall monitor quarterly beginning in the next quarter after the violation occurred. The Authority may decrease the quarterly monitoring requirement to the frequencies prescribed in para-

graph (2)(a)(A) of this rule when it is determined that the system is reliably and consistently below the maximum contaminant level. Before such a decrease is permitted a groundwater system must collect at least two quarterly samples and a surface water system must collect a minimum of four quarterly samples.

(E) All new systems or systems that use a new source of water must demonstrate compliance with the MCL within a period of time specified by the Authority. The system must also comply with the initial sampling frequencies specified by the Authority to ensure a system can demonstrate compliance with the MCL. Routine and increased monitoring frequencies shall be conducted in accordance with the requirements in this section.

(b) Asbestos:

(A) At community and non-transient non-community water systems regardless of source, sampling must be conducted for Asbestos at least once during the initial three-year compliance period of each nine-year compliance cycle unless a waiver is granted by the Authority according to paragraph (2)(b)(B) of this rule.

(B) The Authority may grant a waiver from the monitoring prescribed by paragraph (2)(b)(A) of this rule if a water system is determined not to be vulnerable to either asbestos contamination in its source water or due to corrosion of asbestos-cement pipe, or both. If granted, the water supplier will not be required to monitor while the waiver remains in effect. A waiver remains in effect until the completion of the three year compliance period.

(C) At water systems vulnerable to asbestos contamination due solely to corrosion of asbestos-cement pipe, one sample must be collected at a tap served by the asbestos-cement pipe under conditions where asbestos contamination is most likely to occur.

(D) At water systems vulnerable to asbestos contamination due solely to asbestos in source water shall, one sample must be collected at the entry point to the distribution system after any treatment.

(E) A system vulnerable to asbestos contamination due both to its source water supply and corrosion of asbestos-cement pipe shall take one sample at a tap served by asbestos-cement pipe and under conditions where asbestos contamination is most likely to occur.

(F) If a sample result exceeds the maximum contaminant level for asbestos as prescribed in subsection (2)(i) of this rule, the water supplier shall monitor quarterly beginning in the next quarter after the violation occurred. If the Authority determines that the sample results are reliably and consistently below the maximum contaminant level based on a minimum of two quarterly samples for groundwater systems or a minimum of four quarterly samples for water systems using surface water sources, the monitoring may be returned to the frequency prescribed in paragraph (2)(b)(A) of this rule.

(c) Lead and Copper:

(A) At community and non-transient non-community water systems, monitoring for lead and copper in tap water must be conducted as specified in this subsection. Sample site location:

(i) Each water system shall complete a materials evaluation of its distribution system in order to identify a pool of targeted sampling sites that meets the requirements of this paragraph, and which is sufficiently large to ensure that the water system can collect the number of lead and copper tap samples required in paragraph (2)(c)(C) of this rule. All sites from which first draw samples are collected shall be selected from this pool of targeted sampling sites. Sampling sites may not include faucets that have point-of-use or point-of-entry treatment devices designed to remove inorganic contaminants.

(ii) In addition to any information that may have been gathered under the special corrosivity monitoring requirements, the water system shall review the sources of information listed below in order to identify a sufficient number of sampling sites:

(I) All plumbing codes, permits, and records in the files of the building department(s) which indicate the plumbing materials that are installed within publicly and privately owned structures connected to the distribution system; and

(II) All existing water quality information, which includes the results of all prior analyses of the system or individual structures connected to the system, indicating locations that may be particularly susceptible to high lead or copper concentrations.

(iii) The sampling sites selected for a community water system's sampling pool ("tier 1 sampling sites") shall consist of single family structures that contain copper pipes with lead solder installed from January 1, 1983 through June 30, 1985 or contain lead pipes. When multiple-family residences comprise at least 20 percent of the structures served by a water system, the system may include these types of structures in its sampling pool.

(iv) Any community water system with insufficient tier 1 sampling sites shall complete its sampling pool with "tier 2 sampling sites", consisting of buildings, including multiple-family residences that contain copper pipes with lead solder installed from January 1, 1983 through June 30, 1985 or contain lead pipes.

(v) Any community water system with insufficient tier 1 and tier 2 sampling sites shall complete its sampling pool with "tier 3 sampling sites", consisting of single family structures that contain copper pipes with lead solder installed before 1983. A community water system with insufficient tier 1, tier 2 and tier 3 sampling sites shall complete its sampling pool with representative sites throughout the distribution system. A representative site is a site in which the plumbing materials used at that site would be commonly found at other sites served by the system.

(vi) The sampling sites selected for a non-transient non-community water system ("tier 1 sampling sites") shall consist of buildings that contain copper pipes with lead solder installed from January 1, 1983 through June 30, 1985 or contain lead pipes.

(vii) A non-transient non-community water system with insufficient tier 1 sites that meet the targeting criteria in subparagraph (2)(c)(A)(vi) of this rule shall complete its sampling pool with sampling sites that contain copper pipes with lead solder installed before 1983. If additional sites are needed, the system shall use representative sites throughout the distribution system. A representative site is a site in which the plumbing materials used at that site would be commonly found at other sites served by the water system.

(viii) Any water system whose sampling pool does not consist exclusively of tier 1 sites shall demonstrate in a letter submitted to the Authority under OAR 333-061-0040(1)(g)(A)(i) why a review of the information listed in subparagraph (2)(c)(A)(ii) of this rule was inadequate to locate a sufficient number of tier 1 sites. Any community water system which includes tier 3 sampling sites in its sampling pool shall demonstrate in such a letter why it was unable to locate a sufficient number of tier 1 and tier 2 sampling sites.

(B) Monitoring requirements for lead and copper in tap water. Sample collection methods:

(i) All tap samples for lead and copper collected in accordance with this paragraph shall be first draw samples.

(ii) Each first-draw tap sample for lead and copper shall be one liter in volume and have stood motionless in the plumbing system of each sampling site for at least six hours. First-draw samples from residential housing shall be collected from the cold-water kitchen tap or bathroom sink tap. First-draw samples from a non-residential building shall be one liter in volume and shall be collected at an interior tap from which water is typically drawn for consumption. First-draw samples may be collected by the system or the system may allow residents to collect first-draw samples after instructing the residents of the sampling procedures specified in this paragraph. To avoid problems of residents handling nitric acid, acid fixation of first draw samples may be done up to 14 days after the sample is collected. If a system allows residents to perform sampling, the system may not challenge, based on alleged errors in sample collection, the accuracy of sampling results.

(iii) A water system shall collect each first-draw tap sample from the same sampling site from which it collected a previous sample. If, for any reason, the water system cannot gain entry to a sampling site in order to collect a follow-up tap sample, the system may collect the follow-up tap sample from another sampling site in its sampling pool as long as the new site meets the same targeting criteria, and is within reasonable proximity of the original site.

(C) Monitoring requirements for lead and copper in tap water. Number of samples: Water systems shall collect at least one sample during each monitoring period specified in paragraph (2)(c)(D) of this rule from the number of sites listed in the first column below ("standard monitoring"). A system conducting reduced monitoring under subparagraph (2)(c)(D)(iv) of this rule shall collect at least one sample from the number of sites specified in the second column below during each monitoring period specified in subparagraph (2)(c)(D)(iv) of this rule. Such reduced monitoring sites shall be representative of the sites required for standard monitoring. A system that has fewer than five drinking water taps, that can be used for human consumption meeting the sample site criteria of paragraph (2)(c)(A) of this rule to reach the required number of sample sites, must collect at least one sample from each tap and then must collect additional samples from those taps on different days during the monitoring period to meet the required number of sites. Alternatively the Authority may allow these public water systems to collect a number of samples less than the number of sites specified below provided that 100 percent of all taps that can be

used for human consumption are sampled. The Authority must approve this reduction of the minimum number of samples in writing based on a request from the system or onsite verification by the Authority. The Authority may specify sampling locations when a system is conducting reduced monitoring.

System Size — # of sites — # of sites
(# People Served) — (Standard Monitoring) — (Reduced Monitoring)
>100,000 — 100 — 50
10,001 to 100,000 — 60 — 30
3,301 to 10,000 — 40 — 20
501 to 3,300 — 20 — 10
101 to 500 — 10 — 5
≤100 — 5 — 5

(D) Monitoring requirements for lead and copper in tap water. Timing of monitoring:

(i) Initial tap monitoring requirements:

(I) All large systems shall monitor during two consecutive six-month periods.

(II) All small and medium-size systems shall monitor during each six-month monitoring period until the system exceeds the lead or copper action level and is therefore required to implement the corrosion control treatment requirements specified in OAR 333-061-0034(2), in which case the system shall continue monitoring in accordance with subparagraph (2)(c)(D)(ii) of this rule, or the system meets the lead and copper action levels during two consecutive six-month monitoring periods, in which case the system may reduce monitoring in accordance with subparagraph (2)(c)(D)(iv) of this rule.

(ii) Monitoring after installation of corrosion control and source water treatment.

(I) Any large (serving more than 50,000 persons) system which installs optimal corrosion control treatment pursuant to OAR 333-061-0034(2)(a)(D) shall monitor during two consecutive six-month monitoring periods by the date specified in 333-061-0034(2)(a)(E).

(II) Any small (serving 3,300 people or less) or medium-size (serving 3,301 to 50,000 persons) system which installs optimal corrosion control treatment pursuant to OAR 333-061-0034(2)(b)(E) shall monitor during two consecutive six-month monitoring periods by the date specified in 333-061-0034(2)(b)(F).

(III) Any system which installs source water treatment pursuant to OAR 333-061-0034(4)(a)(C) shall monitor during two consecutive six-month monitoring periods by the date specified in 333-061-0034(4)(a)(D).

(iii) Monitoring after the Authority specifies water quality parameter values for optimal corrosion control. After the Authority specifies the values for water quality control parameters under OAR 333-061-0034(3)(l), the system shall monitor during each subsequent six-month monitoring period, with the first monitoring period to begin on the date the Authority specifies the optimal values.

(iv) Reduced monitoring

(I) A small or medium-size water system that meets the lead and copper action levels during each of two consecutive six-month monitoring periods may reduce the number of samples in accordance with paragraph (2)(c)(C) of this rule, and reduce the frequency of sampling to once per year. A small or medium water system collecting fewer than five samples as specified in (2)(c)(C) of this rule that meets the lead and copper action levels during each of two consecutive six-month monitoring periods may reduce the frequency of sampling to once per year. In no case can the system reduce the number of samples required below the minimum of one sample per available tap. This sampling shall begin during the calendar year immediately following the end of the second consecutive six-month monitoring period.

(II) Any water system that meets the lead action level and maintains the range of values for the water quality control parameters reflecting optimal corrosion control treatment specified by the Authority during each of two consecutive six-month monitoring periods may reduce the frequency of monitoring to once per year and reduce the number of lead and copper samples in accordance with paragraph (2)(c)(C) of this rule if it receives written approval from the Authority. This sampling shall begin during the calendar year immediately following the end of the second consecutive six-month monitoring period. The Authority shall review monitoring, treatment, and other relevant information submitted by the water system, and shall notify the system in writing when it determines the system is eligible to commence reduced monitoring. The Authority shall review, and where appropriate, revise its determination when the system submits new monitoring or treatment data, or when other data relevant to the number and frequency of tap sampling becomes available.

(III) A small or medium-size water system that meets the lead and copper action levels during three consecutive years of monitoring may reduce the frequency of monitoring for lead and copper from annually to once every three years. Any water system that meets the lead action level and maintains the range of values for the water quality control parameters reflecting optimal corrosion control treatment specified by the Authority during three consecutive years of monitoring may reduce the frequency of monitoring from annually to once every three years if it receives written approval from the Authority. Samples collected once every three years shall be collected no later than every third calendar year. The Authority shall review monitoring, treatment, and other relevant information submitted by the water system and shall notify the system in writing when it determines the system is eligible to reduce the frequency of monitoring to once every three years. The Authority shall review, and where appropriate, revise its determination when the system submits new monitoring or treatment data, or when other data relevant to the number and frequency of tap sampling becomes available.

(IV) A water system that reduces the number and frequency of sampling shall collect these samples from representative sites included in the pool of targeted sampling sites identified in paragraph (2)(c)(A) of this rule. Systems sampling annually or less frequently shall conduct the lead and copper tap sampling during the months of June, July, August or September. The Authority may approve a different period for conducting the lead and copper tap sampling for systems collecting a reduced number of samples. Such a period shall be no longer than four consecutive months and must represent a time of normal operation where the highest levels of lead are most likely to occur. For a non-transient non-community water system that does not operate during the months of June through September, and for which the period of normal operation where the highest levels of lead are most likely to occur is not known, the Authority shall designate a period that represents a time of normal operation for the system. This sampling shall begin during the period approved or designated by the Authority in the calendar year immediately following the end of the second consecutive six-month monitoring period for systems initiating annual monitoring and during the three-year period following the end of the third consecutive calendar year of annual monitoring for systems initiating triennial monitoring. Community and non-transient non- community water systems monitoring annually or triennially that have been collecting samples during the months of June through December and that receive Authority approval to alter their sample collection period must collect their next round of samples during a time period that ends no later than 21 months or 45 months, respectively, after the previous round of sampling. Subsequent rounds of sampling must be collected annually or triennially as required in this subsection.

(V) A small or medium-size water system subject to reduced monitoring that exceeds the lead or copper action level shall resume sampling in accordance with subparagraph (2)(c)(D)(iii) of this rule and collect the number of samples specified for standard lead and copper monitoring in paragraph (2)(c)(C) of this rule and shall also conduct water quality parameter monitoring in accordance with subparagraphs (2)(c)(F)(iii), (iv) or (v) of this rule, as appropriate, during the period in which the lead or copper action level was exceeded. Any such system may resume annual monitoring for lead and copper at the tap at the reduced number of sites after it has completed two subsequent consecutive six-month rounds of monitoring that meet the requirement of subparagraph (2)(c)(D)(iv)(I) of this rule. This sampling shall begin during the calendar year immediately following the end of the second consecutive six-month monitoring period. Any such system may resume triennial monitoring for lead and copper at the reduced number of sites after it demonstrates through subsequent rounds of monitoring that it meets the criteria prescribed in subparagraphs (2)(c)(D)(iv)(III) or (VI) of this rule. Any water system subject to reduced monitoring frequency that fails to meet the lead action level during any four-month monitoring period or that fails to operate at or above the minimum value or within the range of values for the water quality control parameters specified by the Authority for more than nine days in any six-month period specified in subparagraph (2)(c)(F)(v) of this rule shall conduct tap water sampling for lead and copper at the frequency specified in subparagraph (2)(c)(D)(iii) of this rule, collect the number of samples specified for standard monitoring, and shall resume monitoring for water quality parameters within the distribution system in accordance with subparagraph (2)(c)(F)(v) of this rule. This standard tap water sampling shall begin no later than the six-month monitoring period beginning January 1 of the calendar year following the lead action level exceedance or water quality parameter excursion. Such a system may resume reduced monitoring for lead and copper at the tap and for water quality parameters within the distribution system under the following conditions Such a system may, with written Authority approval, resume reduced annual monitoring for lead and copper at the tap after it has completed two subsequent six-month rounds

of tap lead and copper monitoring that meet the criteria specified in subparagraph (2)(c)(D)(iv)(II) of this rule. This sampling shall begin during the calendar year immediately following the end of the second consecutive six-month monitoring period. Such a system, with written Authority approval, may resume reduced triennial monitoring for lead and copper at the tap if it meets the criteria specified in subparagraphs (2)(c)(D)(iv)(III) and (VI) of this rule. Such a system may reduce the number and frequency of water quality parameter distribution tap samples required in accordance with subparagraph (2)(c)(F)(vi)(I) and (II) of this rule. Such a system may not resume triennial monitoring for water quality parameters distribution tap samples until it demonstrates that it has re-qualified for triennial monitoring.

(VI) Any water system that demonstrates for two consecutive 6-month monitoring periods that the 90th percentile lead level is less than or equal to 0.005 mg/l and the 90th percentile copper level is less than or equal to 0.65 mg/l may reduce the number of samples in accordance with paragraph (2)(c)(C) of this rule and reduce the frequency of sampling to once every three calendar years.

(VII) Any water system subject to a reduced monitoring frequency under (2)(c)(D)(iv) of this rule shall notify the Authority in writing of any upcoming long-term change in treatment or addition of a new source. The Authority must review and approve the addition of a new source or long-term change in water treatment before it is implemented by the water system. The Authority may require the system to resume standard monitoring or take other appropriate steps such as increased water quality parameter monitoring or re-evaluation of its corrosion control treatment given the potentially different water quality considerations.

(E) Monitoring requirements for lead and copper in tap water. Additional monitoring by systems: The results of any monitoring conducted in addition to the minimum requirements of subsection (c) of this rule shall be considered by the system and the Authority in making any determinations (that is, calculating the 90th percentile lead or copper level). The Authority may invalidate lead and copper tap water samples as follows:

(i) The Authority may invalidate a lead or copper tap sample if at least one of the following conditions is met. The decision and the rationale for the decision must be documented in writing by the Authority. A sample invalidated by the Authority does not count toward determining lead or copper 90th percentile levels or toward meeting the minimum monitoring requirements:

(I) The laboratory establishes that improper sample analysis caused erroneous results; or

(II) A site that did not meet the site selection criteria; or

(III) The sample container was damaged in transit; or

(IV) There is substantial reason to believe that the sample was subject to tampering.

(ii) The system must report the results of all samples to the Authority and all supporting documentation for samples the system believes should be invalidated.

(iii) The Authority may not invalidate a sample solely on the grounds that a follow-up sample result is higher or lower than that of the original sample.

(iv) The water system must collect replacement samples for any samples invalidated if, after the invalidation of one or more samples, the system has too few samples to meet the minimum requirements. Any such replacement samples must be taken as soon as possible, but no later than 20 days after the date the Authority invalidates the sample. The replacement samples shall be taken at the same locations as the invalidated samples or, if that is not possible, at locations other than those already used for sampling during the monitoring period.

(F) Monitoring requirements for water quality parameters. All large water systems and all medium and small water systems that exceed the lead or copper action levels shall monitor water quality parameters in addition to lead and copper as follows:

(i) General Requirements. Sample collection methods:

(I) Tap samples shall be representative of water quality throughout the distribution system taking into account the number of persons served, the different sources of water, the different treatment methods employed by the system, and seasonal variability. Water quality parameter sampling is not required to be conducted at taps targeted for lead and copper sampling, however, established coliform sampling sites may be used to satisfy these requirements.

(II) Samples collected at the entry point(s) to the distribution system shall be from locations representative of each source after treatment. If a system draws water from more than one source and the sources are combined before distribution, the system must sample at an entry point to the distribution system during periods of normal operating conditions when water is representative of all sources being used.

(ii) General requirements. Number of samples:

(I) Systems shall collect two tap samples for applicable water quality parameters during each monitoring period specified under subparagraphs (2)(c)(F)(iii) through (vi) of this rule from the following number of sites.

System Size # People served — # of Sites For Water Quality Parameters
>100,000 — 25
10,001-100,000 — 10
3,301 to 10,000 — 3
501 to 3,300 — 2
101 to 500 — 1
<100 — 1

(II) Except as provided in subparagraph (2)(c)(F)(iv)(III) of this rule, systems shall collect two samples for each applicable water quality parameter at each entry point to the distribution system during each monitoring period specified in subparagraph (2)(c)(F)(iii) of this rule. During each monitoring period specified in subparagraphs (2)(c)(F)(iv) through (vi) of this rule, systems shall collect one sample for each applicable water quality parameter at each entry point to the distribution system.

(iii) Initial Sampling. All large water systems shall measure the applicable water quality parameters as specified below at taps and at each entry point to the distribution system during each six-month monitoring period specified in subparagraph (2)(c)(D)(i) of this rule. All small and medium-size systems shall measure the applicable water quality parameters at the locations specified below during each six-month monitoring period specified in subparagraph (2)(c)(D)(i) of this rule during which the system exceeds the lead or copper action level:

(I) At taps: pH, alkalinity, orthophosphate (when an inhibitor containing a phosphate compound is used), silica (when an inhibitor containing a silicate compound is used), calcium, conductivity, and water temperature.

(II) At each entry point to the distribution system: all of the applicable parameters listed in subparagraph (2)(c)(F)(iii)(I) of this rule.

(iv) Monitoring after installation of corrosion control. Any large system which installs optimal corrosion control treatment pursuant to OAR 333-061-0034(2)(a)(D) shall measure the water quality parameters at the locations and frequencies specified below during each six-month monitoring period specified in subparagraph (2)(c)(D)(ii)(I) of this rule. Any small or medium-size system which installs optimal corrosion control treatment shall conduct such monitoring during each six-month monitoring period specified in subparagraph (2)(c)(D)(ii)(II) of this rule in which the system exceeds the lead or copper action level.

(I) At taps, two samples for: pH, alkalinity, orthophosphate (when an inhibitor containing a phosphate compound is used), silica (when an inhibitor containing a silicate compound is used), calcium (when calcium carbonate stabilization is used as part of corrosion control).

(II) Except as provided in subparagraph (2)(c)(D)(iv)(III) of this rule, at each entry point to the distribution system, at least one sample, no less frequently than every two weeks (bi-weekly) for: pH; when alkalinity is adjusted as part of optimal corrosion control, a reading of the dosage rate of the chemical used to adjust alkalinity, and the alkalinity concentration; and when a corrosion inhibitor is used as part of optimal corrosion control, a reading of the dosage rate of the inhibitor used, and the concentration of orthophosphate or silica (whichever is applicable).

(III) Any ground water system can limit entry point sampling to those entry points that are representative of water quality and treatment conditions throughout the system. If water from untreated ground water sources mixes with water from treated ground water sources, the system must monitor for water quality parameters both at representative entry points receiving treatment and no treatment. Prior to the start of any monitoring, the system shall provide to the Authority written information identifying the selected entry points and documentation, including information on seasonal variability, sufficient to demonstrate that the sites are representative of water quality and treatment conditions throughout the system.

(v) Monitoring after Authority specifies water quality parameter values for optimal corrosion control. After the Authority specifies the values for applicable water quality control parameters reflecting optimal corrosion control treatment under OAR 333-061-0034(3)(l), all large systems shall measure the applicable water quality parameters in accordance with subparagraph (2)(c)(F)(iv) of this rule and determine compliance every six months with the first six-month period to begin on either January 1 or July 1, whichever comes first, after the Authority specifies optimal water quality parameter values. Any small or medium-size system shall conduct such monitoring during each monitoring period specified in this paragraph in which the system exceeds the lead or copper action level. For any such small and medium-size system that is subject to a reduced monitoring frequency pursuant to subparagraph (2)(c)(D)(iv) of this rule at the time of the

action level exceedance, the start of the applicable six-month monitoring period shall coincide with the start of the applicable monitoring period under (2)(c)(D) of this rule. Compliance with Authority-designated optimal water quality parameter values shall be determined as specified under 333-061-0034(3)(m).

(vi) Reduced monitoring:

(I) Any water system that maintains the range of values for the water quality parameters reflecting optimal corrosion control treatment during each of two consecutive six-month monitoring periods under paragraph (2)(c)(D) of this rule shall continue monitoring at the entry point(s) to the distribution system as specified in subparagraph (2)(c)(F)(iv)(II) of this rule. Such system may collect two tap samples for applicable water quality parameters from the following reduced number of sites during each six-month monitoring period.

System Size# People served — Reduced # of Sites for Water Quality Parameters

>100,000 — 10
10,001-100,000 — 7
3,301 to 10,000 — 3
501 to 3,300 — 2
101 to 500 — 1
<100 — 1

(II) Any water system that maintains the minimum values or maintains the range of values for the water quality parameters reflecting optimal corrosion control treatment specified by the Authority under OAR 333-061-0034(3) (l) during three consecutive years of monitoring may reduce the frequency with which it collects the number of tap samples for applicable water quality parameters specified in subparagraph (2)(c)(F)(vi)(I) of this rule from every six months to annually. This sampling begins during the calendar year immediately following the end of the monitoring period in which the third consecutive year of six-month monitoring occurs. Any water system that maintains the minimum values or maintains the range of values for the water quality parameters reflecting optimal corrosion control treatment specified by the Authority under 333-061-0034(3)(l) during three consecutive years of annual monitoring may reduce the frequency with which it collects the number of tap samples for applicable water quality parameters from annually to every three years. This sampling begins no later than the third calendar year following the end of the monitoring period in which the third consecutive year of monitoring occurs.

(III) A water system may reduce the frequency with which it collects tap samples for applicable water quality parameters to every three years if it demonstrates during two consecutive monitoring periods that its tap water lead level at the 90th percentile is less than or equal to 0.005 mg/l, that its tap water copper level at the 90th percentile is less than or equal to 0.65 mg/l, and that it also has maintained the range of values for water quality parameters reflecting optimal corrosion control treatment specified by the Authority. Monitoring conducted every three years shall be done no later than every third calendar year.

(IV) A water system that conducts sampling annually shall collect these samples evenly throughout the year so as to reflect seasonal variability.

(V) Any water system subject to reduced monitoring frequency that fails to operate at or above the minimum value or within the range of values for the water quality parameters specified by the Authority under OAR 333-061-0034(3)(l) for more than nine days in any six-month period shall resume distribution system tap water sampling in accordance with the number and frequency requirements in subparagraph (2)(c)(F)(v) of this rule. Such a system may resume annual monitoring for water quality parameters at the tap at the reduced number of sites after it has completed two subsequent consecutive six-month rounds of monitoring that meet the criteria specified in subparagraph (2)(c)(F)(v) of this rule or may resume triennial monitoring at the reduced number of sites after it demonstrates through subsequent annual rounds that it meets the criteria of subparagraphs (2)(c)(F)(vi)(I) and (II) of this rule.

(vii) Additional monitoring by systems. The results of any monitoring conducted in addition to the minimum requirements of subsection (2)(c) of this rule shall be considered by the system and the Authority in making any determinations.

(G) Monitoring requirements for lead and copper in source water. Sample location, collection methods, and number of samples:

(i) A water system that fails to meet the lead or copper action level on the basis of tap samples collected in accordance with paragraphs (2)(c)(A) through (E) of this rule shall collect lead and copper source water samples in accordance with the following requirements regarding sample location, number of samples, and collection methods:

(I) Ground water systems shall take a minimum of one sample at every entry point to the distribution system which is representative of each well after treatment. The system shall take each sample at the same sampling point unless conditions make another sampling point more representative of each source or treatment plant;

(II) Surface water systems shall take a minimum of one sample at every entry point to the distribution system after any application of treatment or in the distribution system at a point which is representative of each source, after treatment. The system shall take each sample at the same sampling point unless conditions make another sampling point more representative of each source or treatment plant; Surface water systems include systems with a combination of surface and ground sources; and

(III) If a system draws water from more than one source and the sources are combined before distribution, the system must sample at an entry point to the distribution system during periods when water is representative of all sources being used.

(ii) Where the results of sampling indicate an exceedance of maximum permissible source water levels established under OAR 333-061-0034(4)(b)(D) the Authority may require that one additional sample be collected as soon as possible after the initial sample was taken (but not to exceed two weeks) at the same sampling point. If an Authority-required confirmation sample is taken for lead or copper, then the results of the initial and confirmation sample shall be averaged in determining compliance with the Authority-specified maximum permissible levels. Any sample value below the detection limit shall be considered to be zero. For lead any value above the detection limit but below the Practical Quantitation Level (PQL) (0.005 mg/l) shall either be considered as the measured value or be considered one-half the PQL (0.0025 mg/l). For copper any value above the detection limit but below the PQL (0.050 mg/l) shall either be considered as the measured value or be considered one-half the PQL (0.025 mg/l).

(H) Monitoring requirements for lead and copper in source water. Monitoring frequency after system exceeds tap water action level. Any system which exceeds the lead or copper action level at the tap, shall collect one source water sample from each entry point to the distribution system no later than six months after the end of the monitoring period during which the lead or copper action level was exceeded. For monitoring periods that are annual or less frequent, the end of the monitoring period is September 30 of the calendar year in which the sampling occurs, or if the Authority has established an alternate monitoring period, the last day of that period.

(i) Monitoring frequency after installation of source water treatment. Any system which installs source water treatment pursuant to OAR 333-061-0034(4)(a)(C) shall collect an additional source water sample from each entry point to the distribution system during two consecutive six-month monitoring periods by the deadline specified in 333-061-0034(4)(a)(D).

(ii) Monitoring frequency after Authority specifies maximum permissible source water levels or determines that source water treatment is not needed.

(I) A system shall monitor at the frequency specified below in cases where the Authority specifies maximum permissible source water levels under OAR 333-061-0034(4)(b)(D) or determines that the system is not required to install source water treatment under 333-061-0034(4)(b)(B). A water system using only groundwater shall collect samples once during the three-year compliance period in effect when the applicable Authority determination is made. Such systems shall collect samples once during each subsequent compliance period. Triennial samples shall be collected every third calendar year. A water system using surface water (or a combination of surface and groundwater) shall collect samples once during each calendar year, the first annual monitoring period to begin during the year in which the applicable Authority determination is made.

(II) A system is not required to conduct source water sampling for lead or copper if the system meets the action level for the specific contaminant in tap water samples during the entire source water sampling period applicable to the system under subparagraph (2)(c)(H)(ii)(I) of this rule.

(iii) Reduced monitoring frequency:

(I) A water system using only groundwater may reduce the monitoring frequency for lead and copper in source water to once during each nine-year compliance cycle provided that the samples are collected no later than every ninth calendar year and it demonstrates that finished drinking water entering the distribution system has been maintained below the maximum permissible lead and copper concentrations specified by the Authority in OAR 333-061-0034(4)(b)(D) during at least three consecutive compliance periods under subparagraph (2)(c)(H)(ii)(I) of this rule or the Authority has determined that source water treatment is not needed and the system demonstrates during at least three consecutive compliance periods under subparagraph (2)(c)(H)(ii)(I) of this rule that the concentration of lead in

source water was less than or equal to 0.005 mg/l and the concentration of copper in source water was less than or equal to 0.65 mg/l.

(II) A water system using surface water (or a combination of surface and ground waters) may reduce the monitoring frequency for lead and copper in source water to once during each nine-year compliance cycle provided that the samples are collected no later than every ninth calendar year and it demonstrates that finished drinking water entering the distribution system has been maintained below the maximum permissible lead and copper concentrations specified by the Authority in OAR 333-061-0034(4)(b)(D) for at least three consecutive years or the Authority has determined that source water treatment is not needed and the system demonstrates that during at least three consecutive years the concentration of lead in source water was less than or equal to 0.005 mg/l and the concentration of copper in source water was less than or equal to 0.65 mg/l.

(III) A water system that uses a new source of water is not eligible for reduced monitoring for lead or copper until concentrations in samples collected from the new source during three consecutive monitoring periods are below the maximum permissible lead and copper concentrations specified by the Authority in OAR 333-061-0034(4)(a)(E).

(d) Nitrate:

(A) Community and non-transient non-community water systems using surface water sources or groundwater sources under the direct influence of surface water shall monitor for Nitrate on a quarterly basis, at each point in the distribution system representative of each source after treatment or at entry points to the distribution system after any application of treatment, beginning January 1, 1993. The Authority may allow a surface water system to reduce the sampling frequency to annually provided that all analytical results from four consecutive quarters are less than 50 percent of the MCL. A surface water system shall return to quarterly monitoring if any one sample is 50 percent of the MCL.

(B) Community and non-transient non-community water systems using groundwater sources shall monitor for Nitrate annually, at each point in the distribution system representative of each source after treatment or at entry points to the distribution system after any application of treatment, beginning January 1, 1993. The Authority shall require quarterly monitoring for a least one year following any one sample in which the concentration is 50 percent of the MCL. The system may return to annual monitoring after four consecutive quarterly samples are found to be reliably and consistently below the MCL.

(C) Transient non-community and state regulated water systems shall monitor for Nitrate annually, at each point in the distribution system representative of each source after treatment or at entry points to the distribution system after any application of treatment, beginning January 1, 1993. Transient non-community water systems must monitor quarterly for at least one year following any one sample in which the concentration is 50 percent of the MCL. The system may return to annual monitoring after four consecutive quarterly samples are found to be reliably and consistently below the MCL.

(D) After the initial round of quarterly sampling is completed, each community and non-transient non-community water system which is monitoring annually shall take subsequent samples during the quarter(s) which previously resulted in the highest analytical result.

(e) Nitrite:

(A) Community, non-transient non-community, and transient non-community water systems shall collect one sample for Nitrite at each point in the distribution system representative of each source after treatment or at entry points to the distribution system after any application of treatment during the compliance period beginning January 1, 1993.

(B) After the initial sample, all systems where analytical results for Nitrite are <50 percent of the MCL, shall monitor once during each subsequent compliance period.

(C) Water systems must conduct quarterly monitoring for at least one year following any one sample in which the concentration is ≥50 percent of the MCL. A water system may change to annual monitoring after four consecutive quarterly samples are found to be reliably and consistently below 50 percent of the MCL.

(D) A water system with an analytical result ≥50 percent of the MCL may never monitor less frequently than annually. Systems which are monitoring annually must collect each subsequent sample during the quarter(s) which previously resulted in the highest analytical result.

(E) The Authority may grant a waiver from the monitoring frequency specified in paragraph (2)(e)(B) of this rule provided that water systems have conducted a minimum of three rounds of monitoring (at least one sample shall have been collected since January 1, 1993), and all analytical results are less than 50 percent of the MCL prescribed in OAR 333-061-0030. Water systems that have been granted a waiver must monitor once during each nine-year compliance cycle. Waivers must be granted as prescribed by subparagraph (2)(a)(C)(ii) of this rule.

(F) A water system with two or more wells that have been determined to constitute a "wellfield" as specified in subsection (1)(k) of this rule may reduce sampling to only those entry point(s) designated by the Authority.

(f) Sodium:

(A) Samples of water which is delivered to users shall be analyzed for Sodium as follows:

(i) Community and non-transient non-community water systems, surface water sources, once per year for each source;

(ii) Community and non-transient non-community water systems, ground water sources, once every three years for each source.

(B) The water supplier shall report to the Authority the results of the analyses for Sodium as prescribed in OAR 333-061-0040. The Authority shall notify local health officials of the test results.

(g) Confirmation Samples:

(A) Where the results of sampling for antimony, arsenic, asbestos, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, selenium or thallium exceed the MCL prescribed in OAR 333-061-0030 for inorganic chemicals, the Authority may require one additional sample to be taken as soon as possible after the initial sample was taken (but not to exceed two weeks) at the same sampling point.

(B) Where the results of sampling for nitrate or nitrite exceed the MCL prescribed in OAR 333-061-0030 for inorganic chemicals, the system is required to collect one additional sample within 24 hours of notification of the results of the initial sample at the same sampling point. Systems unable to comply with the 24-hr sampling requirement must initiate consultation with the Authority as soon as practical, but no later than 24 hours after the system learns of the violation and must immediately notify their users as prescribed in OAR 333-061-0042(2)(a)(B), and collect one additional sample within two weeks of notification of the results of the initial sample.

(C) If a confirmation sample required by the Authority is taken for any contaminant then the results of the initial and confirmation sample shall be averaged. The resultant average shall be used to determine the system's compliance as prescribed in subsection (2)(i) of this rule.

(h) The Authority may require more frequent monitoring than specified in subsections (2)(a) through (f) of this rule or may require confirmation samples for positive and negative results. Systems may apply to the Authority to conduct more frequent monitoring than is required in this section.

(i) Compliance with the inorganic MCLs as listed in OAR 333-061-0030(1) (Table 1) shall be determined based on the analytical result(s) obtained at each sampling point as follows: [Table not included. See ED. NOTE.]

(A) For systems which are conducting monitoring at a frequency greater than annual, compliance with the MCLs for antimony, arsenic, asbestos, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, selenium or thallium is determined by a running annual average at any sampling point. If the average at any sampling point rounded to the same number of significant figures as the MCL for the substance in question is greater than the MCL, then the system is out of compliance. If any one sample would cause the annual average to be exceeded, then the system is out of compliance immediately. Any sample with results below the detection limit specified for the approved EPA analytical method shall be calculated at zero for the purpose of determining the annual average. If a system fails to collect the required number of samples, compliance (average concentration) will be based on the total number of samples collected.

(B) Systems monitoring annually or less frequently for antimony, arsenic, asbestos, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, selenium or thallium must begin quarterly sampling if the level of a contaminant at any sampling point is greater than the MCL listed in OAR 333-061-0030(1). The water system will then determine compliance with the MCL by running annual average at the sampling point. The water system will not be considered in violation of the MCL until it has completed one year of quarterly monitoring. If any sample result will cause the running annual average to exceed the MCL at any sampling point, the system is out of compliance with the MCL immediately. If a system fails to collect the required number of samples, compliance (average concentration) will be based on the total number of samples collected.

(C) Compliance with MCLs for nitrate and nitrite is determined based on one sample if the levels of these contaminants are below the MCLs. If the levels of nitrate or nitrite exceed the MCLs in the initial sample, a confirmation sample is required in accordance with paragraph (2)(g)(B) of this

rule and compliance shall be determined based on the average of the initial and confirmation samples.

(D) If the results of an analysis as prescribed in this rule indicate the level of any contaminant exceeds the maximum contaminant level, the water supplier shall report the analysis results to the Authority within 48 hours as prescribed in OAR 333-061-0040 and initiate the public notice procedures as prescribed by OAR 333-061-0042.

(E) A water system's running annual average (RAA) is calculated by averaging the analytical results for the current monitoring period and the previous monitoring periods within a one-year time frame. For water systems monitoring less frequently than quarterly, the first sample result that exceeds the MCL is considered to be the initial sampling result for determination of the RAA. Multiple sample results within any monitoring period will be averaged and then rounded to the same number of significant figures as the MCL of the contaminant in question. For the purposes of calculating a RAA, a monitoring period may be a calendar month or calendar quarter. Special samples, as described by paragraph (1)(h)(C) of this rule, will not be included in the calculation of a system's running annual average.

(3) Organic chemicals:

(a) Water suppliers responsible for community and non-transient non-community water systems must conduct monitoring according to this section for the following regulated synthetic organic chemicals (SOC): Alachlor, Atrazine, Benzo(a)pyrene, Carbofuran, Chlordane, Dalapon, Dibromochloropropane, Dinoseb, Dioxin(2,3,7,8-TCDD), Diquat, Di(2-ethylhexyl)adipate, Di(2-ethylhexyl)phthalate, Endothall, Endrin, Ethylene dibromide, Glyphosate, Heptachlor, Heptachlor epoxide, Hexachlorobenzene, Hexachlorocyclopentadiene, Lindane(BHC-g), Methoxychlor, Oxamyl(Vydate), Picloram, Polychlorinated biphenyls, Pentachlorophenol, Simazine, Toxaphene, 2,4-D and 2,4,5-TP Silvex.

(A) Initial sampling

(i) At sampling points served by surface water or GWUDI sources, samples must be collected at each point in the distribution system representative of each source after treatment or at entry points to the distribution system after any application of treatment. At least four consecutive quarterly samples must be collected at each sampling point during each compliance period. Samples must be collected from the same sampling point unless conditions make another sampling point more representative of each source or treatment plant.

(ii) At sampling points served by groundwater sources only, samples must be collected at every entry point to the distribution system after any application of treatment. Samples must be collected annually for three consecutive years at each sampling point during each compliance period. Samples must be collected from the same sampling point unless conditions make another sampling point more representative of each source or treatment plant. New wells in an existing wellfield, within an existing drinking water protection area, or within an area well characterized by area-wide source water assessments or past monitoring results as determined by the Authority, may be eligible for a reduction in initial monitoring from three consecutive annual samples to one sample if no detections occur and if, based on the system's source water assessment, the Authority determines that the new well is producing from the same and only the same aquifer or does not significantly modify the existing drinking water protection area.

(iii) If a system draws water from more than one source and sources are combined before distribution, samples must be collected at an entry point to the distribution system during periods of normal operating conditions when water is representative of all the sources being used.

(iv) At water systems with two or more wells that have been determined to constitute a wellfield as specified in subsection (1)(k) of this rule, sampling may be reduced to only those entry points designated by the Authority.

(B) If the initial analyses as specified in subparagraphs (3)(a)(A)(i) or (ii) of this rule does not detect any contaminant listed in subsection (3)(a) of this rule, then monitoring at each sampling point should be conducted as follows:

(i) At water systems serving more than 3,300 people, two quarterly samples in the same calendar year during each repeat 3-year compliance period; or

(ii) At systems serving 3,300 people or less, one sample in each repeat 3-year compliance period.

(C) Water suppliers may apply to the Authority for a waiver from the monitoring frequencies specified in subparagraphs (3)(a)(A)(i) or (ii) or paragraph (3)(a)(B) of this rule. If the Authority determines there was no previous use of a contaminant within a watershed or zone of influence, a waiver may be granted. If the Authority determines that a contaminant was used previously or the use of a contaminant is unknown then the factors specified in subparagraph (3)(a)(C)(iii) of this rule shall determine whether a waiver is granted. A waiver must be in place prior to the year in which the monitoring is to be conducted. Water suppliers must reapply for a waiver for each compliance period. Regardless of waiver status, monitoring must occur at the minimum frequencies specified in subparagraph (3)(a)(C)(v) or (vi) of this rule.

(i) The drinking water protection area delineated during the source water assessment must be used according to Authority procedures and guidance.

(ii) For waivers based on the use of a contaminant, the criteria considered by the Authority includes but is not limited to the use, storage, distribution, transport and disposal of the contaminant within the delineated recharge or watershed area.

(iii) For waivers based on susceptibility to contamination, the criteria considered by the Authority includes but is not limited to the history of bacteria or nitrate contamination, well construction, agricultural management practices, infiltration potential, contaminant mobility and persistence, previous analytical results, the proximity of the system to a potential point or non-point source of contamination, and use of PCBs in equipment used in the production, distribution, or storage of water.

(iv) The Authority may establish area-wide waivers based on historical monitoring data, land use activity, and the results of source water assessments or waivers based on use or susceptibility.

(v) Monitoring must be conducted at least once every six years for all SOCs if an Authority approved drinking water protection plan exists for the water system.

(vi) Monitoring must be conducted at least once every nine years for those SOCs not used within the drinking water protection area if no Authority approved drinking water protection plan exists for a water system. Monitoring must be conducted at least once every six years or once every nine years as determined by the Authority, for those SOCs used within the drinking water protection area based upon SOC chemical characteristics, aquifer characteristics and well construction.

(D) If a contaminant listed in subsection (3)(a) of this rule is detected at a water system equal to or greater than the minimum detection limit listed in Table 15, then the water supplier shall monitor quarterly at each sampling point where a detection occurred. If a contaminant is detected at a concentration greater than the maximum contaminant level, monitoring must be conducted as prescribed by paragraph (3)(a)(E) of this rule. [Table not included. See ED. NOTE.]

(i) The Authority may reduce the monitoring frequency required by paragraph (3)(a)(D) of this rule to annually if at least two quarterly samples for groundwater sources or four quarterly samples for surface water sources are reliably and consistently below the MCL. Annual monitoring according to this subparagraph must be conducted during the quarter that previously yielded the highest analytical result.

(ii) At systems where three consecutive annual samples are collected with no detection of a contaminant, water suppliers may apply to the Authority for a waiver as specified in paragraph (3)(a)(C) of this rule. Monitoring may not be reduced to less often than annually except upon receipt of a waiver granted by the Authority.

(iii) If monitoring required by paragraphs (3)(a)(A) through (D) of this rule results in the detection of either Heptachlor or Heptachlor epoxide, then subsequent monitoring shall analyze for both contaminants.

(E) If a contaminant listed in subsection (3)(a) of this rule is detected at a concentration greater than the maximum contaminant level, then the water supplier must monitor quarterly. After a minimum of four quarterly samples, if results are reliably and consistently below the MCL and in compliance with paragraph (3)(a)(H) of this rule, then the water supplier may monitor annually.

(F) The Authority may require confirmation samples for positive or negative results. If a confirmation sample is required by the Authority, the result must be averaged with the original sample result (unless the previous sample has been invalidated by the Authority) and the average used to determine compliance.

(G) The Authority may allow compositing of samples to reduce the number of samples to be analyzed at a water system. Composite samples from a maximum of five sampling points are allowed, provided that the detection limit of the method used for analysis is less than one-fifth of the MCL. Compositing of samples must be conducted in the laboratory and analyzed within 14 days of sample collections. If the concentration in the composite sample detects one or more contaminants listed in subsection (3)(a) of this rule, then a follow-up sample must be collected and analyzed within 14 days at each sampling point included in the composite, and be

analyzed for that contaminant. Duplicates collected for the original composite samples may be used instead of re-sampling provided the duplicates are analyzed and the results reported to the Authority within 14 days of collection. For water systems serving more than 3,300 people, the Authority may allow compositing at sampling points only within a single system. For systems serving 3,300 people or less, the Authority may allow compositing among different systems, provided the 5-sample limit is maintained.

(H) Compliance with contaminants listed in OAR 333-061-0030(2)(a) shall be determined based on the analytical results obtained at each sampling point. If one sampling point is in violation of an MCL, the water system is in violation of the MCL. For systems which monitor more than once per year, compliance with the MCL is determined by a running annual average at each sampling point. At systems where annual or less frequent monitoring takes place, if sample results exceed the regulatory detection limit prescribed in paragraph (3)(a)(D) of this rule (Table 15), monitoring must be increased to quarterly. The system will not be considered in violation of the MCL until it has completed one year of quarterly monitoring. If any single sample result will cause the running annual average to exceed the MCL at any sampling point, the system is out of compliance with the MCL immediately. If a system fails to collect the required number of samples, compliance will be based on the total number of samples collected. If a sample result is less than the detection limit, zero will be used to calculate the annual average. If the system is out of compliance, the system shall follow the reporting and public notification procedures as prescribed in OAR 333-061-0040 and 333-061-0042(2)(b)(A). [Table not included. See ED. NOTE.]

(I) The running annual average (RAA) for a contaminant is calculated by averaging the analytical results for the current monitoring period and the previous monitoring periods within a one-year time frame. For water systems monitoring less frequently than quarterly, the first sample result that exceeds the detection limit or MCL is considered to be the initial sampling result for determination of the RAA. Multiple sample results within any monitoring period will be averaged and then rounded to the same number of significant figures as the MCL for the contaminant in question. For the purposes of calculating a RAA, a monitoring period may be a calendar month or calendar quarter. Special samples, as described by paragraph (1)(h)(C) of this rule, will not be included in the calculation of the running annual average at a water system.

(J) All new systems or systems that use a new source of water must demonstrate compliance with the MCL within a period of time specified by the Authority. The system must also comply with the initial sampling frequencies specified by the Authority to ensure a system can demonstrate compliance with the MCL.

(b) Water suppliers responsible for community and non-transient non-community water systems must conduct monitoring according to this section for the following regulated volatile organic chemicals (VOCs): Benzene, Carbon tetrachloride, cis-1,2-Dichloroethylene, Dichloromethane, Ethylbenzene, Monochlorobenzene, o-Dichlorobenzene, p-Dichlorobenzene, Styrene, Tetrachloroethylene(PCE), Toluene, trans-1,2-Dichloroethylene, Trichloroethylene(TCE), Vinyl chloride, Xylenes(total), 1,1-Dichloroethylene, 1,1,1-Trichloroethane, 1,1,2-Trichloroethane, 1,2-Dichloroethane, 1,2-Dichloropropane, and 1,2,4-Trichlorobenzene.

(A) Initial monitoring:

(i) At sampling points served by surface water or GWUDI sources, samples must be collected at each point in the distribution system representative of each source after treatment or at entry points to the distribution system after any application of treatment. At least four consecutive quarterly samples must be collected at each sampling point during each compliance period. Samples must be collected from the same sampling point unless conditions make another sampling point more representative of each source or treatment plant.

(ii) At sampling points served by groundwater sources only, samples must be collected at every entry point to the distribution system after any application of treatment. Samples must be collected annually for three consecutive years at each sampling point during each compliance period. Samples must be collected from the same sampling point unless conditions make another sampling point more representative of each source or treatment plant. New wells in an existing wellfield, within an existing drinking water protection area, or within an area well characterized by area-wide source water assessments or past monitoring results as determined by the Authority, may be eligible for a reduction in initial monitoring from three consecutive annual samples to one sample if no detections occur and if, based on the system's source water assessment, the Authority determines that the new well is producing from the same and only the same aquifer or does not significantly modify the existing drinking water protection area.

(iii) The Authority may designate additional sampling points within the distribution system or at the consumer's tap which more accurately determines consumer exposure to VOCs.

(iv) If a water system draws water from more than one source and the sources are combined before distribution, the samples must be collected at entry points to the distribution system during periods of normal operating conditions when water is representative of all sources being used.

(v) A water system with two or more wells that have been determined to constitute a wellfield as specified in subsection (1)(k) of this rule may reduce sampling to only those entry point(s) designated by the Authority.

(B) If the initial analyses conducted according to subparagraphs (3)(b)(A)(i) or (ii) of this rule do not detect any contaminant listed in subsection (3)(b) of this rule, then monitoring for all of the VOCs should be conducted as follows:

(i) For sampling points served by surface water or GWUDI sources, one sample every year per entry point; or

(ii) For sampling points served only by groundwater sources, one sample every three years per entry point.

(C) Water suppliers may apply to the Authority for a waiver from the monitoring frequencies specified in paragraph (3)(b)(B) of this rule. Waivers will be granted according to the criteria and procedures specified in subparagraphs (3)(a)(C)(i) through (vi) of this rule if the Authority determines there were no detections of any contaminant listed in subsection (3)(b) of this rule and if an Authority approved drinking water protection plan exists for the water system or for those VOCs used within a portion of the drinking water protection area that the Authority has determined is not susceptible to VOC contamination.

(i) Waivers granted for monitoring at groundwater systems shall be effective for no more than six years.

(I) Waivers must be in place prior to the year in which monitoring is to be conducted, and water suppliers must reapply for a waiver from VOC monitoring every two compliance periods (six years).

(II) As a condition of a waiver, water suppliers must collect one sample at each sampling point during the time the waiver is in effect and update the vulnerability assessment for the water system addressing those factors listed in subparagraphs (3)(a)(C)(ii) and (iii) of this rule. The Authority must be able to confirm that a system is not susceptible within three years of the original determination, and every time the vulnerability assessment is updated, or the waiver is invalidated and monitoring must be conducted as specified in paragraph (3)(b)(B) of this rule.

(ii) At water systems using surface water that have been determined not to be vulnerable to VOC contamination by the Authority, monitoring must be conducted at the frequency prescribed by the Authority. Water suppliers must update the vulnerability assessment for such water systems during each compliance period and submit the vulnerability assessment to the Authority regardless of the frequency of monitoring.

(iii) The Authority may establish area-wide waivers based on historical monitoring data, land use activity, the results of source water assessments or waivers granted for use of VOCs or susceptibility to VOC contamination.

(D) If a contaminant listed in subsection (3)(b) of this rule (except vinyl chloride) is detected in any sample at a concentration greater than the minimum detection limit of 0.0005 mg/l, then the water supplier shall monitor quarterly at each sampling point where a detection occurred except as provided in subparagraph (3)(b)(D)(i) of this rule.

(i) The Authority may reduce the monitoring frequency specified in this paragraph to annually if results for the water system are reliably and consistently below the MCL for at least two quarters for sample points served only by groundwater sources and four quarters for sample points served by surface water or GWUDI sources.

(I) For annual monitoring, samples must be collected during the quarter that previously yielded the highest analytical result.

(II) If a contaminant is detected at a concentration greater than 0.0005 mg/l but below the MCL in one of the annual samples as prescribed by subparagraph (3)(b)(D)(i) of this rule, the water supplier shall monitor at the frequency specified by the Authority but in no case less frequently than annually.

(ii) At water systems or sampling points where three consecutive annual samples are collected with no detection of a contaminant, water suppliers may apply to the Authority for a waiver as specified in paragraph (3)(b)(C) of this rule. Monitoring may not be reduced to less often than annually except upon by a waiver granted by the Authority.

(iii) At water systems using groundwater sources where one or more of the following two-carbon organic compounds was detected: trichloroethylene, tetrachloroethylene, 1,2-dichloroethane, 1,1,1-trichloroethane, cis-1,2-dichloroethylene, trans-1,2-dichloroethylene or 1,1-dichloroethylene, the water supplier shall monitor quarterly for vinyl chloride. A vinyl chloride sample shall be collected at each sampling point at which one or more of the two-carbon organic compounds was detected. If the results of the first analysis do not detect vinyl chloride, the Authority may reduce the quarterly monitoring frequency of vinyl chloride monitoring to one sample during each compliance period. Water suppliers responsible for surface water systems are required to monitor for vinyl chloride at the discretion of the Authority.

(E) If a contaminant listed in subsection (3)(b) of this rule is detected at a concentration greater than the maximum contaminant level, then the water supplier must monitor quarterly. After a minimum of four consecutive quarterly samples, if results are reliably and consistently below the MCL and in compliance with paragraph (3)(b)(H) of this rule, then the water supplier may monitor annually. Annual samples must be collected during the quarter which previously yielded the highest analytical result.

(F) The Authority may require confirmation samples for positive or negative results. If a confirmation sample is required by the Authority, the result must be averaged with the original sample result and the average used to determine compliance.

(G) The Authority may allow compositing of samples to reduce the number of samples to be analyzed by the system. Composite samples from a maximum of five sampling points are allowed, provided that the detection limit of the method used for analysis is less than one-fifth of the MCL. Compositing of samples must be conducted in the laboratory and samples must be analyzed within 14 days of sample collections. If the concentration in the composite sample is 0.0005 mg/l or greater for any contaminant listed in subsection (3)(b) of this rule, then a follow-up sample must be collected and analyzed within 14 days at each sampling point included in the composite, and be analyzed for that contaminant. Duplicates collected for the original composite samples may be used instead of resampling provided the duplicates are analyzed and the results reported to the Authority within 14 days of collection. For water systems serving a population greater than 3,300 people, the Authority may allow compositing at sampling points only within a single water system. For water systems serving population of 3,300 people or less, the Authority may allow compositing among different water systems provided the 5-sample limit is maintained.

(H) Compliance with contaminants listed in OAR 333-061-0030(2)(c) shall be determined based on the analytical results obtained at each sampling point. If one sampling point is in violation of an MCL, the water system is in violation of the MCL. For systems which monitor more than once per year, compliance with the MCL is determined by a running annual average at each sampling point. At systems where annual or less frequent monitoring takes place, if sample results exceed the MCL, monitoring must be increased to quarterly. The system will not be considered in violation of the MCL until it has completed one year of quarterly sampling. If any single sample result will cause the running annual average to exceed the MCL at any sampling point, the system is out of compliance with the MCL immediately. If a system fails to collect the required number of samples, compliance will be based on the total number of samples collected. If a sample result is less than the detection limit, zero will be used to calculate the annual average. If the water system is out of compliance, the system shall follow the reporting and public notification procedures as prescribed in 333-061-0040 and 333-061-0042(2)(b)(A).

(I) The running annual average (RAA) for a contaminant is calculated by averaging the analytical results for the current monitoring period and the previous monitoring periods within a one-year time frame. For water systems monitoring less frequently than quarterly, the first sample result that exceeds the detection limit or MCL is considered to be the initial sampling result for determination of the RAA. Multiple sample results within any monitoring period will be averaged and then rounded to the same number of significant figures as the MCL for the contaminant in question. For the purposes of calculating a RAA, a monitoring period may be a calendar month or calendar quarter. Special samples, as described by paragraph (1)(h)(C) of this rule, will not be included in the calculation of the running annual average at a water system.

(J) All new water systems or systems that use a new source of water must demonstrate compliance with the MCL within a period of time specified by the Authority. The system must also comply with the initial sampling frequencies specified by the Authority to ensure a system can demonstrate compliance with the MCL.

(4) Disinfectant Residuals, Disinfection Byproducts, and Disinfection Byproduct Precursors

(a) General sampling and analytical requirements. The requirements of this section apply to all community and non-transient non-community water systems that add a disinfectant (oxidant) to the water supply at any point in the treatment process or deliver water in which a disinfectant (oxidant) has been added to the water supply except that compliance with paragraph (4)(i)(B) is required at transient non-community water systems where chlorine dioxide is used as a disinfectant or oxidant.

(A) Water systems must take all samples during normal operating conditions.

(B) Failure to monitor in accordance with the monitoring plan as specified in paragraph (4)(c)(B) of this rule is a monitoring violation.

(C) Failure to monitor will be treated as a violation for the entire period covered by the annual average where compliance is based on a running annual average (RAA) of monthly or quarterly samples or averages and the system's failure to monitor makes it impossible to determine compliance with MCLs or MRDLs.

(D) Systems must use only data collected under the provisions of this rule to qualify for reduced monitoring.

(E) All samples collected and analyzed under the provisions of section (4) of this rule must be included in determining compliance, even if that number is greater than the minimum required.

(b) Initial Distribution System Evaluation (IDSE) Requirements. This subsection establishes monitoring and other requirements for identifying monitoring locations which, in conjunction with the requirements of subsections (4)(c) and (4)(d) of this rule, determine compliance with the MCLs for TTHM and HAA5 as specified in OAR 333-061-0030. Non-transient non-community water systems serving less than 10,000 people are exempt from the requirements of this subsection.

(A) Water suppliers that begin adding a disinfectant to a water system must complete an IDSE by conducting either standard monitoring or a system specific study. Water suppliers must consult with the Authority after completing the IDSE to identify compliance monitoring locations prior to developing a monitoring plan as prescribed in paragraph (4)(c)(B) of this rule that includes monitoring locations identified through the IDSE process. Samples collected to conduct an IDSE will not be used for the purpose of determining compliance with MCLs as prescribed by OAR 333-061-0030(2)(b).

(B) Standard monitoring

(i) Standard monitoring plans must include the elements specified in subparagraphs (4)(b)(B)(i)(I) through (III) of this rule:

(I) A schematic of the distribution system (including distribution system water sources, entry points, and storage facilities), with notes indicating the locations and dates of all projected standard monitoring;

(II) An explanation of standard monitoring location selection, and a summary of data relied on to justify the selection; and

(III) The population served and source water classification for the water system.

(ii) Water systems must monitor as indicated in Table 16 below. Water systems must collect dual sample sets at each monitoring location, and at least one round of monitoring must be during the peak historical month for TTHM or HAA5 levels, or during the month of warmest water temperature. Water systems must review available compliance, study, or operational data to determine the peak historical month for TTHM or HAA5 levels or the month of warmest water temperature. [Table not included. See ED. NOTE.]

(iii) Samples must be collected at locations spread throughout the distribution system.

(iv) If the number of entry points to the distribution system is fewer than the number of entry point monitoring locations specified in Table 16, excess entry point samples must be replaced equally by samples collected at locations where you would expect to find high TTHM and HAA5 concentration. If there is an odd number of excess sampling locations, the additional sample must be collected at a location where you would expect to find high TTHM concentration. If the number of entry points to the distribution system is greater than the number of entry point monitoring locations specified in Table 16, the samples must be collected at entry points having the highest annual water flows. [Table not included. See ED. NOTE.]

(v) Monitoring in accordance with Table 16 may not be reduced according to the provisions of subsection (1)(d) of this rule. [Table not included. See ED. NOTE.]

(vi) IDSE report. Water suppliers must submit an IDSE report to the Authority within 90 days of completing standard monitoring that includes the following elements:

(I) All TTHM and HAA5 analytical results collected in accordance with this rule, and all standard monitoring analytical results collected during the period of the IDSE as individual analytical results and a locational running annual average (LRAA) presented in a format acceptable to the Authority. If changed from the standard monitoring plan prescribed by subparagraph (4)(b)(B)(i) of this rule, the report must also include a schematic of the distribution system, the population served, and the source water type.

(II) An explanation of any deviations from the approved standard monitoring plan.

(III) Recommended times and locations for the compliance monitoring required by subsections (4)(c) and (4)(d) of this rule, based on the protocol prescribed by subparagraph (4)(b)(D)(iii) of this rule, including an explanation for why the locations were selected.

(C) System Specific Study. A system specific study must be based on modeling as prescribed by subparagraph (4)(b)(C)(i) of this rule.

(i) Modeling. Water systems may conduct analysis of an extended period simulation hydraulic model. The hydraulic model and analysis must meet the following criteria:

(I) The model must simulate a 24-hour variation in demand and show a consistently repeating 24-hour pattern of residence time;

(II) The model must represent the following criteria: (1) 75 percent of pipe volume; (2) 50 percent of pipe length; (3) all pressure zones; (4) all 12-inch diameter and larger pipes; (5) all 8-inch and larger pipes that connect pressure zones, influence zones from different sources, storage facilities, major demand areas, pumps, and control valves, or are known or expected to be significant conveyors of water; (6) all 6-inch and larger pipes that connect remote areas of a distribution system to the main portion of the system; (7) all storage facilities with standard operations represented in the model; and (8) all active pump stations with controls represented in the model; and (9) all active control valves; and

(III) The model must be calibrated, or have calibration plans for the current configuration of the distribution system during the period of highest TTHM formation potential. All storage facilities must be evaluated as part of the calibration process. Calibration must be completed no later than 12-months after submission of the system specific study plan.

(IV) Reporting modeling. The system specific study plan must include: (1) tabular or spreadsheet data demonstrating that the model meets requirements in subparagraph (C)(i)(II) of this section; (2) a description of all calibration activities undertaken, and if calibration is complete, a graph of predicted tank levels versus measured tank levels for the storage facility with the highest residence time in each pressure zone, and a time series graph of the residence time at the longest residence time storage facility in the distribution system showing the predictions for the entire simulation period (that is, from time zero until the time it takes to for the model to reach a consistently repeating pattern of residence time); (3) model output showing preliminary 24 hour average residence time predictions throughout the distribution system; (4) timing and number of samples representative of the distribution system planned for at least one monitoring period of TTHM and HAA5 dual sample monitoring at a number of locations no less than would be required for the system under standard monitoring in paragraph (4)(b)(B) of this rule during the historical month of high TTHM; (5) description of how all requirements will be completed no later than 12 months after system submits the system specific study plan; (6) schematic of the distribution system (including distribution system entry points and their sources, and storage facilities), with notes indicating the locations and dates of all completed system specific study monitoring (if calibration is complete) and all compliance monitoring conducted in accordance with this rule; and (7) population served and system type (surface water, groundwater under the direct influence of surface water, or groundwater).

(V) If a model is submitted that does not meet the requirements of subparagraph (4)(b)(C)(i) of this rule, the system must correct the deficiencies and respond to Authority inquiries concerning the model. Failure to correct deficiencies or respond to inquiries by the Authority will result in the system having to conduct standard monitoring as prescribed by paragraph (4)(b)(B) of this rule.

(ii) IDSE report. Water suppliers must submit the IDSE report to the Authority within 90 days of completing the system specific study, and the report must include the following elements:

(I) The IDSE report must include all system specific study monitoring results collected during the period of the system specific study submitted in a tabular or spreadsheet format acceptable to the Authority. If changed from the system specific study plan submitted under paragraph (4)(b)(C) of this rule, the IDSE report must also include a schematic of the distribution system, the population served, and source water classification;

(II) If using the modeling provision prescribed by subparagraph (4)(b)(C)(i) of this rule, the water supplier must include final information for the elements described in subparagraphs (4)(b)(C)(i)(IV) and (V) of this rule, and a 24-hour time series graph of residence time for each location selected for monitoring in accordance with subsections (4)(c) and (4)(d) of this rule;

(III) The water supplier must recommend monitoring locations selected for monitoring in accordance with subsections (4)(c) and (4)(d) of this rule based on the protocol in paragraph (4)(b)(D) of this rule. It must also recommend and justify the timing of the monitoring to be conducted at these monitoring locations.

(IV) The IDSE report must include an explanation of any deviations from the approved system specific study plan.

(V) The IDSE report must include the analytical and modeling results, and the justification for recommending the monitoring locations selected for monitoring in accordance with subsections (4)(c) and (4)(d) of this rule.

(D) Monitoring location recommendations.

(i) The IDSE report must include recommendations and explanation for where and during what month(s) TTHM and HAA5 monitoring in accordance with subsections (4)(c) and (4)(d) of this rule should be conducted. Recommendations must be based on the criteria in subparagraphs (4)(b)(D)(ii) through (v) of this rule.

(ii) Water suppliers must collect samples as prescribed by Table 17 below. The number of samples and recommended locations must be used for monitoring in accordance with subsections (4)(c) and (4)(d) of this rule, unless the Authority requires different or additional locations. Monitoring locations should be dispersed throughout the distribution system to the maximum extent possible. [Table not included. See ED. NOTE.]

(iii) Water suppliers must recommend locations for monitoring in accordance with subsections (4)(c) and (4)(d) of this rule based on standard monitoring results or system specific study results. Water suppliers must comply with the protocol specified in subparagraphs (4)(b)(D)(iii)(I) through (VI) of this rule. If a water system is required to monitor at more than six locations, the protocol must be repeated as necessary. Water systems must select the:

(I) Location with the highest TTHM LRAA not previously selected through this protocol;

(II) Location with the highest HAA5 LRAA not previously selected through this protocol;

(III) Location with the highest TTHM LRAA not previously selected through this protocol;

(IV) Location with the highest TTHM LRAA not previously selected through this protocol;

(V) Location with the highest HAA5 LRAA not previously selected through this protocol; and

(VI) Location with the highest HAA5 LRAA not previously selected through this protocol.

(iv) A water supplier may recommend locations other than those determined through subparagraph (4)(b)(D)(iii) of this rule, if the system includes a rationale for selecting other locations. If the Authority approves the alternate locations, the water system must monitor at these locations to determine compliance with subsections (4)(c) and (4)(d) of this rule.

(v) The water system's recommended monitoring schedule must include the month of historically highest TTHM and HAA5 concentration, unless the Authority approves another month. Once the highest historical month has been identified, and if quarterly or more frequent routine monitoring is required, water systems must schedule monitoring at a regular frequency of at least every 90 days.

(c) Monitoring requirements for TTHM and HAA5:

(A) Routine Monitoring Frequency. At water systems for which an IDSE report was submitted, samples must be collected at the locations and during the months recommended in the IDSE report as prescribed by paragraph (4)(b)(D) of this rule, unless the Authority requires other or additional locations after its review. At non-transient non-community water systems serving less than 10,000 people and for water systems granted a waiver by the EPA exempting the water supplier from completing an IDSE, samples must be collected at the location(s) and dates identified in the monitoring plan developed as prescribed in paragraph (4)(c)(B) of this rule. Samples must be collected at no fewer than the number of locations identified in Table 18: [Table not included. See ED. NOTE.]

(B) A monitoring plan must be developed for every water system where monitoring is required according to this subsection, and must be maintained and made available for inspection by the Authority and the general public.

(i) The monitoring plan must include the following elements:

(I) Monitoring locations;

(II) Monitoring dates; and

(III) Compliance calculation procedures.

(ii) For water systems where an IDSE report was not required as prescribed in paragraphs (4)(b)(B) or (4)(b)(C) of this rule the monitoring plan must identify the required number of monitoring locations for monitoring in accordance with subsections (4)(c) and (4)(d) of this rule. Water suppliers must identify the locations by alternating the selection of locations representing high TTHM levels and high HAA5 levels until the required number of monitoring locations have been identified. Water suppliers must also provide a rationale for identifying the locations as having high levels of TTHM or HAA5.

(iii) For water systems using surface water or GWUDI sources serving more than 3,300 people, a copy of the monitoring plan must be submitted to the Authority prior to the date the water supplier conducts initial monitoring according to this subsection, unless the IDSE report submitted as prescribed in subsection (4)(b) of this rule contains all the information required in paragraph (4)(c)(B) of this rule.

(iv) Revisions to monitoring plans. Water suppliers may revise monitoring plans to reflect changes in treatment, distribution system operations, layout (including new service areas), or other factors that may affect TTHM or HAA5 formation, including Authority-approved reasons, after consultation with the Authority regarding the need and justification for the revision. If monitoring locations are changed, then water systems must replace existing monitoring locations with the lowest LRAA with new locations that reflect current distribution system locations expected to have high TTHM or HAA5 levels. The Authority may require modifications in monitoring plans. Surface water or groundwater under the direct influence of surface water systems serving > 3,300 people must submit a copy of their modified monitoring plan to the Authority prior to the date required to comply with the revised monitoring plan.

(C) A water system monitoring for TTHM or HAA5 in accordance with subsections (4)(c), (4)(d) or (4)(e) of this rule is in violation of the MCL specified in OAR 333-061-0030(2)(b) when the LRAA calculation at any monitoring location exceeds the MCL based on four consecutive quarters of monitoring (or fewer than four quarters of monitoring if the MCL would be exceeded regardless of monitoring results in subsequent quarters). A water system is in violation of the monitoring requirements every quarter that a monitoring result would be used in calculating an LRAA if the system fails to monitor.

(D) Compliance calculations and determinations. For water systems where quarterly monitoring is required, water suppliers must make compliance calculations at the end of every calendar quarter beginning with the fourth quarter of the initial monitoring period. The LRAA must be calculated prior to the fourth quarter if fewer than four quarters of data would cause the MCL to be exceeded, regardless of the monitoring results in subsequent quarters. Water suppliers required to conduct monitoring at a frequency less than quarterly must make compliance calculations every time samples are collected.

(i) Water suppliers must calculate the LRAA for TTHM and HAA5 to determine that each LRAA does not exceed the MCL listed in OAR 333-061-0030(2)(b) for water systems where quarterly monitoring is required. Water suppliers that fail to complete four consecutive quarters of monitoring must calculate the LRAA based on the available data from the most recent four quarters. Water suppliers that collect more than one sample per quarter at a specific monitoring location must average all samples collected in the quarter for that location to determine a quarterly average to be used in the LRAA calculation.

(ii) For water systems where monitoring is yearly or less frequent, water suppliers must determine that each sample collected is less than the MCL listed in OAR 333-061-0030(2)(b). If any sample exceeds the MCL, the water system must comply with the requirements of subsection (4)(e) of this rule. If no sample exceeds the MCL, the sample result for each monitoring location is considered the LRAA for that monitoring location.

(iii) A water supplier required to conduct quarterly monitoring at a water system is in violation of the monitoring requirements for each quarter that a monitoring result would be used in calculating an LRAA if monitor is not conducted.

(d) Reduced monitoring. Water suppliers may reduce monitoring to the frequency specified in Table 19 any time the LRAA is ≤0.040 mg/L for TTHM and ≤0.030 mg/L for HAA5 at all monitoring locations. [Table not included. See ED. NOTE.]

(A) Water suppliers may only use data collected under the provisions of subsections (4)(c) and (4)(d) of this rule to qualify for reduced monitoring. In addition, the annual source water average TOC level, before any treatment, must be less than or equal to 4.0 mg/L at each plant treating surface water or groundwater under the direct influence of surface water, based on monitoring conducted as prescribed in paragraph (4)(d)(D) and subsection (4)(k) of this rule.

(B) Water suppliers may remain on reduced monitoring so long as:

(i) The LRAA for water systems conducting quarterly monitoring is less than or equal to 0.040 mg/L for TTHM and less than or equal to 0.030 mg/L for HAA5 at each monitoring location; or

(ii) Samples collected by water systems conducting annual or less frequent monitoring are less than or equal to 0.060 mg/L for TTHM and less than or equal to 0.045 mg/L for HAA5.

(C) Water suppliers must resume routine monitoring as prescribed in subsection (4)(c) of this rule, or begin increased monitoring as prescribed in subsection (4)(e) of this rule if:

(i) The LRAA based on quarterly monitoring exceeds 0.040 mg/L for TTHM or 0.030 mg/L for HAA5 at any monitoring location; or

(ii) A sample collected at any location exceeds either 0.060 mg/L for TTHM or 0.045 mg/L for HAA5 when the monitoring frequency is annual or less frequent; or

(iii) The average annual source water TOC level, before any treatment, is greater than 4.0 mg/L at any treatment plant treating surface water or groundwater under the direct influence of surface water.

(D) Monitoring requirements for source water TOC. For water systems using surface water or GWUDI sources, TOC samples must be collected every 30 days at a location prior to any treatment in order to qualify for reduced TTHM and HAA5 monitoring as prescribed by this subsection, unless the water system is monitoring as prescribed by subsection (4)(k) of this rule. To remain on reduced monitoring, and in addition to meeting other criteria for reduced monitoring, the source water TOC running annual average must be ≤4.0 mg/L, based on the most recent four quarters of monitoring, on a continuing basis at a location prior to any treatment. Once qualified for reduced monitoring as prescribed by this subsection, a water system may reduce source water TOC monitoring to quarterly TOC samples collected every 90 days at a location prior to any treatment.

(E) A water system may be returned to routine monitoring at the Authority's discretion.

(e) Increased Monitoring

(A) At water systems where annual or less frequent monitoring is required according to subsections (4)(c) or (4)(d) of this rule, monitoring must be increased to dual sample sets collected every 90 days at all locations if a TTHM or HAA5 sample exceeds the MCL at any location.

(B) At water systems where increased monitoring is conducted according to paragraph (4)(e)(A) of this rule, samples must be collected at the monitoring locations specified in the monitoring plan developed according to paragraph (4)(c)(B) of this rule.

(C) Monitoring may be returned to routine if at least four consecutive quarters of increased monitoring has been conducted and the LRAA for every monitoring location is less than or equal to 0.060 mg/L for TTHM and 0.045 mg/L for HAA5.

(f) Operational Evaluation Levels:

(A) The Operational evaluation level for TTHM or HAA5 has been exceeded at a monitoring location when the sum of the two previous quarters' sample results plus twice the current quarter's sample result, divided by 4, exceeds the MCL.

(B) Operational evaluation and report.

(i) Systems that exceed the operational evaluation level for either TTHM or HAA5 must conduct an operational evaluation and submit a written report of the evaluation to the Authority no later than 90 days after being notified of the analytical result that causes the system to exceed the operational evaluation level. The written report must be made available to the public upon request.

(ii) Operational evaluations must include an examination of the water system's treatment and distribution practices, including but not limited to: storage tank operations, excess storage capacity, distribution system flushing, changes in sources or source water quality, and treatment changes or problems that may contribute to TTHM and HAA5 formation. The examination must also include what steps could be considered to minimize future exceedances.

(I) The Authority may allow water systems to limit the scope of the evaluation if the water system is able to identify the cause of the operational evaluation level exceedance.

(II) The request to limit the scope of the evaluation does not extend the schedule specified in subparagraph (4)(f)(B)(i) of this rule for submitting the written report. The Authority must approve this limited scope of

evaluation in writing, and the water system must keep that approval with the completed report.

(g) Chlorite monitoring and compliance for community and non-transient non-community water systems where chlorine dioxide is used for disinfection or oxidation.

(A) Routine monitoring.

(i) Daily monitoring. Samples must be collected every day at the entrance to the distribution system. For any daily sample that exceeds the chlorite MCL, the water supplier must collect additional samples in the distribution system the following day at the locations required by paragraph (4)(g)(B) of this rule, in addition to the sample required at the entrance to the distribution system.

(ii) Monthly monitoring. A three sample set must be collected every month in the distribution system. The water supplier must collect one sample at each of the following locations: near the first customer, at a location representative of average residence time, and at a location reflecting maximum residence time in the distribution system. Any additional routine sampling must be conducted in the same manner (as three sample sets, at the specified locations). The water supplier may use the results of additional monitoring conducted under paragraph (4)(g)(B) of this rule to meet the requirement for monitoring in this paragraph.

(B) Additional monitoring. On each day following a routine sample monitoring result that exceeds the chlorite MCL at the entrance to the distribution system, the water supplier is required to collect three chlorite distribution system samples at the following locations: as close to the first customer as possible, in a location representative of average residence time, and as close to the end of the distribution system as possible (reflecting maximum residence time in the distribution system).

(C) Reduced monitoring.

(i) Chlorite monitoring at the entrance to the distribution system required by subparagraph (4)(g)(A)(i) of this rule may not be reduced.

(ii) Chlorite monitoring in the distribution system required by subparagraph (4)(g)(A)(ii) of this rule may be reduced to one three sample set per quarter after one year of monitoring where no individual chlorite sample taken in the distribution system under subparagraph (4)(g)(A)(ii) of this rule has exceeded the chlorite MCL and the system has not been required to conduct monitoring under paragraph (4)(g)(B) of this rule. The system may remain on the reduced monitoring schedule until either any of the three individual chlorite samples taken quarterly in the distribution system under subparagraph (4)(g)(A)(ii) of this rule exceeds the chlorite MCL or the system is required to conduct monitoring under paragraph (4)(g)(B) of this rule, at which time the system must revert to routine monitoring.

(D) Compliance must be based on an arithmetic average of each three sample set taken in the distribution system as required by subparagraph (4)(g)(A)(ii) of this rule and paragraph (4)(g)(B) of this rule. If the arithmetic average of any three sample set exceeds the MCL, the water system is in violation of the MCL and must notify the public as required by OAR 333-061-0042(2)(b)(A), in addition to reporting to the Authority as required by OAR 333-061-0040.

(h) Bromate monitoring and compliance for water systems where ozone is used for disinfection or oxidation.

(A) Routine monitoring. One sample must be collected every month for each treatment plant in the water system using ozone. Water suppliers must collect samples monthly at the entrance to the distribution system while the ozonation system is operating under normal conditions.

(B) Reduced monitoring. Bromate monitoring may be reduced from monthly to quarterly if the bromate concentration is less than or equal to 0.0025 mg/L as a running annual average based on monthly bromate measurements for the most recent four quarters. Water suppliers may continue reduced monitoring as long as the running annual average of quarterly bromate samples is less than or equal to 0.0025 mg/L. If the running annual average bromate concentration is >0.0025 mg/L, the water supplier must resume routine monitoring as required by paragraph (4)(h)(A) of this rule.

(C) Compliance must be based on a running annual arithmetic average, computed quarterly, of monthly samples (or, for months in which the system takes more than one sample, the average of all samples collected during the month) collected by the water supplier as required by this subsection. If the average of samples covering any consecutive four quarter period exceeds the MCL, the water system is in violation of the MCL and must notify the public as required by OAR 333-061-0042(2)(b)(A), in addition to reporting to the Authority as required by OAR 333-061-0040. If a water supplier fails to complete 12 consecutive months monitoring, compliance with the MCL for the last four quarter compliance period must be based on an average of the available data.

(i) Monitoring and compliance requirements for disinfectant residuals

(A) Chlorine and chloramines

(i) Routine monitoring. At water systems where chlorine or chloramines are used, water suppliers must measure the residual disinfectant level at the same points in the distribution system and at the same time when total coliforms are sampled as specified in OAR 333-061-0036(6). At water systems where surface water or GWUDI sources are used, results of residual disinfectant concentration sampling conducted as required by OAR 333-061-0036(5)(a)(F) for unfiltered systems or OAR 333-061-0036(5)(b)(E) for systems which filter, may be used in lieu of collecting separate samples. Compliance with this rule is achieved when the running annual average of monthly averages of samples collected in the distribution system, computed quarterly, is less than or equal to the MRDL. Operators may increase residual disinfectant levels of chlorine or chloramine (but not chlorine dioxide) in the distribution system to a level and for a time necessary to protect public health in order to address specific microbiological contaminant problems resulting from events in the source water or in the distribution system.

(ii) Reduced monitoring from subparagraph (4)(i)(A)(i) of this rule is not allowed.

(iii) Compliance requirements for chlorine and chloramines.

(I) Compliance must be based on a running annual arithmetic average, computed quarterly, of monthly averages of all samples collected by the water supplier as required by paragraph (4)(i)(A) of this rule. If the average covering any consecutive four quarter period exceeds the MRDL, the MRDL is exceeded and the water supplier must notify the public as required by OAR 333-061-0042(2)(b)(A), in addition to reporting to the Authority as required by OAR 333-061-0040.

(II) In cases where water suppliers switch between the use of chlorine and chloramines for residual disinfection at a water system during the year, compliance must be determined by including together all monitoring results of both chlorine and chloramines in calculating compliance. Reports submitted as required by OAR 333-061-0040(1) must clearly indicate which residual disinfectant was analyzed for each sample.

(B) Chlorine dioxide

(i) Routine monitoring. At water systems where chlorine dioxide is used for disinfection or oxidation, water suppliers must collect daily samples at the entrance to the distribution system. For any daily sample that exceeds the MRDL, the water supplier must collect samples in the distribution system the following day at the locations required by subparagraph (4)(i)(B)(ii) of this rule, in addition to the sample required at the entrance to the distribution system. Compliance with this rule is achieved when daily samples are taken at the entrance to the distribution system and no two consecutive daily samples exceed the MRDL.

(ii) Additional monitoring. On each day following a routine sample monitoring result that exceeds the MRDL, the water supplier is required to collect three chlorine dioxide distribution system samples. If chlorine dioxide or chloramines are used to maintain a disinfectant residual in the distribution system, or if chlorine is used to maintain a disinfectant residual in the distribution system and there are no disinfection addition points after the entrance to the distribution system (that is, no booster chlorination), the water supplier must collect three samples as close to the first customer as possible, at intervals of at least six hours. If chlorine is used to maintain a disinfectant residual in the distribution system and there are one or more disinfection addition points after the entrance to the distribution system (that is, booster chlorination), the water supplier must collect one sample at each of the following locations: as close to the first customer as possible, in a location representative of average residence time, and as close to the end of the distribution system as possible (reflecting maximum residence time in the distribution system).

(iii) Chlorine dioxide monitoring may not be reduced from subparagraph (4)(i)(B)(ii) of this rule.

(iv) Compliance requirements for chlorine dioxide

(I) Acute violations. Compliance must be based on consecutive daily samples collected by the water system as required by paragraph (4)(i)(B) of this rule. If any daily sample taken at the entrance to the distribution system exceeds the MRDL, and on the following day one (or more) of the three samples taken in the distribution system exceed the MRDL, the water system is in violation of the MRDL and must take immediate corrective action to lower the level of chlorine dioxide below the MRDL and must notify the public pursuant to the procedures for acute health risks as required by OAR 333-061-0042(2)(a)(C) in addition to reporting to the Authority as required by OAR 333-061-0040. Failure to take samples in the distribution system the day following an exceedance of the chlorine dioxide MRDL at the entrance to the distribution system will also be considered an MRDL violation and the water system must notify the public of the vio-

lation in accordance with the provisions for acute violations as required by OAR 333-061-0042(2)(a)(C) in addition to reporting to the Authority as required by OAR 333-061-0040.

(II) Non-acute violations. Compliance must be based on consecutive daily samples collected by the system as required by paragraph (4)(i)(B) of this rule. If any two consecutive daily samples taken at the entrance to the distribution system exceed the MRDL and all distribution system samples taken are below the MRDL, the water system is in violation of the MRDL and must take corrective action to lower the level of chlorine dioxide below the MRDL at the point of sampling and will notify the public pursuant to the procedures for non-acute health risks specified by OAR 333-061-0042(2)(b)(A), in addition to reporting to the Authority as required by OAR 333-061-0040. Failure to monitor at the entrance to the distribution system the day following an exceedance of the chlorine dioxide MRDL at the entrance to the distribution system is also an MRDL violation and the water system must notify the public of the violation in accordance with the provisions for non-acute violations specified by OAR 333-061-0042(2)(b)(A) in addition to reporting to the Authority as required by OAR 333-061-0040.

(j) Additional requirements for purchasing water systems. Purchasing water systems that do not add a disinfectant, but deliver water where a disinfectant (oxidant) has been added to the water supply at any point in the treatment process must comply with analytical and monitoring requirements for chlorine and chloramines as prescribed in subsection (4)(i) of this rule.

(k) Monitoring requirements for disinfection byproduct precursors (DBPP)

(A) Routine monitoring. At water systems where surface water or GWUDI sources are used and where conventional filtration treatment is used, monitoring must be conducted at each treatment plant for TOC no later than the point of combined filter effluent turbidity monitoring and representative of the treated water. Monitoring for TOC must be conducted in the source water prior to any treatment at the same time as monitoring for TOC in the treated water. These samples (source water and treated water) are referred to as paired samples. At the same time as the source water sample is collected, all water suppliers must also measure alkalinity in the source water prior to any treatment. Water suppliers must collect one paired sample and one source water alkalinity sample per month per treatment plant at a time representative of normal operating conditions and influent water quality.

(B) Reduced monitoring. At water systems using surface water or GWUDI sources with an average treated water TOC of less than 2.0 mg/L for two consecutive years, or less than 1.0 mg/L for one year, monitoring may be reduced to one paired sample and one source water alkalinity sample per plant per quarter. The water system must revert to routine monitoring in the month following the quarter when the annual average treated water TOC is greater than or equal to 2.0 mg/L.

(C) Compliance must be determined as specified by OAR 333-061-0032(10)(e). Water suppliers may begin monitoring to determine whether Step 1 TOC removals can be met 12 months prior to the compliance date for the system. This monitoring is not required and failure to monitor during this period is not a violation. However, any water system that does not monitor during this period, and then determines in the first 12 months after the compliance date that it is not able to meet the Step 1 requirements as specified in OAR 333-061-0032(10)(d)(B) and must therefore apply for alternate minimum TOC removal (Step 2) requirements, is not eligible for retroactive approval of alternate minimum TOC removal (Step 2) requirements as allowed by OAR 333-061-0032(10)(d)(C) and is in violation. Water systems may apply for alternate minimum TOC removal (Step 2) requirements any time after the compliance date. For systems required to meet step 1 TOC removals, if the value calculated under OAR 333-061-0032(10)(e)(A)(iv) is less than 1.00, the system is in violation of the treatment technique requirements and must notify the public pursuant to OAR 333-061-0042(2)(b)(A), in addition to reporting to the Authority pursuant to OAR 333-061-0040.

(l) Disinfection Profiling and Disinfection Benchmarking. For any community, non-transient non-community, or transient non-community water system utilizing surface water or GWUDI sources where a significant change to the disinfection treatment process as defined by OAR 333-061-0060(1)(e)(A) through (1)(e)(D) is proposed, the water supplier must conduct disinfection profiling and benchmarking for Giardia lamblia and viruses. For any community or non-transient non-community water system where surface water or GWUDI sources are used and where the running annual average greater than or equal to 0.064 mg/l for TTHM or 0.048 mg/l for HAA5, the water supplier must conduct disinfection profiling for Giardia lamblia.

(A) For water systems serving at least 10,000 people, water suppliers must conduct the disinfection profiling in accordance with the USEPA Disinfection Profiling and Benchmarking Guidance Manual. The profile must be based on daily inactivation rate calculations over a period of 12 consecutive months. If chloramines, ozone, or chlorine dioxide is used as a primary disinfectant, the log inactivation for viruses must be calculated and an additional disinfection profile must be developed using a method approved by the Authority.

(B) At water systems serving less than 10,000 people, the disinfection profiling must be conducted in accordance with or the USEPA LT1-ESWTR Disinfection Profiling and Benchmarking Technical Guidance Manual. The profile must be based on weekly inactivation rate calculations collected on the same calendar day over a period of 12 consecutive months. If chloramines, ozone, or chlorine dioxide are used as a primary disinfectant, the log inactivation for viruses must be calculated and an additional disinfection profile must be developed using a method approved by the Authority.

(C) At water systems using either a single or multiple points of disinfection, monitoring must be conducted according to the following parameters to determine total log inactivation for each disinfection segment:

(i) The temperature of the disinfected water at each residual disinfectant concentration sampling point during peak hourly flow;

(ii) The pH of the disinfected water at each residual disinfectant concentration sampling point during peak hourly flow for systems using chlorine;

(iii) The disinfectant contact time(s) ("T") during peak hourly flow; and

(iv) The residual disinfectant concentration(s) ("C") of the water before or at the first customer and prior to each additional point of disinfection during peak hourly flow.

(D) Water suppliers required to develop disinfection profiles as prescribed by OAR 333-061-0060(1)(e) must meet the requirements of subparagraphs (4)(l)(D)(i) through (iii) of this rule:

(i) Water systems must monitor at least weekly for a period of 12 consecutive months to determine the total log inactivation for Giardia lamblia and viruses. If water systems monitor more frequently, the monitoring frequency must be evenly spaced. Water systems that operate for fewer than 12 months per year must monitor weekly during the period of operation;

(ii) Water systems must determine log inactivation for Giardia lamblia through the entire plant, based on CT99.9 values in Tables 21 through 28 in OAR 333-061-0036(5) as applicable; and [Table not included. See ED. NOTE.]

(iii) Water systems must determine log inactivation for viruses through the entire treatment plant based on a protocol approved by the Authority.

(E) Water suppliers must calculate the total inactivation ratio for Giardia lamblia as specified in this paragraph.

(i) Water systems using only one point of disinfectant application must determine the total inactivation ratio for the disinfection segment based on the methods specified in this paragraph.

(I) Water systems must determine one inactivation ratio (CTcalc/CT99.9) before or at the first customer during peak hourly flow; or

(II) Must determine successive (CTcalc/CT99.9) values, representing sequential inactivation ratios, between the point of disinfectant application and a point before or at the first customer during peak hourly flow. Water systems must calculate the total inactivation ratio by determining (CTcalc/CT99.9) for each sequence and then adding the (CTcalc/CT99.9) values together to determine Σ(CTcalc/CT99.9).

(ii) For water systems where there is more than one point of disinfectant application before the first customer, water suppliers must determine the (CTcalc/CT99.9) value of each disinfection segment immediately prior to the next point of disinfectant application, or for the final segment, before or at the first customer, during peak hourly flow. The (CTcalc/CT99.9) value of each segment and Σ(CTcalc/CT99.9) must be calculated using the method in subparagraph (4)(l)(E)(i)(II) of this rule.

(iii) The system must determine the total log of inactivation by multiplying the value calculated in subparagraphs (4)(l)(E)(i) or (ii) of this rule by 3.0.

(F) In lieu of conducting new monitoring as prescribed by paragraph (4)(l)(C) of this rule, water suppliers may elect to meet the requirements of subparagraphs (4)(l)(F)(i) or (ii) of this rule as follows:

(i) For water systems that have at least one year of existing data that are substantially equivalent to data collected in accordance with the provisions of this subsection may use these data to develop disinfection profiles as specified in this section if the water supplier has not made a significant

change to treatment practices nor changed sources since the data were collected. Water suppliers may develop disinfection profiles using up to three years of existing data.

(ii) Water suppliers may use disinfection profile(s) developed as prescribed by this subsection in lieu of developing a new profile if the system has neither made a significant change to its treatment practice nor changed sources since the profile was developed. Water systems that have not developed a virus profile as prescribed by paragraph (4)(l)(G) of this rule must develop a virus profile using the same monitoring data on which the Giardia lamblia profile is based.

(G) Water suppliers must calculate the log of inactivation for viruses using a similar protocol as described in paragraph (4)(l)(D) of this rule, using a CT99.99 and a multiplication factor of 4.0.

(H) A water system subject to OAR 333-061-0060(1)(e) must calculate a disinfection benchmark using the procedures specified in subparagraphs (4)(l)(H)(i) and (ii) of this rule to calculate a disinfection benchmark.

(i) For each year of profiling data collected and calculated as prescribed by paragraphs (4)(l)(A) through (G) of this rule, systems must determine the lowest mean monthly level of both Giardia lamblia and virus inactivation. Water systems must determine the mean Giardia lamblia and virus inactivation for each calendar month for each year of profiling data by dividing the sum of daily or weekly Giardia lamblia and virus log inactivation by the number of values calculated for that month.

(ii) The disinfection benchmark is the lowest monthly mean value (for water systems with one year of profiling data) or the mean of the lowest monthly mean values (for water systems with more than one year of profiling data) of Giardia lamblia and virus log inactivation in each year of profiling data.

(I) Water systems must retain the disinfection profile data in graphic form, such as a spreadsheet, which must be available for review by the Authority as part of a sanitary survey or other field visit contact.

(5) Surface Water Treatment.

(a) A public water system that uses a surface water source or a groundwater source under the direct influence of surface water that does not provide filtration treatment must monitor water quality as specified in this subsection beginning January 1, 1991 for systems using a surface water source and January 1, 1991 or 6 months after the Authority has identified a source as being under the direct influence of surface water for groundwater sources, whichever is later.

(A) Fecal coliform or total coliform density measurements as required by OAR 333-061-0032(2)(a)(A) must be performed on representative source water samples immediately prior to the first or only point of disinfectant application. The system must sample for fecal or total coliforms at the minimum frequency shown in Table 20 each week the system serves water to the public. These samples must be collected on separate days. Also one fecal or total coliform density measurement must be made every day the system serves water to the public when the turbidity of the source water exceeds 1 NTU (these samples count towards the weekly coliform sampling requirement) unless the Authority determines that the system, for logistical reasons outside of its control, cannot have the sample analyzed within 30 hours of collection. [Table not included. See ED. NOTE.]

(B) Turbidity measurements to determine compliance with OAR 333-061-0030(3)(a) must be performed on representative grab samples of source water immediately prior to the first or only point of disinfectant application every four hours (or more frequently) that the system serves water to the public. A public water system may substitute continuous turbidity monitoring for grab sample monitoring if it validates the continuous measurement for accuracy on a regular basis using a protocol approved by the Authority. Systems using continuous turbidity monitoring must report the turbidity data to the Authority in the same manner that grab sample results are reported. The Authority will furnish report forms upon request.

(C) The total inactivation ratio for each day that the system is in operation must be determined based on the CT99.9 values in Tables 21 through 28. The parameters necessary to determine the total inactivation ratio must be monitored as follows: [Table not included. See ED. NOTE.]

(i) The temperature of the disinfected water must be measured at least once per day at each residual disinfectant concentration sampling point.

(ii) If the system uses chlorine, the pH of the disinfected water must be measured at least once per day at each chlorine residual disinfectant concentration sampling point.

(iii) The disinfectant contact time(s) ("T") in minutes must be determined for each day during peak hourly flow.

(iv) The residual disinfectant concentration(s) ("C") in mg/l before or at the first customer must be measured each day during peak hourly flow.

(v) If a system uses a disinfectant other than chlorine or UV, the system may demonstrate to the Authority, through the use of protocol approved by the Authority for on-site disinfection challenge studies or other information satisfactory to the Authority, that CT99.9 values other than those specified in the Tables 27 and 28 or other operational parameters are adequate to demonstrate that the system is achieving the minimum inactivation rates required by OAR 333-061-0032(3)(a). [Table not included. See ED. NOTE.]

(D) The total inactivation ratio must be calculated as follows:

(i) If the system uses only one point of disinfectant application, the system may determine the total inactivation ratio based on either of the following two methods:

(I) One inactivation ratio (CTcalc/CTrequired) is determined before or at the first customer during peak hourly flow and if the CTcalc/CTrequired is greater than or equal to 1.0, the Giardia lamblia inactivation requirement has been achieved; or

(II) Successive CTcalc/CTrequired values representing sequential inactivation ratios, are determined between the point of disinfection application and a point before or at the first customer during peak hourly flow. Under this alternative, the following method must be used to calculate the total inactivation ratio:

Step 1: Determine CTcalc/CTrequired for each sequence
Step 2: Add the CTcalc/CTrequired values together
Step 3: If (CTcalc/CTrequired) is greater than or equal to 1.0, the Giardia lamblia inactivation requirement has been achieved.

(ii) If the system uses more than one point of disinfectant application before or at the first customer, the system must determine the CT value of each disinfection sequence immediately prior to the next point of disinfectant application during peak hourly flow. The CTcalc/CTrequired value of each sequence and CTcalc/CTrequired must be calculated using the methods in subparagraph (5)(a)(D)(i)(II) of this rule to determine if the system is in compliance with OAR 333-061-0032(3)(a) or (5)(a).

(E) The residual disinfectant concentration of the water entering the distribution system must be monitored continuously, and the lowest value must be recorded each day. If there is a failure in the continuous monitoring equipment, grab sampling every 4 hours may be conducted in lieu of continuous monitoring, but for no more than 5 working days following the failure of the equipment, and systems serving 3,300 or fewer persons may take grab samples in lieu of providing continuous monitoring on an ongoing basis at the frequencies prescribed in Table 29. The day's samples cannot be taken at the same time. The sampling intervals are subject to Authority review and approval. If at any time the residual disinfectant concentration falls below 0.2 mg/l in a system using grab sampling in lieu of continuous monitoring, the system must take a grab sample every 4 hours until the residual disinfectant concentration is > 0.2 mg/l. [Table not included. See ED. NOTE.]

(F) The residual disinfectant concentration must be measured at least at the same points in the distribution system and at the same time as total coliforms are sampled as specified in section (6) of this rule, except that the Authority may allow a public water system which uses both a surface water source or a groundwater source under the direct influence of surface water, and a groundwater source, to take disinfectant residual samples at points other than the total coliform sampling points if the Authority determines that such points are more representative of treated (disinfected) water quality within the distribution system.

(b) A public water system that uses a surface water source or a groundwater source under the direct influence of surface water that does provide filtration treatment must monitor water quality as specified in this subsection when filtration treatment is installed.

(A) Turbidity

(i) Turbidity measurements as required by section OAR 333-061-0032(4) must be performed on representative samples of the system's filtered water, measured prior to any storage, every four hours (or more frequently) that the system serves water to the public. A public water system may substitute continuous turbidity monitoring for grab sample monitoring if it validates the continuous measurement for accuracy on a regular basis using a protocol approved by the Authority.

(ii) Calibration of all turbidimeters must be performed according to manufacturer's specifications, but no less frequently than quarterly.

(iii) Water systems using conventional filtration must measure settled water turbidity every day.

(iv) Water systems using conventional or direct filtration must conduct turbidity profiles for individual filters every calendar quarter.

(v) For any systems using slow sand filtration or filtration treatment other than conventional treatment, direct filtration, or diatomaceous earth filtration, the Authority may reduce the sampling frequency to once per day

if it determines that less frequent monitoring is sufficient to indicate effective filtration performance.

(vi) Systems using lime softening may acidify representative samples prior to analysis using a method approved by the Authority.

(B) The actual CT value achieved must be calculated each day the treatment plant is in operation. The parameters necessary to determine the actual CT value must be monitored as follows:

(i) The temperature of the disinfected water must be measured at least once per day at each residual disinfectant concentration sampling point as prescribed in subparagraph (5)(b)(B)(iv) of this rule.

(ii) If the system uses chlorine, the pH of the disinfected water must be measured at least once per day at each chlorine residual disinfectant concentration sampling point.

(iii) The disinfectant contact time(s) ("T") in minutes must be determined for each day during peak hourly flow, based on results of a tracer study conducted according to OAR 333-061-0050(6)(a)(R), or other method approved by the Authority.

(iv) The residual disinfectant concentration(s) ("C") in mg/l before or at the first customer must be measured each day during peak hourly flow.

(v) If a system uses a disinfectant other than chlorine, the system may demonstrate to the Authority, through the use of protocol approved by the Authority for on-site disinfection challenge studies or other information satisfactory to the Authority, or other operational parameters are adequate to demonstrate that the system is achieving the minimum inactivation rates required by OAR 333-061-0032(5)(a).

(C) The inactivation ratio calculations as prescribed in paragraph (5)(a)(D) of this rule.

(D) Monitoring for the residual disinfectant concentration entering the distribution system shall be performed as prescribed in paragraph (5)(a)(E) of this rule.

(E) Monitoring for the residual disinfectant concentration in the distribution system shall be performed as prescribed in paragraph (5)(a)(F) of this rule.

(F) Water systems using membrane filtration must perform direct integrity testing on each filter canister at least daily, per OAR 333-061-0036(5)(d)(B).

(c) Inactivation credit for water systems using a disinfectant other than chlorine for pathogen inactivation.

(A) Calculation of CT values.

(i) CT is the product of the disinfectant concentration (C, in milligrams per liter) and actual disinfectant contact time (T, in minutes). Systems with treatment credit for chlorine dioxide or ozone as prescribed by paragraphs (5)(c)(B) or (C) of this rule must calculate CT at least once per day, with both C and T measured during peak hourly flow as specified in paragraph (5)(b)(B) of this rule.

(ii) Systems with several disinfection segments in sequence must calculate CT for each segment where treatment credit is sought, where a disinfection segment is defined as a treatment unit process with a measurable disinfectant residual level and a liquid volume. If using this approach, water systems must add the Cryptosporidium CT values in each segment to determine the total CT for the treatment plant.

(B) CT values for chlorine dioxide and ozone.

(i) Systems receive the Cryptosporidium treatment credit listed in Table 30 by meeting the corresponding chlorine dioxide CT value for the applicable water temperature, as described in paragraph (5)(c)(A) of this rule. [Table not included. See ED. NOTE.]

(ii) Systems receive the Cryptosporidium treatment credit listed in Table 31 by meeting the corresponding ozone CT values for the applicable water temperature, as described in paragraph (5)(c)(A) of this rule. [Table not included. See ED. NOTE.]

(C) Site-specific study. The Authority may approve alternative chlorine dioxide or ozone CT values to those listed in Table 30 or Table 31 on a site-specific basis. The Authority must base this approval on a site-specific study conducted by a water system that follows an Authority approved protocol. [Table not included. See ED. NOTE.]

(D) Ultraviolet light. Systems receive Cryptosporidium, Giardia lamblia, and virus treatment credits for ultraviolet light (UV) reactors by achieving the corresponding UV dose values shown in subparagraph (5)(c)(D)(i) of this rule. Systems must validate and monitor UV reactors as described in OAR 333-061-0050(5)(k) and subparagraphs (5)(c)(D)(ii) and (iii) of this rule to demonstrate that they are achieving a particular UV dose value for treatment credit.

(i) UV dose table. The treatment credits listed in this table are for UV light at a wavelength of 254 nm as produced by a low pressure mercury vapor lamp. To receive treatment credit for other lamp types, systems must demonstrate an equivalent germicidal dose through reactor validation testing as specified in OAR 333-061-0050(5)(k). The UV dose values in Table 32 are applicable to post-filter applications of UV in filtered water systems, unfiltered water systems, and groundwater systems required to disinfect as prescribed by OAR 333-061-0032(6). [Table not included. See ED. NOTE.]

(ii) Reactor monitoring. Systems must monitor their UV reactors to determine if the reactors are operating within validated conditions, as prescribed by OAR 333-061-0050(5)(k). This monitoring must include UV intensity as measured by a UV sensor, flow rate, lamp status, UV Transmittance, and other parameters the Authority designates based on UV reactor operation. Water systems must verify the calibration of UV sensors at least monthly, and must recalibrate sensors in accordance with the EPA UV Disinfection Guidance Manual as necessary.

(iii) Water systems must monitor the percentage of water delivered to the public that was treated within validated conditions for the required UV dose. If less than 95 percent of water delivered was within validated conditions, a Tier 2 public notice must be issued as prescribed by OAR 333-061-0042(3)(b).

(d) Requirements for individual filter effluent turbidity monitoring

(A) In addition to subsection (5)(b) of this rule, water systems using surface water or groundwater under the direct influence of surface water where treatment includes conventional filtration treatment or direct filtration treatment must conduct continuous turbidity monitoring for each individual filter and must calibrate turbidimeters using the procedure specified by the manufacturer. Individual filter monitoring results must be recorded every 15 minutes. If there is a failure in the continuous turbidity monitoring equipment, the water system must conduct grab sampling every four hours in lieu of continuous monitoring until the turbidimeter is repaired and back on-line. The water system serving at least 10,000 people has a maximum of five working days after failure to repair the equipment or the water system is in violation. The water system serving less than 10,000 people has a maximum of 14 days to resume continuous monitoring before a violation is incurred. If the water system's conventional or direct filtration treatment plant consists of two or fewer filters, continuous monitoring of the combined filter effluent turbidity may be substituted for continuous monitoring of individual filter effluent turbidity. For systems serving less than 10,000 people, the recording and calibration requirements that apply to individual filters also apply when continuous monitoring of the combined filter effluent turbidity is substituted for the continuous monitoring of individual filter effluent turbidity;

(B) Direct integrity testing for membrane filtration. Water systems must conduct direct integrity testing in a manner that demonstrates a removal efficiency equal to or greater than the removal credit awarded to the membrane filtration process, and that meets the requirements described in this paragraph. A direct integrity test is defined as a physical test applied to a membrane unit in order to identify and isolate integrity breaches (that is, one or more leaks that could result in contamination of the filtrate).

(i) The direct integrity test must be independently applied to each membrane unit in service. A membrane unit is defined as a group of membrane modules that share common valving that allows the unit to be isolated from the rest of the water system for the purpose of integrity testing or other maintenance.

(ii) The direct integrity method must have a resolution of three micrometers or less, where resolution is defined as the size of the smallest integrity breach that contributes to a response from the direct integrity test.

(iii) The direct integrity test must have a sensitivity sufficient to verify the log treatment credit awarded to the membrane filtration process by the Authority, where sensitivity is defined as the maximum log removal value that can be reliably verified by a direct integrity test. Sensitivity must be determined using the approach in either subparagraphs (5)(d)(B)(iii)(I) or (II) of this rule as applicable to the type of direct integrity test the system uses.

(I) For direct integrity tests that use an applied pressure or vacuum, the direct integrity test sensitivity must be calculated according to the following equation:

LRVDIT = LOG10 (Qp /(VCF x Qbreach))

Where:

LRVDIT = the sensitivity of the direct integrity test;

Qp = total design filtrate flow from the membrane unit;

Qbreach = flow of water from an integrity breach associated with the smallest integrity test response that can be reliably measured; and

VCF = volumetric concentration factor. The volumetric concentration factor is the ratio of the suspended solids concentration on the high pressure side of the membrane relative to that in the feed water.

(II) For direct integrity tests that use a particulate or molecular marker, the direct integrity test sensitivity must be calculated according to the following equation:

LRVDIT = LOG10(Cf)-LOG10(Cp)

Where:

LRVDIT = the sensitivity of the direct integrity test;

Cf = the typical feed concentration of the marker used in the test; and

Cp = the filtrate concentration of the marker from an integral membrane unit.

(iv) Water systems must establish a control limit within the sensitivity limits of the direct integrity test that is indicative of an integral membrane unit capable of meeting the removal credit awarded by the Authority.

(v) If the result of a direct integrity test exceeds the control limit established under subparagraph (5)(d)(B)(iv) of this rule, the water system must remove the membrane unit from service. Water systems must conduct a direct integrity test to verify any repairs, and may return the membrane unit to service only if the direct integrity test is within the established control limit.

(vi) Water systems must conduct direct integrity testing on each membrane unit at a frequency of not less than once each day that the membrane unit is in operation. The Authority may approve less frequent testing, based on demonstrated process reliability, the use of multiple barriers effective for Cryptosporidium, or reliable process safeguards.

(C) Indirect integrity monitoring for membrane filtration. Water systems must conduct continuous indirect integrity monitoring on each membrane unit according to the criteria specified in this paragraph. Indirect integrity monitoring is defined as monitoring some aspect of filtrate water quality that is indicative of the removal of particulate matter. A water system that implements continuous direct integrity testing of membrane units in accordance with the criteria specified in subparagraphs (5)(d)(B)(i) through (v) of this rule is not subject to the requirements for continuous indirect integrity monitoring. Water systems must submit a monthly report to the Authority summarizing all continuous indirect integrity monitoring results triggering direct integrity testing and the corrective action that was taken in each case.

(i) Unless the Authority approves an alternative parameter, continuous indirect integrity monitoring must include continuous filtrate turbidity monitoring.

(ii) Continuous monitoring must be conducted at a frequency of no less than once every 15 minutes.

(iii) Continuous monitoring must be separately conducted on each membrane unit.

(iv) If indirect integrity monitoring includes turbidity and the filtrate turbidity readings are above 0.15 NTU for a period greater than 15 minutes (that is, two consecutive 15-minute readings above 0.15 NTU), direct integrity testing in accordance with subparagraphs (5)(d)(B)(i) through (v) of this rule must immediately be performed on the associated membrane unit.

(v) If indirect integrity monitoring includes an Authority-approved alternative parameter and if the alternative parameter exceeds an Authority approved control limit for a period greater than 15 minutes, direct integrity testing in accordance with subparagraphs (5)(d)(B)(i) through (v) of this rule must immediately be performed on the associated membrane unit.

(e) Source water monitoring. Wholesale water systems, as defined in OAR 333-061-0020(222), must comply with the requirements of this rule based on the population of the largest water system in the combined distribution system. Water systems required to provide filtration treatment must comply with the requirements of this rule whether or not the water system is currently operating filtration treatment. The requirements of this rule for unfiltered water systems only apply to those water systems that met and continue to meet the requirements of OAR 333-061-0032(2) and (3).

(A) Initial round. Water systems must conduct monitoring as prescribed by this paragraph, and following the schedule specified in paragraph (5)(e)(C) of this rule, unless the system meets the monitoring exemption criteria specified in paragraph (5)(e)(D) of this rule.

(i) Filtered water systems serving at least 10,000 people must sample their source water for Cryptosporidium, E. coli, and turbidity at least monthly for 24 months.

(ii) Unfiltered water systems serving at least 10,000 people must sample their source water for Cryptosporidium at least monthly for 24 months.

(iii) Filtered water systems serving less than 10,000 people must sample their source water for E. coli at least once every two weeks for 12 months.

(I) Filtered water systems serving fewer than 10,000 people may avoid E. coli monitoring if the system monitors for Cryptosporidium as prescribed in subparagraph (5)(e)(A)(iv) of this rule. The water system must notify the Authority no later than three months prior to the date the system is otherwise required to start E. coli monitoring under paragraph (5)(e)(C) of this rule.

(iv) Filtered water systems serving fewer than 10,000 people must sample their source water for Cryptosporidium at least twice per month for 12 months or at least monthly for 24 months if they meet one of the following, based on monitoring conducted in accordance with subparagraph (5)(e)(A)(iii) of this rule:

(I) The annual mean E. coli concentration, in the surface water source, is greater than 100 E. coli/100 mL;

(II) The water system does not conduct E. coli monitoring as described in subparagraph (5)(e)(A)(iii) of this rule; or

(III) Water systems using groundwater under the direct influence of surface water must comply with the requirements of this paragraph based on the E. coli level specified in subparagraph (5)(e)(A)(iv)(I) of this rule.

(v) Unfiltered water systems serving fewer than 10,000 people must sample their source water for Cryptosporidium at least twice per month for 12 months or at least monthly for 24 months.

(vi) Water systems may sample more frequently than required under this section if the sampling frequency is evenly spaced throughout the monitoring period.

(vii) The Authority may approve monitoring for an indicator other than E. coli to comply with the monitoring prescribed by subparagraph (5)(e)(A)(iii) of this rule for filtered water systems serving fewer than 10,000 people. The Authority may approve an alternative to the E. coli concentrations that trigger Cryptosporidium monitoring as specified in subparagraphs (5)(e)(A)(iv)(I) and (III) of this rule. The Authority's approval to the system will be in writing and will include the basis for the Authority's determination that the alternative indicator or trigger level will provide a more accurate identification of whether a water system will exceed the Bin 1 Cryptosporidium level specified in Table 8 in OAR 333-061-0032(4)(f)(F). [Table not included. See ED. NOTE.]

(B) Water systems must conduct a second round of source water monitoring that meets the requirements for monitoring parameters, frequency, and duration described in paragraph (5)(e)(A) of this rule, and according to the schedule in paragraph (5)(e)(C) of this rule, unless they meet the monitoring exemption criteria specified in paragraph (5)(e)(D) of this rule.

(C) Monitoring schedule. Systems must begin monitoring as required in paragraphs (5)(e)(A) and (B) of this rule no later than the month beginning with the date listed in Table 33. [Table not included. See ED. NOTE.]

(D) Monitoring avoidance.

(i) Filtered water systems are not required to conduct source water monitoring as prescribed by this subsection if the system will provide a total of at least 5.5-log of treatment for Cryptosporidium, equivalent to meeting the treatment requirements of Bin 4 in OAR 333-061-0032(4)(g) and OAR 333-061-0032(13) through (18).

(ii) Unfiltered water systems are not required to conduct source water monitoring as prescribed by this subsection if the system will provide a total of at least 3-log Cryptosporidium inactivation, equivalent to meeting the treatment requirements for unfiltered systems with a mean Cryptosporidium concentration of greater than 0.01 oocysts/L in OAR 333-061-0032(3)(e).

(iii) If a water system chooses to provide the level of treatment specified in subparagraph (5)(e)(D)(i) or (ii) of this rule, rather than conducting source water monitoring, the water system must notify the Authority in writing no later than the date the system is otherwise required to submit a sampling schedule for monitoring as prescribed by OAR 333-061-0036(5)(f)(A). A water system may choose to cease source water monitoring at any point after it has initiated monitoring if it notifies the Authority in writing that it will provide this level of treatment. Water systems must install and operate technologies to provide this level of treatment by the applicable treatment compliance date in OAR 333-061-0032(1)(a)(F).

(E) Seasonal plants. Systems with surface water or GWUDI treatment plants that operate for only part of the year must conduct source water monitoring in accordance with this subsection, but with the following modifications:

(i) Water systems must sample their source water only during the months that the plant is in use unless the Authority specifies another monitoring period based on plant operating practices.

(ii) Water systems with treatment plants that operate less than six months per year, and that monitor for Cryptosporidium, must collect at least six Cryptosporidium samples per year for two years of monitoring. Samples must be evenly spaced throughout the period the plant operates.

(F) New sources. A water system that begins using a new source of surface water or GWUDI after the system is required to begin monitoring as prescribed in paragraph (5)(e)(C) of this rule must monitor the new

source on a schedule the Authority approves. Source water monitoring must meet the requirements of this subsection, and the water system must also meet the bin classification and Cryptosporidium treatment requirements of OAR 333-061-0032 for the new source on a schedule the Authority approves.

(i) This applies to water systems using surface water or GWUDI sources that begin operation after the monitoring start date applicable to the system's size specified in Table 33.

(ii) The water system must begin a second round of source water monitoring no later than six years following determination of the mean Cryptosporidium level or initial bin classification as prescribed by OAR 333-061-0032(2) or (4) respectively, as applicable.

(G) Failure to collect any source water sample in accordance with the sampling requirements, schedule, sampling location, analytical method, approved laboratory, and reporting requirements of this section is a monitoring violation.

(H) Grandfathering monitoring data. Systems may use monitoring data collected prior to the applicable monitoring start date in paragraph (5)(e)(C) of this rule to meet the initial source water monitoring requirements in paragraph (5)(e)(A) of this rule. Grandfathered data may substitute for an equivalent number of months at the end of the monitoring period. All data submitted under this paragraph must meet the requirements in subsection (5)(h) of this rule.

(f) Source water sampling schedules.

(A) Water systems required to conduct source water monitoring as prescribed in subsection (5)(e) of this rule must submit a sampling schedule that specifies the calendar dates when the system will collect each required sample.

(i) Water systems must submit sampling schedules to the Authority, no later than three months prior to the applicable date listed in paragraph (5)(e)(C) of this rule, for each round of required monitoring.

(ii) If the Authority does not respond to a water system regarding its sampling schedule, the system must sample at the reported schedule.

(B) Water systems must collect samples within a five-day period, starting two days before the scheduled sampling date and ending two days after. The five-day period applies to each of the dates indicated in the sampling schedule unless one of the following conditions applies:

(i) An extreme condition or situation exists that may pose danger to the sample collector or that cannot be avoided, and that prevents the water system from sampling in the scheduled five-day period. In this case, the water system must sample as close to the scheduled date as possible unless the Authority approves an alternative sampling date. The water system must submit an explanation for the delayed sampling date to the Authority concurrent with the submittal of the sample to the laboratory; or

(ii) A water system is unable to report a valid analytical result for the scheduled sampling date due to equipment failure, loss of or damage to the sample, failure to comply with the analytical method requirements (including the quality control requirements), or the failure of an approved laboratory to analyze the sample.

(I) In this case the water system must collect a replacement sample as prescribed in subparagraph (5)(f)(B)(ii)(II) of this rule.

(II) The system must collect the replacement sample not later than 21 days after receiving information that an analytical result cannot be reported for the scheduled date unless the water system demonstrates that collecting a replacement sample within this time frame is not feasible or the Authority approves an alternative re-sampling date. The system must submit an explanation for the delayed sampling date to the Authority concurrent with the submittal of the sample to the laboratory.

(iii) Water systems that fail to meet the criteria of paragraph (5)(f)(B) of this rule for any required source water sample must revise their sampling schedules to add dates for collecting all missed samples. Water systems must submit the revised sampling schedule to the Authority for approval prior to beginning collecting the missed samples.

(g) Source water sampling locations.

(A) Water systems required to conduct source water monitoring as prescribed in subsection (5)(e) of this rule must collect samples for each plant that treats a surface water or GWUDI source. Where multiple plants draw water from the same influent, such as the same pipe or intake, the Authority may approve one set of monitoring results to be used to satisfy the requirements for all treatment plants.

(B) Water systems must collect source water samples prior to chemical treatment, such as coagulants, oxidants and disinfectants, unless the system meets the following condition:

(i) The Authority may approve a water system to collect a source water sample after chemical treatment if the Authority determines that collecting a sample prior to chemical treatment is not feasible for the system and that the chemical treatment is unlikely to have a significant adverse effect on the analysis of the sample.

(C) Water systems that recycle filter backwash water must collect source water samples prior to the point of filter backwash water addition.

(D) Bank filtration.

(i) Water systems that receive Cryptosporidium treatment credit for bank filtration as an alternate filtration technology as specified by OAR 333-061-0032(9) must collect source water samples in the surface water source prior to bank filtration.

(ii) Water systems that use bank filtration as pretreatment to a filtration plant must collect source water samples from the well, after bank filtration. Use of bank filtration during monitoring must be consistent with routine operational practice. Water systems collecting samples after a bank filtration process may not receive treatment credit for the bank filtration prescribed by OAR 333-061-0032(9).

(E) Multiple sources. Water systems with treatment plants that use multiple water sources, including multiple surface water sources and blended surface water and groundwater sources, must collect samples as specified in subparagraph (5)(g)(E)(i) or (ii) of this rule. The use of multiple sources during monitoring must be consistent with routine operational practice.

(i) If a sampling tap is available where the sources are combined prior to treatment, water systems must collect samples from this tap.

(ii) If a sampling tap where the sources are combined prior to treatment is not available, systems must collect samples at each source near the intake on the same day and must comply with either subparagraph (5)(g)(E)(ii)(I) or (II) below for sample analysis.

(I) Water systems may composite samples from each source into one sample prior to analysis. The volume of sample from each source must be weighted according to the proportion of the source in the total plant flow at the time the sample is collected.

(II) Water systems may analyze samples from each source separately and calculate a weighted average of the analysis results for each sampling date. The weighted average must be calculated by multiplying the analysis result for each source by the fraction the source contributed to total plant flow at the time the sample was collected and then adding these values.

(F) Additional requirements. Water systems must submit a description of their sampling location(s) to the Authority at the same time as the sampling schedule required under subsection (5)(f) of this rule. This description must address the position of the sampling location in relation to the system's water source(s) and treatment processes, including pretreatment, points of chemical treatment, and filter backwash recycle. If the Authority does not respond to a water system regarding sampling location(s), the system must sample at the reported location(s).

(h) Grandfathering previously collected data.

(A) Water systems may comply with the initial source water monitoring requirements of paragraph (5)(e)(A) of this rule by grandfathering sample results collected before the system is required to begin monitoring. To be grandfathered, the sample results and analysis must meet the criteria in this section and the Authority must approve the previously sampled data.

(i) A filtered water system may grandfather Cryptosporidium samples to meet the monitoring requirements of paragraph (5)(e)(A) of this rule when the system does not have corresponding E. coli and turbidity samples.

(ii) A water system that grandfathers Cryptosporidium samples is not required to collect the E. coli and turbidity samples when the system completes the requirements for Cryptosporidium monitoring under paragraph (5)(e)(A) of this rule.

(B) The analysis of grandfathered E. coli and Cryptosporidium samples must meet the analytical method and approved laboratory requirements of subsections (1)(a) and (1)(c) of this rule.

(C) The sampling location of grandfathered samples must meet the conditions specified in subsection (5)(g) of this rule.

(D) Grandfathered Cryptosporidium samples must have been collected no less frequently than each calendar month on a regular schedule, and no earlier than January 1999. Sample collection intervals may vary for the conditions specified in subparagraph (5)(f)(B)(i) through (ii) of this rule if the system provides documentation of the condition when reporting monitoring results.

(i) The Authority may approve grandfathering of previously collected data where there are time gaps in the sampling frequency if the water system conducts additional monitoring as specified by the Authority to ensure that the data used to comply with the initial source water monitoring requirements of paragraph (5)(e)(A) of this rule are seasonally representative and unbiased.

(ii) Water systems may grandfather previously collected data where the sampling frequency within each month varied. If the Cryptosporidium sampling frequency varied, water systems must follow the monthly averaging procedure in OAR 333-061-0032(2)(c)(B) or OAR-333-061-0032(4)(f)(E) as applicable, when calculating the bin classification for filtered water systems or the mean Cryptosporidium concentration for unfiltered water systems.

(E) Reporting monitoring results for grandfathering. Water systems that request to grandfather previously collected monitoring results must report the following information by the applicable dates listed in this paragraph.

(i) Water systems must report that they intend to submit previously collected monitoring. This report must specify the number of previously collected results the system will submit, the dates of the first and last sample, and whether a system will conduct additional source water monitoring to meet the requirements of paragraph (5)(e)(A) of this rule. Water systems must report this information no later than the date the sampling schedule is required as prescribed by subsection (5)(f) of this rule.

(ii) Water systems must report previously collected monitoring results for grandfathering, along with the associated documentation listed in subparagraphs (5)(h)(E)(ii)(I) through (IV) of this rule, no later than two months after the applicable date listed in paragraph (5)(e)(C) of this rule.

(I) For each sample result, water systems must report the applicable data elements specified by OAR 333-061-0040(1)(o).

(II) Water systems must certify that the reported monitoring results include all results the system generated during the time period beginning with the first reported result and ending with the final reported result. This applies to samples that were collected from the sampling location specified for source water monitoring under this paragraph and analyzed in accordance with subsection (1)(a) of this rule.

(III) Water systems must certify that the samples were representative of a plant's source water(s) and that the source water(s) have not changed. Water systems must report a description of the sampling location(s), which must address the position of the sampling location in relation to the system's water source(s) and treatment processes, including points of chemical addition and filter backwash recycle.

(IV) For Cryptosporidium samples, the laboratory or laboratories that analyzed the samples must provide a letter certifying that the quality control criteria in accordance with subsection (1)(a) of this rule were met for each sample batch associated with the reported results. Alternatively, the laboratory may provide bench sheets and sample examination report forms for each field, matrix spike, IPR, OPR, and method blank sample associated with the reported results.

(F) If the Authority determines that a previously collected data set submitted for grandfathering was generated during source water conditions that were not normal for the system, such as a drought, the Authority may disapprove the data. Alternatively, the Authority may approve the previously collected data if the water system reports additional source water monitoring data, as determined by the Authority, to ensure that the data set used under OAR 333-061-0032(4)(f) or 0032(2)(c) represents average source water conditions for the system.

(G) If a water system submits previously collected data that fully meets the number of samples required for initial source water monitoring required by paragraph (5)(e)(A) of this rule, and some of the data is rejected due to not meeting the requirements of this subsection, systems must conduct additional monitoring to replace rejected data on a schedule the Authority approves. Water systems are not required to begin this additional monitoring until two months after notification that data has been rejected and that additional monitoring is necessary.

(6) Coliform Bacteria and Microbiological Contaminants

(a) General requirements for coliform bacteria sampling

(A) Sample Handling Requirements

(i) The standard sample volume required for analysis, regardless of analytical method used, is 100 ml.

(ii) Only the presence or absence of total coliforms and E. coli is required to be determined, not a determination of density.

(iii) Test medium incubation must be initiated within 30 hours of sample collection. Samples should be held below 10 deg. C during transit.

(iv) If water having residual chlorine (measured as free, combined, or total chlorine) is to be analyzed, sufficient sodium thiosulfate (Na2S2O3) must be added to the sample bottle before sterilization to neutralize any residual chlorine in the water sample. Dechlorination procedures are addressed in Section 9060A.2 of Standard Methods for the Examination of Water and Wastewater (20th and 21st editions).

(B) Water suppliers must comply with the repeat monitoring requirements and E. coli analytical requirements specified in subsection (6)(g) of this rule following any total coliform-positive sample collected according to subsections (6)(b) through (6)(f) of this rule.

(C) Water suppliers must determine whether a coliform investigation trigger as specified in OAR 333-061-0078(2) has been exceeded once all monitoring as required by subsections (6)(b) through (6)(g) of this rule has been completed for a calendar month.

(D) If a routine or repeat sample is total coliform-positive, the sample must be analyzed to determine if E. coli are present. If E. coli are present, the water supplier must notify the Authority by the end of the day when the water supplier is notified of the test result, unless the water supplier is notified of the result after the Authority office is closed, in which case the water supplier must notify the Authority before the end of the next business day.

(E) The Authority may, on a case-by-case basis, allow a water supplier to forgo E. coli testing on a total coliform-positive sample if that water supplier assumes that the total coliform-positive sample is E. coli-positive. Accordingly, the water supplier must notify the Authority as specified in paragraph (6)(a)(D) of this rule and take action appropriate for exceeding the MCL for E. coli as specified in OAR 333-061-0030(4).

(F) The Authority may invalidate a total coliform-positive sample only if the conditions specified in subparagraph (6)(a)(F)(i), (ii), or (iii) of this rule are met. A total coliform-positive sample invalidated according to this paragraph does not count toward meeting the minimum monitoring requirements of this rule.

(i) The laboratory establishes that improper sample analysis caused the total coliform-positive result.

(ii) The Authority, on the basis of the results of repeat samples collected as required by subsection (6)(g) of this rule, determines that the total coliform-positive sample resulted from a domestic or other non-distribution system plumbing problem. The Authority cannot invalidate a sample on the basis of repeat sample results unless all repeat sample(s) collected at the same tap as the original total coliform-positive sample are also total coliform-positive, and all repeat samples collected at a location other than the original tap are total coliform-negative (for example, the Authority cannot invalidate a total coliform-positive sample on the basis of repeat samples if all the repeat samples are total coliform-negative, or if the water system has only one service connection).

(iii) The Authority has substantial grounds to believe that a total coliform-positive result is due to a circumstance or condition that does not reflect water quality in the distribution system. In this case, the water supplier must still collect all repeat samples required by subsection (6)(g) of this rule, and use them to determine whether a coliform investigation trigger as specified in OAR 333-061-0078(2) has been exceeded. To invalidate a total coliform-positive sample under this paragraph, the decision and supporting rationale must be documented in writing, and approved and signed by the supervisor of the Authority official who recommended the decision. The written documentation must state the specific cause of the total coliform-positive sample, and what action the water supplier has taken, or will take, to correct this problem. The Authority will not invalidate a total coliform-positive sample solely on the grounds that all repeat samples are total coliform-negative. If the Authority invalidates a sample according to this subparagraph the written documentation will be made available to the EPA or the public upon request.

(G) A laboratory must invalidate a total coliform sample (unless total coliforms are detected) if the sample produces a turbid culture in the absence of gas production using an analytical method where gas formation is examined (for example, the Multiple-Tube Fermentation Technique), produces a turbid culture in the absence of an acid reaction in the Presence-Absence (P–A) Coliform Test, or exhibits confluent growth or produces colonies too numerous to count with an analytical method using a membrane filter (for example, Membrane Filter Technique). If a laboratory invalidates a sample because of such interference, the system must collect another sample from the same location as the original sample within 24 hours of being notified of the interference problem, and have it analyzed for the presence of total coliforms. The water supplier must continue to re-sample within 24 hours and have the samples analyzed until it obtains a valid result. The Authority may waive the 24-hour time limit on a case-by-case basis.

(H) A total coliform-positive sample invalidated according to paragraphs (6)(a)(F) or (G) of this rule does not count toward meeting the minimum monitoring requirements specified in this section.

(I) Water suppliers must develop a written coliform sampling plan for every water system that they own or operate or for which they are responsible according to the criteria in this paragraph by March 31, 2016. The plan

must identify sampling sites and a sample collection schedule that is representative of water throughout the distribution system. Water suppliers must collect total coliform samples according to the plan. Plans are subject to Authority review and revision.

(i) Monitoring required by subsections (6)(b) through (6)(g) of this rule may take place at a customer's premises, dedicated sampling station, or other designated sampling location. Routine and repeat sample sites and any sampling points necessary to meet the requirements of subsection (6)(i) of this rule must be reflected in the coliform sampling plan.

(ii) Samples must be collected at regular time intervals throughout the month, except that groundwater systems serving 4,900 or fewer people may collect all required samples on a single day if they are collected at different sites.

(iii) Water suppliers must collect at least the minimum number of required samples every month even if the MCL for E. coli as specified in OAR 333-061-0030(4) was exceeded or a coliform investigation trigger as specified in OAR 333-061-0078(2) was exceeded.

(iv) Water suppliers may use monitoring as a tool to assist in investigating problems whereby additional samples beyond the number required by this section may be collected to investigate potential problems in the distribution system. A water supplier collecting more routine samples than required in a month must include the results of the additional sampling in calculating whether a coliform investigation trigger as specified in OAR 333-061-0078(2) has been exceeded only if the samples are collected in accordance with an existing coliform sampling plan and are representative of water throughout the distribution system.

(v) Water suppliers must identify repeat monitoring locations in the coliform sampling plan. At least one repeat sample must be collected from the sampling tap where the original total coliform-positive sample was collected, at least one repeat sample must be collected at a tap within five service connections upstream and at least one repeat sample must be collected at a tap within five service connections downstream of the original sampling site unless the provisions of subparagraphs (6)(a)(I)(v)(I) or (6)(a)(I)(v)(II) of this rule are met. If a total coliform-positive sample is at the end of the distribution system, or one service connection away from the end of the distribution system, the Authority may allow an alternative sampling location in lieu of the requirement to collect at least one repeat sample upstream or downstream of the original sampling site. Except as provided for in subparagraph (6)(a)(I)(v)(II) of this rule, at water systems where triggered source water monitoring is required according to paragraph (6)(i)(A), groundwater source samples must be collected in addition to repeat samples as required by subsection (6)(g) of this rule.

(I) Water suppliers may propose repeat monitoring locations to the Authority that the water supplier believes to be representative of a pathway for contamination of the distribution system. A water supplier may elect to specify either alternative fixed locations or criteria for selecting repeat sampling sites on a situational basis in a standard operating procedure (SOP) in its coliform sampling plan. The water supplier must design its SOP to focus the repeat samples at locations that best verify and determine the extent of potential contamination of the distribution system area based on specific situations. The Authority may modify the SOP or require alternative monitoring locations as needed.

(II) For groundwater systems serving 1,000 people or less, repeat sampling locations may be proposed that differentiate potential source water and distribution system contamination (for example, by sampling at entry points to the distribution system). A water system with a single groundwater source and a single service connection may request to collect repeat samples at the location for triggered source water monitoring. The Authority may approve the request if the water supplier demonstrates that the coliform sampling plan remains representative of water quality in the distribution system. If approved by the Authority, the sample result may be used to meet the monitoring requirements in both subsection (6)(g) and (6)(i) of this rule.

(III) Triggered source water monitoring locations as required by subsection (6)(i) of this rule must be identified in the plan in addition to the repeat samples required by subsection (6)(g) of this rule.

(IV) The Authority may review, revise, and approve, as appropriate, repeat sampling proposed by systems under subparagraphs (6)(a)(I)(v)(I) and (II) of this rule. The water supplier must demonstrate that the coliform sampling plan remains representative of the water quality in the distribution system. The Authority may determine that monitoring at the entry point to the distribution system (especially for groundwater systems without disinfection) is effective to differentiate between potential source water and distribution system problems.

(b) At non-transient non-community, transient non-community and state regulated water systems using only groundwater as defined in OAR 333-061-0020(89) and serving 1,000 people or less, one sample must be collected for coliform bacteria every calendar quarter the water system provides water to the public. At seasonal water systems as defined in OAR 333-061-0020(168), monitoring is increased to one sample every month the system is in operation.

(A) For the purpose of determining a water supplier's eligibility to continue or qualify for quarterly monitoring according to the provisions of subparagraphs (6)(b)(C)(iv) or (6)(b)(D)(ii) of this rule at a transient non-community water system, the Authority may elect to not consider monitoring violations according to paragraph (6)(p)(A) of this rule if the missed sample is collected no later than the end of the monitoring period following the monitoring period in which the sample was missed. The water supplier must collect the make-up sample in a different week than the routine sample for that monitoring period and should collect the sample as soon as possible during the monitoring period.

(B) Water suppliers must submit to a special monitoring evaluation during each sanitary survey as specified in OAR 333-061-0076 to review the status of a water system, including the distribution system, and determine whether the system is on an appropriate monitoring schedule. After the Authority has performed the special monitoring evaluation, it may modify the system's monitoring schedule, as necessary, or it may allow the system to stay on its existing monitoring schedule, consistent with the provisions of this subsection.

(C) Monitoring must be increased to monthly the month following any of the events identified in subparagraphs (6)(b)(C)(i) through (6)(b)(C)(iv) of this rule. Monthly monitoring must continue until the requirements in subparagraph (6)(b)(D) of this rule are met. A water system prescribed monthly monitoring for reasons other than those identified in paragraphs (6)(b)(C)(i) through (6)(b)(C)(iv) of this rule is not considered to be on increased monitoring for the purposes of this paragraph and will be restored to quarterly monitoring at the discretion of the Authority.

(i) One level 2 coliform investigation or two level 1 coliform investigations are triggered as specified in OAR 333-061-0078(2) at a water system in a rolling 12 month period.

(ii) The MCL for E. coli is exceeded at a water system.

(iii) A violation as specified in OAR 333-061-0078(5) occurs at a water system.

(iv) Two violations as specified in subsection (6)(p) of this rule occur, or one violation as specified in subsection (6)(p) of this rule occurs and one level 1 coliform investigation as prescribed by OAR 333-061-0078(2) is triggered during a rolling 12-month period for a water system.

(D) The Authority may reduce the monitoring frequency from monthly monitoring as specified in paragraph (6)(b)(C) of this rule to quarterly monitoring if the criteria specified in subparagraphs (6)(b)(D)(i) and (6)(b)(D)(ii) of this rule are met.

(i) A sanitary survey, level 2 coliform investigation or an equivalent site visit was completed by the Authority or another party authorized by the Authority within the previous 12 months, and the water system was found to be free of sanitary defects and to have a protected water source; and

(ii) The water supplier ensured the following at the water system for at least the previous 12 consecutive months:

(I) No MCL exceedances as prescribed by OAR 333-061-0030(4) or 40 CFR 141.63;

(II) That all samples required by this rule and 40 CFR 141.21 were collected and reported to the Authority;

(III) No coliform investigation trigger exceedances as prescribed by OAR 333-061-0078(2); and

(IV) No coliform investigation violations as prescribed by OAR 333-061-0078(5).

(E) Additional routine monitoring the month following a total coliform-positive sample. At least three routine samples must be collected during the next month following one or more total coliform-positive samples at water systems prescribed quarterly monitoring. The Authority may waive this requirement if the conditions of subparagraphs (6)(b)(E)(i), (6)(b)(E)(ii), or (6)(b)(E)(iii) of this rule are met. Samples may either be collected at regular time intervals throughout the month or may be collected on a single day if samples are collected at different sites. The results from the analysis of additional routine samples must be used to determine if a coliform investigation trigger was exceeded as specified in OAR 333-061-0078(2).

(i) The Authority may waive the requirement to collect three routine samples as required by paragraph (6)(b)(E) of this rule if the Authority, or a party authorized by the Authority, performs a site visit before the end of

the next month in which the system provides water to the public. The site visit must be sufficiently detailed to allow the Authority to determine whether additional monitoring or any corrective action is needed. A representative of the water supplier may not perform this site visit, even if the representative is a party authorized by the Authority to perform sanitary surveys.

(ii) The Authority may waive the requirement to collect three routine samples as required by paragraph (6)(b)(E) of this rule if the Authority has determined why the sample was total coliform-positive and has established that the water supplier has corrected the problem or will correct the problem before the end of the next month in which the water system serves water to the public. In this case, the Authority must document this decision to waive the following month's additional monitoring requirement in writing, have it approved and signed by an Authority supervisor who recommends such a decision, and make this document available to the EPA and public. The written documentation must describe the specific cause of the total coliform-positive sample and what action the water supplier has taken or will take to correct this problem.

(iii) The Authority will not waive the requirement to collect three additional routine samples the next month in which the system provides water to the public solely on the grounds that all repeat samples are total coliform-negative. If the Authority determines that the water supplier has corrected the contamination problem before the set of repeat samples required by subsection (6)(g) of this rule is collected, and all repeat samples were total coliform-negative, the Authority may waive the requirement for additional routine monitoring the next month.

(c) At community water systems using only groundwater as defined in OAR 333-061-0020(89) serving 1,000 people or less, one sample must be collected for coliform bacteria every month.

(d) At water systems using surface water or GWUDI serving 1,000 people or less, one sample must be collected for coliform bacteria every month.

(e) At public water systems serving more than 1,000 people, the monitoring frequency for total coliform bacteria is based on the population served by the system, as specified in Table 34: [Table not included. See ED. NOTE.]

(f) At water systems using surface water or GWUDI without filtration treatment as specified in OAR 333-061-0032(2) and (3), at least one sample must be collected near the first service connection every day the turbidity level measured as specified in OAR 333-061-0036(5)(a)(B) exceeds 1 NTU. The sample must be analyzed for the presence of total coliform bacteria and must be collected within 24 hours of the first exceedance, unless the Authority determines that the water supplier, for logistical reasons beyond its control, cannot have the sample analyzed within 30 hours of collection and identifies an alternative sample collection schedule. Sample results from this coliform monitoring must be included in determining whether a coliform investigation trigger as specified in OAR 333-061-0078(2) was exceeded.

(g) If a sample collected as prescribed by subsections (6)(b) through (6)(f) of this rule is total coliform-positive, a set of repeat samples must be collected within 24 hours of being notified of the positive result. No fewer than three repeat samples must be collected for each total coliform-positive sample found.

(A) The Authority may extend the 24-hour limit on a case-by-case basis if a logistical problem beyond its control prevents a water supplier from collecting the repeat samples within 24 hours.

(B) All repeat samples must be collected on the same day, except that at water systems with only a single service connection the Authority may allow the required set of repeat samples to be collected over a three-day period, or the collection of a larger volume repeat sample(s) in one or more sample containers of any size as long as the total volume collected is at least 300 ml.

(C) An additional set of repeat samples must be collected if one or more repeat samples in the current set of repeat samples is total coliform-positive. The additional set of repeat samples must be collected within 24 hours of being notified of the positive result, unless the Authority extends the limit as specified in paragraph (6)(g)(A) of this rule. Water suppliers must continue to collect additional sets of repeat samples until either total coliforms are not detected in one complete set of repeat samples or the water supplier determines that a coliform investigation trigger as specified in OAR 333-061-0078(2) was exceeded as a result of a repeat sample being total coliform-positive and notifies the Authority. If a trigger identified in OAR 333-061-0078(2) is exceeded as a result of a routine sample being total coliform-positive, water suppliers are required to conduct only one round of repeat monitoring for each total coliform-positive routine sample.

(D) After a water supplier collects a routine sample and before it learns the results of the analysis of that sample, if it collects another routine sample(s) from within five adjacent service connections of the initial sample, and the initial sample, after analysis, is found to be total coliform-positive, then the water supplier may count the subsequent sample(s) as a repeat sample instead of as a routine sample.

(E) Repeat samples collected at a groundwater source

(i) If a repeat sample as specified in this subsection was collected at the location for triggered source water monitoring as specified in paragraph (6)(i)(A) of this rule and is E. coli-positive, the MCL for E. coli as specified in OAR 333-061-0030(4) was exceeded and the water supplier must also comply with subsection (6)(j) of this rule. If more than one repeat sample is collected at the monitoring location required for triggered source water monitoring, the water supplier may reduce the number of additional source water samples required by subsection (6)(j) of this rule by the number of repeat samples taken at that location that were not E. coli-positive.

(ii) If more than one repeat sample is collected at the location for triggered source water monitoring as specified in paragraph (6)(i)(A) of this rule, and more than one repeat sample is E. coli-positive, the MCL for E. coli was exceeded and the water supplier must also comply with OAR 333-061-0032(6).

(iii) If all repeat samples collected at the location for triggered source water monitoring as specified in paragraph (6)(i)(A) of this rule are E. coli-negative and a repeat sample collected at a monitoring location other than one required for triggered source water monitoring is E. coli-positive, the MCL for E. coli was exceeded, but the water supplier is not required to comply with subsection (6)(j) of this rule.

(h) Sampling for additional pathogens may be required by the Authority when specific evidence indicates the possible presence of such organisms.

(i) Groundwater source sampling requirements:

(A) At least one sample must be collected from every groundwater source for which at least 4-log treatment of viruses is not applied before or at the first customer within 24 hours of notification of a total coliform-positive sample collected as prescribed by subsections (6)(b) through (6)(f) of this rule that is not invalidated according to paragraphs (6)(a)(F) or (G) of this rule.

(i) The sample must be collected from every groundwater source in use at the time the total coliform-positive sample was collected, except as provided by subparagraph (6)(i)(A)(ii) of this rule.

(ii) If approved by the Authority, the sampling required by this subsection may be conducted at a representative groundwater source or sources at water systems with more than one ground water source. If directed by the Authority, water suppliers must request approval of a triggered source water monitoring plan that identifies one or more ground water sources that are representative of each monitoring site in a system's coliform sampling plan according to paragraph (6)(a)(I) of this rule and that the water supplier intends to use for representative sampling under this paragraph.

(iii) The Authority may extend the 24-hour time limit for the collection of samples on a case-by-case basis if the water supplier cannot collect the sample(s) within 24 hours due to circumstances beyond its control. In the case of an extension, the Authority will specify how much time the water supplier has to collect the sample(s).

(iv) A water supplier is not required to comply with the source water monitoring requirements specified in this paragraph if either of the following conditions exists:

(I) The Authority determines, and documents in writing, that the total coliform-positive sample collected as prescribed by subsections (6)(b) through (6)(f) of this rule is caused by a distribution system deficiency; or

(II) The total coliform-positive sample collected as prescribed by subsections (6)(b) through (6)(f) of this rule is collected at a location that meets Authority criteria for distribution system conditions that will cause total coliform-positive samples.

(v) Groundwater source samples required by this subsection must be collected at a location prior to any treatment unless the Authority approves an alternative sampling location. If the water system's configuration does not allow for sampling at the groundwater source, the water system must collect a sample at an Authority-approved location representative of source water quality.

(B) Additional Requirements related to wholesale water systems that use groundwater sources without providing at least 4-log inactivation of viruses for each groundwater source and purchasing water systems.

(i) If a sample collected according to subsections (6)(b) through (6)(f) of this rule at a purchasing water system is total coliform-positive, the water supplier for that purchasing system must notify the water supplier for the

wholesale system(s) within 24 hours of being notified of the total coliform-positive sample.

(ii) If the water supplier for a wholesale system receives notice that a sample collected according to subsections (6)(b) through (6)(f) of this rule at a purchasing water system it serves is total coliform-positive, the wholesaler must collect a sample from its groundwater source(s) as prescribed by paragraph (6)(i)(A) of this rule and have it analyzed for E. coli within 24 hours of notification.

(iii) If a sample collected according to subparagraph (6)(i)(A) of this rule at a wholesale system is E. coli-positive, the water supplier must notify the water supplier(s) for all purchasing water systems served by the groundwater source of the E. coli-positive source water sample within 24 hours of being notified of the result. The water supplier for the wholesale system must also meet the requirements of subsection (6)(j) of this rule.

(j) Five additional samples must be collected from the same source within 24 hours of notification of an E. coli-positive sample collected as prescribed by paragraph (6)(i)(A) or (6)(k) of this rule at a groundwater source and not invalidated according to subsection (6)(l) of this rule if the Authority does not require corrective action as prescribed by OAR 333-061-0032(6).

(k) At groundwater systems where chlorine, ultraviolet light, or another oxidant is used for disinfection, but where 4-log inactivation of viruses is not achieved, assessment monitoring must be conducted at the groundwater source to determine the potential for viral contamination.

(A) Assessment monitoring according to this subsection must include thecollection of at least one sample from each groundwater source every year. The Authority may grant written approval to conduct monitoring at one or more representative groundwater sources within a water system that draw water from the same hydrogeologic setting.

(B) A sample collected according to paragraph (6)(i)(A) of this rule or a sample collected for GWUDI determination according to OAR 333-061-0032(8) may be used to meet the requirements of this subsection.

(C) Additional Source Water Assessment Monitoring

(i) The Authority may require additional source water assessment monitoring if at least one of the following conditions occur:

(I) At least one total coliform-positive sample was collected from the groundwater source;

(II) A groundwater source having been determined by the Authority to be susceptible to fecal contamination through a Source Water Assessment (or equivalent hydrogeologic assessment wherein susceptibility is defined as a result of a highly sensitive source due to aquifer characteristics, vadose zone characteristics, monitoring history, or well construction) and the presence of a fecal contaminant source within the two-year time-of-travel zone, outreach area, or zone one area;

(III) A source that draws water from an aquifer that the Authority has identified as being fecally contaminated;

(IV) A determination by a source water assessment or equivalent hydrogeologic analysis that the groundwater source is highly sensitive, and that the source is located within an area that has a high density of underground injection control wells; or

(V) Other criteria at the discretion of the Authority.

(ii) Requirements for additional source water assessment monitoring include, but are not limited to:

(I) Collecting 12 consecutive monthly groundwater source samples for water systems that operate year-round, or monthly samples that represent each month the water system provides groundwater to the public for water systems that operate seasonally;

(II) Collecting a standard sample volume of at least 100 mL for E. coli analysis regardless of the analytical method used;

(III) Analysis of all samples for the presence of E. coli, using an analytical method as prescribed by section (1) of this rule;

(IV) Collecting samples at a location prior to any treatment unless the Authority approves a sampling location after treatment; and

(V) Collecting samples at the groundwater source, unless the water system's configuration does not allow for raw water sampling and the Authority approves an alternate sampling location that is representative of the water quality of that groundwater source.

(D) The Authority may require a groundwater source to be re-evaluated as prescribed by this subsection if geologic conditions, source pumping conditions, or fecal contaminant source conditions change over time.

(l) The Authority may invalidate an E. coli-positive groundwater source sample collected according to subsections (6)(i), (j) or (k) of this rule only under the following conditions:

(A) The water supplier or laboratory notifies the Authority in writing that improper sample analysis occurred; or

(B) The Authority determines and documents in writing that there is substantial evidence that an E. coli -positive sample is not related to source water quality.

(m) If the Authority invalidates an E. coli -positive groundwater source sample according to subsection (6)(l) of this rule, the water supplier must collect another source water sample as prescribed by subsection (6)(i) of this rule within 24 hours of being notified of the invalidation. The Authority may extend the 24-hour time limit on a case-by-case basis if the system cannot collect the source water sample within 24 hours due to circumstances beyond its control. In the case of an extension, the Authority must specify how much time the system has to collect the sample.

(n) The Authority may direct a water supplier to conduct source water assessment monitoring as prescribed by subsection (6)(k) of this rule when a new groundwater source is placed into service. Monitoring as prescribed by this subsection must begin before the groundwater source is used to provide water to the public.

(o) The Authority may require a water supplier to provide any existing information that will enable the Authority to perform an assessment to determine whether the groundwater system obtains water from a hydrogeologically sensitive aquifer.

(p) Monitoring violations.

(A) Failure to collect every required routine or additional routine sample in a compliance period is a violation of this rule.

(B) Failure to analyze for E. coli following a total coliform-positive routine sample is a violation of this rule.

(q) Every water system must undergo a sanitary survey at least every five years at a frequency determined by the authority. The Authority will review the results of each survey to determine whether the existing monitoring frequency is adequate and what additional measures, if any, the water supplier needs to undertake to improve drinking water quality.

(r) For any samples collected or analyzed for coliform bacteria on March 31, 2016 or earlier or for any repeat samples collected or analyzed for coliform bacteria after March 31, 2016 in response to a positive sample collected on March 31, 2016 or earlier, the provisions of 40 CFR 141.21(b), (c), (e), (f) and (g) apply to processing and analysis of that sample.

(7) Radionuclides:

(a) Gross alpha particle activity, Radium 226, Radium 228, and Uranium:

(A) Initial Monitoring. Community Water Systems without acceptable historical data, as defined below, must conduct initial monitoring to determine compliance with OAR 333-061-0030(5) by December 31, 2007.

(i) Samples must be collected from each entry point to the distribution system during 4 consecutive quarters before December 31, 2007 according to the following schedule:

Population — Begin initial monitoring - Complete initial monitoring by
300 or More — First quarter 2005 — Fourth quarter 2005
100-299 — First quarter 2006 — Fourth quarter 2006
Less than 100 — First quarter 2007 — Fourth quarter 2007

(ii) New systems or systems using a new source must conduct initial monitoring beginning the first quarter of operation, followed by three consecutive quarterly samples.

(iii) The Authority may waive the final two quarters of the initial monitoring at an entry point if the results of the samples from the first two quarters are below the method detection limit.

(iv) Grandparenting of historical data. A system may use monitoring data from each source or entry point collected between June 2000 and December 8, 2003 to satisfy the initial monitoring requirements.

(v) If the average of the initial monitoring results for a sampling point is above the MCL, the system must collect and analyze quarterly samples at the entry point until the system has results from four consecutive quarters that are at or below the MCL, unless the system enters into another schedule as part of a formal compliance agreement with the Authority.

(B) Reduced Monitoring. Radionuclide monitoring may be reduced to once every three years, once every six years, or once every nine years based on the following criteria:

(i) If the average of the initial monitoring result for each contaminant (gross alpha particle activity, radium-226, radium-228, and uranium) at a given entry point is below the detection limit, sampling for that contaminant may be reduced to once every nine years.

(ii) For gross alpha particle activity, combined radium 226 and radium 228, and uranium, if the average of the initial monitoring results is at or above the detection limit but at or below one-half the MCL, sampling for that contaminant may be reduced to once every six years.

(iii) For gross alpha particle activity, combined radium 226 and radium 228, and uranium, if the average of the initial monitoring results is

above one-half the MCL but at or below the MCL, the system must collect one sample at that sampling point at least once every three years.

(iv) Systems must use the samples collected during the reduced monitoring period to determine the monitoring frequency for subsequent monitoring periods.

(v) If a system has a monitoring result that exceeds the MCL while on reduced monitoring, the system must collect and analyze quarterly samples at that entry point until the system has results from four consecutive quarters that are below the MCL, unless the system enters into another schedule as part of a formal compliance agreement with the Authority.

(vi) A water system with two or more wells that have been determined to constitute a "wellfield" as specified in subsection (1)(k) of this rule may reduce sampling to only those entry point(s) designated by the Authority.

(C) Compositing of samples. A system may composite up to four consecutive quarterly samples from a single entry point if the analysis is done within a year of the first sample. If the analytical result from the composited sample is greater than one-half the MCL, the Authority may direct the system to take additional quarterly samples before allowing the system to sample under a reduced monitoring schedule.

(D) Substitution of results.

(i) A gross alpha particle activity measurement may be substituted for the required radium-226 measurement if the gross alpha particle activity does not exceed 5 pCi/L.

(ii) A gross alpha particle activity measurement may be substituted for the required uranium measurement if the gross alpha particle activity does not exceed 15 pCi/L.

(iii) The gross alpha measurement shall have a confidence interval of 95 percent (1.65 where one-half is the standard deviation of the net counting rate of the sample) for radium-226 and uranium.

(iv) When a system uses a gross alpha particle activity measurement in lieu of a radium-226 or uranium measurement, the gross alpha particle activity analytical result will be used to determine the future monitoring frequency for radium-226 or uranium. If the gross alpha particle activity result is less than detection, half the method detection limit will be used to determine compliance and the future monitoring frequency.

(b) Beta particle and photon radioactivity:

(A) Community water systems designated by the Authority as "vulnerable" must sample for beta particle and photon radioactivity as follows. No waivers shall be granted:

(i) Initial samples must be collected by December 31, 2007.

(ii) Quarterly samples for beta emitters and annual samples for tritium and strontium-90 must be taken at each entry point to the distribution system. Systems already designated by the state must continue to sample until the state removes the designation.

(iii) If the gross beta particle activity minus the naturally occurring potassium-40 beta particle activity at a sample point has a running annual average less than or equal to 50 pCi/l , sampling for contaminants prescribed in subparagraph (7)(b)(A)(i) of this rule maybe reduced to once every three years.

(B) Community water systems designated by the Authority as "contaminated" by effluents from nuclear facilities and must sample for beta particle and photon radioactivity as follows. No waivers shall be granted.

(i) Systems must collect quarterly samples for beta emitters as detailed below and iodine-131 and annual samples for tritium and strontium-90 at each entry point to the distribution system. Sampling must continue until the Authority removes the designation.

(ii) Quarterly monitoring for gross beta particle activity is based on the analysis of monthly samples or the analysis of a composite of three monthly samples.

(iii) For iodine-131, a composite of five consecutive daily samples shall be analyzed once each quarter. More frequent monitoring may be required if iodine-131 is detected.

(iv) Annual monitoring for strontium-90 and tritium shall be conducted by means of the analysis of a composite of four consecutive quarterly samples or analysis of four quarterly samples.

(v) If the gross beta particle activity minus the naturally occurring potassium-40 beta particle activity at an entry point has a running annual average less than or equal to 15 pCi/l, the Authority may reduce the frequency of monitoring for contaminants prescribed in subparagraph (7)(b)(B)(i) of this rule at that entry point to every three years.

(C) For systems in the vicinity of a nuclear facility, the Authority may allow the substitution of appropriate environmental surveillance data taken in conjunction with operation of a nuclear facility for direct monitoring of man-made radioactivity by the water supplier where such data is applicable to a particular Community water system. In the event of a release, monitoring must be done at the water system's entry points.

(D) Systems may analyze for naturally occurring potassium-40 beta particle activity from the same or equivalent sample used for the gross beta particle activity analysis. Systems are allowed to subtract the potassium-40 beta particle activity value from the total gross beta particle activity value to determine if the screening level is exceeded. The potassium-40 beta particle activity must be calculated by multiplying elemental potassium concentrations (in mg/l) by a factor of 0.82.

(E) If the gross beta particle activity minus the naturally occurring potassium-40 beta particle activity exceeds the screening level, an analysis of the sample must be performed to identify the major radioactive constituents present in the sample and the appropriate doses must be calculated and summed to determine compliance with OAR 333-061-0030(5). Doses must also be calculated and combined for measured levels of tritium and strontium to determine compliance.

(F) Systems must monitor monthly at the entry point(s) which exceed the MCL listed in OAR 333-061-0030(5) beginning the month after the exceedance occurs. Systems must continue monthly monitoring until the system has established, by a rolling average of three monthly samples, that the MCL is being met. Systems who establish that the MCL is being met must return to quarterly monitoring until they meet the requirements set forth in subparagraph (7)(b)(A)(ii) or (7)(b)(B)(v) of this rule.

(c) General monitoring and compliance requirements for radionuclides.

(A) The Authority may require more frequent monitoring than specified in subsections (7)(a) and (b) of this rule, or may require confirmation samples at its discretion. The results of the initial and confirmation samples will be averaged for use in compliance determinations.

(B) Each system shall monitor at the time designated by the Authority during each compliance period. To determine compliance with 333-061-0030(5), averages of data shall be used and shall be rounded to the same number of significant figures as the MCL of the contaminant in question.

(C) Compliance.

(i) For systems monitoring more than once per year, compliance with the MCL is determined by a running annual average at each sampling point. If the average of any sampling point is greater than the MCL, then the system is out of compliance with the MCL.

(ii) For systems monitoring more than once per year, if any sample result will cause the running average to exceed the MCL at any entry point, the system is out of compliance with the MCL immediately.

(iii) Systems must include all samples taken and analyzed under the provisions of this section in determining compliance, even if that number is greater than the minimum required.

(iv) If a system does not collect all required samples when compliance is based on a running annual average of quarterly samples, compliance will be based on the running average of the samples collected.

(v) If a sample is less than the detection limit, zero will be used to calculate the annual average, unless a gross alpha particle activity is being used in lieu of radium-226 or uranium. In that case, if the gross alpha particle activity result is less than detection, one-half the detection limit will be used to calculate the annual average.

(D) The Authority has the discretion to delete results of obvious sampling or analytical errors.

(E) When the average annual maximum contaminant level for radionuclides as specified in Table 5 is exceeded, the water supplier shall, within 48 hours, report the analysis results to the Authority as prescribed in OAR 333-061-0040 and initiate the public notification procedures prescribed in 333-061-0042(2)(b)(A). [Table not included. See ED. NOTE.]

(8) Secondary contaminants:

(a) The levels listed in Table 6 of OAR 333-061-0030 represent reasonable goals for drinking water quality, but routine sampling for these secondary contaminants is not required. [Table not included. See ED. NOTE.]

(b) The Authority may however, require sampling and analysis under the following circumstances:

(A) User complaints of taste, odor or staining of plumbing fixtures.

(B) Where treatment of the water is proposed and the levels of secondary contaminants are needed to determine the method and degree of treatment.

(C) Where levels of secondary contaminants are determined by the Authority to present an unreasonable risk to health.

(c) If the results of the analyses do not exceed levels for secondary contaminants, listed in Table 6 of OAR 333-061-0030, subsequent sampling and analysis shall be at the discretion of the Authority. [Table not included. See ED. NOTE.]

(d) If the results of the analyses indicate that the levels for secondary contaminants, listed in Table 6 of OAR 333-061-0030 are exceeded, the Authority shall determine whether the contaminant levels pose an unreasonable risk to health or interfere with the ability of a water treatment facility to produce a quality of water complying with the Maximum Contaminant Levels of these rules and specify follow-up actions to be taken. [Table not included. See ED. NOTE.]

(e) During the period while any measures called for in subsection (8)(d) of this rule are being implemented, the water supplier shall follow the procedures relating to variances and permits which are prescribed in OAR 333-061-0045.

(9) Monitoring of disinfectant residuals in the distribution system

(a) All public water systems that add a disinfectant to the water supply at any point in the treatment process, or deliver water in which a disinfectant has been added to the water supply, must maintain a detectable disinfectant residual throughout the distribution system and shall measure and record the residual:

(A) At one or more representative points at a frequency that is sufficient to detect variations in chlorine demand and changes in water flow but in no case less often than twice per week; and

(B) At the same points in the distribution system and at the same times as total coliforms are sampled as prescribed by subsections (6)(b) through (6)(f) of this rule.

(b) The Authority may allow a water supplier to collect disinfectant residual samples as specified in paragraph (9)(a)(B) of this rule at points other than the total coliform sampling points at public water systems which use both a surface water source or GWUDI source and a groundwater source, if the Authority determines that such points are more representative of treated (disinfected) water quality within the distribution system. At water systems where surface water or GWUDI is used, the results of residual disinfectant concentration sampling conducted as prescribed by subsection (5)(a) of this rule for unfiltered systems or subsection (5)(b) of this rule for systems which filter, may be used in lieu of collecting separate samples.

(c) All public water systems that add chlorine for any purpose must ensure that the chlorine residual entering the distribution system after treatment is less than 4.0 mg/l.

(d) The Authority may waive the monitoring requirements specified in subsection (9)(a) of this rule for water systems that add chlorine for purposes such as the oxidation of metals or taste and odor control if a water system measures and records the residual daily and verifies that there is no remaining disinfectant residual at or before the first customer.

(e) Where chlorine is used as the disinfectant, the measurement of residual chlorine shall be by the DPD or other EPA-approved method in accordance with Standard Methods for the Examination of Water and Waste-water, and shall measure the free chlorine residual or total chlorine residual as applicable;

(f) The water supplier shall maintain a summary report of the residual disinfectant measurements and shall retain this summary report at a convenient location within or near the area served by the water system.

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

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

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 431.110, 431.150, 448.131, 448.150 & 448.273

Hist.: HD 9-1989, f. & cert. ef. 11-13-89; HD 26-1990, f. 23-26-90, cert. ef. 12-29-90; HD 7-1992, f. & cert. ef. 6-9-92; HD 12-1992, f. & cert. ef. 12-7-92; HD 3-1994, f. & cert. ef. 1-14-94; HD 11-1994, f. & cert. ef. 4-11-94; HD 1-1996, f. 1-2-96, cert. ef. 1-5-96; HD 14-1997, f. & cert. ef. 10-31-97; OHD 4-1999, f. 7-14-99, cert. ef. 7-15-99; OHD 4-1999, f. 7-14-99, cert. ef. 7-15-99; OHD 7-2000, f. 7-11-00, cert. ef. 7-15-00; OHD 23-2001, f. & cert. ef. 10-31-01; OHD 17-2002, f. & cert. ef. 10-25-02; PH 12-2003, f. & cert. ef. 8-15-03; PH 33-2004, f. & cert. ef. 10-21-04; PH 2-2006, f. & cert. ef. 1-31-06; PH 2-2008, f. & cert. ef. 2-15-08; PH 4-2009, f. & cert. ef. 5-18-09; PH 7-2010, f. & cert. ef. 4-19-10; PH 13-2012, f. & cert. ef. 9-10-12; PH 3-2013, f. & cert. ef. 1-25-13; PH 5-2016, f. 2-10-16, cert. ef. 4-1-16

333-061-0040

Reporting and Record Keeping

(1) Reporting requirements:

(a) Any person who has reason to believe that his or her actions have led to contamination of a public water system shall report that fact immediately to the water supplier and the Authority.

(b) Laboratory Reporting

(A) Analyses required by OAR 333-061-0036 and performed by an accredited laboratory as defined in OAR 333-061-0036(1)(b) must be reported on a form produced by the accredited laboratory. The laboratory analysis report must be submitted to the Authority within 10 days of the end of the month, or within 10 days of the end of the required monitoring period.

(B) Mandatory reporting requirements for primary laboratories as defined in OAR 333-061-0036(1)(b)(A). These laboratories must:

(i) Validate the results of any sample analysis and report that analysis directly to the Authority and to the water supplier within 48 hours or two business days of completing the analytical run if the samples analysis:

(I) Exceeds the MCL for nitrate as specified in OAR 333-061-0030(1); or

(II) Is positive for coliform bacteria.

(ii) Report any sample analysis directly to the Authority and to the water supplier within 24 hours or on the next business day after validating a sample result that exceeds the MCL for any chemical analyte specified in OAR 333-061-0030 other than nitrate.

(iii) Report any sample analysis directly to the Authority and to the water supplier within 24 hours or on the next business day after obtaining a sample result from a subcontracted laboratory, if the sample analysis:

(I) Exceeds the MCL for nitrate as specified in OAR 333-061-0030(1) or is positive for coliform bacteria; or

(II) Exceeds the MCL for any chemical analyte specified in OAR 333-061-0030 other than nitrate upon validating the sample analysis.

(C) Mandatory reporting requirements for subcontracted laboratories as defined in OAR 333-061-0036(1)(b)(B). These laboratories must:

(i) Validate the results of any sample analysis and report that analysis to their client laboratory within 48 hours or two business days of completing the analytical run if the analysis:

(I) Exceeds the MCL for nitrate as specified in OAR 333-061-0030(1); or

(II) Is positive for coliform bacteria.

(ii) Report any sample analysis to their client laboratory within 24 hours or on the next business day after validating a sample result that exceeds the MCL for any chemical analyte specified in OAR 333-061-0030 other than nitrate.

(c) Water suppliers must report the following events to the Authority within 24 hours or sooner as prescribed in this subsection.

(A) The detection of any substance or pathogenic organisms in the water that has caused or is likely to cause physical suffering or illness.

(B) An exceedance of the MCL for E. coli, which must be reported to the Authority by the end of the day when the water supplier learns of the exceedance and which must be followed by public notice according to OAR 333-061-0042.

(C) Notification of an E. coli-positive routine sample, which must be reported to the Authority according to by the end of the day when the water supplier learns of the result, unless the water supplier is notified of the result after the Authority office is closed, in which case the water supplier must notify the Authority before the end of the next business day.

(D) Violation of a coliform investigation requirement as specified in OAR 333-061-0078(5), which must be followed by public notice according to OAR 333-061-0042.

(d) The water supplier using a surface water source or a groundwater source under direct influence of surface water which provides filtration treatment shall report monthly beginning June 29, 1993 or when filtration is installed, whichever is later, to the Authority the results of any test, measurement or analysis required by OAR 333-061-0036(5)(b) of these rules within 10 days after the end of the month.

(A) All systems using surface water or groundwater under the direct influence of surface water shall consult with the Authority within 24 hours, after learning:

(i) That the turbidity exceeded 5 NTU;

(ii) Of a waterborne disease outbreak potentially attributable to that water system;

(iii) That the disinfectant residual concentration in the water entering the distribution system fell below 0.2 mg/l and whether or not the residual was restored to at least 0.2 mg/l within four hours.

(B) In addition to the reporting and recordkeeping requirements in paragraph (1)(d)(A) of this rule, a public water system which provides conventional filtration treatment or direct filtration serving at least 10,000 people must report monthly to the Authority the information specified in subparagraphs (1)(d)(B)(i) and (ii) of this rule. Public water systems which provide filtration treatment other than conventional filtration treatment, direct filtration, slow sand filtration, and diatomaceous earth filtration, regardless of population served, must also meet the requirements of paragraph (1)(d)(A) of this rule and must report monthly to the Authority the information specified in subparagraph (1)(d)(B)(i) of this rule.

(i) Turbidity measurements as required by OAR 333-061-0036(5) must be reported within 10 days after the end of each month the system serves water to the public. Information that must be reported includes:

(I) The total number of filtered water turbidity measurements taken during the month;

(II) The number and percentage of filtered water turbidity measurements taken during the month which are less than or equal to the turbidity limits specified by OAR 333-061-0030(3)(b)(A) through (D);

(III) The date and value of any turbidity measurements taken during the month which exceed 1 NTU for systems using conventional filtration treatment or direct filtration, or which exceed the maximum level set by the Authority specified in OAR 333-061-0030(3)(b)(D).

(IV) The date and value of any turbidity measurements taken during the month which exceed 5 NTU for systems using slow sand filtration or diatomaceous earth filtration.

(ii) Water systems must maintain the results of individual filter monitoring for at least three years. Water systems must report that they have conducted individual filter turbidity monitoring within 10 days after the end of each month the system serves water to the public. Water systems must also report individual filter turbidity measurement results within 10 days after the end of each month the system serves water to the public only if measurements demonstrate one or more of the conditions in subparagraphs (1)(d)(B)(ii)(I) through (IV) of this rule. Water systems that use lime softening may apply to the Authority for alternative exceedance levels for the levels specified in subparagraphs (1)(d)(B)(ii)(I) through (IV) of this rule if the water system can demonstrate that higher turbidity levels in individual filters are due to lime carryover only and not due to degraded filter performance.

(I) For any individual filter that has a measured turbidity level of greater than 1.0 NTU in two consecutive measurements taken 15 minutes apart, the water system must report the filter number, the turbidity measurement, and the date(s) on which the exceedance occurred. In addition, the water system must either produce a filter profile for the filter within seven days of the exceedance (if the water system is not able to identify an obvious reason for the abnormal filter performance) and report that the profile has been produced or report the obvious reason for the exceedance.

(II) For any individual filter that has a measured turbidity level of greater than 0.5 NTU in two consecutive measurements taken 15 minutes apart at the end of the first four hours of continuous filter operation after the filter has been backwashed or otherwise taken offline, the system must report the filter number, the turbidity, and the date(s) on which the exceedance occurred. In addition, the system must either produce a filter profile for the filter within seven days of the exceedance (if the system is not able to identify an obvious reason for the abnormal filter performance) and report that the profile has been produced or report the obvious reason for the exceedance.

(III) For any individual filter that has a measured turbidity level of greater than 1.0 NTU in two consecutive measurements taken 15 minutes apart at any time in each of three consecutive months, the water system must report the filter number, the turbidity measurement, and the date(s) on which the exceedance occurred. In addition, the water system must conduct a self-assessment of the filter within 14 days of the exceedance and report that the self-assessment was conducted. The self assessment must consist of at least the following components: assessment of filter performance; development of a filter profile; identification and prioritization of factors limiting filter performance; assessment of the applicability of corrections; and preparation of a filter self-assessment report.

(IV) For any individual filter that has a measured turbidity level of greater than 2.0 NTU in two consecutive measurements taken 15 minutes apart at any time in each of two consecutive months, the water system must report the filter number, the turbidity measurement, and the date(s) on which the exceedance occurred. In addition, the water system must arrange to have a comprehensive performance evaluation by the Authority or a third party approved by the Authority conducted no later than 30 days following the exceedance and have the evaluation completed and submitted to the Authority no later than 90 days following the exceedance.

(iii) If at any time the turbidity exceeds 1 NTU in representative samples of filtered water in a system using conventional filtration treatment or direct filtration, the system must inform the Authority as soon as possible, but no later than the end of the next business day.

(iv) If at any time the turbidity in representative samples of filtered water exceed the maximum level set by the Authority as specified in OAR 333-061-0030(3)(b)(D) for filtration technologies other than conventional filtration treatment, direct filtration, slow sand filtration, or diatomaceous earth filtration, the water system must inform the Authority as soon as possible, but no later than the end of the next business day.

(C) In addition to the reporting and recordkeeping requirements in paragraph (1)(d)(A) of this rule, a public water system which provides conventional filtration treatment or direct filtration treatment serving less than 10,000 people must report monthly to the Authority the information specified in subparagraphs (1)(d)(B)(i) of this rule and beginning January 1, 2005 the information specified in subparagraph(1)(d)(C)(i) of this rule. Public water systems which provide filtration treatment other than conventional filtration treatment, direct filtration, slow sand filtration, and diatomaceous earth filtration regardless of population served must also meet the requirements of paragraph (1)(d)(A) of this rule and must report monthly to the Authority the information specified in subparagraph (1)(d)(B)(i) of this rule.

(i) Water systems must maintain the results of individual filter monitoring for at least three years. Water systems must report that they have conducted individual filter turbidity monitoring within 10 days after the end of each month the system serves water to the public. Water systems must also report individual filter turbidity measurement results within 10 days after the end of each month the system serves water to the public only if measurements demonstrate one or more of the conditions in subparagraphs (1)(d)(C)(i)(I) through (III) of this rule. Water systems that use lime softening may apply to the Authority for alternative exceedance levels for the levels specified in subparagraphs (1)(d)(C)(i)(I) through (III) of this rule if the water system can demonstrate that higher turbidity levels in individual filters are due to lime carryover only and not due to degraded filter performance.

(I) If the turbidity of an individual filter (or the turbidity of the combined filter effluent (CFE) for systems with two or less filters that monitor CFE in lieu of individual filter monitoring) is greater than 1.0 NTU in two consecutive measurements taken 15 minutes apart, the water system must report to the Authority by the 10th day of the following month the filter number(s), the turbidity value(s) that exceeded 1.0 NTU, the corresponding date(s) of occurrence, and the cause (if known) for the elevated turbidity values. The Authority may request the water system produce a turbidity profile for the filter(s) in question.

(II) If the turbidity of an individual filter (or the turbidity of the combined filter effluent (CFE) for systems with two or less filters that monitor CFE in lieu of individual filter monitoring) is greater than 1.0 NTU in two consecutive measurements taken 15 minutes apart for three consecutive months, the water system must conduct a filter self-assessment within 14 days of the date the turbidity exceeded 1.0 NTU during the third month, unless a CPE is performed in lieu of a filter self-assessment. Systems with two filters monitoring the CFE must conduct a filter self-assessment for both filters. The self-assessment must consist of the following components: assessment of filter performance; development of a filter profile; identification and prioritization of factors limiting filter performance; assessment of the applicability of corrections; and preparation of a filter self-assessment report. When a self-assessment is required, the water system must report the date the self-assessment was triggered, the date the self-assessment was completed, and the conclusion(s) of the self-assessment by the 10th of the following month or 14 days after the self-assessment was triggered only if the self-assessment was triggered during the last four days of the month.

(III) If the turbidity of an individual filter (or the turbidity of the combined filter effluent (CFE) for systems with two or less filters that monitor CFE in lieu of individual filter monitoring) is greater than 2.0 NTU in two consecutive measurements taken 15 minutes apart for two consecutive months, the water system must report these turbidity results to the Authority by the 10th of the following month and arrange to have a comprehensive performance evaluation (CPE) by the Authority or a third party approved by the Authority conducted within 60 days of the date the turbidity exceeded 2.0 NTU during the second month. The CPE report must be submitted to the Authority no later than 120 days following the date the turbidity exceeded 2.0 NTU during the second month. A CPE is not needed if the Authority or approved third party has conducted a CPE within the last 12 months or the Authority and the water system are jointly participating in an on-going Comprehensive Technical Assistance (CTA) project as part of the Composite Correction Program with the water system. When a CPE is required, the water system must report that a CPE is required and the date that the CPE was triggered by the 10th day of the following month.

(e) The water supplier for water systems using a surface water source or a groundwater source under direct influence of a surface source which does not provide filtration treatment shall report according to subsection (1)(d) of this rule in addition to the requirements of this subsection. Monthly reporting to the Authority will begin January 1, 1991 for systems using surface water sources and January 1, 1991 or six months after the Authority determines surface influence for systems using groundwater under the direct influence of surface water.

(A) Report to the Authority within 10 days after the end of each month, the results or analysis of:

(i) Fecal coliform or total coliform bacteria test results on raw (untreated) source water.

(ii) Daily disinfection "CT" values including parameters such as pH measurements, temperature, and disinfectant residuals at the first customer used to compute the "CT" values.

(iii) Daily determinations using the "CT" values of the adequacy of disinfectant available for inactivation of Giardia lamblia or viruses as specified in OAR 333-061-0032(1)(a).

(B) Report to the Authority within 10 days after the end of each Federal Fiscal year (September 30), the results of:

(i) The watershed control program requirements as specified in OAR 333-061-0032(2)(b)(B).

(ii) The on-site inspection summary requirements as specified in OAR 333-061-0032(2)(b)(C).

(f) Special reporting requirements for groundwater systems.

(A) Groundwater systems conducting compliance monitoring in accordance with OAR 333-061-0032(7)(b) must notify the Authority any time the water system fails to meet any Authority-specified operating requirements including, but not limited to, minimum residual disinfectant concentration, membrane operating criteria or membrane integrity, and alternative treatment operating criteria, if operation in accordance with the specified criteria is not restored within four hours. The groundwater system must notify the Authority as soon as possible, but in no case later than the end of the next business day.

(B) A groundwater system must notify the Authority within 30 days of completing any corrective action as prescribed by OAR 333-061-0032(6).

(C) A groundwater system subject to the requirements of OAR 333-061-0036(6)(i) must provide documentation to the Authority within 30 days that a total coliform-positive sample met Authority criteria for exceptions to triggered source water monitoring requirements because the total coliform-positive sample was attributed to distribution system conditions.

(D) A groundwater system conducting compliance monitoring as prescribed by OAR 333-061-0032(7)(b) must report the results of daily residual disinfectant concentration measurements at the entry point within 10 days after the end of each month.

(g) All Community and Non-Transient Non-Community public water systems shall report all of the following information pertaining to lead and copper to the Authority in accordance with the requirements of this subsection.

(A) Except as provided in subparagraph (1)(h)(A)(vii) of this rule, a public water system shall report the information below for all tap water samples and for all water quality parameter samples within 10 days following the end of each applicable monitoring period. For monitoring periods with a duration less than six-months, the end of the monitoring period is the last date samples can be collected during that period.

(i) The results of all tap samples for lead and copper including the location of each site and the criteria under which the site was selected for the system's sampling pool. With the exception of initial tap sampling, the system shall designate any site which was not sampled during previous monitoring periods, and include an explanation of why sampling sites have changed. By the applicable date specified in OAR 333-061-0036(2)(c)(D)(i) for commencement of initial monitoring, each Community Water System which does not complete its targeted sampling pool meeting the criteria for tier 1 sampling sites shall send a letter to the Authority justifying its selection of tier 2 or tier 3 sampling sites. By the applicable date specified in OAR 333-061-0036(2)(c)(D)(i) for commencement of initial monitoring, each Non-Transient Non-Community water system which does not complete its sampling pool meeting the criteria for tier 1 sampling sites shall send a letter to the Authority justifying its selection of sampling sites.

(ii) A certification that each first draw sample collected by the water system is one-liter in volume and, to the best of their knowledge, has stood motionless in the service line, or in the interior plumbing of a sampling site, for at least six hours. Where residents collected samples, a certification that each tap sample collected by the residents was taken after the water system informed them of proper sampling procedures according to OAR 333-061-0036(2)(c)(B)(ii).

(iii) The results of all tap samples for pH, and where applicable, alkalinity, calcium, conductivity, temperature, and orthophosphate or silica, and the results of all samples collected at the entry point(s) to the distribution system for applicable water quality parameters according to OAR 333-061-0036(2)(c)(F)(iii) through (vi).

(iv) Each water system that requests that the Authority reduce the number and frequency of sampling shall provide the information required in OAR 333-061-0036(2)(c)(D)(iv).

(v) Documentation for each tap water lead and copper sample for which the water system requests invalidation.

(vi) The 90th percentile lead and copper tap water samples collected during each monitoring period.

(vii) A water system shall report the results of all water quality parameter samples collected for follow-up tap monitoring prescribed in OAR 333-061-0036(2)(c)(F)(iv) through (vii) during each six-month monitoring period within 10 days following the end of the monitoring period unless the Authority specifies a more frequent monitoring requirement.

(B) A water system shall report the sampling results for all source water samples collected for lead and copper within the first 10 days following the end of each source water monitoring period according to OAR 333-061-0036(2)(c)(G). With the exception of the first round of source water sampling, the system shall specify any site which was not sampled during previous monitoring periods, and include an explanation of why the sampling point has changed.

(C) Corrosion control treatment reporting requirements. By the applicable dates according to OAR 333-061-0034(2)(a) through (e), systems shall report the following information: for systems demonstrating that they have already optimized corrosion control, the information required in OAR 333-061-0034(2)(d)(B) or (C); for systems required to optimize corrosion control, their recommendation regarding optimal corrosion control treatment according to OAR 333-061-0034(3)(a); for systems required to evaluate the effectiveness of corrosion control treatments, the information required in OAR 333-061-0034(3)(c) of these rules; for systems required to install optimal corrosion control designated by the Authority according to OAR 333-061-0034(3)(i), a letter certifying that the system has completed the installation.

(D) Source water treatment reporting requirements. By the applicable dates according to OAR 333-061-0034(4)(a), systems shall report the following information to the Authority: the system's recommendation regarding source water treatment if required according to OAR 333-061-0034(4)(b)(A); for systems required to install source water treatment according to OAR 333-061-0034(4)(b)(B), a letter certifying that the system has completed the installation of the treatment designated by the Authority within 24 months after the Authority designated the treatment.

(E) Public education program reporting requirements.

(i) Any water system that is subject to the public education requirements in OAR 333-061-0034(5) shall, within 10 days after the end of each period in which the system is required to perform public education tasks in accordance with OAR 333-061-0034(5)(c), send written documentation to the Authority that contains:

(I) A demonstration that the system has delivered the public education materials that meet the content and delivery requirements specified in OAR 333-061-0034(5)(a) through (c); and

(II) A list of all the newspapers, radio stations, television stations, and facilities and organizations to which the system delivered public education materials during the period in which the system was required to perform public education tasks.

(ii) Unless required by the Authority, a system that previously has submitted the information in subparagraph (1)(g)(E)(i)(II) of this rule need not resubmit the information, as long as there have been no changes in the distribution list and the system certifies that the public education materials were distributed to the same list submitted previously.

(iii) No later than three months following the end of the monitoring period, each system must mail a sample copy of the consumer notification of tap results to the Authority along with a certification that the notification has been distributed in a manner consistent with the requirements of OAR 333-061-0034(5)(e).

(F) Any system which collects sampling data in addition to that required by this subsection shall report the results to the Authority within the first 10 days following the end of the applicable monitoring period under OAR 333-061-0036(2)(c)(A) through (H) during which the samples are collected.

(G) At a time specified by the Authority prior to the addition of a new source or any long-term change in water treatment, a water system deemed to have optimized corrosion control, or is subject to reduced monitoring, shall submit written documentation to the Authority describing the change or addition. The Authority must review and approve the addition or change before it is implemented by the water system.

(H) Each ground water system that limits water quality parameter monitoring to a subset of entry points shall provide written correspondence

to the Authority that identifies the selected entry points and includes information sufficient to demonstrate that the sites are representative of water quality and treatment conditions throughout the system. This correspondence must be submitted to the Authority prior to commencement of such monitoring.

(h) The water supplier shall report to the Authority the results of any test, measurement or analysis required by these rules that is performed on site (for example, supplemental fluoride) by trained personnel within 10 days after the end of the month, except that reports which indicate that fluoride levels exceed 4.0 mg/l shall be reported within 48 hours:

(i) The water supplier shall submit to the Authority within 10 days after completing any public notification action as prescribed in OAR 333-061-0042 a representative copy of each type of notice distributed to the water users or made available to the public and the media along with certification that the system has fully complied with the distribution and public notification requirements.

(j) Water systems required to sample for the contaminants listed in OAR 333-061-0036(4)(c) through (4)(e) or (4)(g) through (4)(k) must report the information listed in Tables 35 through 37 to the Authority. Water systems monitoring quarterly or more frequently must report to the Authority within 10 days after the end of each quarter in which samples were collected. Water systems required to sample less frequently than quarterly must report to the Authority within 10 days after the end of each monitoring period in which samples were collected. Water systems are required to submit the information listed in Tables 35 through 37, within 10 days of the end of any quarter in which monitoring is required. [Table not included. See ED. NOTE.]

(A) Disinfection byproducts. Water systems must report the information specified in Table 35 as follows: [Table not included. See ED. NOTE.]

(B) Disinfectants. Water systems must report the information specified in Table 36 as follows: [Table not included. See ED. NOTE.]

(C) Disinfection byproduct precursors and enhanced coagulation or enhanced softening. Water systems must report the information specified in Table 37 as follows: [Table not included. See ED. NOTE.]

(D) The Authority may choose to perform calculations and determine whether the MCL was exceeded or the system is eligible for reduced monitoring in lieu of having the system report that information.

(k) Systems using surface water or GWUDI sources must respond to the Authority within 45 days of receiving a sanitary survey report or comprehensive performance evaluation report that identifies significant deficiencies. The response must meet the criteria specified in OAR 333-061-0076(6)(a). Failure to report to the Authority requires a Tier 2 public notice as prescribed in OAR 333-061-0042(2)(b)(D).

(l) Reporting requirements related to triggered coliform investigations

(A) Water suppliers required to conduct a level 1 coliform investigation as prescribed by OAR 333-061-0078 must submit a completed investigation report as prescribed by OAR 333-061-0078(3) to the Authority within 30 days of learning a trigger as specified in OAR 333-061-0078(2) was exceeded. Water suppliers subject to a level 2 coliform investigation as prescribed by OAR 333-061-0078(3) must ensure a completed investigation report is submitted to the Authority within 30 days of learning a trigger as specified in OAR 333-061-0078(2) was exceeded.

(B) Water suppliers must report to the Authority the completion of every scheduled corrective action within 30 days for corrections not completed by the time the investigation report was reported to the Authority as specified in paragraph (1)(l)(A) of this rule.

(m) Water suppliers that have failed to comply with a coliform monitoring requirement as prescribed by OAR 333-061-0036(6) must report the monitoring violation to the Authority within 10 days after the water supplier discovers the violation, and notify the public in accordance with OAR 333-061-0042.

(n) Water suppliers responsible for seasonal water systems must certify in a manner determined by the Authority, that an Authority-approved start-up procedure has been completed prior to serving water to the public. Water suppliers must submit the certification to the Authority prior to the seasonal water system opening for the season and serving water to the public.

(o) Reporting source water monitoring results for Cryptosporidium and E. coli collected in accordance with OAR 333-061-0036(5)(e). Water systems must report results from the source water monitoring no later than 10 days after the end of the first month following the month when the sample is collected as prescribed by this subsection.

(A) Water systems must report the following data elements for each Cryptosporidium analysis: PWS ID, facility ID, sample collection date, sample type (field or matrix spike), sample volume filtered in Liters (to nearest 250 mL), whether 100 percent of the filtered volume was examined, and the number of oocysts counted.

(i) For matrix spike samples, water systems must also report the sample volume spiked and estimated number of oocysts spiked. These data are not required for field samples.

(ii) For samples in which less than 10 L is filtered or less than 100 percent of the sample volume is examined, systems must also report the number of filters used and the packed pellet volume.

(iii) For samples in which less than 100 percent of sample volume is examined, systems must also report the volume of re-suspended concentrate and volume of this re-suspension processed through immunomagnetic separation.

(B) Water systems must report the following data elements for each E. coli analysis: PWS ID, facility ID, sample collection date, analytical method number, method type, source type (flowing stream, lake/reservoir, or GWUDI), E. coli/100 mL, and turbidity (if required).

(p) Reporting requirements relating to Cryptosporidium protection.

(A) Water systems must report sampling schedules prescribed by OAR 333-061-0036(5)(f) and source water monitoring results in accordance with subsection (1)(p) of this rule unless they notify the Authority that they will not conduct source water monitoring due to meeting the criteria of OAR 333-061-0036(5)(e)(D).

(B) Filtered water systems must report their Cryptosporidium bin classification as described in OAR 333-061-0032(4)(f).

(C) Unfiltered water systems must report their mean source water Cryptosporidium level as described in OAR 333-061-0032(2)(c).

(D) Water systems must report disinfection profiles and benchmarks to the Authority as prescribed by OAR 333-061-0036(4)(l) and OAR 333-061-0060(1)(e) prior to making a significant change in disinfection practice.

(E) Water systems must report to the Authority any microbial toolbox options as specified in Table 38 used to comply with treatment requirements under OAR 333-061-0032(2)(c), (3)(e) through (g), and (4)(g). Alternatively, the Authority may approve a water system to operate within required parameters for treatment credit rather than reporting monthly operational data for toolbox options. [Table not included. See ED. NOTE.]

(q) Water systems must report the use of uncovered finished water storage facilities to the Authority as described in OAR 333-061-0032(12).

(r) Reporting violations

(A) Failure to report coliform sampling results as required by OAR 333-061-0036(6) after monitoring was properly conducted in a timely manner is a violation of this rule.

(B) Failure to submit a completed coliform investigation report form after conducting an investigation or failure to ensure a coliform investigation report is submitted following a level 2 coliform investigation is a violation of this rule.

(C) Failure to notify the Authority following an E. coli-positive sample as required by paragraph (1)(c)(C) of this rule is a violation of this rule.

(D) Failure to certify and report completion of an Authority-approved start-up procedure at a seasonal water system as required by subsection (1)(n) of this rule is a violation of this rule.

(2) Record Maintenance by Water Suppliers:

(a) Water suppliers of public water systems shall retain records relating to the quality of the water produced and the condition of the physical components of the system. These records shall be kept at a convenient location within or near the area served by the water system;

(b) Records of microbiological analyses shall be kept for at least five years. Records of chemical analyses, secondary contaminants, turbidity, radioactive substances, and monitoring plans shall be kept for at least 10 years. Data may be transferred to tabular summaries provided the following information is included:

(A) Date, place and time of sampling, and the name of the person who collected the sample;

(B) Identification of the sample as to whether it was a routine finished water sample, repeat sample, raw water sample or special purpose sample;

(C) Date and time of the analysis, the laboratory and person performing the analysis; and,

(D) Analytical method used and results of the analysis.

(c) Records of actions taken to correct items of non-compliance shall be kept for at least three years after the last action taken with respect to the particular violation;

(d) Reports, summaries or communications on sanitary surveys shall be kept for at least 10 years;

(e) Records concerning variances or permits shall be kept for at least five years after the expiration of the variance or permit;

(f) Records of residual disinfectant measurements shall be kept for at least two years.

(g) All public water systems subject to the requirements of subsection (1)(f) of this rule shall retain the original records of all sampling data and analyses, reports, surveys, letters, evaluations, schedules, Authority determinations, and any other information required for no fewer than 12 years.

(h) Copies of public notices issued pursuant to OAR 333-061-0042 and certifications made to the Authority must be kept for three years after issuance.

(i) For water systems using surface water or groundwater under the direct influence of surface water that uses conventional filtration treatment or direct filtration treatment and that recycles spent filter backwash water, thickener, supernatant, or liquids from dewatering processes, water suppliers must collect and retain on file recycle flow information specified in paragraphs (2)(i)(A) through (F) of this rule for review and evaluation by the Authority:

(A) Copy of the recycle notification and information submitted to the Authority as required by OAR 333-061-0032(11);

(B) List of all recycle flows and the frequency with which they are returned;

(C) Average and maximum backwash flow rate through the filters and the average and maximum duration of the filter backwash process in minutes;

(D) Typical filter run length and a written summary of how filter run length is determined;

(E) The type of treatment provided for the recycle flow;

(F) Data on the physical dimensions of the equalization or treatment units, typical and maximum hydraulic loading rates, type of treatment chemicals used and average dose and frequency of use, and frequency at which solids are removed, if applicable.

(j) Water suppliers must maintain the following information in their records relating to water systems using groundwater sources:

(A) Documentation of corrective actions for a period of not less than 10 years;

(B) Documentation of notice to the public as prescribed by OAR 333-061-0042(8) for a period of not less than three years;

(C) Records of decisions made in accordance with OAR 333-061-0036(6)(i)(A)(iv) and records of invalidation of E. coli -positive groundwater source samples in accordance with OAR 333-061-0036(6)(l) for a period of not less than five years;

(D) For purchasing water systems, documentation of notification to the wholesale system(s) of total-coliform positive samples not invalidated in accordance under OAR 333-061-0036(6)(a)(F) for a period of not less than five years; and

(E) For any water system required to perform compliance monitoring in accordance with OAR 333-061-0032(7)(b):

(i) Records of the Authority-specified minimum disinfectant residual for a period of not less than ten years;

(ii) Records of the lowest daily residual disinfectant concentration and records of the date and duration of any failure to maintain the Authority-prescribed minimum residual disinfectant concentration for a period of more than four hours for a period of not less than five years; and

(iii) Records of Authority-specified compliance requirements for membrane filtration, parameters specified by the Authority for Authority-approved alternative treatment, and records of the date and duration of any failure to meet the membrane operating, membrane integrity, or alternative treatment operating requirements for more than four hours for a period of not less than five years.

(k) For systems required to compile a disinfection profile, the results of the profile (including raw data and analysis) must be kept indefinitely as well as the disinfection benchmark (including raw data and analysis) determined from the profile.

(l) Recordkeeping requirements pertaining to Cryptosporidium protection. Water systems must keep:

(A) Results from the source water monitoring prescribed by OAR 333-061-0036(5)(e) for three years after bin classification in accordance with OAR 333-061-0032(4)(f) for filtered systems, or determination of the mean Cryptosporidium level in accordance with OAR 333-061-0032(2)(c) for unfiltered systems for the particular round of monitoring.

(B) Any notification to the Authority that they will not conduct source water monitoring due to meeting the criteria specified in OAR 333-061-0036(5)(e)(D) for three years.

(C) The results of treatment monitoring associated with microbial toolbox options as prescribed by OAR 333-061-0032(14) through (18) and with uncovered finished water reservoirs in accordance with OAR 333-061-0032(12)(b), as applicable, for three years.

(m) IDSE reports (including Authority modifications) must be kept for at least 10 years. IDSE standard monitoring plans and IDSE system specific study plans must be retained at least as long as the IDSE report or any Authority modifications, whichever is longer. IDSE reports and any Authority modification must be made available for review by the Authority or the public.

(n) Water systems must retain a complete copy of any 40/30 certification submitted to the EPA for 10 years after the date the certification was submitted. The certification, all data upon which the certification is based, and any EPA notification must be available for review by the Authority or the public.

(o) Water suppliers must maintain any coliform investigation form, regardless of who conducts the investigation, and documentation of corrective actions completed as a result of those investigations, or other available summary documentation of the sanitary defects and corrective actions taken as specified in OAR 333-061-0078 for Authority review. This record must be maintained for a period not less than five years after completion of the coliform investigation or corrective action, whichever is later.

(p) Water suppliers must maintain a record of any repeat sample collected that meets Authority criteria for an extension of the 24-hour period for collecting repeat samples as provided for in OAR 333-061-0036(6)(g).

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

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 431.110, 431.150, 448.175 & 448.273

Hist.: HD 17-1981(Temp), f. & ef. 8-28-81; HD 4-1982, f. & ef. 2-26-82; Renumbered from 333-042-0212, HD 2-1983, f. & ef. 2-23-83; HD 21-1983, f. 10-20-83, ef. 11-1-83; HD 11-1985, f. & ef. 7-2-85; HD 30-1985, f. & ef. 12-4-85; HD 3-1987, f. & ef. 2-17-87; HD 3-1988(Temp), f. & cert. ef. 2-12-88; HD 17-1988, f. & cert. ef. 7-27-88; HD 9-1989, f. & cert. ef. 11-13-89; HD 26-1990, f. 12-26-90, cert. ef. 12-29-90; HD 12-1992, f. & cert. ef. 12-7-92; HD 3-1994, f. & cert. ef. 1-14-94; HD 1-1996, f. 1-2-96, cert. ef. 1-5-96; OHD 7-2000, f. 7-11-00, cert. ef. 7-15-00; OHD 23-2001, f. & cert. ef. 10-31-01; OHD 17-2002, f. & cert. ef. 10-25-02; PH 12-2003, f. & cert. ef. 8-15-03; PH 33-2004, f. & cert. ef. 10-21-04; PH 2-2006, f. & cert. ef. 1-31-06; PH 2-2008, f. & cert. ef. 2-15-08; PH 4-2009, f. & cert. ef. 5-18-09; PH 7-2010, f. & cert. ef. 4-19-10; PH 3-2013, f. & cert. ef. 1-25-13; PH 5-2016, f. 2-10-16, cert. ef. 4-1-16

333-061-0042
Public Notice

(1) The owner or operator of a public water system must provide public notice to persons served by the water system for all violations and situations established by these rules.

(a) Public water systems that provide drinking water to purchasing water systems are required to give public notice to the owner or operator of the purchasing water system who is responsible for providing public notice to the persons it serves.

(b) If a public water system has a violation in a portion of the distribution system that is physically or hydraulically isolated from other parts of the distribution system, the Authority may, in writing, allow the system to limit distribution of the public notice to only persons served by that portion of the system which is out of compliance.

(c) A copy of any public notice must be sent to the Authority as required in OAR 333-061-0040(1)(i).

(2) Public notice requirements are divided into three tiers to take into account the seriousness of the violation or situation and of any potential adverse health effects that may be involved:

(a) Tier 1: A Tier 1 notice is required for violations and situations with significant potential to have serious adverse effects on human health as a result of short-term exposure, including but not limited to the following:

(A) Exceeding the MCL for E. Coli as specified in OAR 333-061-0030(4);

(B) Exceeding the MCL for nitrate, nitrite, or total nitrate and nitrite, or when the water system fails to take a confirmation sample within 24 hours of the system's receipt of the first sample showing an exceedance of the nitrate or nitrite MCL;

(C) Exceeding the MRDL for chlorine dioxide as prescribed in OAR 333-061-0031 when one or more samples taken in the distribution system the day following an exceedance of the MRDL at the entrance of the distribution system exceed the MRDL, or when the water system does not take the required samples in the distribution system;

(D) Violation of the interim operating plan for turbidity for a surface water system that does not meet the exception criteria for avoiding filtration under OAR 333-061-0032 nor has installed filtration treatment as defined by these rules when the Authority determines after consultation that a Tier 1 notice is required or where consultation does not take place within 24 hours after the system learns of the violation;

(E) Violation of a surface water treatment requirement as prescribed in OAR 333-061-0032, resulting from a single exceedance of the maximum

allowable turbidity limit, where the Authority determines after consultation that a Tier 1 notice is required or where consultation does not take place within 24 hours after the system learns of the violation;

(F) Occurrence of a waterborne disease outbreak or other waterborne emergency, such as a failure or significant interruption in key water treatment processes, a natural disaster that disrupts the water supply or distribution system, or a chemical spill or unexpected loading of possible pathogens into the source water that significantly increases the potential for drinking water contamination;

(G) Detection of E. coli in source water samples collected as specified in OAR 333-061-0036(6)(i) through (k); and

(H) Other violations or situations with significant potential to have serious adverse effects on human health as a result of short term exposure, as determined by the Authority.

(b) Tier 2: required for all violations and situations with potential to have serious adverse effects on human health, including but not limited to:

(A) All violations of the MCL, MRDL, and treatment technique requirements, except where a Tier 1 notice is required or where the Authority determines that a Tier 1 notice is required.

(B) Violations of the monitoring and testing procedure requirements, where the Authority determines that a Tier 2 rather than a Tier 3 public notice is required, taking into account potential health impacts and persistence of the violation.

(C) Failure to comply with the terms and conditions of any variance or permit in place.

(D) Failure to respond to sanitary survey reports or comprehensive performance evaluation reports prepared by the Authority as required in OAR 333-061-0076 and 333-061-0077.

(E) Use of an emergency groundwater source that has been identified as potentially under the direct influence of surface water, but has not been fully evaluated.

(F) Failing to comply with groundwater treatment or corrective action requirements specified in OAR 333-061-0032.

(G) Failing to complete a coliform investigation or corrective action related to a coliform investigation as prescribed by OAR 333-061-0078.

(H) Failing to complete or follow an Authority approved start-up procedure prior to serving water to the public at a seasonal water system.

(c) Tier 3: required for other violations or situations not included in Tier 1 and 2, including but not limited to:

(A) Failing to conduct monitoring or reporting as prescribed by these rules except where the Authority determines a Tier 1 or Tier 2 notice is required;

(B) Failure to comply with a testing procedure established in these rules except where a Tier 1 notice is required or where the Authority determines that a Tier 2 notice is required;

(C) Operation under a variance or permit granted by the Authority;

(D) Availability of unregulated contaminant monitoring results as required under section (6) of this rule;

(E) Exceedance of the fluoride secondary MCL as required under section (7) of this rule; and

(F) Disinfection profiling and benchmarking monitoring and testing violations.

(G) Failing to submit a completed investigation report or notify the Authority when corrective action is completed related to a coliform investigation as prescribed by OAR 333-061-0078.

(H) Failing to certify to the Authority upon completing an Authority approved start-up procedure at a seasonal water system.

(I) Failure to analyze for E. coli following a total coliform-positive routine sample collected according to OAR 333-061-0036(6)(b) through (g).

(J) Failure to notify the Authority following an E. coli-positive sample in a timely manner as required by OAR 333-061-0036(6)(a)(D).

(K) Failure to conduct recordkeeping as prescribed by OAR 333-061-0040(2)(o) or (p).

(d) The Authority may require public notice for violations or other situations not listed in this section, or a higher tier of public notice for specific violations and situations listed in this section.

(3) All public notices established by these rules shall be distributed in the form, manner and frequency as described in this section:

(a) Tier 1 notices: public water systems required to distribute Tier 1 notices must:

(A) Provide the notice as soon as practical, but no later than 24 hours after learning of the violation or situation;

(B) Initiate consultation with the Authority as soon as practical, but no later than 24 hours after learning of the violation or situation;

(C) Comply with any additional notification requirements established as a result of consultation with the Authority;

(D) The form and manner used by the public water system are to fit the specific situation, but must be designed to reach residential, transient, and non-transient users of the water system. In order to reach all persons served, one or more of the following forms of delivery must be used:

(i) Appropriate broadcast media such as radio and television;

(ii) Posting of the notice in conspicuous locations throughout the area served by the water system;

(iii) Hand delivery of the notice to persons served by the water system; or

(iv) Another delivery method approved in writing by the Authority.

(b) Tier 2 notices: water suppliers required to distribute Tier 2 notices must:

(A) Provide the public notice as soon as practical, but no later than 30 days after learning of the violation or situation. The Authority may, in writing, extend additional time for the initial notice of up to three months in appropriate circumstances;

(B) If the public notice is posted, leave the notice in place as long as the violation or situation exists, but in no case for less than seven days, even if the violation or situation is resolved;

(C) Repeat the notice every three months as long as the violation or situation persists.

(D) For the turbidity violations specified in subparagraphs (3)(b)(D)(i) and (ii) of this rule, public water systems must consult with the Authority as soon as practical, but no later than 24 hours after learning of the violation to determine whether a Tier 1 public notice is required to protect public health. When consultation with the Authority does not take place within the 24 hour period, the water system must distribute a Tier 1 notice of the violation within the next 24 hours as prescribed in subsection (3)(a) of this rule:

(i) Violation of the interim operating plan for turbidity for a surface water system that does not meet the exception criteria for avoiding filtration under OAR 333-061-0032 nor has installed treatment as defined by these rules; or

(ii) Violation of the SWTR, LT1ESWTR, or IESWTR treatment technique requirement as prescribed in OAR 333-061-0032, resulting from a single exceedance of the maximum allowable turbidity limit.

(E) The form and manner used by the public water system for initial and repeat notices must be calculated to reach persons served by the system in the required time period. The form and manner may vary based on the specific situation and type of water system, but it must at a minimum meet the following requirements:

(i) Unless directed otherwise by the Authority in writing, community water systems must provide notice by:

(I) Mail or other direct delivery to each customer receiving a bill and to other service connections to which water is delivered by the public water system; and

(II) Any other method reasonably calculated to reach other persons regularly served by the water system who would not normally be reached by mail or direct delivery. Other methods may include: local newspapers, delivery of multiple copies for distribution, posting, e-mail and community organizations.

(ii) Unless directed otherwise by the Authority in writing, non-community water systems must provide notice by:

(I) Posting the notice in conspicuous locations frequented by users throughout the distribution system, or by mail or direct delivery to each customer or connection; and

(II) Any other method reasonably calculated to reach other persons not normally reached by posting, mail or direct delivery. Other methods may include: local newspaper, newsletter, e-mail and multiple copies in central locations.

(c) Tier 3 notices: public water systems required to distribute Tier 3 notices must:

(A) Provide the public notice not later than one year after learning of the violation or situation or begins operating under a variance or permit. Following the initial notice, the system must repeat the notice annually for as long as the violation, variance, permit or other situation persists. If the public notice is posted, the notice must remain in place for as long as the violation, variance, permit, or other situation persists, but in no case less than seven days even if the violation or situation is resolved.

(B) Instead of individual Tier 3 public notices, a community public water system may use its annual Consumer Confidence Report (CCR) for the initial and all repeat notices detailing all violations and situations that occurred during the previous twelve months. This method may be used as

long as it is distributed within the one year requirement in paragraph (3)(c)(A) of this rule, follows the public notice content required under section (4) of this rule and is delivered to users as required under paragraph (3)(c)(C) of this rule.

(C) The form and manner used by the public water system for initial and repeat notices must be calculated to reach persons served by the system in the required time period. The form and manner may vary based on the specific situation and type of water system, but it must at a minimum meet the following requirements:

(i) Unless directed otherwise by the Authority in writing, community water systems must provide notice by:

(I) Mail or other direct delivery to each customer receiving a bill and to other service connections to which water is delivered by the public water system; and

(II) Any other method reasonably calculated to reach other persons regularly served by the water system who would not normally be reached by mail or direct delivery. Other methods may include: local newspapers, delivery of multiple copies for distribution, posting, e-mail and community organizations.

(ii) Unless directed otherwise by the Authority in writing, non-community water systems must provide notice by:

(I) Posting the notice in conspicuous locations frequented by users throughout the distribution system, or by mail or direct delivery to each customer or connection; and

(II) Any other method reasonably calculated to reach other persons not normally reached by posting, mail or direct delivery. Other methods may include: local newspaper, newsletter, e-mail and delivery of multiple copies in central locations.

(4) Content of Public Notice:

(a) When a public water system has a violation or situation prescribed in these rules requiring a public notice, each public notice must include the following elements:

(A) A description of the violation or situation, including the contaminant(s) of concern, and the contaminant level;

(B) When the violation or situation occurred;

(C) Any potential adverse health effects including the standard language required under paragraphs (4)(d)(A) and (B) of this rule;

(D) The population at risk, including subpopulations particularly vulnerable if exposed to the contaminant in their drinking water;

(E) Whether alternative water supplies should be used;

(F) What actions consumers should take, including when they should seek medical help, if known;

(G) What the system is doing to correct the violation or situation;

(H) When the water system expects to return to compliance or resolve the situation;

(I) The name, business address, and phone number of the water system owner, operator, or designee of the public water system as a source of additional information concerning the notice; and

(J) A statement to encourage the notice recipient to distribute the public notice to other persons served, using the standard language under paragraph (4)(d)(C) of this rule.

(b) Content of public notices for public water systems operating under a variance or permit:

(A) If a public water system has been granted a variance or permit, the public notice must contain:

(i) An explanation of the reasons for the variance or permit;

(ii) The date on which the variance of permit was issued;

(iii) A brief status report on the steps the system is taking to install treatment, find alternative sources of water or otherwise comply with the terms and schedules of the variance or permit; and

(iv) A notice of any opportunity for public input in the review of the variance or permit.

(B) If a public water system violates the conditions of a variance or permit, the public notice must contain the ten elements listed in subsection (4)(a) of this rule.

(c) Public notice presentation:

(A) Each public notice required by these rules must:

(I)Be displayed in a conspicuous way when printed or posted;

(ii) Not contain overly technical language or very small print;

(iii) Not be formatted in a way that defeats the purpose of the notice;

(iv) Not contain language which nullifies the purpose of the notice.

(B) Each public notice required by these rules must comply with multilingual requirements as follows:

(i) For public water systems serving a large proportion of non-English speaking consumers, as determined by the Authority, the public notice must contain information in the appropriate language(s) regarding the importance of the notice or contain a telephone number or address where persons served may contact the water system to obtain a translated copy of the notice or to request assistance in the appropriate language.

(ii) In cases where the Authority has not determined what constitutes a large proportion of non-English speaking consumers, the public water system must include in the public notice the same information required in subparagraph (4)(c)(B)(i) of this rule where appropriate to reach a large proportion of non-English speaking persons served by the water system.

(d) Standard language: public water systems are required to include the following standard language in their public notice:

(A) Public water systems must include in each public notice the specific health effects language as prescribed in OAR 333-061-0097 for each MCL, MRDL, and treatment technique violation and for each violation of a condition of a variance or permit.

(B) Public water systems must include the following language in their notice, including the language necessary to fill in the blanks, for all monitoring and testing procedure violations:

We are required to monitor your drinking water for specific contaminants on a regular basis. Results of regular monitoring are an indicator of whether or not your drinking water meets health standards. During {compliance period}, we "did not monitor or test" or "did not complete all monitoring or testing" for {contaminants(s)}, and therefore cannot be sure of the quality of your drinking water during that time.

(C) Public water systems are required where applicable to include the following standard language to encourage the distribution of the public notice to all persons served:

Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in a public place or distributing copies by hand or mail.

(5) Notice to new billing units or new customers:

(a) Community water systems must give a copy of the most recent public notice for any continuing violation, the existence of a variance or permit, or other ongoing situations requiring a public notice to all new billing units or new customers prior to or at the time service begins.

(b) Non-community water systems must continuously post the public notice in conspicuous locations in order to inform new consumers of any continuing violation, variance or permit, or other situations requiring a public notice for as long as the violation, variance, permit, or other situation persists.

(6) Special notice of availability of unregulated contaminant monitoring results:

(a) The owner or operator of a community water system or non-transient, non-community water systems required by EPA to monitor for unregulated contaminants must notify persons served by the system of the availability of the results of such sampling no later than 12 months after the monitoring results are known.

(b) The form and manner of the public notice must follow the requirements for a tier 3 public notice as prescribed in paragraphs (3)(c)(B) and (C) of this rule. The notice must also identify a person and provide the telephone number to contact for information on the monitoring results.

(7) Special notice for exceedance of the SMCL for fluoride:

(a) Community water systems that exceed the fluoride secondary MCL of 2 mg/l, determined by the last single sample taken in accordance with OAR 333-061-0036(2), but do not exceed the MCL of 4 mg/l for fluoride must provide the public notice in subsection (7)(d) of this rule to persons served by the water system. Public notice must be provided as soon as practical but no later than 12 months from the day the water system learns of the exceedance. The public water system must repeat the notice at least annually for as long as the exceedance persists. The Authority may require an initial notice sooner than 12 months and repeat notices more frequently than annually on a case-by-case basis;

(b) A copy of the notice must also be sent to all new billing units and new customers at the time service begins and to the Authority. If the public notice is posted, the notice must remain in place for as long as the secondary MCL is exceeded, but in no case less than seven days, even if the exceedance is eliminated;

(c) The form and manner of the public notice, including repeat notices must follow the requirements for tier 3 public notice;

(d) The notice must contain the following language, including the language necessary to fill in the blanks:

This is an alert about your drinking water and a cosmetic dental problem that might affect children under nine years of age. At low levels, fluoride can help prevent cavities, but children drinking water containing more than 2 mg/l of fluoride may

develop cosmetic discoloration of their permanent teeth (dental fluorosis). The drinking water provided by your community water system {name} has a fluoride concentration of {insert value} mg/l.

Dental fluorosis, in its moderate or severe forms, may result in a brown staining or pitting of the permanent teeth. This problem occurs only in developing teeth, before they erupt from the gums. Children under nine should be provided with alternative sources of drinking water or water that has been treated to remove the fluoride to avoid the possibility of staining and pitting of their permanent teeth. You may also want to contact your dentist about proper use by young children of fluoride-containing products. Older children and adults may safely drink the water.

Drinking water containing more than 4 mg/l of fluoride (the U.S. EPA's drinking water standard) can increase your risk of developing bone disease. Your drinking water does not contain more than 4 mg/l of fluoride, but we're required to notify you when we discover that the fluoride levels in your drinking water exceed 2 mg/l because of this cosmetic dental problem.

For more information, please call {name of water system contact} of {name of community water system} at {phone number}. Some home water treatment units are also available to remove fluoride from drinking water. To learn more about available home water treatment units, you may call NSF International at 1-877-8-NSF-HELP.

(8) Special notice to the public for significant deficiencies or source water fecal contamination.

(a) A community water system that uses groundwater and that receives notification from the Authority of a significant deficiency or of an E. coli-positive groundwater source sample, that is not invalidated in accordance with OAR 333-061-0036(6)(l), must inform the public served by the water system of the E. coli-positive source sample or the significant deficiency that has not been corrected as prescribed by OAR 333-061-0043(5). The water system must continue to inform the public annually until the significant deficiency is corrected, or the fecal contamination in the groundwater source is determined by the Authority to be corrected in accordance with OAR 333-061-0032(6).

(b) A non-community groundwater system that receives notice from the Authority of a significant deficiency must inform the public served by the water system in a manner approved by the Authority of the significant deficiency if it has not been corrected within 12 months of the notification by the Authority. The water system must continue to inform the public annually until the significant deficiency is corrected. The information must include:

(A) The nature of the significant deficiency and the date the significant deficiency was identified by the Authority;

(B) The Authority-approved plan and schedule for correction of the significant deficiency, including any interim measures, progress to date, and any interim measures completed; and

(C) For water systems with a large proportion of non-English speaking consumers as determined by the Authority, information must be distributed in the appropriate language(s) regarding the importance of the notice or a telephone number or address where consumers may contact the system to obtain a translated copy of the notice or assistance in the appropriate language.

(c) If directed by the Authority, a non-community water system with significant deficiencies that have been corrected must inform its customers of the significant deficiencies, how the deficiencies were corrected, and the dates of correction under subsection (8)(b) of this rule.

(9) Special notice for repeated failure to conduct monitoring of the source water for Cryptosporidium and for failure to determine bin classification or mean Cryptosporidium level.

(a) Special notice for repeated failure to monitor. The owner or operator of a community or non-community water system that is required to monitor source water in accordance with OAR 333-061-0036(5)(e) must notify persons served by the water system that monitoring has not been completed as required no later than 30 days after the system has failed to collect any three months of monitoring as specified in Table 33. The notice must be repeated as specified in subsection (3)(b) of this rule. [Table not included. See ED. NOTE.]

(b) Special notice for failure to determine bin classification or mean Cryptosporidium level. The owner or operator of a community or non-community water system that is required to determine a bin classification in accordance with OAR 333-061-0032(4)(f), or to determine a mean Cryptosporidium level as prescribed by OAR 333-061-0032(2)(c), must notify persons served by the water system that the determination has not been made as required no later than 30 days after the system has failed to report the determination in accordance with OAR 333-061-0032(2)(c)(A) through (D) or OAR 333-061-0032(4)(f)(G) and (H).

(A) The notice must be repeated as specified in subsection (3)(b) of this rule.

(B) The notice is not required if the system is complying with an Authority approved schedule to address the violation.

(c) The form and manner of the special notice must follow the requirements for a Tier 2 public notice as prescribed in subsection (3)(b) of this rule. The special notice must be presented as required by subsection (4)(c) of this rule.

(d) The special notice must contain the following language, including system specific language for the text within the braces.

(A) The special notice for repeated failure to conduct monitoring must contain:

{Water system name} is required to monitor the source of your drinking water for Cryptosporidium. Results of the monitoring are to be used to determine whether water treatment at the {treatment plant name} is sufficient to adequately remove Cryptosporidium from your drinking water. We are required to complete this monitoring and make this determination by {required bin determination date}. We ``did not monitor or test'' or ``did not complete all monitoring or testing'' on schedule and, therefore, we may not be able to determine by the required date what treatment modifications, if any, must be made to ensure adequate Cryptosporidium removal. Missing this deadline may, in turn, jeopardize our ability to have the required treatment modifications, if any, completed by the deadline required, {date}. For more information, please call {name of water system contact} of { water system name} at {phone number}.

(B) The special notice for failure to determine bin classification or mean Cryptosporidium level must contain the following language:

{Water system name} is required to monitor the source of your drinking water for Cryptosporidium in order to determine by {date} whether water treatment at the {treatment plant name} is sufficient to adequately remove Cryptosporidium from your drinking water. We have not made this determination by the required date. Our failure to do this may jeopardize our ability to have the required treatment modifications, if any, completed by the required deadline of {date}. For more information, please call {name of water system contact} of {water system name} at {phone number}.

(C) Each special notice must also include a description of what the system is doing to correct the violation and when the system expects to return to compliance or resolve the situation.

(10) Public notification by the Authority. The Authority may give notice to the public required by this section on behalf of the owner or operator of the public water system. However, the owner or operator of the public water system remains legally responsible for ensuring that the requirements of this section are met.

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

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Stats. Implemented: ORS 431.110, 431.150, 448.175 & 448.273

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333-061-0043
Consumer Confidence Reports

This rule establishes the minimum requirements for the content of annual reports that community water systems must deliver to their customers. These reports must contain information on the quality of the water delivered by the systems and characterize the risks (if any) from exposure to contaminants detected in the drinking water in an accurate and understandable manner. For the purpose of this rule, customers are defined as billing units or service connections to which water is delivered by a Community Water System.

(1) Delivery deadlines:

(a) Community water systems must deliver their reports by July 1, annually. The report must contain data collected during, or prior to, the previous calendar year;

(b) A new community water system must deliver its first report by July 1 of the year after its first full calendar year in operation and annually thereafter;

(c) A community water system that sells water to another community water system must deliver the applicable information to the buyer system:

(A) No later than April 1, annually; or

(B) On a date mutually agreed upon by the seller and the purchaser, and specifically included in a contract between the parties.

(2) Content of the Reports:

(a) Each community water system must provide to its customers an annual report that contains the information specified in sections (2), (3), (4), and (5) of this rule;

(b) Each report must identify the source(s) of the water delivered by the community water system by providing information on:

(A) The type of water: for example, surface water, ground water; and

(B) The commonly used name (if any) and location of the body (or bodies) of water.

(c) If a source water assessment has been completed, the report must notify consumers of the availability of this information and the means to obtain it. In addition, systems are encouraged to highlight in the report significant potential sources of contamination in the drinking water protection area if they have readily available information. Where a system has received a source water assessment from the Authority, the report must include a brief summary of the system's susceptibility to potential sources of contamination, using language provided by the Authority or written by the operator;

(d) Each report must contain the following definitions:

(A) Maximum Contaminant Level Goal or MCLG: The level of a contaminant in drinking water below which there is no known or expected risk to health. MCLGs allow for a margin of safety;

(B) Maximum Contaminant Level or MCL: The highest level of a contaminant that is allowed in drinking water. MCLs are set as close to the MCLGs as feasible using the best available treatment technology.

(C) Variance: A system operating under a variance as prescribed in OAR 333-061-0045 must include the following definition in its report: Variances: State permission not to meet an MCL or a treatment technique under certain conditions;

(D) Treatment Technique or Action Level: A system which has a detection for a contaminant for which EPA has set a treatment technique or an action level must include one or both of the following definitions as applicable:

(i) Treatment Technique: A required process intended to reduce the level of a contaminant in drinking water;

(ii) Action Level: The concentration of a contaminant which, if exceeded, triggers treatment or other requirements which a water system must follow.

(E) Maximum Residual Disinfectant Level Goal or MRDLG: The level of a drinking water disinfectant below which there is no known or expected risk to health. MRDLGs do not reflect the benefits of the use of disinfectants to control microbial contaminants.

(F) Maximum Residual Disinfectant Level or MRDL: The highest level of disinfectant allowed in drinking water. There is convincing evidence that addition of a disinfectant is necessary for control of microbial contaminants.

(3) Detected Contaminants:

(a) The following information must be included in each report for contaminants subject to mandatory monitoring (except Cryptosporidium). Detected means at or above the detection level prescribed by each EPA approved analytical method set forth in 40 CFR 141:

(A) Contaminants and disinfection by-products subject to an MCL, action level, MRDL, or treatment technique (regulated contaminants); and

(B) Unregulated contaminants for which monitoring is required.

(b) The data relating to these contaminants must be displayed in one table or in several adjacent tables. Any additional monitoring results which a community water system chooses to include in its report must be displayed separately.

(c) The data must be derived from data collected to comply with state monitoring and analytical requirements during the calendar year except that where a system is allowed to monitor for regulated contaminants less often than once a year, the table(s) must include the date and results of the most recent sampling and the report must include a brief statement indicating that the data presented in the report are from the most recent testing done in accordance with the regulation. No data older than five years need be included.

(d) For detected regulated contaminants (listed in Table 39 of this rule), the table(s) in the report must contain: [Table not included. See ED. NOTE.]

(A) The MCL for that contaminant expressed as a number equal to or greater than 1.0 (as provided in Table 39); [Table not included. See ED. NOTE.]

(B) The MCLG for that contaminant expressed in the same units as the MCL;

(C) If there is no MCL for a detected contaminant, the table must indicate that there is a treatment technique, or specify the action level, applicable to that contaminant, and the report must include the definitions for treatment technique or action level, as appropriate, specified in paragraph (2)(d)(D) of this rule;

(D) For contaminants subject to an MCL, except turbidity and total coliforms and E. coli, the highest contaminant level used to determine compliance with these rules and the range of detected levels, as follows:

(i) When compliance with the MCL is determined annually or less frequently: the highest detected level at any sampling point and the range of detected levels expressed in the same units as the MCL;

(ii) When compliance with the MCL is determined by calculating a running annual average of all samples taken at a monitoring location: the highest average at any of the monitoring locations and the range of all monitoring locations must be expressed in the same unit of measure as the MCL. For the MCL for TTHM and HAA5 as specified by OAR 333-061-0030(2)(b), water systems must include the highest locational running annual average for TTHM and HAA5 and the range of individual sample results for all monitoring locations expressed in the same unit of measure as the MCL. If more than one location exceeds the MCL for TTHM or HAA5, the water system must include the locational running annual averages for all locations that exceed the MCL;

(iii) When compliance with the MCL is determined on a system wide basis by calculating a running annual average of all samples at all monitoring locations: the average and range of detections must be expressed in the same units as the MCL. The water system is required to include individual sample results for an IDSE conducted in accordance with OAR 333-061-0036(4)(b) of this rule when determining the range of TTHM and HAA5 results to be reported in the annual consumer confidence report for the calendar year that the IDSE samples were taken;

(iv) When rounding of results to determine compliance with the MCL is allowed by the regulations, rounding should be done prior to multiplying the results by the factor listed in Table 39 of this rule. [Table not included. See ED. NOTE.]

(e) Turbidity:

(A) When it is reported pursuant to OAR 333-061-0030(3)(a), 333-061-0032(2), and 333-061-0036(5)(a): the highest monthly value. The report should include an explanation of the reasons for measuring turbidity. This includes water systems currently without filtration treatment, but required to install filtration through a Notice of Violation and Remedial Order.

(B) When it is reported pursuant to OAR 333-061-0030(3): The highest single measurement and the lowest monthly percentage of samples meeting the turbidity limits specified in OAR 333-061-0030(3) for the filtration technology being used. The report should include an explanation of the reasons for measuring turbidity.

(f) Lead and copper: the 90th percentile value of the most recent round of sampling and the number of sampling sites exceeding the action level and the lead-specific information as prescribed in subsection (4)(c) of this rule.

(g) For total coliform until March 31, 2016:

(A) The highest monthly number of positive samples for systems collecting fewer than 40 samples per month; or

(B) The highest monthly percentage of positive samples for systems collecting at least 40 samples per month.

(h) For E. coli: the total number of positive samples.

(i) Reports that contain information regarding level 1 or level 2 coliform investigations required as specified in OAR 333-061-0078 must include the following definitions as applicable:

(A) "Level 1 Coliform Investigation" means a study of the water system to identify potential problems and determine (if possible) why total coliform bacteria have been found in our water system.

(B) "Level 2 Coliform Investigation" means a very detailed study of the water system to identify potential problems and determine (if possible) why an E. coli MCL violation has occurred or why total coliform bacteria have been found in our water system on multiple occasions.

(j) The likely source(s) of detected contaminants to the best of the operator's knowledge. Specific information regarding contaminants may be available in sanitary surveys and source water assessments, and should be used when available to the operator. If the operator lacks specific information on the likely source, the report must include one or more of the typical sources for that contaminant listed in Table 40 which are most applicable to the system. [Table not included. See ED. NOTE.]

(k) If a community water system distributes water to its customers from multiple hydraulically independent distribution systems that are fed by different raw water sources, the table should contain a separate column for each service area and the report should identify each separate distribution system. Alternatively, systems could produce separate reports tailored to include data for each service area.

(l) The table(s) must clearly identify any data indicating violations of MCLs, MRDLs, or treatment techniques and the report must contain a clear and readily understandable explanation of the violation, the length of the violation, the potential adverse health effects, and actions taken by the sys-

tem to address the violation. To describe the potential health effects, the system must use the relevant language in Table 40 of this rule. [Table not included. See ED. NOTE.]

(m) For detected unregulated contaminants for which monitoring is required (except Cryptosporidium), the table(s) must contain the average and range at which the contaminant was detected. The report may include a brief explanation of the reasons for monitoring for unregulated contaminants.

(n) Information on Cryptosporidium, radon, and other contaminants:

(A) If the system has performed any monitoring for Cryptosporidium, which indicates that Cryptosporidium may be present in the source water or the finished water, the report must include:

(i) A summary of the results of the monitoring, and

(ii) An explanation of the significance of the results.

(B) If the system has performed any monitoring for radon which indicates that radon may be present in the finished water, the report must include:

(i) The results of the monitoring; and

(ii) An explanation of the significance of the results.

(C) If the system has performed additional monitoring which indicates the presence of other contaminants in the finished water, the system is strongly encouraged to report any results which may indicate a health concern. To determine if results may indicate a health concern, EPA recommends that systems find out if EPA has proposed a National Primary Drinking Water Regulation or issued a health advisory for that contaminant by calling the Safe Drinking Water Hotline (800-426-4791). EPA considers detects above a proposed MCL or health advisory level to indicate possible health concerns. For such contaminants, EPA recommends that the report include:

(i) The results of the monitoring; and

(ii) An explanation of the significance of the results noting the existence of a health advisory or a proposed regulation.

(o) Compliance with OAR 333-061: In addition to subsection (3)(k) of this rule, the report must note any violation that occurred during the year covered by the report of a requirement listed below, and include a clear and readily understandable explanation of the violation, any potential adverse health effects, and the steps the system has taken to correct the violation.

(A) Monitoring and reporting of compliance data;

(B) Filtration and disinfection prescribed by OAR 333-061-0032: For systems which have failed to install adequate filtration or disinfection equipment or processes which constitutes a violation or have an equipment failure constituting a violation, the report must include the following language as part of the explanation of potential adverse health effects: Inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses, and parasites which can cause symptoms such as nausea, cramps, diarrhea, and associated headaches;

(C) Lead and copper control requirements: For systems which fail to take one or more actions prescribed by OAR 333-061-0034 the report must include the applicable language in Table 40 of this rule for lead, copper, or both; [Table not included. See ED. NOTE.]

(D) Treatment techniques for Acrylamide and Epichlorohydrin: For systems which violate the requirements of OAR 333-061-0030(7), the report must include the relevant health effects language in Table 40 of this rule. [Table not included. See ED. NOTE.]

(E) Recordkeeping of compliance data;

(F) Special monitoring requirements prescribed by OAR 333-061-0036(2)(f) and for unregulated contaminants as required by EPA;

(G) Violation of the terms of a variance, administrative order or judicial order.

(p) Variances: If a system is operating under the terms of a variance as prescribed in OAR 333-061-0045, the report must contain:

(A) An explanation of the reasons for the variance;

(B) The date on which the variance was issued;

(C) A brief status report on the steps the system is taking to install treatment, find alternative sources of water, or otherwise comply with the terms and schedules of the variance; and

(D) A notice of any opportunity for public input in the review, or renewal, of the variance.

(q) Additional information:

(A) The report must contain a brief explanation regarding contaminants which may reasonably be expected to be found in drinking water including bottled water. This explanation may include the language in subparagraphs (3)(q)(A)(i), (ii) and (iii) of this rule, or systems may use their own comparable language. The report also must include the language of subparagraph (3)(q)(A)(iv) of this rule.

(i) The sources of drinking water (both tap water and bottled water) include rivers, lakes, streams, ponds, reservoirs, springs, and wells. As water travels over the surface of the land or through the ground, it dissolves naturally-occurring minerals and, in some cases, radioactive material, and can pick up substances resulting from the presence of animals or from human activity;

(ii) Contaminants that may be present in source water include:

(I) Microbial contaminants, such as viruses and bacteria, which may come from sewage treatment plants, septic systems, agricultural livestock operations, and wildlife;

(II) Inorganic contaminants, such as salts and metals, which can be naturally-occurring or result from urban stormwater runoff, industrial or domestic wastewater discharges, oil and gas production, mining, or farming;

(III) Pesticides and herbicides, which may come from a variety of sources such as agriculture, urban stormwater runoff, and residential uses;

(IV) Organic chemical contaminants, including synthetic and volatile organic chemicals, which are by-products of industrial processes and petroleum production, and can also come from gas stations, urban stormwater runoff, and septic systems;

(V) Radioactive contaminants, which can be naturally-occurring or be the result of oil and gas production and mining activities.

(iii) In order to ensure that tap water is safe to drink, EPA prescribes regulations which limit the amount of certain contaminants in water provided by public water systems. FDA regulations establish limits for contaminants in bottled water which must provide the same protection for public health;

(iv) Drinking water, including bottled water, may reasonably be expected to contain at least small amounts of some contaminants. The presence of contaminants does not necessarily indicate that water poses a health risk. More information about contaminants and potential health effects can be obtained by calling the Environmental Protection Agency's Safe Drinking Water Hotline (800-426-4791).

(B) The report must include the telephone number of the owner, operator, or designee of the community water system as a source of additional information concerning the report;

(C) In communities with a large proportion of non-English speaking residents the report must contain information in the appropriate language(s) regarding the importance of the report or contain a telephone number or address where such residents may contact the system to obtain a translated copy of the report or assistance in the appropriate language;

(D) The report must include information (for example, time and place of regularly scheduled board meetings) about opportunities for public participation in decisions that may affect the quality of the water;

(E) The systems may include such additional information as they deem necessary for public education consistent with, and not detracting from, the purpose of the report.

(4) Required additional health information:

(a) All reports must prominently display the following language: Some people may be more vulnerable to contaminants in drinking water than the general population. Immuno-compromised persons such as persons with cancer undergoing chemotherapy, persons who have undergone organ transplants, people with HIV/AIDS or other immune system disorders, some elderly, and infants can be particularly at risk from infections. These people should seek advice about drinking water from their health care providers. EPA/CDC guidelines on appropriate means to lessen the risk of infection by Cryptosporidium and other microbial contaminants are available from the Safe Drinking Water Hotline (800-426-4791).

(b) A system which detects nitrate at levels above 5 mg/l, but does not exceed the MCL:

(A) Must include a short informational statement about the impacts of nitrate on children using language such as: Nitrate in drinking water at levels above 10 mg/l is a health risk for infants of less than six months of age. High nitrate levels in drinking water can cause blue baby syndrome. Nitrate levels may rise quickly for short periods of time because of rainfall or agricultural activity. If you are caring for an infant you should ask advice from your health care provider.

(B) May write its own educational statement, but only in consultation with the Authority.

(c) Every report must include the following lead-specific information:

(A) A short informational statement about the lead in drinking water and its effects on children. The statement must include the following information: If present, elevated levels of lead can cause serious health problems, especially for pregnant women and young children. Lead in drinking water is primarily from materials and components associated with service

lines and home plumbing. {NAME OF WATER UTILITY} is responsible for providing high quality drinking water, but cannot control the variety of materials used in plumbing components. When your water has been sitting for several hours, you can minimize the potential for lead exposure by flushing your tap for 30 seconds to 2 minutes before using water for drinking or cooking. If you are concerned about lead in your water, you may wish to have your water tested. Information on lead in drinking water, testing methods, and steps you can take to minimize exposure is available from the Safe Drinking Water Hotline or at http://www.epa.gov/safewater/lead.

(B) The water system may write its own educational statement, but only in consultation with the Authority.

(d) Requirements related to coliform investigations as specified in OAR 333-061-0078.

(A) A water supplier required to comply with any requirement related to level one or level two coliform investigations that are not due to an exceedance of the MCL for E. coli must include in the report the text found in subparagraphs (4)(d)(A)(i) through (iii) of this rule as appropriate, replacing the language in brackets with system specific information as appropriate.

(i) Coliforms are bacteria that are naturally present in the environment and are used as an indicator that other, potentially harmful, waterborne pathogens may be present or that a potential pathway exists through which contamination may enter the drinking water distribution system. We found coliforms indicating the need to look for potential problems in water treatment or distribution. When this occurs, we are required to conduct investigation(s) to identify problems and to correct any problems that were found during these investigation(s).

(ii) During the past year we were required to conduct [INSERT NUMBER OF LEVEL 1 COLIFORM INVESTIGATIONS] level 1 coliform investigation(s). [INSERT NUMBER OF LEVEL 1 COLIFORM INVESTIGATIONS] level 1 coliform investigation (s) were completed. In addition, we were required to take [INSERT NUMBER OF CORRECTIVE ACTIONS] corrective actions and we completed [INSERT NUMBER OF CORRECTIVE ACTIONS] of these actions.

(iii) During the past year [INSERT NUMBER OF LEVEL 2 COLIFORM INVESTIGATIONS] level 2 coliform investigations were required to be completed for our water system. [INSERT NUMBER OF LEVEL 2 COLIFORM INVESTIGATIONS] level 2 coliform investigations were completed. In addition, we were required to take [INSERT NUMBER OF CORRECTIVE ACTIONS] corrective actions and we completed [INSERT NUMBER OF CORRECTIVE ACTIONS] of these actions.

(B) A water supplier required to comply with any requirements related to a level 2 coliform investigation due to an exceedance of the MCL for E. coli must include in the report the text found in subparagraphs (4)(d)(B)(i) and (ii) of this rule as appropriate, replacing the language in brackets with system specific information as appropriate.

(i) E. coli are bacteria whose presence indicates that the water may be contaminated with human or animal wastes. Human pathogens in these wastes can cause short-term effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a greater health risk for infants, young children, the elderly, and people with severely compromised immune systems. We found E. coli bacteria, indicating the need to look for potential problems in water treatment or distribution. When this occurs, we are required to conduct investigation(s) to identify problems and to correct any problems that were found during these investigations.

(ii) We were required to complete a level 2 coliform investigation because we found E. coli in our water system. In addition, we were required to take [INSERT NUMBER OF CORRECTIVE ACTIONS] corrective actions and we completed [INSERT NUMBER OF CORRECTIVE ACTIONS] of these actions.

(C) A water supplier that has failed to complete a required coliform investigation or correct all identified sanitary defects must include one or both of the following statements, as appropriate:

(i) During the past year, we failed to conduct the required coliform investigation(s).

(ii) During the past year, we failed to correct all sanitary defects that were identified during a coliform investigation as required.

(D) If E. coli is detected at a water system and the MCL for E. coli was exceeded, in addition to including the information as required by section (3) of this rule, the water supplier must include one or more of the statements specified in subparagraphs (4)(d)(D)(i) through (iv) of this rule as appropriate to describe any noncompliance:

(i) We had an E. coli-positive repeat sample following a total coliform-positive routine sample.

(ii) We had a total coliform-positive repeat sample following an E. coli-positive routine sample.

(iii) We failed to collect all required repeat samples following an E. coli-positive routine sample.

(iv) We failed to test for E. coli when a repeat sample tested positive for total coliform.

(E) If E. coli is detected at a water system but the MCL for E. coli was not exceeded, in addition to completing the table(s) as specified in section (3) of this rule, a water supplier may include a statement that explains that although E. coli was detected, the MCL for E. coli was not exceeded at the water system.

(5) Special requirements for groundwater systems:

(a) Any groundwater system that receives notification of a significant deficiency that is not corrected at the time of the next report, or of an E. coli-positive groundwater source sample that was not invalidated in accordance OAR 333-061-0036(6)(l) must inform its customers in the next report. The water system must continue to inform the public annually until the Authority determines that the particular significant deficiency is corrected or that the fecal contamination in the groundwater source is addressed in accordance with OAR 333-061-0032(6). Each report must include the following elements:

(A) The nature of the particular significant deficiency or the source of the fecal contamination (if the source is known), and the date the significant deficiency was identified by the Authority or the dates of the E. coli-positive groundwater source samples;

(B) If the fecal contamination in the groundwater source has been addressed as prescribed by OAR 333-061-0032(6) and the date of such action;

(C) The Authority-approved plan and schedule for correction, including interim measures, progress to date, and any interim measures completed for any significant deficiency or fecal contamination in the groundwater source that has not been addressed as prescribed by OAR 333-061-0032(6); and

(D) The potential health effects language specified in OAR 333-061-0097(4)(a) if the system received notice of a E. coli-positive groundwater source sample that was not invalidated by the Authority in accordance with OAR 333-061-0036(6)(l).

(b) The Authority may require a water system with significant deficiencies that have been corrected before the next report is issued to inform its customers of the significant deficiency, how the deficiency was corrected, and the date of correction in accordance with subsection (5)(a) of this rule.

(6) Report delivery and recordkeeping:

(a) Except as provided in subsection (6)(g) of this rule, each community water system must mail or otherwise directly deliver one copy of the report to each customer.

(b) The system must make a good faith effort to reach consumers who do not get water bills, using means recommended by the Authority. EPA expects that an adequate good faith effort will be tailored to the consumers who are served by the system but are not bill-paying customers, such as renters or workers. A good faith effort to reach consumers would include a mix of methods appropriate to the particular system such as: Posting the reports on the Internet; mailing to postal patrons in metropolitan areas; advertising the availability of the report in the news media; publication in a local newspaper; posting in public places such as cafeterias or lunch rooms of public buildings; delivery of multiple copies for distribution by singularly-billed customers such as apartment buildings or large private employers; delivery to community organizations.

(c) No later than the date the system is required to distribute the report to its customers, each community water system must mail a copy of the report to the Authority, followed within three months by a certification that the report has been distributed to customers, and that the information is correct and consistent with the compliance monitoring data previously submitted to the Authority.

(d) No later than the date the system is required to distribute the report to its customers, each community water system must deliver the report to any other agency or clearinghouse identified by the Authority.

(e) Each community water system must make its reports available to the public upon request.

(f) Each community water system serving 100,000 or more persons must post its current year's report to a publicly-accessible site on the Internet.

(g) The Governor of a State or his designee, can waive the requirement of subsection (6)(a) of this rule for community water systems serving fewer than 10,000 persons.

(A) Such systems must:

(i) Publish the reports in one or more local newspapers serving the area in which the system is located;

(ii) Inform the customers that the reports will not be mailed, either in the newspapers in which the reports are published or by other means approved by the State; and

(iii) Make the reports available to the public upon request.

(B) Systems serving 500 or fewer persons may forego the requirements of subparagraphs (6)(g)(A)(i) and (ii) of this rule if they provide notice at least once per year to their customers by mail, door-to-door delivery or by posting in an appropriate location that the report is available upon request.

(h) Any system subject to this rule must retain copies of its consumer confidence report for no less than five years.

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

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 431.110, 431.150

Hist.: OHD 4-1999, f. 7-14-99, cert. ef. 7-15-99; OHD 7-2000, f. 7-11-00, cert. ef. 7-15-00; OHD 23-2001, f. & cert. ef. 10-31-01; OHD 17-2002, f. & cert. ef. 10-25-02; PH 12-2003, f. & cert. ef. 8-15-03; PH 33-2004, f. & cert. ef. 10-21-04; PH 2-2006, f. & cert. ef. 1-31-06; PH 2-2008, f. & cert. ef. 2-15-08; PH 4-2009, f. & cert. ef. 5-18-09; PH 7-2010, f. & cert. ef. 4-19-10; PH 3-2013, f. & cert. ef. 1-25-13; PH 5-2016, f. 2-10-16, cert. ef. 4-1-16

333-061-0045
Variances

(1) Variances from the maximum contaminant levels may be granted by the Authority to public water systems under the following circumstances where:

(a) An evaluation satisfactory to the Authority indicates that alternative sources of water are not reasonably available to the system;

(b) There will be no unreasonable risk to health;

(c) The water supplier has provided sufficient evidence to confirm that the best available treatment techniques which are generally available are unable to treat the water in question so that it meets maximum contaminant levels;

(d) The water supplier agrees to notify the water users at least once every three months, or more frequently if determined by the Authority, that the water system is not in compliance;

(e) A compliance schedule is submitted which outlines how the water supplier intends to achieve compliance, and the water supplier agrees to review this schedule once every three years to determine whether changes have occurred in the conditions which formed the basis for the schedule; and

(f) A plan is submitted which outlines interim control measures including application of the best technology treatment technique to be implemented during the period that the variance is in effect.

(2) The Authority shall document all findings of its determinations and if the Authority prescribes a schedule requiring compliance with a contaminant level for which the variance is granted later than five years from the date of issuance of the variance the Authority shall:

(a) Document the rationale for the extended compliance schedule;

(b) Discuss the rationale for the extended compliance schedule in the required public notice and opportunity for public hearing; and

(c) Provide the shortest practicable time schedule feasible under the circumstances.

(3) Before denying a request for a variance, the Authority shall advise the water supplier of the reasons for the denial and shall give the supplier an opportunity to present additional information. If the additional information is not sufficient to justify granting the variance, the variance shall be denied.

(4) If the Authority determines that the variance should be granted, it shall announce its intention to either hold a public hearing in the affected area prior to granting the variance; or serve notice of intent to grant the variance either personally, or by registered or certified mail to all customers connected to the water system, or by publication in a newspaper in general circulation in the area. If no hearing is requested within 10 days of the date that notice is given, the Authority may grant the variance.

(5) When a variance has been granted, and a water supplier fails to meet the compliance schedule, or fails to implement the interim control measures, or fails to undertake the monitoring required under the conditions of the variance, the Authority may initiate enforcement action authorized by these rules.

(6) Variances from the maximum contaminant levels for volatile organic chemicals, organic chemicals and inorganic chemicals shall be issued by the Authority as follows:

(a) The Authority shall require Community water systems and Non-Transient Non-Community water systems to install or use any treatment method identified in OAR 333-061-0050(4)(b)(B), (E) and (F) as a condition for granting a variance except as provided in subsection (6)(b) of this rule. If, after the system's installation of the treatment method, the system cannot meet the MCL, that system shall be eligible for a variance.

(b) If a system can demonstrate through comprehensive engineering assessments, which may include pilot plant studies, that the treatment methods identified in OAR 333-061-0050(4)(b)(B), (E) and (F) would only achieve an insignificant reduction in contaminants, the Authority may issue a schedule of compliance that requires the system being granted the variance to examine other treatment methods as a condition of obtaining the variance.

(c) If the Authority determines that a treatment method identified in subsection (6)(b) of this rule is technically feasible, the Authority may require the system to install or use that treatment method in connection with a compliance schedule. The Authority's determination shall be based upon studies by the system and other relevant information.

(d) The Authority may require a public water system to use bottled water, point-of-use devices, point-of-entry devices or other means as a condition of granting a variance to avoid an unreasonable risk to health.

(7) The variances from the maximum contaminant level for fluoride shall be granted by the Authority as follows:

(a) The Authority shall require a Community water system to install or use any treatment method identified in OAR 333-061-0050(4)(b)(C) as a condition for granting a variance unless the Authority determines that such treatment method is not available and effective for fluoride control for the system. A treatment method shall not be considered to be "available and effective" for an individual system if the treatment method would not be technically appropriate and technically feasible for that system. If, upon application by a system for a variance, the Authority determines that none of the treatment methods identified in OAR 333-061-0050(4)(b)(C) are available and effective for the system, that system shall be entitled to a variance. The Authority's determination as to the availability and effectiveness of such treatment methods shall be based upon studies by the system and other relevant information. If a system submits information to demonstrate that a treatment method is not available and effective for fluoride control for that system, the Authority shall make a finding whether this information supports a decision that such treatment method is not available and effective for that system before requiring installation or use of such treatment method.

(b) The Authority shall issue a schedule of compliance that may require the system being granted the variance to examine the following treatment methods to determine the probability that any of the following methods will significantly reduce the level of fluoride for that system, and if such probability exists, to determine whether any of these methods are technically feasible and economically reasonable, and that the fluoride reductions obtained will be commensurate with the costs incurred with the installation and use of such treatment methods for that system: Modification of lime softening; Alum coagulation; Electrodialysis; Anion exchange resins; Well field management; Alternate source; or Regionalization.

(c) If the Authority determines that a treatment method identified in subsection (6)(b) of this rule or any other treatment method is technically feasible, economically reasonable, and will achieve fluoride reductions commensurate with the costs incurred with the installation or use of such treatment method for the system, the Authority shall require the system to install or use that treatment method in connection with a compliance schedule. The Authority's determination shall be based upon studies by the system and other relevant information.

(8) Public water systems that use bottled water as a condition for receiving a variance must meet the following requirements.

(a) The public water system must develop and put in place a monitoring program approved by the Authority that provides reasonable assurances that the bottled water meets all MCLs. The public water system must monitor a representative sample of the bottled water for all applicable contaminants under OAR 333-061-0036 the first quarter that it supplies the bottled water to the public, and annually thereafter. Results of the monitoring program shall be provided to the Authority annually.

(b) As an alternative to subsection (7)(a) of this rule, the public water system must receive a certification from the bottled water company that the bottled water supplied has been taken from an "approved source" as defined in 21 CFR 129.3(a); the bottled water company has conducted monitoring in accordance with 21 CFR 129.80(g)(1) through (3); and the bottled water does not exceed any MCLs or quality limits as set out in 21 CFR 103.35, 110, and 129. The public water system shall provide the cer-

tification to the Authority the first quarter after it supplies bottled water and annually thereafter.

(c) The public water system is fully responsible for the provision of sufficient quantities of bottled water to every person supplied by the public water system, via door-to-door bottled water delivery.

(9) Public water systems that use point-of-use devices as a condition for obtaining a variance must meet the following requirements:

(a) It is the responsibility of the public water system to operate and maintain the point-of-use treatment system.

(b) The public water system must develop a monitoring plan and obtain Authority approval for the plan before point-of-use devices are installed for compliance. This monitoring plan must provide health protection equivalent to a monitoring plan for central water treatment.

(c) Effective technology must be properly applied under a plan approved by the Authority and the microbiological safety of the water must be maintained.

(d) The water system must submit adequate certification of performance, field testing and, if not included in the certification process, a rigorous engineering design review to the Authority for approval prior to installation.

(e) The design and application of the point-of-use devices must consider the tendency for increase in heterotrophic bacteria concentrations in water treated with activated carbon. It may be necessary to use frequent backwashing, post-contractor disinfection, and Heterotrophic Plate Count monitoring to ensure that the microbiological safety of the water is not compromised.

(f) All consumers shall be protected. Every building connected to the system must have a point-of-use device installed, maintained, and adequately monitored. The Authority must be assured that every building is subject to treatment and monitoring, and that the rights and responsibilities of the public water system customer convey with title upon sale of property.

(10) Public water systems shall not use bottled water to achieve compliance with an MCL. Bottled water or point-of-use devices may be used on a temporary basis to avoid an unreasonable risk to health.

(11) The Authority will not grant a variance or exemption to the requirements of OAR 333-061-0030(3), OAR 333-061-0030(4) or OAR 333-061-0034. Variances to OAR 333-061-0032 will only be granted as provided by section (12) of this rule. The Authority will not grant any variances to the requirements of OAR 333-061-0036 pertaining to the treatment of surface water and groundwater under the direct influence of surface water. No permits will be granted for OAR 333-061-0030(4), 333-061-0032(3)(c) or 333-061-0032(5)(b).

(12) The Authority may grant variances from the standards specified in OAR 333-061-0032(3)(e) through (g) requiring the use of a specified water treatment technique if the Authority determines that the use of a specified water treatment technique is not necessary to protect public health based on the nature of the raw water source for a public water system. A variance granted under this section shall be conditioned on such monitoring and other requirements as the Administrator of the U.S. Environmental Protection Agency or the Director of the Oregon Health Authority may prescribe.

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 448.115, 448.135

Hist.: HD 9-1981(Temp), f. & ef. 6-30-81; HD 17-1981(Temp), f. & ef. 8-28-81; HD 4-1982, f. & ef. 2-26-82; Renumbered from 333-042-0213, HD 2-1983, f. & ef. 2-23-83; HD 11-1985, f. & ef. 7-2-85; HD 30-1985, f. & ef. 12-4-85; HD 9-1989, f. & cert. ef. 11-13-89; HD 26-1990, f. 12-26-90, cert. ef. 12-29-90; HD 9-1991(Temp), f. & cert. ef. 6-24-91; HD 1-1992, f. & cert. ef. 3-5-92; HD 12-1992, f. & cert. ef. 12-7-92; HD 3-1994, f. & cert. ef. 1-14-94; HD 1-1996, f. 1-2-96, cert. ef. 1-5-96; OHD 17-2002, f. & cert. ef. 10-25-02; PH 12-2003, f. & cert. ef. 8-15-03; PH 2-2008, f. & cert. ef. 2-15-08; PH 4-2009, f. & cert. ef. 5-18-09; PH 7-2010, f. & cert. ef. 4-19-10; PH 3-2013, f. & cert. ef. 1-25-13; PH 5-2016, f. 2-10-16, cert. ef. 4-1-16

333-061-0050
Construction Standards

(1) General:

(a) These standards shall apply to the construction of new public water systems and to major additions or modifications to existing public water systems and are intended to assure that the system facilities, when constructed, will be free of public health hazards and will be capable of producing water which consistently complies with the maximum contaminant levels;

(b) Facilities at public water systems must comply with the construction standards in place at the time the facility was constructed or installed for use at a public water system. A public water system shall not be required to undertake alterations to existing facilities, unless the standard is listed as a significant deficiency as prescribed in OAR 333-061-0076(4) or if maximum contaminant levels are being exceeded.

(c) Non-public water systems that are converted to public water systems shall be modified as necessary to conform to the requirements of this rule.

(d) Facilities at public water systems shall be designed and constructed in a manner such that contamination will be effectively excluded, and the structures and piping will be capable of safely withstanding external and internal forces acting upon them;

(e) Only materials designed for potable water service and meeting NSF Standard 61 - Drinking Water System Components or equivalent shall be used in those elements of the water system which are in contact with potable water;

(f) New tanks, pumps, equipment, pipe valves and fittings shall be used in the construction of new public water systems, major additions or major modifications to existing water systems. The Authority may permit the use of used items when it can be demonstrated that they have been renovated and are suitable for use in public water systems;

(g) Prior to construction of new facilities, the water supplier shall submit plans to the Authority for approval as specified in OAR 333-061-0060(1)(a).

(h) Construction may deviate from the requirements of this section provided that documentation is submitted, to the satisfaction of the Authority, that the deviation is equal to or superior to the requirements of this section as specified in OAR 333-061-0055 (variances from construction standards).

(i) A public water system or other Responsible Management Authority using groundwater, or groundwater under the direct influence of surface water, derived from springs, confined or unconfined wells that wish to have a state certified wellhead protection program shall comply with the requirements as specified in OAR 333-061-0057, 0060, and 0065, as well as OAR 340-040-0140 through 0200. Additional technical information is available in the Oregon Wellhead Protection Guidance Manual.

(j) All new groundwater sources are subject to consideration for potential direct influence of surface water as prescribed in OAR 333-061-0032(8).

(2) Groundwater:

(a) Wells:

(A) For the purpose of this rule, wells are defined as holes or other excavations that are drilled, dug or otherwise constructed for the purpose of capturing groundwater or groundwater in hydraulic connection with surface water as a source of public drinking water.

(B) The area within 100 feet of the well shall be owned by the water supplier, or a perpetual restrictive easement shall be obtained by the water supplier for all land (with the exception of public rights-of-way) within 100 feet of the well. The easement shall be recorded with the county in which the well is located and with the recorded deed to the property. A certified true copy shall be filed with the Authority;

(C) Not withstanding paragraph (2)(a)(A) of this rule, wells located on land owned by a public entity, (Federal, State, County, Municipality) which is not the water supplier, a permit issued by the public entity to the water supplier shall suffice in lieu of an easement. Said permit shall state that no existing or potential public health hazard shall be permitted within a minimum of 100 feet of a well site;

(D) Public or private roadways may be allowed within 100 feet of a confined well, provided the well is protected against contamination from surface runoff or hazardous liquids which may be spilled on the roadway and is protected from unauthorized access;

(E) The following sanitary hazards are not allowed within 100 feet of a well which serves a public water system unless waived by the Authority: any existing or proposed pit privy, subsurface sewage disposal drain field; cesspool; solid waste disposal site; pressure sewer line; buried fuel storage tank; animal yard, feedlot or animal waste storage; untreated storm water or gray water disposal; chemical (including solvents, pesticides and fertilizers) storage, usage or application; fuel transfer or storage; mineral resource extraction, vehicle or machinery maintenance or long term storage; junk/auto/scrap yard; cemetery; unapproved well; well that has not been properly abandoned or of unknown or suspect construction; source of pathogenic organisms or any other similar public health hazards. No gravity sewer line or septic tank shall be permitted within 50 feet of a well which serves a public water system. Clearances greater than indicated above shall be provided when it is determined by the Authority that the aquifer sensitivity and degree of hazard require a greater degree of protection. Aboveground fuel storage tanks provided for emergency water pumping equipment may be exempted from this requirement by the Authority provided

that a secondary containment system is in place that will accommodate 125 percent of the fuel tank storage;

(F) Except as in paragraph (2)(a)(A) and (2)(a)(E) of this rule, in those areas served by community gravity sanitary sewers, the area of ownership or control may be reduced to 50 feet;

(G) Wells shall not be located at sites which are prone to flooding. In cases where the site is subject to flooding, the area around the well shall be mounded, and the top of the well casing shall be extended at least two feet above the anticipated 100-year (1 percent) flood level;

(H) Except as otherwise provided herein, wells shall be constructed in accordance with the general standards for the construction and maintenance of water wells in Oregon as prescribed in OAR chapter 690, divisions 200 through 220;

(I) Wells as defined in paragraph (2)(a)(A) of this rule that are less than 12 feet in depth must be constructed so as to be cased and sealed from the surface to a minimum of three feet above the bottom of the well. The casing may consist of concrete or metal culvert pipe or other pre-approved materials. The seal shall be watertight, be a minimum of four inches in thickness and may consist of cement, bentonite or concrete (see concrete requirements prescribed in OAR 690-210-315). The construction and placement of these wells must comply with all requirements of this rule.

(J) Before a well is placed into operation as the source of supply at a public water system, laboratory reports as required by OAR 333-061-0036 shall be submitted by the water supplier;

(K) Water obtained from wells which exceed the maximum contaminant levels shall be treated as outlined in section (4) of this rule;

(L) The pump installation, piping arrangements, other appurtenances, and well house details at wells which serve as the source of supply for a public water system, shall meet the following requirements:

(i) The line shaft bearings of turbine pumps shall be water-lubricated, except that bearings lubricated with non-toxic approved food-grade lubricants may be permitted in wells where water-lubricated bearings are not feasible due to depth to the water;

(ii) Where turbine pumps are installed, the top of the casing shall be sealed into the pump motor. Where submersible pumps are installed, the top of the casing shall be provided with a watertight sanitary seal;

(iii) A casing vent shall be provided and shall be fitted with a screened return bend;

(iv) Provisions shall be made for determining the depth to water surface in the well under pumping and static conditions;

(v) A sampling tap shall be provided on the pump discharge line;

(vi) Piping arrangements shall include provisions for pumping the total flow from the well to waste;

(vii) A method of determining the total output of each well shall be provided. This requirement may be waived by the Authority at confined wells which serve as the source of supply for Transient Non-Community water systems;

(viii) A reinforced concrete slab shall be poured around the well casing at ground surface. The slab shall be sloped to drain away from the casing;

(ix) The ground surface around the well slab shall be graded so that drainage is away from the well;

(x) The top of the well casing shall extend at least 12 inches above the concrete slab;

(xi) Provisions shall be made for protecting pump controls and other above-ground appurtenances at the well head. Where a wellhouse is installed for this purpose, it shall meet applicable building codes and shall be insulated, heated and provided with lights, except that where the wellhouse consists of a small removable box-like structure the requirement for lights may be waived by the Authority;

(xii) The wellhouse shall be constructed so that the well pump can be removed.

(xiii) Wells equipped with pitless adaptors or units are not required to meet the requirements of subparagraphs (2)(a)(L)(iii) and (viii) of this rule.

(M) The area in the vicinity of a well, particularly the area uphill or upstream, shall be surveyed by the water supplier to determine the location and nature of any existing or potential public health hazards;

(N) The requirements with respect to land ownership, clearances from public health hazards, and protection against flooding for wells in an unconfined aquifer shall be the same or more restrictive than those prescribed for wells in confined aquifers, as determined by the Authority.

(O) Before a well is placed into operation as the source of supply for a public water system, the following documents shall be submitted by the water supplier:

(i) Reports on pumping tests for yield and drawdown for unconfined wells;

(ii) Reports of laboratory analyses on contaminants in the water as required by OAR 333-061-0036;

(iii) Performance data on the pumps and other equipment;

(iv) Proposals for disinfection as required by section (5) of this rule, if applicable.

(v) Reports on determination of potential direct influence by surface water into groundwater source as prescribed in section (3) of this rule.

(b) Springs:

(A) In addition to those requirements under subsection (2)(a) of this rule, construction of spring supplies shall meet the following requirements:

(i) An intercepting ditch shall be provided above the spring to effectively divert surface water;

(ii) A fence shall be installed around the spring area unless other provisions are made to effectively prevent access by animals and unauthorized persons;

(iii) The springbox shall be constructed of concrete or other impervious durable material and shall be installed so that surface water is excluded;

(iv) The springbox shall be provided with a screened overflow which discharges to daylight, an outlet pipe provided with a shutoff valve, a bottom drain, an access manhole with a tightly fitting cover, and a curb around the manhole.

(v) Spring collection facilities that meet the definition of a well in paragraph (2)(a)(A) of this rule must comply with construction requirements specified in paragraph (2)(a)(I) of this rule.

(B) Reports on flow tests shall be provided to establish the yield of springs.

(3) Surface water and groundwater under direct surface water influence source facilities:

(a) In selecting a site for an infiltration gallery, or for a direct intake from a stream, lake, or impounding reservoir, consideration shall be given to land use in the watershed. A sanitary survey of the watershed shall be made by the water supplier to evaluate natural and man-made factors which may affect water quality and investigations shall also be made of seasonal variations in water quality and quantity. A report giving the results of this survey shall be submitted for review and approval by the Authority.

(b) A determination shall be made as to the status of water rights, and this information shall be submitted to the Authority for review.

(c) Impounding reservoirs shall be designed and constructed so that they include the following features:

(A) The capacity shall be sufficient to meet projected demands during drought conditions;

(B) Outlet piping shall be arranged so that water can be withdrawn from various depths;

(C) Facilities shall be provided for releasing undesirable water.

(d) Direct intake structures shall be designed and constructed so that they include the following features:

(A) Screens shall be provided to prevent fish, leaves and debris from entering the system;

(B) Provisions shall be made for cleaning the screens, or self-cleaning screens shall be installed;

(C) Motors and electrical controls shall be located above flood level;

(D) Provisions shall be made to restrict swimming and boating in the vicinity of the intake;

(E) Valves or sluice gates shall be installed at the intake to provide for the exclusion of undesirable water when required.

(4) Water treatment facilities (other than disinfection):

(a) General

(A) Water treatment facilities shall be capable of producing water which consistently does not exceed maximum contaminant levels. The type of treatment shall depend on the raw water quality. The Authority shall make determinations of treatment capabilities based upon recommendations in the US EPA Guidance Manual for Compliance with the Filtration and Disinfection Requirements for Public Water Systems Using Surface Water Sources.

(B) Investigations shall be undertaken by the water supplier prior to the selection or installation of treatment facilities to determine the physical, chemical and microbiological characteristics of the raw water as appropriate. These investigations shall include a determination of the seasonal variations in water quality, as well as a survey to identify potential sources of contamination which may affect the quality of the raw water.

(C) Water obtained from wells constructed in conformance with the requirements of these rules and which is found not to exceed the maximum contaminant levels, may be used without treatment at public water systems;

(D) Laboratory equipment shall be provided so that the water supplier can perform analyses necessary to monitor and control the treatment processes.

(E) A sampling tap shall be provided following the treatment process and before the first user when any form of water treatment is in use at a water system.

(b) Best Available Technology

(A) Pilot studies or other supporting data shall be used to demonstrate the effectiveness of any treatment method other than that defined as best available technology. Pilot study protocol shall be approved beforehand by the Authority. When point-of-use (POU) or point-of-entry (POE) devices are used for compliance, programs to ensure proper long-term operation, maintenance, and monitoring shall be provided by the water system to ensure adequate performance.

(B) The Authority identifies the following as the best available technology, treatment techniques, or other means available for achieving compliance with the maximum contaminant levels for volatile organic chemicals:

(i) Central treatment using packed tower aeration for all these chemicals.

(ii) Central treatment using granular activated carbon for all these chemicals except vinyl chloride.

(C) The Authority identifies the following as the best available technology, treatment techniques or other means generally available for achieving compliance with the Maximum Contaminant Level for fluoride.

(i) Activated alumina absorption, centrally applied.

(ii) Reverse osmosis, centrally applied.

(D) The Authority identifies the following as the best available technology, treatment techniques, or other means available for achieving compliance with the MCL for E. coli as specified in OAR 333-061-0030(4).

(i) Protection of wells from fecal contamination by appropriate placement and construction.

(ii) Maintenance of a disinfectant residual throughout the distribution system.

(iii) Proper maintenance of the distribution system including appropriate pipe replacement and repair procedures, main flushing programs, proper operation and maintenance of storage tanks and reservoirs, cross connection control and maintaining a minimum pressure of 20 psi at all service connections.

(iv) Filtration treatment or disinfection of surface water or GWUDI or disinfection of groundwater using strong oxidants such as chlorine, chlorine dioxide, or ozone.

(v) For systems using only groundwater, compliance with the requirements of an Authority approved wellhead protection program.

(E) The Authority identifies the following as the best available technology, treatment techniques, or other means available for achieving compliance with the maximum contaminant levels for organic chemicals.

(i) Central treatment using packed tower aeration for Dibromochloropropane, Ethylene Dibromide, Hexachlorocyclopentadiene and Di(2-ethylhexyl)adipate.

(ii) Central treatment using granular activated carbon for all these chemicals except Trihalomethanes and Glyphosate.

(iii) Central treatment using oxidation (chlorination or ozonation) for Glyphosate.

(F) The Authority identifies the following as the best available technology, treatment techniques, or other means available for achieving compliance with the maximum contaminant levels for inorganic chemicals. Preoxidation may be required to convert Arsenic III to Arsenic V.

(i) Central treatment using coagulation/filtration for systems with 500 or more service connections for Antimony, Arsenic V (for systems with populations 501-10,000), Asbestos, Beryllium, Cadmium, Chromium, Mercury (influent concentration ≥ 10ug/L), and Selenium (Selenium IV only).

(ii) Central treatment using direct and diatomite filtration for Asbestos.

(iii) Central treatment using granular activated carbon for Mercury.

(iv) Central treatment using activated alumina for Arsenic V (for systems with populations l0,000 or less), Beryllium, Selenium and Thallium.

(v) Central treatment using ion exchange for Arsenic V (for systems with populations 10,000 or less), Barium, Beryllium, Cadmium, Chromium, Cyanide, Nickel, Nitrate, Nitrite and Thallium.

(vi) Central treatment using lime softening for systems with 500 or more service connections for Arsenic V (for systems with populations of 501-10,000), Barium, Beryllium, Cadmium, Chromium (Chromium III only), Mercury (influent concentration ≥ 10ug/L), Nickel and Selenium.

(vii) Central treatment using reverse osmosis for Antimony, Arsenic V (for systems with populations of 501-10,000), Barium, Beryllium, Cadmium, Chromium, Cyanide, Mercury (influent concentration ≥ 10ug/L), Nickel, Nitrate, Nitrite, and Selenium.

(viii) Central treatment using corrosion control for Asbestos and Lead and Copper.

(ix) Central treatment using electrodialysis for Arsenic V (for systems with populations of 501-10,000), Barium, Nitrate, and Selenium.

(x) Central treatment using alkaline chlorination (pH≥8.5) for Cyanide.

(xi) Central treatment using coagulation-assisted microfiltration for Arsenic V (for systems with populations 501-10,000).

(xii) Central treatment using oxidation/filtration for Arsenic V (to obtain high removals, iron to Arsenic ratio must be at least 20:1).

(xiii) Point-of-use treatment using activated alumina for Arsenic V (for systems with populations 10,000 or less).

(xiv) Point-of-use treatment using reverse osmosis for Arsenic V (for systems with populations 10,000 or less).

(G) The Authority identifies the following as the best technology, treatment techniques, or other means available for achieving compliance with the maximum contaminant levels for disinfection byproducts:

(i) For bromate concentrations: control of ozone treatment process to reduce production of bromate.

(ii) For chlorite concentrations: control of treatment processes to reduce disinfectant demand and control of disinfection treatment processes to reduce disinfectant levels.

(iii) For TTHM and HAA5, for water systems that disinfect their source water and monitor in accordance with OAR 333-061-0036(4)(c) or (d): enhanced coagulation or enhanced softening plus GAC10; or nanofiltration with a molecular weight cutoff less than or equal to 1000 Daltons; or GAC20.

(iv) For TTHMs and HAA5, for purchasing water systems with populations greater than or equal to 10,000 and that monitor in accordance with OAR 333-061-0036(4)(c) or (d) improved distribution system and storage tank management to reduce residence time, plus the use of chloramines for disinfectant residual maintenance. This applies only to the disinfected water that purchasing water systems receive from a wholesale system.

(v) For TTHMs and HAA5, for purchasing water systems with populations less than 10,000 and that monitor in accordance with OAR 333-061-0036(4)(c) or (d): improved distribution system and storage tank management to reduce residence time. This applies only to the disinfected water that purchasing water systems receive from a wholesale system.

(H) The Authority identifies the following as the best technology, treatment techniques, or other means available for achieving compliance with the maximum residual disinfectant levels: Control of treatment processes to reduce disinfectant demand and control of disinfection treatment processes to reduce disinfectant levels.

(I) The Authority identifies the following as the best available technology, treatment techniques, or other means available for achieving compliance with the MCLs for radionuclides.

(i) Central treatment using ion exchange for combined radium-226/228, beta particle/photon activity and uranium.

(ii) Central treatment using reverse osmosis for combined radium-226/228, gross alpha particle activity, beta particle/photon activity, and uranium (for systems with populations 501-10,000).

(iii) Central treatment using lime softening for combined radium-226/228, and uranium (for systems with populations 501-10,000).

(iv) Central treatment using enhanced coagulation/filtration for uranium.

(v) Central treatment using activated alumina for uranium (for systems with populations of 10,000 or less).

(vi) Central treatment using greensand filtration for combined radium-226/228.

(vii) Central treatment using electrodialysis for combined radium-226/228.

(viii) Central treatment using pre-formed hydrous manganese oxide filtration for combined radium-226/228.

(ix) Central treatment using co-precipitation with barium for combined radium-226/228.

(x) Point-of-use treatment using ion exchange for combined radium-226/228, beta particle/photon activity, and uranium.

(xi) Point-of use treatment using reverse osmosis for combined radium-226/228, gross alpha particle activity, beta particle/ photon activity, and uranium (for systems with populations of 10,000 or less).

(c) Filtration of Surface Water Sources and Groundwater Sources Under the Direct Influence of Surface Water

(A) All water systems using surface water or groundwater sources under the direct influence of surface water that fail to meet the criteria for avoiding filtration prescribed in OAR 33-061-0032(2) and (3) must meet all requirements of this subsection for installing filtration treatment.

(B) There are four standard filtration methods: conventional filtration, direct filtration, slow sand, and diatomaceous earth. Other filtration technologies are only acceptable if their efficiency at removing target organisms and contaminants can be demonstrated to be equal to or more efficient than these. The assumed log removals credited to filtration of Giardia lamblia and viruses will be based on recommendations in the US EPA Guidance Manual for Compliance with the Filtration and Disinfection Requirements for Public Water Systems Using Surface Water Sources. In all cases, filtration processes must be designed and operated to achieve at least 2.0 log removal of Giardia lamblia. For membrane filtration, removal credits shall be verified by a challenge study according to paragraphs (4)(c)(H) and (I) of this rule. Bag and Cartridge Filtration must have removal credits demonstrated in a challenge study according to paragraph (4)(c)(J) of this rule. The combination of filtration and disinfection must meet the inactivation levels prescribed in OAR 333-061-0032(1). Any water system wishing to challenge the assumed log removal credits must conduct demonstration studies based on the recommendations in the USEPA SWTR Guidance Manual and have the study protocol approved by the Authority.

(C) Pilot studies shall be conducted by the water supplier to demonstrate the effectiveness of any filtration method other than conventional filtration. Pilot study protocol shall be approved in advance by the Authority. Results of the pilot study shall be submitted to the Authority for review and approval.

(D) Regardless of the filtration method used, the water system must achieve a minimum of 0.5-log reduction of Giardia lamblia and a 1.0-log reduction of viruses from disinfection alone after filtration treatment.

(E) All filtration systems shall be designed and operated so as to meet the requirements prescribed in OAR 333-061-0032(4) and (5). Design of the filtration system must be in keeping with accepted standard engineering references acknowledged by the Authority such as the Great Lakes Upper Mississippi River "Recommended Standards for Water Works" technical reports by the International Reference Center for Community Water Supply and Sanitation, or publications from the World Health Organization. A list of additional references is available from the Authority upon request.

(F) Requirements for water systems using conventional or direct filtration

(i) Systems that employ multiple filters shall be designed such that turbidity measurements are monitored for each filter independently of the other filter(s). Each filter shall have a provision to discharge effluent water as waste.

(ii) All water treatment plants shall have an auto-dial call out alarm or an automatic shut-off for high turbidity.

(G) Additional requirements for membrane filtration. Each membrane filter system must have a turbidimeter installed after each filter unit for continuous indirect integrity monitoring. Once operating, direct and indirect integrity testing must be conducted on each unit as described in OAR 333-061-0036(5)(d). The operation and maintenance manual must include a diagnosis and repair plan such that the ability to remove pathogens is not compromised.

(H) Challenge Study criteria for Membrane Filtration. Water systems receive Cryptosporidium treatment credit for membrane filtration, as defined in OAR 333-061-0020(77)(f), that meets the criteria of this paragraph. The level of treatment credit a water system receives is equal to the lower of the values determined in this paragraph.

(i) The removal efficiency demonstrated during challenge testing conducted under the conditions in accordance with paragraph (4)(c)(I) of this rule.

(ii) The maximum removal efficiency that can be verified through direct integrity testing of the membrane filtration process under the conditions prescribed by OAR 333-061-0036(5)(d)(B).

(I) Challenge Testing. The membrane filter used by the water system must undergo challenge testing to evaluate removal efficiency, and results of the challenge testing must be reported to the Authority. Challenge testing must be conducted according to the criteria specified in this paragraph. Water systems may use data from challenge testing conducted prior to June 1, 2009 if the prior testing was consistent with the criteria specified in this paragraph.

(i) Challenge testing must be conducted on a full-scale membrane module, identical in material and construction to the membrane modules used in the water system's treatment facility, or a smaller-scale membrane module, identical in material and similar in construction to the full-scale module. A module is defined as the smallest component of a membrane unit in which a specific membrane surface area is housed in a device with a filtrate outlet structure.

(ii) Challenge testing must be conducted using Cryptosporidium oocysts or a surrogate that is removed no more efficiently than Cryptosporidium oocysts. Cryptosporidium or the surrogate used during challenge testing is referred to as the challenge particulate. The concentration of the challenge particulate, in both the feed and filtrate water, must be determined using a method capable of discretely quantifying the specific challenge particulate used in the test; gross measurements such as turbidity may not be used.

(iii) The maximum feed water concentration that can be used during a challenge test is based on the detection limit of the challenge particulate in the filtrate and must be determined according to the following equation:

Maximum Feed Concentration = 3.16 x 106 x (Filtrate Detection Limit)

(iv) Challenge testing must be conducted according to representative hydraulic conditions at the maximum design flux and maximum design process recovery specified by the manufacturer for the membrane module. Flux is defined as the throughput of a pressure driven membrane process expressed as flow per unit of membrane area. Recovery is defined as the volumetric percent of feed water that is converted to filtrate over the course of an operating cycle uninterrupted by events such as chemical cleaning or a solids removal process (that is, backwashing).

(v) Removal efficiency of a membrane module must be calculated from the challenge test results and expressed as a log removal value according to the following equation:

LRV = LOG10(Cf) - LOG10(Cp)

Where:

LRV = log removal value demonstrated during the challenge test;

Cf = the feed concentration measured during the challenge test; and

Cp = the filtrate concentration measured during the challenge test. Equivalent units must be used for the feed and filtrate concentrations. If the challenge particulate is not detected in the filtrate, the term Cp is set equal to the detection limit for the purpose of calculating the LRV. An LRV must be calculated for each membrane module evaluated during the challenge test.

(vi) The removal efficiency of a membrane filtration process demonstrated during challenge testing must be expressed as a log removal value (LRVC-Test). If fewer than 20 modules are tested, then LRVC-Test is equal to the lowest of the representative LRVs among the modules tested. If 20 or more modules are tested, then LRVC-Test is equal to the 10th percentile of the representative LRVs among the modules tested. The percentile is defined by (i/(n+1))where i is the rank of n individual data points ordered lowest to highest. If necessary, the 10th percentile may be calculated using linear interpolation.

(vii) The challenge test must establish a quality control release value (QCRV) for a non-destructive performance test that demonstrates the Cryptosporidium removal capability of the membrane filtration module. This performance test must be applied to each production membrane module used by the system that was not directly challenge tested in order to verify Cryptosporidium removal capability. Production modules that do not meet the established QCRV are not eligible for the treatment credit demonstrated during the challenge test.

(viii) If a previously tested membrane is modified in a manner that could change the removal efficiency of the membrane or the applicability of the non-destructive performance test and associated QCRV, additional challenge testing to demonstrate the removal efficiency of, and determine a new QCRV for, the modified membrane must be conducted and submitted to the Authority.

(J) Challenge Study requirements for Bag and Cartridge Filtration.

(i) The Cryptosporidium treatment credit awarded to bag or cartridge filters must be based on the removal efficiency demonstrated during challenge testing that is conducted according to the criteria specified in this paragraph. A factor of safety equal to 1-log for individual bag or cartridge filters and 0.5-log for bag or cartridge filters in series must be applied to challenge testing results to determine removal credit. Water systems may use results from challenge testing conducted prior to June 1, 2009 if the prior testing was consistent with the criteria specified in this paragraph.

(ii) Challenge testing must be performed on full-scale bag or cartridge filters and the associated filter housing or pressure vessel, that are identical in material and construction to the filters and housings the water system

will use for removal of Cryptosporidium. Bag or cartridge filters must be challenge tested in the same configuration that the system will use, either as individual filters or as a series configuration of filters.

(iii) Challenge testing must be conducted using Cryptosporidium or a surrogate that is removed no more efficiently than Cryptosporidium. The microorganism or surrogate used during challenge testing is referred to as the challenge particulate. The concentration of the challenge particulate must be determined using a method capable of discreetly quantifying the specific microorganism or surrogate used in the test; gross measurements such as turbidity may not be used.

(iv) The maximum feed water concentration that can be used during a challenge test must be based on the detection limit of the challenge particulate in the filtrate (that is, filtrate detection limit) and must be calculated using the following equation:Maximum Feed Concentration = 1 x 104 x (Filtrate Detection Limit)

(v) Challenge testing must be conducted at the maximum design flow rate for the filter as specified by the manufacturer.

(vi) Each filter evaluated must be tested for a duration sufficient to reach 100 percent of the terminal pressure drop, which establishes the maximum pressure drop under which the filter may be used to comply with the requirements of this paragraph.

(vii) Removal efficiency of a filter must be determined from the results of the challenge test and expressed in terms of log removal values using the following equation:

LRV = LOG10(Cf)-LOG10(Cp)

Where:

LRV = log removal value demonstrated during challenge testing;

Cf = the feed concentration measured during the challenge test; and

Cp = the filtrate concentration measured during the challenge test. In applying this equation, the same units must be used for the feed and filtrate concentrations. If the challenge particulate is not detected in the filtrate, then the term Cp must be set equal to the detection limit.

(viii) Each filter tested must be challenged with the challenge particulate during three periods over the filtration cycle: within two hours of start-up of a new filter; when the pressure drop is between 45 and 55 percent of the terminal pressure drop; and at the end of the cycle after the pressure drop has reached 100 percent of the terminal pressure drop. An LRV must be calculated for each of these challenge periods for each filter tested. The LRV for the filter (LRVfilter) must be assigned the value of the minimum LRV observed during the three challenge periods for that filter.

(ix) If fewer than 20 filters are tested, the overall removal efficiency for the filter product line must be set equal to the lowest LRVfilter among the filters tested. If 20 or more filters are tested, the overall removal efficiency for the filter product line must be set equal to the 10th percentile of the set of LRVfilter values for the various filters tested. The percentile is defined by (i/(n+1))where i is the rank of n individual data points ordered lowest to highest. If necessary, the 10th percentile may be calculated using linear interpolation.

(x) If a previously tested filter is modified in a manner that could change the removal efficiency of the filter product line, challenge testing to demonstrate the removal efficiency of the modified filter must be conducted and submitted to the Authority.

(K) Water systems using cartridge filtration must have pressure gauges installed before and after each cartridge filter.

(L) Water systems using diatomaceous earth filtration must add the body feed with the influent flow.

(d) Criteria and procedures for public water systems using point-of-entry (POE) or point-of-use (POU) devices.

(A) Public water systems may use POE or POU devices to comply with maximum contaminant levels, where specified in subsection (4)(b) of this rule, only if they meet the requirements of this subsection.

(B) It is the responsibility of the public water system to operate and maintain the POE or POU treatment system.

(C) The public water system must develop and obtain Authority approval for a monitoring plan before POE or POU devices are installed for compliance. Under the plan approved by the Authority, POE or POU devices must provide health protection equivalent to central water treatment. "Equivalent" means that the water would meet all Maximum Contaminant Levels as prescribed in OAR 333-061-0030 and would be of acceptable quality similar to water distributed by a well-operated central treatment plant. Monitoring must include contaminant removal efficacy, physical measurements and observations such as total flow treated and mechanical condition of the treatment equipment.

(D) Effective technology must be properly applied under a plan approved by the Authority and the microbiological safety of the water must be maintained.

(i) The water supplier must submit adequate certification of performance, field testing, and, if not included in the certification process, a rigorous engineering design review of the POE or POU devices to the Authority for approval prior to installation.

(ii) The design and application of the POE or POU devices must consider the tendency for increase in heterotrophic bacteria concentrations in water treated with activated carbon. It may be necessary to use frequent backwashing, post-contractor disinfection, and Heterotrophic Plate Count monitoring to ensure that the microbiological safety of the water is not compromised.

(iii) The POE or POU device must be evaluated to assure that the device will not cause increased corrosion of lead and copper bearing materials located between the device and the tap that could increase contaminant levels of lead and copper at the tap.

(E) All consumers shall be protected. Every building connected to the system must have a POE or POU device installed, maintained, and adequately monitored. The Authority must be assured that every building is subject to treatment and monitoring, and that the rights and responsibilities of the public water system customer convey with title upon sale of property.

(5) Facilities for continuous disinfection and disinfectant residual maintenance:

(a) Water obtained from surface sources or groundwater sources under the direct influence of surface water shall, as a minimum, be provided with continuous disinfection before such water may be used as a source of supply for a public water system. Water obtained from wells constructed in conformance with the requirements of these rules and which is found not to exceed microbiological maximum contaminant levels, may be used without treatment at public water systems;

(b) Water obtained from wells and springs shall be considered groundwater unless determined otherwise by the Authority. Wells and springs may be utilized without continuous disinfection if the construction requirements of section (2) of this rule are met and analyses indicate that the water consistently meets microbiological standards. A well or spring that is inadequately constructed, shows a history of E coli. contamination, and where the Authority determines that reconstruction will add a significant measure of public health protection, must be upgraded to meet current construction standards or disconnected from the water system.

(c) In public water systems where continuous disinfection is required as the sole form of treatment, or as one component of more extensive treatment to meet the requirements prescribed in OAR 333-061-0032(1), the facilities shall be designed so that:

(A) The disinfectant applied shall be capable of effectively destroying pathogenic organisms;

(B) The disinfectant is applied in proportion to water flow; and

(C) Disinfectants, other than ultraviolet light and ozone disinfection treatment, shall be capable of leaving a residual in the water which can be readily measured and which continues to serve as an active disinfectant; and

(D) Sufficient contact time shall be provided to achieve "CT" values capable of the inactivation required by OAR 333-061-0032(1). For ultraviolet light disinfection treatment, sufficient irradiance expressed in milliwatts per square centimeter (mWs/cm2) and exposure time expressed in seconds shall be provided to achieve UV dose levels expressed as (mWs/cm2) or millijoules per square centimeter (mJ/cm2) capable of the inactivation required by OAR 333-061-0032(1).

(d) When continuous disinfection, other than ultraviolet light disinfection, is required for reasons other than the treatment of surface water sources or groundwater sources under the direct influence of surface water, in addition to the requirements of paragraphs (5)(c)(A) through (C) of this rule, the facilities shall be designed so that:

(A) The primary disinfection treatment is sufficient to ensure at least 99.99 percent (4-log) inactivation or removal of viruses as determined by the Authority, or;

(B) There is sufficient contact time provided to achieve disinfection under all flow conditions between the point of disinfectant application and the point of first water use:

(i) When chlorine is used as the primary disinfectant, the system shall be constructed to achieve a free chlorine residual of 0.2 mg/l after 30 minutes contact time under all flow conditions before first water use;

(ii) When ammonia is added to the water with the chlorine to form a chloramine as the disinfectant, the system shall be constructed to achieve a combined chlorine residual of at least 2.0 mg/l after three hours contact time under all flow conditions before first water use;

(e) Provisions shall be made to alert the water supplier before the chlorine supply is exhausted. Water systems serving more than 3,300 people shall have an auto-dial call out alarm or an automatic shut-off for low chlorine residual when chlorine is used as a disinfectant.

(f) For continuous disinfection only, provisions shall be made for sampling the water before and after chlorination;

(g) Testing equipment shall be provided to determine the chlorine residual;

(h) Chlorinator piping shall be designed to prevent the contamination of the potable water system by backflow of untreated water or water having excessive concentrations of chlorine;

(i) The disinfectant must be applied in proportion to water flow;

(j) Chlorine gas feeders and chlorine gas storage areas shall:

(A) Be enclosed and separated from other operating areas;

(B) Chlorine cylinders shall be restrained in position to prevent upset by chaining 100 and 150 pound cylinders two-thirds of their height up from the floor and by double chocking one ton cylinders;

(C) The room housing the feeders and cylinders shall be above ground surface, shall have doors which open outward and to the outside and shall be ventilated by mechanical means at floor level and shall have an air intake located higher than the exhaust ventilation;

(D) Be located so that chlorine gas, if released, will not flow into the building ventilation systems;

(E) Have corrosion resistant lighting and ventilation switches located outside the enclosure, adjacent to the door;

(F) Be provided with a platform or hydraulic scale for measuring the weight of the chlorine cylinders;

(G) Be provided with a gas mask or self contained breathing apparatus approved by the National Institute of Occupational Safety and Health (NIOSH) for protection against chlorine gas and kept in good working condition. Storage of such equipment shall be in an area adjoining the chlorine room and shall be readily available. (Also see the Oregon Occupational Health and Safety regulations contained in OAR chapter 437.)

(k) When continuous disinfection treatment is provided through ultraviolet light (UV) disinfection, the facilities shall be designed to meet the requirements of this subsection:

(A) The UV unit must achieve the dosage indicated in Table 32 for the required pathogen inactivation. [Table not included. See ED. NOTE.]

(B) Ultraviolet lamps are insulated from direct contact with the influent water and are removable from the lamp housing;

(C) The treatment unit must have an upstream valve or device that prevents flows from exceeding the manufacturer's maximum rated flow rate, an ultraviolet light sensor that monitors light intensity through the water during operation, and a visual and audible alarm;

(D) There must be a visual means to verify operation of all ultraviolet lamps;

(E) The lamps, lamp sleeves, housings and other equipment must be able to withstand the working pressures applied through the unit;

(F) The treatment facility must be sheltered from the weather and accessible for routine maintenance as well as routine cleaning and replacement of the lamp sleeves and cleaning of the sensor windows/lenses;

(G) The lamps must be changed as per the manufacturer's recommendation; and

(H) The treatment unit must have shut-off valves at both the inlet side and the outlet side of the treatment unit. There shall be no bypass piping around the treatment unit.

(I) Reactor validation testing. All water systems, except those specified in paragraph (5)(k)(J) of this rule, must use UV reactors that have undergone validation testing to determine the operating conditions under which the reactor delivers the UV dose required in OAR 333-061-0036(5)(c) (that is, validated operating conditions). These operating conditions must include flow rate, UV intensity as measured by a UV sensor, UV Transmittance, and UV lamp status.

(i) When determining validated operating conditions, water systems must account for the following factors: UV absorbance by the water; lamp fouling and aging; measurement uncertainty of on-line sensors; UV dose distributions arising from the velocity profiles through the reactor; failure of UV lamps or other critical system components; and inlet and outlet piping or channel configurations of the UV reactor.

(ii) Validation testing must include the following: full scale testing of a reactor that conforms uniformly to the UV reactors used by the water system and inactivation of a test microorganism whose dose response characteristics have been quantified with a low pressure mercury vapor lamp.

(iii) The Authority may approve an alternative approach to validation testing.

(J) Non-Community water systems using only groundwater sources, and having minimal distribution systems as determined by the Authority, may use ultraviolet light as the only disinfectant when total coliforms but no E. coli have been detected in the source water. UV units must meet the specifications of a Class A UV system under the NSF Standard 55. The minimum ultraviolet light failsafe dosage set point shall be equivalent to 40 mW-s/cm2 (40 mJ/cm2) with a wavelength between 200 and 300 nanometers. The UV unit must automatically shut-off water flow if dosage drops below this failsafe set point.

(6) Finished water storage:

(a) Distribution reservoirs and treatment plant storage facilities for finished water shall be constructed to meet the following requirements:

(A) They shall be constructed of concrete, steel, wood or other durable material capable of withstanding external and internal forces which may act upon the structure;

(B) Ground-level reservoirs shall be constructed on undisturbed soil, bedrock or other stable foundation material capable of supporting the structure when full;

(C) Steel reservoirs, standpipes and elevated tanks shall be constructed in conformance with the AWWA Standards D100 and D103;

(D) Concrete reservoirs shall be provided with sufficient reinforcing to prevent the formation of cracks, and waterstops and dowels shall be placed at construction joints. Poured-in-place wall castings shall be provided where pipes pass through the concrete;

(E) Wooden reservoirs shall be redwood or other equally durable wood and shall be installed on a reinforced concrete base. Where redwood reservoirs are used, separate inlet and outlet pipes are required and the water entering the reservoir must be have a disinfectant continuously applied so as to result in a detectable residual in the water leaving the reservoir;

(F) Start-up procedures for new redwood tanks shall consist of filling the tank with a solution of water containing a minimum of two pounds of sodium carbonate per 1,000 gallons of water and retaining this solution in the tank a minimum of seven days before flushing;

(G) Where ground-level reservoirs are located partially below ground, the bottom shall be above the ground water table and footing drains discharging to daylight shall be provided to carry away ground water which may accumulate around the perimeter of the structure;

(H) The finished water storage capacity shall be increased to accommodate fire flows when fire hydrants are provided;

(I) Finished water storage facilities shall have watertight roofs;

(J) An access manhole shall be provided to permit entry to the interior for cleaning and maintenance. When the access manhole is on the roof of the reservoir there shall be a curbing around the opening and a lockable watertight cover that overlaps the curbing;

(K) Internal ladders of durable material, shall be provided where the only access manhole is located on the roof;

(L) Screened vents shall be provided above the highest water level to permit circulation of air above the water in finished water storage facilities;

(M) A drain shall be provided at the lowest point in the bottom, and an overflow of sufficient diameter to handle the maximum flow into the tank shall be provided at or near the top of the sidewall. The outlet ends of the drain and overflow shall be fitted with angle-flap valves or equivalent protection and shall discharge with an airgap to a watercourse or storm drain capable of accommodating the flow;

(N) A silt stop shall be provided at the outlet pipe;

(O) Where a single inlet/outlet pipe is installed and the reservoir floats on the system, provisions shall be made to insure an adequate exchange of water and to prevent degradation of the water quality and to assure the disinfection levels required in subparagraph (5)(c)(D) of this rule;

(P) A fence or other method of vandal deterrence shall be provided around distribution reservoirs;

(Q) When interior surfaces of finished water storage tanks are provided with a protective coating, the coating shall meet the requirements of NSF Standard 61 — Drinking Water System Components or equivalent.

(R) Reservoirs and clearwells that are to be used for disinfection contact time to treat surface water shall use a tracer study to determine the actual contact time. The Authority must approve procedures and protocols for the tracer study prior to the initiation of the study. The Authority recommends the US EPA Guidance Manual for Compliance with the Filtration and Disinfection Requirements for Public Water Systems Using Surface Water Sources for a tracer study procedure and protocol.

(S) Reservoirs and clearwells that are to be used for disinfection contact time to treat surface water shall have a means to adequately determine the flow rate on the effluent line.

(b) Pressure tanks for finished water shall meet the following requirements:

(A) Pressure tanks shall be installed above normal ground surface;

(B) Bypass piping around the pressure tank shall be provided to permit operation of the system while the tank is being maintained or repaired;

(C) Pressure tanks greater than 1,000 gallons shall be provided with an access manhole and a water sight-glass.

(D) All pressure tanks shall be provided with a drain, a pressure gauge, an air blow-off valve, means for adding air and pressure switches for controlling the operation of the pump(s);

(E) Pressure tanks shall be constructed of steel or an alternative material provided the tank is NSF 61 certified and shall be designed for pressure at least 50 percent greater than the maximum system pressure anticipated.

(7) Pumping facilities:

(a) Wherever possible, booster pumps shall take suction from tanks and reservoirs to avoid the potential for negative pressures on the suction line which result when the pump suction is directly connected to a distribution main;

(b) Pumps which take suction from distribution mains for the purpose of serving areas of higher elevation shall be provided with a low pressure cut-off switch on the suction side set at no less than 20 psi;

(c) Suction lift at pumping stations shall be avoided as far as possible, and pumps shall be installed so that the suction line is under a positive head. If suction lift cannot be avoided, provision shall be made for priming with water which does not exceed maximum contaminant levels;

(d) Pumping stations shall be located above maximum anticipated 100-year (1 percent) flood level, and the area around the pumping station shall be graded so that surface drainage is away from the station;

(e) Pumping stations shall be of durable construction so as to protect the equipment from the elements. The door to the pumping station shall be lockable, and facilities for heating and lighting shall be provided. The floor of the pumping station shall be sloped to provide adequate drainage.

(8) Distribution systems:

(a) Wherever possible, distribution pipelines shall be located on public property. Where pipelines are required to pass through private property, easements shall be obtained from the property owner and shall be recorded with the county clerk;

(b) Pipe, pipe fittings, valves and other appurtenances utilized at Community water systems shall be manufactured, installed and tested in conformance with the latest standards of the American Water Works Association, NSF International or other equivalent standards acceptable to the Authority;

(c) In Community water systems, distribution mains located in public roadways or easements, and the portion of the service connections from the distribution main to the customer's property line or service meter where provided are subject to the requirements of these rules. The piping from the customer's property line, or the meter where provided, to the point of water use (the building supply line) is subject to the requirements of the State Plumbing Code;

(d) In all Public Water Systems where the system facilities and the premises being served are both on the same parcel of property, requirements relating to pipe materials and pipe installation shall comply with the State Plumbing Code;

(e) Distribution piping shall be designed and installed so that the pressure measured at the property line in the case of Community water systems, or at the furthest point of water use, in the case of a Transient Non-Community water system of the type described in subsection (d) of this section, shall not be reduced below 20 psi;

(f) Distribution piping shall be carefully bedded and fully supported in material free from rocks and shall be provided with a cover of at least 30 inches. Select backfill material shall be tamped in layers around and over the pipe to support and protect it. Large rocks or boulders shall not be used as backfill over the pipe;

(g) Provision shall be made at all bends, tees, plugs, and hydrants to prevent movement of the pipe or fitting;

(h) Wherever possible, dead ends shall be minimized by looping. Where dead ends are installed, or low points exist, blow-offs of adequate size shall be provided for flushing;

(i) Air-relief valves shall be installed at high points where air can accumulate. The breather tube on air-relief valves shall be extended above ground surface and provided with a screened, downward facing elbow;

(j) Yarn, oakum, lead or other material which may impair water quality shall not be used where it will be in contact with potable water;

(k) Nonconductive water pipe (plastic or other material) that is not encased in conductive pipe or casing must have an electrically conductive wire or other approved conductor for locating the pipe when the pipeline is underground. The wire shall be No. 18 AWG (minimum) solid copper with blue colored insulation. Ends of wire shall be accessible in water meter boxes, valve boxes or casings, or outside the foundation of buildings where the pipeline enters the building. The distance between tracer lead access locations shall not be more than 1,000 feet. Joints or splices in wire shall be waterproof.

(l) Piping that is to be used for disinfection contact time shall be verified by plug flow calculations under maximum flow conditions.

(9) Crossings-Sanitary sewers and water lines:

(a) All reference to sewers in this section shall mean sanitary sewers;

(b) In situations involving a water line parallel to a sewer main or sewer lateral, the separation between the two shall be as indicated in Figure 1; [Figure not included. See ED NOTE.]

(c) In situations where a water line and a sewer main or sewer lateral cross, the separation between the two shall be as follows:

(A) Wherever possible, the bottom of the water line shall be 1.5 feet or more above the top of the sewer line and one full length of the water line shall be centered at the crossing;

(B) Where the water line crosses over the sewer line but with a clearance of less than 1.5 feet, the sewer line shall be exposed to the sewer line joints on both sides of the crossing to permit examination of the sewer pipe. If the sewer pipe is in good condition and there is no evidence of leakage from the sewer line, the 1.5-foot separation may be reduced. However, in this situation, the water supplier must center one length of the water line at the crossing and must prepare a written report of the findings and indicating the reasons for reducing the separation. If the water supplier determines that the conditions are not favorable or finds evidence of leakage from the sewer line, the sewer line shall be replaced with a full length of pipe centered at the crossing point, of PVC pressure pipe (ASTM D-2241, SDR 32.5), high-density PE pipe (Drisco pipe 1000), ductile-iron Class 50 (AWWA C-51), or other acceptable pipe; or the sewer shall be encased in a reinforced concrete jacket for a distance of 10 feet on both sides of the crossing.

(C) Where the water line crosses under the sewer line, the water supplier shall expose the sewer line and examine it as indicated in paragraph (9)(c)(B) of this rule. If conditions are favorable and there is no evidence of leakage from the sewer line, the sewer line may be left in place, but special precautions must be taken to assure that the backfill material over the water line in the vicinity of the crossing is thoroughly tamped in order to prevent settlement which could result in the leakage of sewage. In this situation, the water supplier must center one length of the water line at the crossing and must prepare a written report recording the manner in which the sewer line was supported at the crossing and the material and methods used in backfilling and tamping to prevent settlement of the sewer. If the water supplier determines that conditions are not favorable or finds evidence of leakage from the sewer line, the provisions of paragraph (9)(c)(B) of this rule apply.

(d) When a water main is installed under a stream or other watercourse, a minimum cover of 30 inches shall be provided over the pipe. Where the watercourse is more than 15 feet wide, the pipe shall be of special construction with flexible watertight joints, valves shall be provided on both sides of the crossing so that the section can be isolated for testing or repair, and test cocks shall be provided at the valves.

(10) Disinfection of facilities:

(a) Following construction or installation of new facilities and repairs to existing facilities, those portions of the facilities which will be in contact with water delivered to users must be cleaned and flushed with potable water and disinfected according to AWWA Standards C651 through C654 before they are placed into service. Disinfection must be by chlorine unless another disinfectant can be demonstrated to be equally effective.

(b) For construction of new distribution pipelines (with any associated service connections and other appurtenances installed at the time of construction), disinfection by chlorination must be conducted as specified in paragraphs (A) through (C) of this subsection unless another method from AWWA Standard C651 is used.

(A) A solution with a free chlorine residual of 25 mg/l must be introduced to the pipe such that the solution will contact all surfaces and trapped air will be eliminated. The solution must remain in place for at least 24 hours.

(B) After 24 hours, if the free chlorine residual is 10 mg/l or greater, the chlorine solution must be drained and the pipe flushed with potable water. If the free chlorine residual is less than 10 mg/l after 24-hours, the pipe must be flushed and rechlorinated until a free chlorine residual of 10 mg/l or more is present after a 24 hour period.

(C) After the pipe is disinfected, flushed and filled with potable water, bacteriological samples must be collected to determine the procedures' effectiveness. At least two samples must be collected from the new pipe at least 16 hours apart and analyzed for coliform bacteria. If the pipe has held potable water for at least 16 hours before sample collection, two samples may be collected at least 15 minutes apart while the sample tap is left running. If the results of both analyses indicate the water is free of coliform bacteria, the pipe may be put into service. If the either sample indicates the presence of coliform bacteria, the disinfection and flushing process must be repeated until samples are free of coliform.

(c) For repaired pipelines that were depressurized and wholly or partly dewatered during repair or that likely experienced contamination during repair, disinfection according to the procedure specified in paragraphs (10)(b)(A) through (C) of this rule must be followed except that bacteriological samples must be collected downstream of the repair site. If the direction of flow is unknown, samples must be collected on each side of the repair site.

(d) A water line may be returned to service, following repairs or routine maintenance, prior to receiving a report on the bacteriological analysis if the following procedures have been completed:

(A) Customer meters were shut off prior to placing the water line out of service;

(B) The area below the water line to be repaired was excavated and dewatered;

(C) The exposed pipe was treated with a hypochlorite solution;

(D) The water line was flushed thoroughly, and a concentration of residual chlorine has been re-established that is comparable to the level normally maintained by the water system, if applicable; and

(E) Bacteriological analysis has been conducted as a record of repair effectiveness.

(e) For reservoirs and tanks, disinfection by chlorination shall be accomplished according to AWWA Standard C652 which includes, but is not limited to, the following methods:

(A) Filling the reservoir or tank and maintaining a free chlorine residual of not less than 10 mg/l for the appropriate 6 or 24 hour retention period; or

(B) Filling the reservoir or tank with a 50 mg/l chlorine solution and leaving for six hours; or

(C) Directly applying by spraying or brushing a 200 mg/l solution to all surfaces of the storage facility in contact with water if the facility were full to the overflow elevation.

(f) When the procedures described in paragraphs (10)(e)(A) and (B) of this rule are followed, the reservoir or tank shall be drained after the prescribed contact period and refilled with potable water, and a sample taken for microbiological analysis. If the results of the analysis indicate that the water is free of coliform organisms, the facility may be put into service. If not, the procedure shall be repeated until a sample free of coliform organisms is obtained;

(g) When the procedure described in paragraph (10)(e)(C) of this rule is followed, the reservoir or tank shall be filled with potable water and a sample taken for microbiological analysis. It will not be necessary to flush the reservoir or tank after the chlorine solution is applied by spraying or brushing. Microbiological analysis shall indicate that the water is free of coliform organisms before the facility can be put into service;

(h) When a reservoir is chlorinated following routine maintenance, inspection, or repair, it may be put back into service prior to receiving the report on the microbiological analysis provided the water leaving the reservoir has a free chlorine residual of at least 0.4 mg/l or a combined chlorine residual of at least 2.0 mg/l.

(i) Underwater divers used for routine maintenance, inspection, or repair of reservoirs shall use a full body dry suit with hardhat scuba and an external air supply. The diver shall be disinfected by spraying a 200 mg/l solution of chlorine on all surfaces that will come into contact with drinking water.

[ED. NOTE: Tables & Figures referenced are available from the agency.]
[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 448.131
Stats. Implemented: ORS 431.110, 431.150, 448.131, 448.150, 448.273, 448.279
Hist.: HD 106, f. & ef. 2-6-76; HD 12-1979, f. & ef. 9-11-79; HD 10-1981, f. & ef. 6-30-81; HD 17-1981(Temp), f. & ef. 8-28-81; HD 4-1982, f. & ef. 2-26-82; Renumbered from 333-042-0215, HD 2-1983, f. & ef. 2-23-83; HD 21-1983, f. 10-20-83, ef. 11-1-83; HD 11-1985, f. & ef. 7-2-85; HD 30-1985, f. & ef. 12-4-85 HD 3-1987, f. & ef. 2-17-87; HD 9-1989, f. & cert. ef. 11-13-89; HD 26-1990, f. 12-26-90, cert. ef. 12-29-90; HD 7-1992, f. & cert. ef. 6-9-92; HD 12-1992, f. & cert. ef. 12-7-92; HD 3-1994, f. & cert. ef. 1-14-94; HD 11-1994, f. & cert. ef. 4-11-94; HD 1-1996, f. 1-2-96, cert. ef. 1-5-96; HD 14-1997, f. & cert. ef. 10-31-97; OHD 4-1999, f. 7-14-99, cert. ef. 7-15-99; OHD 7-2000, f. 7-11-00, cert. ef. 7-15-00; OHD 17-2002, f. & cert. ef. 10-25-02; PH 12-2003, f. & cert. ef. 8-15-03; PH 33-2004, f. & cert. ef. 10-21-04; PH 2-2008, f. & cert. ef. 2-15-08; PH 4-2009, f. & cert. ef. 5-18-09; PH 7-2010, f. & cert. ef. 4-19-10; PH 3-2013, f. & cert. ef. 1-25-13; PH 5-2016, f. 2-10-16, cert. ef. 4-1-16

333-061-0060
Plan Submission and Review Requirements

(1) Plan Submission:

(a) Construction and installation plans shall be submitted to and approved by the Authority before construction begins on new systems or major additions or modifications, as determined by the Authority, are made to existing systems. Plans shall be drawn to scale;

(b) Preliminary plans, pilot studies, master plans and construction plans shall be prepared by a Professional Engineer registered in Oregon, and submitted to the Authority unless exempted by the Authority (See OAR 333-061-0060(4));

(c) Plans shall set forth the following:

(A) Sufficient detail, including specifications, to completely and clearly illustrate what is to be constructed and how those facilities will meet the construction standards set forth in these regulations. Elevation or section views shall be provided where required for clarity;

(B) Supporting information attesting to the quality of the proposed source of water;

(C) Vicinity map of the proposed project relative to the existing system or established landmarks of the area;

(D) Name of the owner of the water system facilities during construction and the name of the owner and operator of the facilities after completion of the project;

(E) Procedures for cleaning and disinfecting those facilities which will be in contact with the potable water.

(d) Prior to drilling a well, a site plan shall be submitted which shows the site location, topography, drainage, surface water sources, specifications for well drilling, location of the well relative to sanitary hazards, dimensions of the area reserved to be kept free of potential sources of contamination, evidence of ownership or control of the reserve area and the anticipated depth of the aquifer from which the water is to be derived. The Authority will review well reports from the area and in consultation with the local watermaster and the well constructor as appropriate will recommend the depth of placement of the casing seal. After the well is drilled, the following documents shall be submitted to the Authority for review and approval: Well driller's report, report of the pump test which indicates that the well has been pumped for a sufficient length of time to establish the reliable yield of the well on a sustained basis, including data on the static water level, the pumping rate(s), the changes in drawdown over the duration of the test, the rate of recovery after the pump was turned off, reports on physical, chemical and microbiological quality of the well water, performance data on the well pump, a plan of the structure for protecting above-ground controls and appurtenances, and a plan showing how the well will be connected to the water system. (See OAR 333-061-0050(2)).

(e) Any community, non-transient non-community, or transient non-community water system that treats surface water or groundwater under the influence of surface water and that desires to make a significant change to its disinfection treatment process as defined by paragraphs (1)(e)(A) through (1)(e)(D) of this rule, is required to develop a disinfection profile and calculate a disinfection benchmark according to OAR 333-061-0036(4)(e). The water system must consult with and provide any additional information requested by the Authority prior to making such a change. The water system must develop a disinfection profile for Giardia lamblia and viruses, calculate a disinfection benchmark, describe the proposed change in the disinfection process, and analyze the effect(s) of the proposed change on current levels of disinfection according to the USEPA Disinfection Profiling and Benchmarking Guidance Manual or the USEPA LT1-ESWTR Disinfection Profiling and Benchmarking Technical Guidance Manual and submit the information to the Authority for review and approval. Significant changes to the disinfection treatment process include:

(A) Changes to the point of application:

(B) Changes to the disinfectants used in the treatment process;

(C) Changes to the disinfection process;

(D) Any other modification identified by the Authority.

(f) A water system that uses either chloramines, chlorine dioxide, or ozone for primary disinfection, and that is required to prepare a disinfection profile for Giardia lamblia as prescribed by subsection (1)(e) of this rule, must also prepare a disinfection profile for viruses and calculate the logs of inactivation for viruses using the methods specified in OAR 333-061-0036(4)(l).

(2) Plan review:

(a) Upon receipt of plans, the Authority shall review the plans and either approve them or advise that correction or clarification is required. When the correction or clarification is received, and the item(s) in question are resolved, the Authority shall then approve the plans;

(b) Upon completion of a project, a professional engineer registered in Oregon shall submit to the Authority a statement certifying that the project has been constructed in compliance with the approved plans and specifications. When substantial deviations from the approved plans are made, as-built plans showing compliance with these rules shall be submitted to the Authority;

(c) Plans shall not be required for emergency repair of existing facilities. In lieu of plans, written notice shall be submitted to the Authority immediately after the emergency work is completed stating the nature of the emergency, the extent of the work and whether or not any threats to the water quality exists or existed during the emergency.

(3) Plan review fees: Plans submitted to the Authority shall be accompanied by a fee as indicated in Table 41. Those plans not accompanied by a fee will not be reviewed. [Table not included. See ED. NOTE.]

(4) Plan review exemptions:

(a) Water suppliers may be exempted from submitting plans of main extensions, providing they:

(A) Have provided the Authority with a current master plan; and

(B) Certify that the work will be carried out in conformance with the construction standards of these rules; and

(C) Submit to the Authority an annual summary of the projects completed; and

(D) Certify that they have staff qualified to effectively supervise the projects.

(b) Those water suppliers certifying that they have staff qualified to effectively plan, design and supervise their projects, may request the Authority for further exemption from this rule. Such requests must be accompanied by a listing of staff proposed to accomplish the work and a current master plan. To maintain the exemption, the foregoing must be annually updated;

(c) At the discretion of the Authority, Community, Transient and Non-Transient Non-Community and State Regulated water systems may be exempted from submitting engineered plans. They shall, however, submit adequate plans indicating that the project meets the minimum construction standards of these rules.

(5) Master plans:

(a) Community water systems with 300 or more service connections shall maintain a current master plan. Master plans shall be prepared by a professional engineer registered in Oregon and submitted to the Authority for review and approval.

(b) Each master plan shall evaluate the needs of the water system for at least a twenty year period and shall include but is not limited to the following elements:

(A) A summary of the overall plan that includes the water quality and service goals, identified present and future water system deficiencies, the engineer's recommended alternative for achieving the goals and correcting the deficiencies, and the recommended implementation schedule and financing program for constructing improvements.

(B) A description of the existing water system which includes the service area, source(s) of supply, status of water rights, current status of drinking water quality and compliance with regulatory standards, maps or schematics of the water system showing size and location of facilities, estimates of water use, and operation and maintenance requirements.

(C) A description of water quality and level of service goals for the water system, considering, as appropriate, existing and future regulatory requirements, nonregulatory water quality needs of water users, flow and pressure requirements, and capacity needs related to water use and fire flow needs.

(D) An estimate of the projected growth of the water system during the master plan period and the impacts on the service area boundaries, water supply source(s) and availability, and customer water use.

(E) An engineering evaluation of the ability of the existing water system facilities to meet the water quality and level of service goals, identification of any existing water system deficiencies, and deficiencies likely to develop within the master plan period. The evaluation shall include the water supply source, water treatment, storage, distribution facilities, and operation and maintenance requirements. The evaluation shall also include a description of the water rights with a determination of additional water availability, and the impacts of present and probable future drinking water quality regulations.

(F) Identification of alternative engineering solutions, environmental impacts, and associated capital and operation and maintenance costs, to correct water system deficiencies and achieve system expansion to meet anticipated growth, including identification of available options for cooperative or coordinated water system improvements with other local water suppliers.

(G) A description of alternatives to finance water system improvements including local financing (such as user rates and system development charges) and financing assistance programs.

(H) A recommended water system improvement program including the recommended engineering alternative and associated costs, maps or schematics showing size and location of proposed facilities, the recommended financing alternative, and a recommended schedule for water system design and construction.

(I) If required as a condition of a water use permit issued by the Water Resources Department, the Master Plan shall address the requirements of OAR 690-086-0120 (Water Management and Conservation Plans).

(c) The implementation of any portion of a water system master plan must be consistent with OAR 333-061 (Public Drinking Water Systems, Oregon Health Authority), OAR 660-011 (Public Facilities Planning, Department of Land Conservation and Development) and OAR 690-086 (Water Management and Conservation Plans, Water Resources Department).

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

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 448.131

Hist.: HD 106, f. & ef. 2-6-76; HD 4-1980, f. & ef. 3-21-80; HD 17-1981(Temp), f. & ef. 8-28-81; HD 4-1982, f. & ef. 2-26-82; Renumbered from 333-042-0220, HD 2-1983, f. & ef. 2-23-83; HD 13-1985, f. & ef. 8-1-85; HD 9-1989, f. & cert. ef. 11-13-89; HD 3-1994, f. & cert. ef. 1-14-94; HD 11-1994, f. & cert. ef. 4-11-94; HD 1-1996, f. 1-2-96, cert. ef. 1-5-96; HD 14-1997, f. & cert. ef. 10-31-97; OHD 4-1999, f. 7-14-99, cert. ef. 7-15-99; OHD 7-2000, f. 7-11-00, cert. ef. 7-15-00; OHD 23-2001, f. & cert. ef. 10-31-01; OHD 17-2002, f. & cert. ef. 10-25-02; PH 16-2004(Temp), f. & cert. ef. 4-9-04 thru 10-5-04; PH 20-2004, f. & cert. ef. 6-18-04; PH 33-2004, f. & cert. ef. 10-21-04; PH 2-2006, f. & cert. ef. 1-31-06; PH 4-2009, f. & cert. ef. 5-18-09; PH 7-2010, f. & cert. ef. 4-19-10; PH 23-2015, f. 12-8-15, cert. ef. 1-1-16; PH 5-2016, f. 2-10-16, cert. ef. 4-1-16

333-061-0063

Environmental Review Process for The Safe Drinking Water Revolving Loan Fund Program

(1) This rule provides for environmental review of actions that are funded through the Safe Drinking Water Revolving Loan Fund (SDWRLF). This rule is applied in a manner that is consistent with 40 CFR Part 6, Subpart E and related subparts (July 1, 1997). An applicant for funding from the SDWRLF shall consult with the Authority at an early stage in the preparation of an application to determine the required level of environmental review. Based on review of existing information, the Authority shall assess the potential environmental effects of the proposed action and shall instruct the applicant either to:

(a) Submit a request for a categorical exclusion in a format specified by the Authority;

(b) Prepare and submit an environmental information document (EID) in a format specified by the Authority; or

(c) Prepare and submit an environmental impact report (EIR) in a format specified by the Authority.

(2) Categorical exclusions:

(a) Categorical exclusions are categories of actions proposed for funding from the SDWRLF, which do not individually, cumulatively over time, or in conjunction with other actions, have a significant effect on the quality of the human environment, and have been identified by the Authority as having no such effect. Such actions may be excluded by the Authority from further environmental review requirements if the information provided by the water supplier and any additional information before the Authority does not identify any environmental effects of the action that warrant additional environmental review by the Authority. The following actions may be categorically excluded by the Authority:

(A) Actions solely directed toward minor rehabilitation of existing facilities, functional replacement of equipment, or toward the construction of new ancillary facilities adjacent or appurtenant to existing facilities;

(B) Actions in sewered communities with a population of 10,000, or less, which are for minor upgrading or minor expansion of existing drinking water systems. This category does not include actions that directly or indirectly involve new drinking water sources, or the extension of new water distribution systems;

(C) Actions in unsewered communities with a population of 10,000 or less, that do not include the development of new drinking water sources, and that will not result in any increase in or change to the rate, nature or location of water diversion or discharge to surface water.

(b) In addition to the criteria set forth in subsection (a) of this rule, categorical exclusions will not be granted if the proposed action meets the criteria for not granting such exclusions in 40 CFR 6.107(e) or 6.505(c) (July 1, 1997). In addition, in order to qualify for a categorical exclusion, the action must be compatible with applicable acknowledged comprehensive plans and land use regulations, which must be documented according to the requirements of OAR 333-061-0062(5) and (7).

(c) A categorical exclusion may be revoked by the Authority and an environmental review required if the proposed action no longer meets the requirements for a categorical exclusion due to changes in the proposed action, or if the Authority determines from new information that significant environmental effects may result from the proposed action.

(d) If a categorical exclusion is granted, and a notice of the exclusion has been published in a newspaper of general circulation in the geographical area of the proposed action, the action can proceed.

(3) Environmental review process:

(a) When issuance of a categorical exclusion is not appropriate, the applicant shall prepare an EID or an EIR, as required by the Authority. The EID or EIR shall consider practicable alternatives to the proposed action (including a no-action alternative), as well as the proposed action.

(b) The EIR or EID shall contain an evaluation of applicable laws relating to significant environmental resources that may be affected by the proposed action and alternatives to the proposed action. The applicant shall consult with appropriate federal, state and local agencies regarding such laws.

(c) The EIR or EID shall consider a full range of relevant impacts (both direct and indirect, and current and future impacts) of the proposed action and alternatives to the proposed action, including measures to mitigate adverse impacts, cumulative impacts, and impacts that cause irreversible or irretrievable commitment of resources.

(d) If the Authority requires an EID, the applicant shall prepare and the Authority shall review a draft EID. Following its review, the Authority shall either request additional information regarding potential impacts of the proposed action, or shall accept the EID as final. Once the Authority accepts the EID, the Authority shall prepare an environment assessment (EA) of the proposed action based on the EID and any other supplemental information deemed necessary by the Authority. Based on the EA and any measures to mitigate or eliminate adverse effects of the proposed action on the environment (which measures shall be included as a condition of any loan award as set forth in section (4) of this rule), the Authority will either prepare and issue a Finding of No Significant Impact (FNSI) or require the preparation of an EIR under subsection (3)(e) of this rule. In determining whether to issue a FNSI, the Authority shall apply the criteria set forth in 40 CFR 6.509, 6.108(a) and 6.108 (c through g) (July 1, 1997). If the Authority determines to issue a FNSI, notice of the FNSI shall be published in a newspaper of general circulation in the geographical area of the proposed action. Following a period of at least thirty (30) days after publication of the notice, and after any public concerns about the impacts of the proposed action are resolved to the extent determined to be appropriate by the Authority, the Authority may issue a final FNSI, and the action can proceed.

(e) If the Authority requires an EIR:

(A) The applicant shall conduct a duly noticed public meeting regarding the proposed action, which may be combined with other public hearings or meetings regarding the proposed action;

(B) The applicant shall prepare and submit a draft EIR to all interested agencies and persons, for review and comment;

(C) The applicant shall prepare and submit a final EIR that responds to agency and public comments for Authority review and decision;

(D) The Authority, following its review of the EIR, shall determine whether the action may proceed. In the event the Authority determines the action may proceed following completion of an EIR, it shall specify in writing what mitigation measures, if any, are to be required.

(4) In the event the Authority determines the action may proceed following preparation of an EID or an EIR, the Authority shall ensure that mitigation measures identified in its review as required for the issuance of a FNSI or otherwise, are implemented. This may be done by incorporating such measures as conditions of any loan agreement, or otherwise as the Authority determines will best ensure their completion in a timely manner.

(5) Under appropriate circumstances, the Authority may allow the partitioning of environmental review such that the environmental review will be required for only a component/portion of a planned system instead of completing an environmental review for the remainder of the system(s). In determining whether to approve partitioning of environmental review, the Authority shall consider 40 CFR Section 6.507 (July 1, 1997).

(6) Waiver; validity:

(a) If environmental review for the proposed action has already been conducted by another government agency, the Authority may, in its discretion, waive the requirements of this rule.

(b) Environmental reviews may be valid for up to five years. If a loan application is received for an action with an environmental review that is more than five years old, the Authority shall require a new or supplemental environmental review in accordance with these rules.

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

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 448.273(4)

Hist.: OHD 9-1998, f. & cert. ef. 9-23-98; PH 7-2010, f. & cert. ef. 4-19-10; PH 5-2016, f. 2-10-16, cert. ef. 4-1-16

333-061-0065

Operation and Maintenance

(1) Public water systems shall be operated and maintained in a manner that assures continuous production and delivery of potable water by:

(a) Operating all phases and components of the system effectively in the manner for which they were designed;

(b) Assuring that all leaks are promptly repaired and, broken or malfunctioning equipment is promptly repaired or replaced;

(c) Making readily available and in good condition the proper equipment, tools and parts to make repairs to the system. When possible, notice shall be given to the water users of impending repairs that will affect the quality of the water or the continuity of the water service. All repairs must meet the construction standards of these rules and comply with disinfection requirements of OAR 333-061-0050 prior to reestablishing use of the repaired portion of the system;

(d) Implementing actions to assure safe drinking water during emergencies. Water suppliers seeking a state certified wellhead protection program for their water system shall comply with the contingency planning requirements as prescribed in OAR 333-061-0057(4).

(2) Personnel:

(a) Personnel responsible for maintenance and operation of public water systems shall be competent, knowledgeable of all the functions of that particular facility and shall have the training and experience necessary to assure continuous delivery of water which does not exceed the maximum contaminant levels;

(b) Certification as prescribed by OAR 333-061-0210 through 333-061-0272 is required for personnel in direct responsible charge of operations for all community and non-transient non-community water systems.

(c) Personnel responsible for operating water treatment plants at transient non-community water systems using water sources classified as surface water or groundwater under the direct influence of surface water must attend the Authority's "Essentials of Surface Water Treatment" training course or an equivalent training.

(3) The identity of ownership of a water system shall be filed with the Authority. Notification of changes in ownership shall be filed immediately with the Authority upon completion of the transaction.

(4) All public water systems must maintain a current water system operations manual.

(a) The water system operations manual shall be completed according to the requirements of the capacity assessment or sanitary survey and shall be reviewed and updated at least every five years. If a public water system applying for funds from the Safe Drinking Water Revolving Loan Fund Program is required to develop a water system operations manual as a part of a capacity assessment, then the water system operations manual is required to be completed before final payout of the loan.

(b) As evidence of completion, public water systems shall submit a statement to the Authority certifying that the water system operations manual has been completed according to the requirements in this rule, and that staff have been instructed in the use of the water system operations manual.

(c) The water system operations manual shall include, but is not limited to, the following elements if they are applicable:

(A) Source operation and maintenance;

(B) Water treatment operation and maintenance;

(C) Reservoir operation and maintenance;

(D) Distribution system operation and maintenance; and

(E) Written protocols for on-site operators describing the operational decisions the operator is allowed to make under OAR 333-061-0225.

(d) Water system staff shall be instructed and trained in the use of the water system operations manual.

(5) Documents and records:

(a) The following documents and records shall be retained by the water supplier at community water systems and shall be available when the system is inspected or upon request by the Authority:

(A) Complete and current as-built plans and specifications of the entire system and such other documents as are necessary for the maintenance and operation of the system;

(B) Current operating manuals covering the general operation of each phase of the water system;

(C) A current master plan and revisions thereof;

(D) Data showing production capabilities of each water source and system component;

(E) Current records of the number, type and location of service connections;

(F) Current records of raw water quality, both chemical and microbiological;

(G) Current records of all chemicals and dosage rates used in the treatment of water;

(H) Reports on maintenance work performed on water treatment and delivery facilities;

(I) Records relating to the sampling and analysis undertaken to assure compliance with the maximum contaminant levels;

(J) Record of residual disinfectant measurements, where applicable;

(K) Records of cross connection control and backflow prevention device testing, where applicable;

(L) Records of customer complaints pertaining to water quality and follow-up action undertaken;

(M) Fluoridation records, where applicable;

(N) Other records as may be required by these rules.

(6) Water Treatment Operations:

(a) Chlorinators and other equipment used to apply chemicals at a public water system shall be operated and maintained in accordance with the manufacturers' specifications and recommendations for efficient operation and safety.

(b) When chlorine is used as the disinfectant, the procedures shall be as follows:

(A) Chlorine shall be applied in proportion to the flow;

(B) For reasons other than the treatment of surface water sources or groundwater sources under the direct influence of surface water, the rate of application shall be sufficient to result in a free chlorine residual of at least 0.2 mg/l after a 30-minute contact time and throughout the distribution system;

(c) When ammonia is added to the water with the chlorine to form a chloramine as the disinfectant, for reasons other than the treatment of surface water sources or groundwater sources under the direct influences of surface water, the rate of application shall result in a combined chlorine residual of at least 2.0 mg/l after a three-hour contact time;

(d) When corrosion control chemicals are applied to achieve compliance with the action levels for lead and copper, the point of application shall be after all other treatment processes, unless determined otherwise by the Authority.

(e) At water systems where cartridge filters are used, the filters must be changed according to the manufacturer's recommended pressure differential.

(7) When an emergency arises within a water system which affects the quality of water produced by the system, the water supplier shall notify the Authority immediately.

(8) Water suppliers must complete an Authority approved start-up procedure prior to serving water to the public at all seasonal water systems as defined in OAR 333-061-0020(168). The start-up procedure may include a requirement to conduct additional monitoring at the discretion of the Authority. A water supplier may be exempted from some or all of the requirements related to start-up of a seasonal water system if the entire distribution system remains pressurized during the entire period that the water system is not operating. Failing to complete an Authority-approved start-up procedure at a seasonal water system prior to serving water to the public is a violation of treatment technique requirements and of this rule.

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 431.110, 431.150, 448.131, 448.150, 448.273 & 448.279

Hist.: HD 106, f. & ef. 2-6-76; HD 17-1981(Temp), f. & ef. 8-28-81; HD 4-1982, f. & ef. 2-26-82; Renumbered from 333-042-0225, HD 2-1983, f. & ef. 2-23-83; HD 20-1983, f. 10-20-83, ef. 11-1-83; HD 1-1988, f. & cert. ef. 1-6-88; HD 9-1989, f. & cert. ef. 11-13-89; HD 26-1990, f. 12-26-90, cert. ef. 12-29-90; HD 7-1992, f. & cert. ef. 6-9-92; HD 1-1996, f. 1-2-96, cert. ef. 1-5-96; OHD 17-2002, f. & cert. ef. 10-25-02; PH 16-2004(Temp), f. & cert. ef. 4-9-04 thru 10-5-04; PH 20-2004, f. & cert. ef. 6-18-04; PH 4-2009, f. & cert. ef. 5-18-09; PH 7-2010, f. & cert. ef. 4-19-10; PH 3-2013, f. & cert. ef. 1-25-13; PH 14-2014, f. & cert. ef. 5-8-14; PH 5-2016, f. 2-10-16, cert. ef. 4-1-16

333-061-0070

Cross Connection Control Requirements

(1) Water suppliers shall undertake cross connection control programs to protect the public water systems from pollution and contamination.

(2) The water supplier's responsibility for cross connection control shall begin at the water supply source, include all public treatment, storage, and distribution facilities under the water supplier's control, and end at the point of delivery to the water user's premises.

(3) Water suppliers shall develop and implement cross connection control programs that meet the minimum requirements set forth in these rules.

(4) Water suppliers shall develop a procedure to coordinate cross connection control requirements with the appropriate local administrative authority having jurisdiction.

(5) The water supplier shall ensure that inspections of approved air gaps, approved devices, and inspections and tests of approved backflow prevention assemblies protecting the public water system are conducted:

(a) At the time of installation, any repair or relocation;

(b) At least annually;

(c) More frequently than annually for approved backflow prevention assemblies that repeatedly fail, or are protecting health hazard cross connections, as determined by the water supplier;

(d) After a backflow incident; or

(e) After an approved air gap is re-plumbed.

(6) Approved air gaps, approved devices, or approved backflow prevention assemblies, found not to be functioning properly shall be repaired, replaced or re-plumbed by the water user or premises owner, as defined in the water supplier's local ordinance or enabling authority, or the water supplier may take action in accordance with subsection (9)(a) of these rules.

(7) A water user or premises owner who obtains water from a water supplier must notify the water supplier if they add any chemicals or substance to the water.

(8) Premises isolation requirements:

(a) For service connections to premises listed or defined in Table 42 (Premises Requiring Isolation), the water supplier shall ensure an approved backflow prevention assembly or an approved air gap is installed; [Table not included. See ED. NOTE.]

(A) Premises with cross connections not listed or defined in Table 42 (Premises Requiring Isolation), shall be individually evaluated. The water supplier shall require the installation of an approved backflow prevention assembly or an approved air gap commensurate with the degree of hazard on the premises, as defined in Table 43 (Backflow Prevention Methods); [Table not included. See ED. NOTE.]

(B) In lieu of premise isolation, the water supplier may accept an in-premises approved backflow prevention assembly as protection for the public water system when the approved backflow prevention assembly is installed, maintained and tested in accordance with these rules.

(b) Where premises isolation is used to protect against a cross connection, the following requirements apply;

(A) The water supplier shall:

(i) Ensure the approved backflow prevention assembly is installed at a location adjacent to the service connection or point of delivery;

(ii) Ensure any alternate location used must be with the approval of the water supplier and must meet the water supplier's cross connection control requirements; and

(iii) Notify the premises owner and water user, in writing, of thermal expansion concerns.

(B) The premises owner shall:

(i) Ensure no cross connections exist between the point of delivery from the public water system and the approved backflow prevention assemblies, when these are installed in an alternate location; and

(ii) Assume responsibility for testing, maintenance, and repair of the installed approved backflow prevention assembly to protect against the hazard.

(c) Where unique conditions exist, but not limited to, extreme terrain or pipe elevation changes, or structures greater than three stories in height, even with no actual or potential health hazard, an approved backflow prevention assembly may be installed at the point of delivery; and

(d) Where the water supplier chooses to use premises isolation by the installation of an approved backflow prevention assembly on a one- or two-family dwelling under the jurisdiction of the Oregon Plumbing Specialty Code and there is no actual or potential cross connection, the water supplier shall:

(A) Install the approved backflow prevention assembly at the point of delivery;

(B) Notify the premises owner and water user in writing of thermal expansion concerns; and

(C) Take responsibility for testing, maintenance and repair of the installed approved backflow prevention assembly.

(9) In community water systems, water suppliers shall implement a cross connection control program directly, or by written agreement with another agency experienced in cross connection control. The local cross connection program shall consist of the following elements:

(a) Local ordinance or enabling authority that authorizes discontinuing water service to premises for:

(A) Failure to remove or eliminate an existing unprotected or potential cross connection;

(B) Failure to install a required approved backflow prevention assembly;

(C) Failure to maintain an approved backflow prevention assembly; or

(D) Failure to conduct the required testing of an approved backflow prevention assembly.

(b) A written program plan for community water systems with 300 or more service connections shall include the following:

(A) A list of premises where health hazard cross connections exist, including, but not limited to, those listed in Table 42 (Premises Requiring Isolation); [Table not included. See ED. NOTE.]

(B) A current list of certified cross connection control staff members;

(C) Procedures for evaluating the degree of hazard posed by a water user's premises;

(D) A procedure for notifying the water user if a non-health hazard or health hazard is identified, and for informing the water user of any corrective action required;

(E) The type of protection required to prevent backflow into the public water supply, commensurate with the degree of hazard that exists on the water user's premises, as defined in Table 43 (Backflow Prevention Methods); [Table not included. See ED. NOTE.]

(F) A description of what corrective actions will be taken if a water user fails to comply with the water supplier's cross connection control requirements;

(G) Current records of approved backflow prevention assemblies installed, inspections completed, backflow prevention assembly test results on backflow prevention assemblies and verification of current Backflow Assembly Tester certification; and

(H) A public education program about cross connection control.

(c) The water supplier shall prepare and submit a cross connection control Annual Summary Report to the Authority, on forms provided by the Authority, before the last working day of March each year.

(d) In community water systems having 300 or more service connections, water suppliers shall ensure at least one person is certified as a Cross Connection Control Specialist, unless specifically exempted from this requirement by the Authority.

(10) Fees: Community water systems shall submit to the Authority an annual cross connection program implementation fee, based on the number of service connections, as follows:

Service Connections — Fee:
15-99 — $30.
100-999 — $75.
1,000-9,999 — $200.
10,000 or more — $350.

(a) Billing invoices will be mailed to water systems in the first week of November each year and are due by January first of the following year;

(b) Fees are payable to Oregon Health Authority by check or money order;

(c) A late fee of 50 percent of the original amount will be added to the total amount due and will be assessed after January 31 of each year.

(11) In transient or non-transient non-community water systems, the water supplier that owns or operates the system shall:

(a) Ensure no cross connections exist, or are isolated from the potable water system with an approved backflow prevention assembly, as required in section (12) of this rule;

(b) Ensure approved backflow prevention assemblies are installed at, or near, the cross connection; and

(c) Conduct an annual cross connection survey and inspection to ensure compliance with these rules, and test all backflow assemblies annually. All building permits and related inspections are to be made by the Department of Consumer and Business Services, Building Codes Division, as required by ORS 447.020.

(12) Approved backflow prevention assemblies and devices required under these rules shall be approved by the University of Southern California, Foundation for Cross-Connection Control and Hydraulic Research, or other equivalent testing laboratories approved by the Authority.

(13) Backflow prevention assemblies installed before the effective date of these rules that were approved at the time of installation, but are not currently approved, shall be permitted to remain in service provided the assemblies are not moved, the piping systems are not significantly remodeled or modified, the assemblies are properly maintained, and they are commensurate with the degree of hazard they were installed to protect. The assemblies must be tested at least annually and perform satisfactorily to the testing procedures set forth in these rules.

(14) Tests performed by Authority-certified Backflow Assembly Testers shall be in conformance with procedures established by the University of Southern California, Foundation for Cross Connection Control and Hydraulic Research, Manual of Cross-Connection Control, 10th Edition, or other equivalent testing procedures approved by the Authority.

(15) Backflow prevention assemblies shall be tested by Authority-certified Backflow Assembly Testers, except as otherwise provided for journeyman plumbers or apprentice plumbers in OAR 333-061-0072 of these rules (Backflow Assembly Tester Certification). The Backflow Assembly Tester must produce three copies of all test reports. One copy must be maintained in the Tester's permanent records, one copy must be provided to the water user or property owner, and one copy must be provided to the water supplier.

(a) Test reports must be provided within 10 working days; and

(b) The test reports must be in a manner and form acceptable to the water supplier.

(16) All approved backflow prevention assemblies subject to these rules shall be installed in accordance with OAR 333-061-0071 and the Oregon Plumbing Specialty Code.

(17) The Authority shall establish an advisory board for cross connection control issues consisting of not more than nine members, and including representation from the following:

(a) Oregon licensed Plumbers;

(b) Authority certified Backflow Assembly Testers;

(c) Authority certified Cross Connection Specialists;

(d) Water Suppliers;

(e) The general public;

(f) Authority certified Instructors of Backflow Assembly Testers or Cross Connection Specialists;

(g) Backflow assembly manufacturers or authorized representatives;

(h) Engineers experienced in water systems, cross connection control or backflow prevention; and

(i) Oregon certified Plumbing Inspectors.

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

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

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 431.110, 431.150, 448.131, 448.150, 448.268, 448.271, 448.273, 448.278, 448.279, 448.295 & 448.300

Hist.: HD 106, f. & ef. 2-6-76; HD 17-1981(Temp), f. & ef. 8-28-81; HD 4-1982, f. & ef. 2-26-82; Renumbered from 333-042-0230, HD 2-1983, f. & ef. 2-23-83; HD 20-1983, f. 10-20-83, ef. 11-1-83; HD 30-1985, f. & ef. 12-4-85; HD 3-1987, f. & ef. 2-17-87; HD 1-1988, f. & cert. ef. 1-6-88; HD 9-1989, f. & cert. ef. 11-13-89; HD 26-1990, f. 12-26-90, cert. ef. 12-29-90; HD 1-1994, f. & cert. ef. 1-7-94; HD 1-1996, f. 1-2-96, cert. ef. 1-2-96; OHD 4-1999, f. 7-14-99, cert. ef. 7-15-99; PH 34-2004, f. & cert. ef. 11-2-04; PH 2-2006, f. & cert. ef. 1-31-06; PH 2-2008, f. & cert. ef. 2-15-08; PH 4-2009, f. & cert. ef. 5-18-09; PH 7-2010, f. & cert. ef. 4-19-10; PH 3-2013, f. & cert. ef. 1-25-13; PH 5-2016, f. 2-10-16, cert. ef. 4-1-16

333-061-0071

Backflow Prevention Assembly Installation and Operation Standards

(1) Any approved backflow prevention assembly required by OAR 333-061-0070 shall be installed in a manner that:

(a) Facilitates its proper operation, maintenance, inspection, and in-line testing using standard installation procedures approved by the Authority, such as, but not limited to, University of Southern California, Manual of Cross-Connection Control, 10th Edition, the Pacific Northwest Section American Water Works Association, Cross Connection Control Manual, 7th Edition, or the local administrative authority having jurisdiction;

(b) Precludes the possibility of continuous submersion of an approved backflow prevention assembly, and precludes the possibility of any submersion of the relief valve on a reduced pressure principle backflow prevention assembly; and

(c) Maintains compliance with all applicable safety regulations and the Oregon Plumbing Specialty Code.

(2) For premises isolation installation:

(a) The approved backflow prevention assembly shall be installed at a location adjacent to the service connection or point of delivery; or

(b) Any alternate location must be with the advance approval of the water supplier and must meet the water supplier's cross connection control requirements; and

(c) The premises owner shall ensure no cross connections exist between the point of delivery from the public water system and the approved backflow prevention assembly.

(3) Bypass piping installed around any approved backflow prevention assembly must be equipped with an approved backflow prevention assembly to:

(a) Afford at least the same level of protection as the approved backflow prevention assembly being bypassed; and

(b) Comply with all requirements of these rules.

(4) All Oregon Plumbing Specialty Code approved residential multipurpose fire suppression systems constructed of potable water piping and materials do not require a backflow prevention assembly.

(5) Stand-alone fire suppression systems shall be protected commensurate with the degree of hazard, as defined in Table 43 (Backflow Prevention Methods). [Table not included. See ED. NOTE.]

(6) Stand-alone irrigation systems shall be protected commensurate with the degree of hazard, as defined in Table 43 (Backflow Prevention Methods). [Table not included. See ED. NOTE.]

(7) A Reduced Pressure Principle Backflow Prevention Assembly (RP) or Reduced Pressure Principle-Detector Backflow Prevention Assembly (RPDA): [Figure 1 not included. See ED. NOTE.]

(a) Shall conform to bottom and side clearances when the assembly is installed inside a building. Access doors may be provided on the top or sides of an above-ground vault;

(b) Shall always be installed horizontally, never vertically, unless they are specifically approved for vertical installation;

(c) Shall always be installed above the 100 year (1 percent) flood level unless approved by the appropriate local administrative authority having jurisdiction;

(d) Shall never have extended or plugged relief valves;

(e) Shall be protected from freezing when necessary;

(f) Shall be provided with an approved air gap drain;

(g) Shall not be installed in an enclosed vault or box unless a boresighted drain to daylight is provided;

(h) May be installed with reduced clearances if the pipes are two inches in diameter or smaller, are accessible for testing and repairing, and approved by the appropriate local administrative authority having jurisdiction;

(i) Shall not be installed at a height greater than five feet unless there is a permanently installed platform meeting Oregon Occupational Safety and Health Administration (OR-OSHA) standards to facilitate servicing the assembly; and

(j) Be used to protect against a non-health hazard or health hazard for backsiphonage or backpressure conditions.

(8) A Double Check Valve Backflow Prevention Assembly (DC) or Double Check Detector Backflow Prevention Assembly (DCDA): [Figure 2 not included. See ED. NOTE.]

(a) Shall conform to bottom and side clearances when the assembly is installed inside a building;

(b) May be installed vertically as well as horizontally provided the assembly is specifically listed for that orientation in the Authority's Approved Backflow Prevention Assembly List.

(c) May be installed below grade in a vault, provided that water-tight fitted plugs or caps are installed in the test cocks, and the assembly shall not be subject to continuous immersion;

(d) Shall not be installed at a height greater than five feet unless there is a permanently installed platform meeting Oregon Occupational Safety and Health Administration (OR-OSHA) standards to facilitate servicing the assembly;

(e) May be installed with reduced clearances if the pipes are two inches in diameter or smaller, provided that they are accessible for testing and repairing, and approved by the appropriate local administrative authority having jurisdiction;

(f) Shall have adequate drainage provided except that the drain shall not be directly connected to a sanitary or storm water drain. Installers shall check with the water supplier and appropriate local administrative authority having jurisdiction for additional requirements;

(g) Shall be protected from freezing when necessary; and

(h) Be used to protect against non-health hazards under backsiphonage and backpressure conditions.

(9) A Pressure Vacuum Breaker Backsiphonage Prevention Assembly (PVB) or Spill-Resistant Pressure Vacuum Breaker Backsiphonage Prevention Assembly (SVB) shall: [Figure 3 not included. See ED. NOTE.]

(a) Be installed where occasional water discharge from the assembly caused by pressure fluctuations will not be objectionable;

(b) Have adequate spacing available for maintenance and testing;

(c) Not be subject to flooding;

(d) Be installed a minimum of 12 inches above the highest downstream piping and outlets;

(e) Have absolutely no means of imposing backpressure by a pump or other means. The downstream side of the pressure vacuum breaker backsiphonage prevention assembly or spill-resistant pressure vacuum breaker backsiphonage prevention assembly may be maintained under pressure by a valve; and

(f) Be used to protect against backsiphonage only, not backpressure.

(10) An Atmospheric Vacuum Breaker (AVB) shall: [Figure 4 not included. See ED. NOTE.]

(a) Have absolutely no means of shut-off on the downstream or discharge side of the atmospheric vacuum breaker;

(b) Not be installed in dusty or corrosive atmospheres;

(c) Not be installed where subject to flooding;

(d) Be installed a minimum of six inches above the highest downstream piping and outlets;

(e) Be used intermittently;

(f) Have product and material approval under the Oregon Plumbing Specialty Code for non-testable devices.

(g) Not be pressurized for more than 12 hours in any 24-hour period; and

(h) Be used to protect against backsiphonage only, not backpressure.

[ED. NOTE: Tables, Figures & Publications referenced are available from the agency.]

Stat. Auth.: ORS 448.131

Stats. Implemented:: ORS 431.110, 431.150, 448.131, 448.150, 448.268, 448.273, & 448.279

Hist.: HD 9-1989, f. & cert. ef. 11-13-89; HD 1-1994, f. & cert. ef. 1-7-94, Renumbered from 333-061-0099; HD 1-1996, f. 1-2-96, cer.t. ef. 1-5-96; HD 14-1997, f. & cert. ef. 10-31-97; OHD 4-1999, f. 7-14-99, cert. ef. 7-15-99; PH 34-2004, f. & cert. ef. 11-2-04; PH 2-2006, f. & cert. ef. 1-31-06; PH 4-2009, f. & cert. ef. 5-18-09; PH 7-2010, f. & cert. ef. 4-19-10; PH 3-2013, f. & cert. ef. 1-25-13; PH 5-2016, f. 2-10-16, cert. ef. 4-1-16

333-061-0075
Sanitary Surveys of Watersheds

(1) In water systems utilizing surface water sources or groundwater sources under the direct influence of surface water that do not provide filtration treatment, the water supplier shall conduct sanitary surveys of the watershed as deemed necessary by the water system to meet the requirements of OAR 333-061-0032(2)(b)(B). The results of the watershed survey will be reviewed by the Authority during the annual on-site inspection required by OAR 333-061-0032(2)(b)(C). The Authority recommends that systems which do provide filtration treatment for surface water sources or groundwater sources under the direct influence of surface water also conduct annual sanitary surveys of the watershed.

(2) The survey shall include but not be limited to, an evaluation of the following man made and natural features in the watershed and their effect on water quality:

(a) Nature of and condition of dams, impoundments, intake facilities, diversion works, screens, disinfection equipment, perimeter fences, signs, gates;

(b) Nature of surface geology, character of soils, presence of slides, character of vegetation and forests, animal population, amounts of precipitation;

(c) Nature of human activities, extent of cultivated and grazing land, zoning restrictions, extent of human habitation, logging activities, method of sewage disposal, proximity of fecal contamination to intake, recreational activities and measures to control activities in the watershed;

(d) Nature of raw water, level of coliform organisms, vulnerability assessments of potential contaminants, algae, turbidity, color, mineral constituents, detention time in reservoir, time required for flow from sources of contamination to intake;

(e) Type and effectiveness of measures to control contamination, and algae, disinfection applications and residuals carried, monitoring practices, patrol of borders.

(3) A report on the findings of the survey shall be submitted annually to the Authority as required by OAR 333-061-0040(1).

(4) The Authority recommends using the guidelines in the US EPA Guidance Manual for Compliance with the Filtration and Disinfection Requirements for Public Water Systems Using Surface Water Sources to construct an effective watershed control management plan. A list of additional references recommended by the Authority is available upon request.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 448.131
Stats. Implemented: ORS 431.110, 448.115, 448.131 & 448.150
Hist.: HD 106, f. & ef. 2-6-76; HD 137(Temp), f. & ef. 3-9-77; HD 140, f. & ef. 6-28-77; HD 17-1981(Temp), f. & ef. 8-28-81; HD 4-1982, f. & ef. 2-26-82; Renumbered from 333-042-0233, HD 2-1983, f. & ef. 2-23-83; HD 26-1990, f. 12-26-90, cert. ef. 12-29-90; PH 5-2016, f. 2-10-16, cert. ef. 4-1-16

333-061-0076
Sanitary Surveys

(1) All sanitary surveys as defined by OAR 333-061-0020(167) and this rule shall be conducted by the Authority.

(2) Every water system must undergo a sanitary survey at least every five years at a frequency determined by the Authority. Water suppliers must provide the Authority, upon request, any existing information that will enable the Authority to conduct the sanitary survey.

(3) The sanitary survey report shall be completed by staff and sent to the water system following the site visit. The content of the sanitary survey report shall address, at a minimum, the following components of a water system: source of supply; treatment; distribution system; finished water storage; pumps, pump facilities and controls; monitoring, reporting and data verification; system management and operations; and operator certification compliance.

(4) The sanitary survey report must identify any significant deficiency prescribed in this section, or any violation of drinking water regulations, discovered in the on-site visit. For the purposes of sanitary surveys, significant deficiencies for all water systems are:

(a) Surface Water Treatment:

(A) Incorrect location for compliance turbidity monitoring;

(B) For systems serving more than 3,300 people, no auto-dial, call-out alarm or auto-plant shutoff for low chlorine residual;

(C) For conventional or direct filtration, no auto-dial, call-out alarm or auto-plant shutoff for high turbidity when no operator is on-site;

(D) For conventional filtration, settled water turbidity not measured daily;

(E) For conventional or direct filtration, turbidity profile not conducted on individual filters at least quarterly;

(F) For cartridge filtration, no pressure gauges before and after cartridge filter;

(G) For cartridge filtration, filters not changed according to manufacturer's recommended pressure differential; and

(H) For diatomaceous earth filtration, body feed not added with influent flow.

(b) Groundwater Well Construction:

(A) Sanitary seal and casing not watertight;

(B) Does not meet setbacks from hazards;

(C) Wellhead not protected from flooding;

(D) No raw water sample tap;

(E) No treated sample tap, if applicable; and

(F) If well vent exists, not screened.

(c) Groundwater Springbox Construction:

(A) Not constructed of impervious, durable material;

(B) No watertight access hatch/entry;

(C) No screened overflow;

(D) Does not meet setbacks from hazards;

(E) No raw water sample tap; and

(F) No treated sample tap, if applicable.

(d) Disinfection:

(A) No means to adequately determine flow rate on contact chamber effluent line;

(B) Failure to calculate CT values correctly; and

(C) No means to adequately determine disinfection contact time under peak flow and minimum storage conditions.

(e) Finished water storage:

(A) Hatch not locked;

(B) Roof and hatch not watertight;

(C) No flap-valve or equivalent over drain/overflow; and

(D) No screened vent.

(5) Sanitary survey fees. All water suppliers are subject to a fee payable to the Authority for sanitary surveys conducted according to this rule on or before the due date specified on the invoice sent to the water supplier.

(a) For community water systems, the sanitary survey fee is based upon either the number of connections or the population served.

(A) For community water systems with more than 250 service connections, the sanitary survey fee shall be based upon the number of connections served by the system.

(B) For community water systems with 250 service connections or less, but serving more than 1,000 people, the sanitary survey fee shall be based upon the population served by the system. For wholesale community water systems in this category, the sanitary survey fee will be assessed as a community water system without water treatment (WT) as specified in the table below.

(b) Transient non-community water systems identified as campgrounds with multiple handpumps will be considered one water system and assessed a single fee for the purposes of this rule.

(c) Late fees. A late fee will be assessed to any water system which fails to pay its sanitary survey fee within 10 days of the due date in the invoice sent to the water system. The late fee may be waived at the discretion of the Authority. Fees for sanitary surveys are listed in Table 44 below: [Table not included. See ED. NOTE.]

(6) Response required to address sanitary survey deficiencies:

(a) For water systems that use surface water sources or GWUDI sources, water suppliers must respond in writing to the Authority within 45 days of receiving the sanitary survey report.

(A) The response of the water system must include:

(i) The plan the water system will follow to resolve or correct the identified significant deficiencies;

(ii) The plan the water system will follow to resolve or correct any violations of drinking water regulations identified during the sanitary survey or at any other time; and

(iii) The schedule the water system will follow to execute the plan.

(B) The plans and schedules identified above in subparagraphs (6)(a)(A)(i) through (iii) of this rule must be approved by the Authority.

(b) For water systems that use only groundwater sources, water suppliers must consult with the Authority within 30 days of receiving written notice of a significant deficiency or a violation of a drinking water regulation identified during the sanitary survey. Within 120 days of receiving written notice of a significant deficiency or violation of a drinking water regulation, water suppliers must:

(A) Have corrected the significant deficiency or rule violation; or

(B) Be in compliance with an Authority approved corrective action plan.

(7) Public water systems that fail to respond to the Authority within the timeframe specified, are required to issue a tier 2 public notice as prescribed in OAR 333-061-0042(2)(b)(D).

(8) Public water systems must correct the deficiencies or violations identified in the sanitary survey according to the Authority-approved schedule identified in section (6) of this rule. Failure to do so constitutes a violation of these rules.

[ED. NOTE: Tables, Figures & Publications referenced are available from the agency.]
Stat. Auth.: ORS 448.131, 448.150
Stats. Implemented: ORS 448.131, 448.150
Hist.: OHD 23-2001, f. & cert. ef. 10-31-01; OHD 17-2002, f. & cert. ef. 10-25-02; PH 12-2003, f. & cert. ef. 8-15-03; PH 2-2008, f. & cert. ef. 2-15-08; PH 4-2009, f. & cert. ef. 5-18-09; PH 7-2010, f. & cert. ef. 4-19-10; PH 23-2015, f. 12-8-15, cert. ef. 1-1-16; PH 5-2016, f. 2-10-16, cert. ef. 4-1-16

333-061-0077
Composite Correction Program & Comprehensive Performance Evaluations

(1) All Comprehensive Performance Evaluation Reports (CPEs) as defined by OAR 333-061-0020(36) and this rule shall be conducted by the Authority.

(2) Any public water system using surface water or groundwater under direct surface water influence which treats the water using conventional or direct filtration treatment is subject to the Composite Correction Program, including CPEs, as determined necessary or appropriate by the Authority.

(3) Any public water system using surface water or groundwater under direct surface water influence which treats the water using conventional or direct filtration treatment that has a measured filtered water turbidity level greater than 2.0 NTU from any individual filter in two consecutive measurements taken 15 minutes apart in each of two consecutive months as stated in OAR 333-061-0040(1)(d)(B) (ii)(IV) is required to have a CPE conducted on that public water system's water treatment facility.

(4) The CPE report shall be completed by staff and sent to the water system following the site visit. The content of the CPE report shall include, at a minimum, the following components: An assessment of the water treatment plant performance from current and historical water quality data, an evaluation of each major (treatment) unit process, an identification and prioritization of the water treatment plant performance limiting factors, and an assessment by the Authority if additional comprehensive technical assis-

tance would be beneficial to the water system. The CPE results must be written into a report and submitted to the public water system by the Authority.

(5) The public water system receiving the CPE report must respond in writing to the Authority within 45 days (for systems serving at least 10,000 people) or 120 days (for systems serving less than 10,000 people) of receiving the report as required by OAR 333-061-0040(1)(k). The response of the public water system must include:

(a) The plan the public water system will follow to resolve or correct the identified performance limiting factors that are within the water system's (and its governing body) ability to control; and

(b) The schedule the public water system will follow to execute the plan.

(6) The public water system must take corrective action through the CCP according to the schedule identified in subsection (5)(b) of this rule to resolve the performance limiting factors identified. Failure by the water system to take corrective action to resolve the performance limiting factors constitutes a violation of these rules.

Stat. Auth.: ORS 448.150
Stats. Implemented: ORS 448.131, 448.150
Hist.: OHD 23-2001, f. & cert. ef. 10-31-01; PH 12-2003, f. & cert. ef. 8-15-03; PH 4-2009, f. & cert. ef. 5-18-09; PH 7-2010, f. & cert. ef. 4-19-10; PH 3-2013, f. & cert. ef. 1-25-13; PH 5-2016, f. 2-10-16, cert. ef. 4-1-16

333-061-0078
Coliform Investigations

(1) A coliform investigation, as defined in OAR 333-061-0020(30), is an evaluation to identify the possible presence of sanitary defects, defects in distribution system coliform monitoring practices, and the likely reason that the coliform investigation was triggered at the public water system. Coliform investigations are separated into two levels as described in this section.

(a) A level 1 coliform investigation is conducted by the water supplier or a representative thereof. Minimum elements of the investigation include review and identification of atypical events that could affect distributed water quality or indicate that distributed water quality was impaired; changes in distribution system maintenance and operation that could affect distributed water quality (including water storage); source and treatment considerations that bear on distributed water quality, where appropriate (for example, whether a ground water system is disinfected); existing water quality monitoring data; and inadequacies in sample sites, sampling protocol, and sample processing.

(b) A level 2 coliform investigation is conducted by the Authority or a party approved by the Authority and is a more detailed and comprehensive examination of a water system (including the system's monitoring and operational practices) than a level 1 investigation. Minimum elements include those that are part of a level 1 investigation and additional review of available information, internal and external resources, and other relevant practices. Water suppliers must comply with any expedited actions or additional actions required by the Authority in the case of an exceedance of the MCL for E. coli.

(2) Coliform investigations must be conducted according to section (3) of this rule after a coliform investigation trigger identified in this section is exceeded at a water system.

(a) Level 1 coliform investigation triggers include, but are not limited to:

(A) Exceeding 5.0 percent total coliform-positive samples for the month at water systems where 40 or more samples per month are collected;

(B) Having two or more total coliform-positive samples in the same month at water systems where fewer than 40 samples per month are collected; or

(C) Failing to collect every required repeat sample after any single total coliform-positive sample.

(b) Level 2 coliform investigation triggers include, but are not limited to:

(A) An exceedance of the MCL for E. coli as specified in OAR 333-061-0030(4); or

(B) A second level 1 trigger as specified in subsection (2)(a) of this rule within a rolling 12-month period, unless the Authority has determined a likely cause for the total coliform-positive samples responsible for the first level 1 investigation trigger and established that the water supplier corrected the problem.

(c) The results of all routine and repeat samples collected according to OAR 333-061-0036(6)(b) through (g) not invalidated by the Authority must be used to determine whether a coliform investigation trigger as specified in this section has been exceeded.

(d) Special purpose samples, such as those collected to determine whether disinfection practices are sufficient following pipe placement, replacement, or repair, may not be used to determine whether a coliform investigation trigger has been exceeded.

(3) Water suppliers must ensure that coliform investigations are conducted in order to identify the possible presence of sanitary defects and defects in distribution system coliform monitoring practices.

(a) Water suppliers must ensure that investigators evaluate at least the minimum elements as specified in subsection (1)(a) or (1)(b) of this rule and must conduct the investigation consistent with any Authority directives that tailor specific investigation elements with respect to the size and type of the system and the size, type, and characteristics of the distribution system.

(b) Water suppliers must conduct level 1 coliform investigations consistent with Authority requirements if any of the investigation triggers specified in subsection (2)(a) of this rule are exceeded.

(A) The coliform investigation must be completed as soon as practical after exceeding the trigger, and must include a report summarizing the investigation.

(B) In the completed investigation report, water suppliers must describe sanitary defects detected, corrective actions completed, and a proposed timetable for any corrective actions not already completed. The investigation report may also note that no sanitary defects were identified.

(C) If the Authority reviews the completed coliform investigation report and determines that the investigation is not sufficient (including any proposed timetable for any corrective actions not already completed), the Authority will consult with the water supplier. If the Authority requires revisions after consultation, the water supplier must submit a revised investigation report to the Authority on an agreed-upon schedule not to exceed 30 days from the date of the consultation.

(c) Water suppliers must submit to and ensure a level 2 coliform investigation is conducted as soon as practical after a coliform investigation trigger specified in subsection (2)(b) of this rule is exceeded. Water suppliers must ensure a completed investigation report is submitted to the Authority as specified in OAR 333-061-0040(1)(l).

(A) Water suppliers must communicate with the Authority to ensure the investigation is completed within 30 days after learning that a coliform investigation trigger was exceeded.

(B) Completed investigation reports must describe sanitary defects detected, corrective actions completed, and a proposed timetable for any corrective actions not already completed. The investigation report may also note that no sanitary defects were identified.

(C) Water suppliers must comply with any expedited actions or additional actions required by the Authority in the case of an exceedance of the MCL for E. coli.

(D) If the Authority reviews a completed level 2 coliform investigation report and determines that the investigation is not sufficient (including any proposed timetable for any corrective actions not already completed), the Authority will consult with the water supplier. If the Authority requires revisions after consultation, the water supplier must ensure a revised investigation report is submitted to the Authority on an agreed-upon schedule not to exceed 30 days.

(d) Upon completion and submission of a level 1 or level 2 coliform investigation report, the Authority must determine if a likely cause for the level 1 trigger or level 2 trigger was identified and determine whether the water supplier corrected the problem, or agreed to a schedule acceptable to the Authority for correcting the problem.

(4) Water suppliers must correct sanitary defects discovered during level 1 or level 2 coliform investigations as soon as practical. For corrections not completed by the time an investigation report is submitted to the Authority, the water supplier must complete the corrective action(s) in compliance with a timetable approved by the Authority in consultation with the water supplier. The water supplier must notify the Authority when each scheduled corrective action is completed. At any time during the investigation or corrective action phase, either the water supplier or the Authority may request a consultation with the other party to determine the appropriate actions to be taken. The water supplier may consult with the Authority regarding all relevant information that may impact its ability to comply with a requirement of this rule, including the method of accomplishment, an appropriate timeframe, and other relevant information.

(5) Failing to conduct the required coliform investigation after a trigger is exceeded or failure to complete corrective actions according to an Authority approved timetable is a violation of this rule.

Stat. Auth.: ORS 448.131
Stats. Implemented: ORS 448.131, 448.150
Hist.: PH 5-2016, f. 2-10-16, cert. ef. 4-1-16

333-061-0090
Penalties

(1) Violation of these rules shall be punishable as set forth in ORS 448.990 which stipulates that violation of any section of these rules is a Class A misdemeanor.

(2) Pursuant to ORS 448.280, 448.285 and 448.290, any person who violates these rules shall be subject to a civil penalty. Each and every violation is a separate and distinct offense, and each day's violation is a separate and distinct violation.

(3) The civil penalty for the following violations shall not exceed $1,000 per day for each violation:

(a) Failure to obtain approval of plans prior to the construction of water system facilities;

(b) Failure to construct water system facilities in compliance with approved plans;

(c) Failure to take immediate action to correct maximum contaminant level violations;

(d) Failure to comply with sampling and analytical requirements;

(e) Failure to comply with reporting and public notification requirements;

(f) Failure to meet the conditions of a compliance schedule developed under a variance or permit;

(g) Failure to comply with cross connection control requirements;

(h) Failure to comply with the operation and maintenance requirements;

(i) Failure to comply with an order issued by the Authority; and

(j) Failure to utilize an operator in direct responsible charge of a water system.

(4) Civil penalties shall be based on the population served by public water systems and shall be in accordance with Table 45 below: [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 448.131, 448.280, 448.285, 448.290, & 448.990

Hist.: HD 106, f. & ef. 2-6-76; HD 17-1981(Temp), f. & ef. 8-28-81; HD 4-1982, f. & ef. 2-26-82; Renumbered from 333-042-0245, HD 2-1983, f. & ef. 2-23-83; HD 3-1987, f. & ef. 2-17-87; HD 9-1989, f. & cert. ef. 11-13-89; HD 26-1990, f. 12-26-90, cert. ef. 12-29-90; OHD 4-1999, f. 7-14-99, cert. ef. 7-15-99; OHD 3-2000, f. 3-8-00, cert. ef. 3-15-00; OHD 17-2002, f. & cert. ef. 10-25-02; PH 16-2004(Temp), f. & cert. ef. 4-9-04 thru 10-5-04; PH 20-2004, f. & cert. ef. 6-18-04; PH 33-2004, f. & cert. ef. 10-21-04; PH 2-2006, f. & cert. ef. 1-31-06; PH 4-2009, f. & cert. ef. 5-18-09; PH 7-2010, f. & cert. ef. 4-19-10; PH 3-2013, f. & cert. ef. 1-25-13; PH 14-2014, f. & cert. ef. 5-8-14; PH 5-2016, f. 2-10-16, cert. ef. 4-1-16

333-061-0097
Adverse Health Effects Language

When providing the information on potential adverse health effects required by these rules in notices of violations of maximum contaminant levels, maximum residual disinfectant levels, treatment technique requirements, or notices of the granting or the continued existence of variances or permits, or notices of failure to comply with a variance or permit schedule, the owner or operator of a public water system shall include the language specified below for each contaminant.

(1) Adverse Health Effects for Organic Chemicals:

(a) Volatile Organic Chemicals (VOCs):

(A) Benzene. Some people who drink water containing benzene in excess of the MCL over many years could experience anemia or a decrease in blood platelets, and may have an increased risk of getting cancer.

(B) Carbon tetrachloride. Some people who drink water containing carbon tetrachloride in excess of the MCL over many years could experience problems with their liver and may have an increased risk of getting cancer.

(C) Chlorobenzene. Some people who drink water containing chlorobenzene in excess of the MCL over many years could experience problems with their liver or kidneys.

(D) o-Dichlorobenzene. Some people who drink water containing o-dichlorobenzene well in excess of the MCL over many years could experience problems with their liver, kidneys, or circulatory systems.

(E) p-Dichlorobenzene. Some people who drink water containing p-dichlorobenzene in excess of the MCL over many years could experience anemia, damage to their liver, kidneys, or spleen, or changes in their blood.

(F) 1,2-Dichloroethane. Some people who drink water containing 1,2-dichloroethane in excess of the MCL over many years may have an increased risk of getting cancer.

(G) 1,1-Dichloroethylene. Some people who drink water containing 1,1-dichloroethylene in excess of the MCL over many years could experience problems with their liver.

(H) cis-1,2-Dichloroethylene. Some people who drink water containing cis-1,2-dichloroethylene in excess of the MCL over many years could experience problems with their liver.

(I) trans-1,2-Dichloroethylene. Some people who drink water containing trans-1,2- dichloroethylene well in excess of the MCL over many years could experience problems with their liver.

(J) Dichloromethane(methylene chloride). Some people who drink water containing dichloromethane in excess of the MCL over many years could have liver problems and may have an increased risk of getting cancer.

(K) 1,2-Dichloropropane. Some people who drink water containing 1,2-dichloropropane in excess of the MCL over many years may have an increased risk of getting cancer.

(L) Ethylbenzene. Some people who drink water containing ethylbenzene well in excess of the MCL over many years could experience problems with their liver or kidneys.

(M) Styrene. Some people who drink water containing styrene well in excess of the MCL over many years could have problems with their liver, kidneys, or circulatory system.

(N) Tetrachloroethylene(PCE). Some people who drink water containing tetrachloroethylene in excess of the MCL over many years could have problems with their liver, and may have an increased risk of getting cancer.

(O) 1,2,4-trichlorobenzene. Some people who drink water containing 1,2,4-trichlorobenzene well in excess of the MCL over many years could experience changes in their adrenal glands.

(P) 1,1,1-Trichloroethane. Some people who drink water containing 1,1,1- trichloroethane in excess of the MCL over many years could experience problems with their liver, nervous system, or circulatory system.

(Q) 1,1,2-Trichloroethane. Some people who drink water containing 1,1,2-trichloroethane well in excess of the MCL over many years could have problems with their liver, kidneys, or immune systems.

(R) Trichloroethylene. Some people who drink water containing trichloroethylene in excess of the MCL over many years could experience problems with their liver and may have an increased risk of getting cancer.

(S) Toluene. Some people who drink water containing toluene well in excess of the MCL over many years could have problems with their nervous system, kidneys, or liver.

(T) Vinyl chloride. Some people who drink water containing vinyl chloride in excess of the MCL over many years may have an increased risk of getting cancer.

(U) Xylenes. Some people who drink water containing xylenes in excess of the MCL over many years could experience damage to their nervous system.

(b) Synthetic Organic Chemicals (SOCs):

(A) 2,4-D. Some people who drink water containing the weed killer 2,4-D well in excess of the MCL over many years could experience problems with their kidneys, liver, or adrenal glands.

(B) 2,4,5-TP(Silvex). Some people who drink water containing 2,4,5-TP in excess of the MCL over many years could experience liver problems.

(C) Alachlor. Some people who drink water containing alachlor in excess of the MCL over many years could have problems with their eyes, liver, kidneys, or spleen, or experience anemia, and may have an increased risk of getting cancer.

(D) Atrazine. Some people who drink water containing atrazine well in excess of the MCL over many years could experience problems with their cardiovascular system or reproductive difficulties.

(E) Benzo(a)pyrene. Some people who drink water containing benzo(a)pyrene in excess of the MCL over many years may experience reproductive difficulties and may have an increased risk of getting cancer.

(F) Carbofuran. Some people who drink water containing carbofuran in excess of the MCL over many years could experience problems with their blood, or nervous or reproductive systems.

(G) Chlordane. Some people who drink water containing chlordane in excess of the MCL over many years could experience problems with their liver or nervous system, and may have an increased risk of getting cancer.

(H) Dalapon. Some people who drink water containing dalapon well in excess of the MCL over many years could experience minor kidney changes.

(I) Di(2-ethylhexyl)adipate. Some people who drink water containing di(2-ethylhexyl)adipate well in excess of the MCL over many years could experience toxic effects such as weight loss, liver enlargement or possible reproductive difficulties.

(J) Di(2-ethylhexyl)phthalate. Some people who drink water containing di(2-ethylhexyl)phthalate well in excess of the MCL over many years

may have problems with their liver or experience reproductive difficulties, and may have an increased risk of getting cancer.

(K) Dibromochloropropane (DBCP). Some people who drink water containing DBCP in excess of the MCL over many years could experience reproductive difficulties and may have an increased risk of getting cancer.

(L) Dinoseb. Some people who drink water containing dinoseb well in excess of the MCL over many years could experience reproductive difficulties.

(M) Diquat. Some people who drink water containing diquat in excess of the MCL over many years could get cataracts.

(N) Dioxin (2,3,7,8-TCDD). Some people who drink water containing dioxin in excess of the MCL over many years could experience reproductive difficulties and may have an increased risk of getting cancer.

(O) Endothall. Some people who drink water containing endothall in excess of the MCL over many years could experience problems with their stomach or intestines.

(P) Endrin. Some people who drink water containing endrin in excess of the MCL over many years could experience liver problems.

(Q) Ethylene dibromide (EDB). Some people who drink water containing ethylene dibromide in excess of the MCL over many years could experience problems with their liver, stomach, reproductive system, or kidneys, and may have an increased risk of getting cancer.

(R) Glyphosate. Some people who drink water containing glyphosate in excess of the MCL over many years could experience problems with their kidneys or reproductive difficulties.

(S) Heptachlor. Some people who drink water containing heptachlor in excess of the MCL over many years could experience liver damage and may have an increased risk of getting cancer.

(T) Heptachlor epoxide. Some people who drink water containing heptachlor epoxide in excess of the MCL over many years could experience liver damage and may have an increased risk of getting cancer.

(U) Hexachlorobenzene. Some people who drink water containing hexachlorobenzene in excess of the MCL over many years could experience problems with their liver or kidneys or adverse reproductive effects, and may have an increased risk of getting cancer.

(V) Hexachlorocyclopentadiene. Some people who drink water containing hexachlorocyclopentadiene well in excess of the MCL over many years could experience problems with their kidneys or stomach.

(W) Lindane. Some people who drink water containing lindane in excess of the MCL over many years could experience problems with their kidneys or liver.

(X) Methoxychlor. Some people who drink water containing methoxychlor in excess of the MCL over many years could experience reproductive difficulties.

(Y) Oxamyl. Some people who drink water containing oxamyl in excess of the MCL over many years could experience slight nervous system effects.

(Z) Polychlorinated biphenyls (PCBs). Some people who drink water containing polychlorinated biphenyls in excess of the MCL over many years could experience changes in their skin, problems with their thymus gland, immune deficiencies or reproductive or nervous system difficulties, and may have an increased risk of getting cancer.

(AA) Pentachlorophenol. Some people who drink water containing pentachlorophenol in excess of the MCL over many years could experience problems with their liver or kidneys, and may have an increased risk of getting cancer.

(BB) Picloram. Some people who drink water containing picloram in excess of the MCL over many years could experience problems with their liver.

(CC) Simazine. Some people who drink water containing simazine in excess of the MCL over many years could experience problems with their blood.

(DD) Toxaphene. Some people who drink water containing toxaphene in excess of the MCL over many years could have problems with their kidneys, liver, or thyroid, and may have an increased risk of getting cancer.

(2) Special Notice for Lead and Copper.

(a) Mandatory health effects information. When providing the information in public notices on the potential adverse health effects of lead in drinking water, the owner or operator of the water system shall include the following specific language in the notice:

"Infants and children who drink water containing lead in excess of the action level could experience delays in their physical or mental development. Children could show slight deficits in attention span and learning abilities. Adults who drink this water over many years could develop kidney problems or high blood pressure."

(b) Mandatory health effects information. When providing information on the potential adverse health effects of copper in drinking water, the owner or operator of the water system shall include the following specific language in the notice:

"Copper is an essential nutrient, but some people who drink water containing copper in excess of the action level over a relatively short amount of time could experience gastrointestinal distress. Some people who drink water containing copper in excess of the action level over many years could suffer liver or kidney damage. People with Wilson's Disease should consult their personal doctor."

(3) Inorganics — public notice language.

(a) Antimony. Some people who drink water containing antimony well in excess of the MCL over many years could experience increases in blood cholesterol and decreases in blood sugar.

(b) Arsenic. Some people who drink water containing arsenic in excess of the MCL over many years could experience skin damage or problems with their circulatory system, and may have an increased risk of getting cancer.

(c) Asbestos. Some people who drink water containing asbestos in excess of the MCL over many years may have an increased risk of developing benign intestinal polyps.

(d) Barium. Some people who drink water containing barium in excess of the MCL over many years could experience an increase in their blood pressure.

(e) Beryllium. Some people who drink water containing beryllium well in excess of the MCL over many years could develop intestinal lesions.

(f) Cadmium. Some people who drink water containing cadmium in excess of the MCL over many years could experience kidney damage.

(g) Chromium. Some people who use water containing chromium well in excess of the MCL over many years could experience allergic dermatitis.

(h) Cyanide. Some people who drink water containing cyanide well in excess of the MCL over many years could experience nerve damage or problems with their thyroid.

(i) Fluoride. Some people who drink water containing fluoride in excess of the MCL (4.0 mg/l) over many years could get bone disease, including pain and tenderness of the bones. Fluoride in drinking water at half the MCL (2.0mg/l) or more may cause mottling of children's teeth, usually in children less than nine years old. Mottling, also known as dental fluorosis, may include brown staining or pitting of the teeth, and occurs only in developing teeth before they erupt from the gums.

(j) Mercury. Some people who drink water containing inorganic mercury well in excess of the MCL over many years could experience kidney damage.

(k) Nitrate (as nitrogen). Infants below the age of 6 months who drink water containing nitrate in excess of the MCL could become seriously ill and, if untreated, may die. Symptoms include shortness of breath and blue baby syndrome.

(l) Nitrite. Infants below the age of 6 months who drink water containing nitrite in excess of the MCL could become seriously ill and, if untreated, may die. Symptoms include shortness of breath and blue baby syndrome.

(m) Total Nitrate and Nitrite. Infants below the age of 6 months who drink water containing nitrate and nitrite in excess of the MCL could become seriously ill and, if untreated, may die. Symptoms include shortness of breath and blue baby syndrome.

(n) Selenium. Selenium is an essential nutrient. However, some people who drink water containing selenium in excess of the MCL over many years could experience hair or fingernail losses, numbness in fingers or toes, or problems with their circulation.

(o) Thallium. Some people who drink water containing thallium in excess of the MCL over many years could experience hair loss, changes in their blood, or problems with their kidneys, intestines, or liver.

(4) Microbiological contaminants

(a) When providing information in public notices required under OAR 333-061-0042(2)(b) for exceeding the MCL for total coliform bacteria as specified in 40 CFR 141.63, the water supplier must include the following specific language in the notice:

"Coliforms are bacteria that are naturally present in the environment and are used as an indicator that other, potentially harmful, bacteria may be present. Coliforms were found in more samples than allowed and this was a warning of potential problems."

(b) When providing information in public notices for an exceedance of the MCL for E. coli bacteria as prescribed by OAR 333-061-0030(4), the language within quotation marks must be included, exactly as written:

"E. coli are bacteria whose presence indicates that the water may be contaminated with human or animal wastes. Human pathogens in these wastes can cause short-term

effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a greater health risk for infants, young children, the elderly, and people with severely compromised immune systems."

(c) When providing information in public notices for failing to complete a coliform investigation or corrective action as required by OAR 333-061-0078, the language specified in paragraphs (4)(c)(A) or (4)(c)(B) must be included, exactly as written except for the language within brackets. The language in paragraph (4)(c)(A) must be used when total coliform was detected at a water system and the language in (4)(c)(B) must be used when E. coli was detected regardless of whether the MCL for E. coli was exceeded.

(A) Coliforms are bacteria that are naturally present in the environment and are used as an indicator that other, potentially harmful, waterborne pathogens may be present or that a potential pathway exists through which contamination may enter the drinking water distribution system. We found coliforms indicating the need to look for potential problems in water treatment or distribution. When this occurs, we are required to conduct investigations to identify problems and to correct any problems that are found.

[THE WATER SUPPLIER MUST USE THE FOLLOWING APPLICABLE SENTENCES.]

We failed to conduct the required coliform investigation.

We failed to correct all identified sanitary defects that were found during the coliform investigation(s).

(B) E. coli are bacteria whose presence indicates that the water may be contaminated with human or animal wastes. Human pathogens in these wastes can cause short-term effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a greater health risk for infants, young children, the elderly, and people with severely compromised immune systems. We violated the standard for E. coli, indicating the need to look for potential problems in water treatment or distribution. When this occurs, we are required to conduct a detailed investigation to identify problems and to correct any problems that are found.

[THE WATER SUPPLIER MUST USE THE FOLLOWING APPLICABLE SENTENCES.]

We failed to conduct the required coliform investigation.

We failed to correct all identified sanitary defects that were found during the coliform investigation that we conducted.

(d) When providing information in public notices for failing to complete an Authority approved start-up procedure at a seasonal water system, the water supplier must include specific information about the situation as prescribed by OAR 333-061-0042(4)(a). Additionally, if monitoring was required as part of the Authority approved start-up procedure the following language in quotation marks must be included, exactly as written except for the language in brackets where water system specific information must be included: "We are required to monitor your drinking water for specific contaminants on a regular basis. Results of regular monitoring are an indicator of whether or not your drinking water meets health standards. During [compliance period], we did not complete [any or all] required monitoring or testing for coliform bacteria, and therefore cannot be sure of the quality of your drinking water during that time."

(e) Turbidity. Turbidity has no health effects. However, turbidity can interfere with disinfection and provide a medium for microbial growth. Turbidity may indicate the presence of disease-causing organisms. These organisms include, bacteria, viruses, and parasites that can cause symptoms such as nausea, cramps, diarrhea and associated headaches.

(5) Treatment Techniques -- Public Notice Language.

(a) Acrylamide. Some people who drink water containing high levels of acrylamide over a long period of time could have problems with their nervous system or blood, and may have an increased risk of getting cancer.

(b) Epichlorohydrin. Some people who drink water containing high levels of epichlorohydrin over a long period of time could experience stomach problems, and may have an increased risk of getting cancer.

(c) Surface Water Treatment Rule (Giardia, viruses, heterotrophic plate count bacteria, Legionella), Interim Enhanced Surface Water Treatment Rule (Giardia, viruses, heterotrophic plate count bacteria, Legionella and Cryptosporidium), Long Term 1 Enhanced Surface Water Treatment Rule (Giardia, viruses, heterotrophic plate count bacteria, Legionella and Cryptosporidium) and Filter Backwash Recycling Rule (Cryptosporidium). Inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses, and parasites which can cause symptoms such as nausea, cramps, diarrhea, and associated headaches.

(d) Groundwater. Inadequately treated or inadequately protected water may contain disease-causing organisms. These organisms can cause symptoms such as diarrhea, nausea, cramps, and associated headaches.

(e) Use of an emergency groundwater source that has been identified as potentially groundwater under direct influence of surface water, but has not been fully evaluated. This type of source may not be treated sufficiently to inactivate pathogens such as Giardia lamblia and Cryptosporidium.

(6) Disinfectant and Disinfection Byproducts -- Special Adverse Health Effects Language.

(a) Total Trihalomethanes (TTHMs). Some people who drink water containing trihalomethanes in excess of the MCL over many years may experience problems with their liver, kidneys, or central nervous system, and may have an increased risk of getting cancer.

(b) Haloacetic Acids (HAA). Some people who drink water containing haloacetic acids in excess of the MCL over many years may have an increased risk of getting cancer.

(c) Chlorine. Some people who use water containing chlorine well in excess of the MRDL could experience irritating effects to their eyes and nose. Some people who drink water containing chlorine well in excess of the MRDL could experience stomach discomfort.

(d) Chloramines. Some people who use water containing chloramines well in excess of the MRDL could experience irritating effects to their eyes and nose. Some people who drink water containing chloramines well in excess of the MRDL could experience stomach discomfort or anemia.

(e) Chlorine dioxide. (where any 2 consecutive daily samples taken at the entrance to the distribution system are above the MRDL). Some infants and young children who drink water containing chlorine dioxide in excess of the MRDL could experience nervous system effects. Similar effects may occur in fetuses of pregnant women who drink water containing chlorine dioxide in excess of the MRDL. Some people may experience anemia.

NOTE: In addition to the language in this introductory text of subsection (6)(e) of this rule, water systems must include either the language in paragraphs (6)(e)(A) or (6)(e)(B) of this rule. Water systems with a violation at the treatment plant, but not in the distribution system, are required to use the language in paragraph (6)(e)(A) of this rule and treat the violation as a non-acute violation. Water systems with a violation in the distribution system are required to use the language in paragraph (6)(e)(B) of this rule and treat the violation as an acute violation.

(A) The chlorine dioxide violations reported today are the result of exceedances at the treatment facility only, and do not include violations within the distribution system serving users of this water supply. Continued compliance with chlorine dioxide levels within the distribution system minimizes the potential risk of these violations to present consumers.

(B) The chlorine dioxide violations reported today include exceedances of the EPA standard within the distribution system serving water users. Violations of the chlorine dioxide standard within the distribution system may harm human health based on short-term exposures. Certain groups, including fetuses, infants, and young children, may be especially susceptible to nervous system effects of excessive exposure to chlorine dioxide-treated water. The purpose of this notice is to advise that such persons should consider reducing their risk of adverse effects from these chlorine dioxide violations by seeking alternate sources of water for human consumption until such exceedances are rectified. Local and State health authorities are the best sources for information concerning alternate drinking water.

(f) Bromate. Some people who drink water containing bromate in excess of the MCL over many years may have an increased risk of getting cancer.

(g) Chlorite. Some infants and young children who drink water containing chlorite in excess of the MCL could experience nervous system effects. Similar effects may occur in fetuses of pregnant women who drink water containing chlorite in excess of the MCL. Some people may experience anemia.

(h) Total Organic Carbon (TOC). Total Organic Carbon (TOC) has no health effects. However, TOC provides a medium for the formation of disinfection byproducts (DBPs). These byproducts include trihalomethanes and haloacetic acids. Drinking water containing these byproducts in excess of the MCL may lead to adverse health effects, liver or kidney problems, or nervous system effects, and may lead to an increased risk of getting cancer.

(7) Adverse health effects for radionuclides:

(a) Beta/photon emitters. Certain minerals are radioactive and may emit forms of radiation known as photons and beta radiation. Some people who drink water containing beta and photon emitters in excess of the MCL over many years may have an increased risk of getting cancer.

(b) Alpha emitters. Certain minerals are radioactive and may emit a form of radiation known as alpha radiation. Some people who drink water containing alpha emitters in excess of the MCL over many years may have an increased risk of getting cancer.

(c) Combined Radium-226/228. Some people who drink water containing radium-226 or -228 in excess of the MCL over many years may have an increased risk of getting cancer.

(d) Uranium. Some people who drink water containing uranium in excess of the MCL over many years may have an increased risk of getting cancer and kidney toxicity.

Stat. Auth.: ORS 448.131
Stats. Implemented: ORS 448.131. 448.150
Hist.: HD 9-1989, f. & cert. ef. 11-13-89; HD 26-1990, f. 12-26-90, cert. ef. 12-29-90; HD 9-1991(Temp), f. & cert. ef. 6-24-91; HD 1-1992, f. & cert. ef. 3-5-92; HD 7-1992, f. & cert. ef. 6-9-92; HD 12-1992, f. & cert. ef. 12-7-92; HD 3-1994, f. & cert. ef. 1-14-94; HD 11-1994, f. & cert. ef. 4-11-94; HD 1-1996, f. 1-2-96, cert. ef. 1-5-96; OHD 7-2000, f. 7-11-00, cert. ef. 7-15-00; OHD 23-2001, f. & cert. ef. 10-31-01; OHD 17-2002, f. & cert. ef. 10-25-02; PH 12-2003, f. & cert. ef. 8-15-03; PH 33-2004, f. & cert. ef. 10-21-04; PH 2-2006, f. & cert. ef. 1-31-06; PH 4-2009, f. & cert. ef. 5-18-09; PH 5-2016, f. 2-10-16, cert. ef. 4-1-16

333-061-0235
Operator Certification Requirements, Levels 1–4

Operator certification, as specified in this rule, applies to each of the levels of water system facility classification specified in OAR 333-061-0220(2) through (4), and does not apply to small water system classification as specified in OAR 333-061-0220(1).

(1) In order to receive certification as specified in this rule, applicants must:

(a) Provide proof of, including the date of graduation or completion, a high school diploma, GED, associate's degree, bachelor's degree, master's degree, or PhD; and

(b) Successfully complete an examination for the level and type of certification sought by the applicant.

(2) Minimum qualifications for water treatment (WT) or water distribution (WD) operator certification are identified in Table 46. Experience or a combination of experience and education is required depending on the certification and level sought. [Table not included. See ED. NOTE.]

(a) Operating experience must have been gained through direct, "hands-on" operation of water system facilities and includes, but is not limited to, decisions related to water quality or quantity that may affect public health. Knowledge gained from the performance of duties as an official, inspector, manager, engineer, or director of public works, and that does not include the actual operation or supervision of water system facilities, does not qualify an individual for certification as prescribed by these rules.

(A) For water distribution certification, experience in one of the following fields may be accepted, not to exceed one-half of the total experience required: wastewater collection; water treatment; cross connection control; and industrial or commercial process water treatment.

(B) For water treatment certification, experience in one of the following fields may be accepted, not to exceed one-half of the total experience required: wastewater treatment; wastewater treatment laboratory; water distribution; and industrial or commercial process water treatment.

(C) One year of experience is equivalent to 12 months of full-time employment with one hundred percent of the individual's time dedicated to activities directly related to the certification for which they are applying.

(D) Operating experience earned at a water treatment plant or distribution system is considered qualifying experience for certification up to one classification level higher than that of the water system facility where the experience was earned.

(b) The Authority may, at its discretion, permit the substitution of post high school education for experience. Acceptable fields of study include, but are not limited to: allied sciences, chemistry, engineering, industrial or commercial water processing, wastewater collection, wastewater treatment plant operations, wastewater laboratory analysis, water distribution, and water treatment plant operations.

(A) Substituted education may not exceed one-half of the experience required for the certification and level sought.

(B) Any degree or accumulation of college credit hours must be from an educational institution accredited through an agency recognized by the U.S. Department of Education to be acceptable.

(C) The following are considered equivalent to 12 months of post high school education:

(i) One year of college education;

(ii) Thirty semester hours of college education;

(iii) Forty-five quarter hours of college education; or

(iv) Forty-five continuing education units (CEU).

(D) College credits and post high school education from other sources may be combined to total 45 CEU.

(3) Individuals may request credit for on-the-job training as either experience or education, but not both.

(4) Individuals seeking certification at water distribution and water treatment levels 3 and 4 must possess experience in operational decision making as defined in OAR 333-061-0020(126). Any work experience as specified in subsection (2)(a) of this rule qualifies as operational decision making experience if it meets the criteria specified in OAR 333-061-0020(126).

(5) To qualify for filtration endorsement certification, as prescribed by OAR 333-061-0220(4), individuals must:

(a) Possess WT Level 2 certification;

(b) Have one year of operational decision making experience at a water treatment plant utilizing conventional or direct filtration treatment; and

(c) Successfully pass a filtration endorsement examination.

Stat. Auth.: ORS 448.131, 448.150
Stats. Implemented: ORS 448.450, 448.455
Hist.: HD 2-1988(Temp), f. & cert. ef. 2-10-88; HD 18-1988, f. & cert. ef. 7-27-88; HD 19-1990, f. 6-28-90, cert. ef. 7-2-90; HD 1-1996, f. 1-2-96, cert. ef. 1-5-96; HD 14-1997, f. & cert. ef. 10-31-97; OHD 7-2002, f. & cert. ef. 5-2-02; PH 16-2004(Temp), f. & cert. ef. 4-9-04 thru 10-5-04; PH 20-2004, f. & cert. ef. 6-18-04; PH 33-2004, f. & cert. ef. 10-21-04; PH 2-2006, f. & cert. ef. 1-31-06; PH 7-2010, f. & cert. ef. 4-19-10; PH 3-2013, f. & cert. ef. 1-25-13; PH 14-2014, f. & cert. ef. 5-8-14; PH 5-2016, f. 2-10-16, cert. ef. 4-1-16

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Oregon Housing and Community Services Department
Chapter 813

Rule Caption: Adopts rules for the Wildfire Damage Housing Relief Account
Adm. Order No.: OHCS 1-2016
Filed with Sec. of State: 2-11-2016
Certified to be Effective: 2-11-16
Notice Publication Date: 1-1-2016
Rules Adopted: 813-330-0000, 813-330-0010, 813-330-0020, 813-330-0030, 813-330-0040, 813-330-0050, 813-330-0060
Subject: The 2015 Oregon Legislature allocated funds to be used to assist people who have experienced a loss of housing due to wildfires. The rules establish criteria, application process, and use of funds in the Wildfire Damage Housing Relief Account.
Rules Coordinator: Alison McIntosh—(503) 986-2079

813-330-0000
Purpose

OAR chapter 813, division 330 is promulgated to accomplish the general purpose of ORS 458.620 which establishes the Wildfire Damage Housing Relief Account within the Oregon Housing Fund and designates the Housing and Community Services Department as the state agency responsible for administering the Account. The Wildfire Damage Housing Relief Account assists certain persons who have experienced a loss of housing due to wildfire by providing funds.

Stat Auth.: ORS 456.555
Stats. Implemented: ORS 458.620, OL 2015 HB 3148
Hist.: OHCS 7-2015(Temp), f. & cert. ef. 8-18-15 thru 2-13-16; OHCS 1-2016, f. & cert. ef. 2-11-16

813-330-0010
Definitions

(1) "Account" means the Wildfire Damage Housing Relief Account, revolving account within the Oregon Housing Fund created under ORS 458.620.

(2) "Administrative costs" means costs that are incurred in the process of administering the program.

(3) "Department" or "OHCS" means the Housing and Community Services Department for the state of Oregon.

(4) "Households of lower income" means persons or families residing in Oregon whose federal adjusted gross income for the tax year preceeding the year in which a loss of housing due to wildfire occurs does not exceed 75 percent of the federal poverty guidelines.

(5) "Wildfire" has the definition as used in ORS 477.089.

Stat Auth.: ORS 456.555
Stats. Implemented: ORS 458.620, OL 2015 HB 3148
Hist.: OHCS 7-2015(Temp), f. & cert. ef. 8-18-15 thru 2-13-16; OHCS 1-2016, f. & cert. ef. 2-11-16

813-330-0020
Administration

(1) The department will directly provide program services and assistance.

(2) In the event of a wildfire, the department may consider the referral of a household from a local, state, or federal disaster relief agency or human service agency to determine eligibility of the household for program services. The department may also allow households to apply directly for assistance with verification of the loss of housing or eligibility from a local, state, or federal disaster relief agency or human service agency.

(3) The department may request information including, but not limited to, the scope and location of the wildfire, the type of housing damaged, proof of ownership, and the previous years' household income.

Stat Auth.: ORS 456.555
Stats. Implemented: ORS 458.620, OL 2015 HB 3148
Hist.: OHCS 7-2015(Temp), f. & cert. ef. 8-18-15 thru 2-13-16; OHCS 1-2016, f. & cert. ef. 2-11-16

813-330-0030
Eligible Applicants

Services shall be available to households of lower incomes who meet the following criteria:

(1) The applicant must be an Oregon resident at the time of the loss or damage to housing.

(2) The loss or damage to housing must have occurred in Oregon on or after July 1, 2015.

(3) The home lost or damaged due to wildfire must be the household's primary residence.

(4) The household must own the home that is lost or damaged due to wildfire.

(5) The home that is lost or damaged due to wildfire may be a stick built home, a site built home, or a recreational vehicle that is the primary residence of the applicant.

(6) If the home lost or damaged due to wildfire is a recreational vehicle that is the primary residence of the applicant, the applicant must own or rent the land on which the RV was damaged.

(7) The home damaged by the wildfire is considered uninhabitable unless repaired or replaced.

(8) To receive assistance, the household must submit an application to the department along with verification of loss, proof of ownership, and proof of income.

(9) The household must apply for grant funds within one hundred and eighty (180) days after the loss of the home.

Stat Auth.: ORS 456.555
Stats. Implemented: ORS 458.620, OL 2015 HB 3148
Hist.: OHCS 7-2015(Temp), f. & cert. ef. 8-18-15 thru 2-13-16; OHCS 1-2016, f. & cert. ef. 2-11-16

813-330-0040
Use of Funds

(1) The funds in the account will only be allocated to households of lower income who have lost their home due to wildfire.

(2) The department may provide assistance in the form of a grant, not to exceed $5,000, to an eligible applicant.

(3) If approved claims for assistance exceed the available balance of the account, the department may make pro-rata reductions in grant amounts to increase the number of claimants who receive assistance.

(4) The department shall verify eligibility of applicants.

(5) The department shall award a grant to a qualified household within thirty (30) days of receiving a complete application from that household.

Stat Auth.: ORS 456.555
Stats. Implemented: ORS 458.620, OL 2015 HB 3148
Hist.: OHCS 7-2015(Temp), f. & cert. ef. 8-18-15 thru 2-13-16; OHCS 1-2016, f. & cert. ef. 2-11-16

813-330-0050
Reporting and Recordkeeping

The department shall maintain records documenting the applications received for grants distributed through the department as required by its retention schedules.

Stat Auth.: ORS 456.555
Stats. Implemented: ORS 458.620, OL 2015 HB 3148
Hist.: OHCS 7-2015(Temp), f. & cert. ef. 8-18-15 thru 2-13-16; OHCS 1-2016, f. & cert. ef. 2-11-16

813-330-0060
Appeal Procedure

(1) An applicant aggrieved by the department's action with respect to its program obligations may submit a written request to the department for its review of such contested action and such request must be submitted within thirty (30) days of that action.

(2) Any department review will be in the manner determined appropriate by the department and may include, but shall not necessarily be limited to, review of provided information.

(3) If the department accepts the review request, the requester of the review must produce all information required by the department, including requested affidavits or testimony.

(4) The department may make a determination on a review request and require such remedial action as the department determines, in its sole discretion, to be appropriate.

(5) Department review is a contested case review under ORS chapter 183 unless specifically so stated by the director in writing.

(6) A timely request for department review by an aggrieved person and its completion to final order by the department are requirements for exhaustion of administrative remedies by such aggrieved person.

Stat Auth.: ORS 456.555
Stats. Implemented: ORS 458.620, OL 2015 HB 3148
Hist.: OHCS 7-2015(Temp), f. & cert. ef. 8-18-15 thru 2-13-16; OHCS 1-2016, f. & cert. ef. 2-11-16

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Oregon Patient Safety Commission
Chapter 325

Rule Caption: Corrects the Commission's 2015-2017 biennial budget and program rule originally posted on 7/10/2015.
Adm. Order No.: PSC 1-2016
Filed with Sec. of State: 1-29-2016
Certified to be Effective: 1-29-16
Notice Publication Date: 6-1-2015
Rules Amended: 325-005-0015, 325-010-0025
Subject: In accordance with the rules governing semi-independent state agencies, this action corrects the Oregon Patient Safety Commission 2015-2017 biennial budget of $4,434,280 posted in error on July 10, 2015, by amending OAR 325-005-015; and updates agency rule OAR 325-010-0025.
Rules Coordinator: Bethany A. Walmsley—(503) 224-9226

325-005-0015
Biennial Budget

The Commission hereby adopts by reference the Oregon Patient Safety Commission's 2015-2017 Biennial Budget of $4,434,280 covering the period July 1, 2015, through June 30, 2017. The Commission's Executive Director will amend budgeted accounts as necessary, within the approved budget of $4,434,280 for the effective operation of the Commission. The Commission will not exceed the approved 2015-2017 Biennium Budget without amending this rule, notifying interested parties, and holding a public hearing as required by ORS Chapter 182.462. Copies of the budget are available from the Commission's office and are posted on the Commission's website.

Stat. Auth.: ORS 442.820, 442.831
Stats. Implemented: ORS 182.462, 442.831
Hist.: PSC 1-2006, f. & cert. ef. 2-6-06; PSC 4-2007, f. & cert. ef. 7-2-07; PSC 1-2009, f. & cert. ef. 6-26-09; PSC 1-2011, f. & cert. ef. 7-1-11; PSC 1-2012, f. 3-27-12, cert. ef. 4-1-12; PSC 1-2013, f. & cert. ef. 4-25-13; PSC 2-2013, f. & cert. ef. 7-3-13; DMAP 13-2014(Temp), f. 3-20-14, cert. ef. 4-1-14 thru 9-28-14; PSC 1-2014, f. 3-18-14, cert. ef. 3-21-14; PSC 1-2015, f. & cert. ef. 3-17-15; PSC 2-2015, f. & cert. ef. 7-10-15; PSC 1-2016, f. & cert. ef. 1-29-16

325-010-0025
Reporting Serious Adverse Events

(1) The Commission will provide an Event Report form to be used by Hospital Participants for reporting Reportable Serious Adverse Events. The Event Report will include: a summary description of the event; an overview of the Hospital Participant's complete, thorough and credible root cause analysis for that event; information about plans to implement improvements to reduce risk. The meaning of terms "complete," "thorough," and "credible" are explained in OAR 325-010-0035.

(2) Hospital Participants must use the Event Report form when reporting Serious Adverse Events to the Commission.

(3) Hospital Participants must submit a completed Event Report to the Commission within 45 calendar days of discovery of a Reportable Serious Adverse Event.

(4) If a Hospital Participant believes the Commission should immediately issue an alert to all Oregon hospitals based on a specific Reportable Serious Adverse Event, the Hospital Participant should provide an initial report to the Commission within 3 business days of discovery of the event, or sooner. The Hospital Participant and Commission will work together to identify information to include in the alert.

Stat. Auth.: ORS 442.820
Stats. Implemented: ORS 442.819-442.851
Hist.: PSC 2-2006, f. & cert. ef. 2-6-06; PSC 3-2006(Temp), f. & cert. ef. 10-25-06 thru 4-22-07; PSC 2-2007, f. & cert. ef. 4-10-07; PSC 1-2016, f. & cert. ef. 1-29-16

Oregon Public Employees Retirement System
Chapter 459

Rule Caption: Establish a reimbursement schedule for providing medical records.
Adm. Order No.: PERS 1-2016
Filed with Sec. of State: 1-29-2016
Certified to be Effective: 1-29-16
Notice Publication Date: 12-1-2015
Rules Adopted: 459-005-0605
Subject: PERS regularly requests copies of medical records for disability eligibility determinations, ongoing reviews, appeals, and contested case hearings. The rate at which PERS reimburses medical providers for medical records has varied over time, and has not always been consistently applied. This rule will establish a published reimbursement schedule for requested medical records, providing consistency in the reimbursement we will pay providers of these records.
Rules Coordinator: Daniel Rivas—(503) 603-7713

459-005-0605
Reimbursement for Medical Records Requested by PERS

(1) The following are the maximum amounts that PERS will reimburse for the costs incurred in processing medical requests for health information.

(a) Cost of coping medical records:

(A) $30.00 for 10 or fewer pages;

(B) $0.50 per page for pages 11 through 50; and

(C) $0.25 per page for pages 51 and higher.

(b) PERS will pay $35.00 for the cost of providing a compact disc with medical record data in place of providing printed materials to PERS.

(2) PERS will pay a provider $30.00 for completing and signing a PERS Medical Information Statement or Physician Statement of Current Status.

(3) PERS will not make advance payments to providers before medical records are received.

Stat. Auth.: ORS 238.620 and 238A.450
Stat. Implemented: ORS Chapters 238 and 238A
Hist.: PERS 1-2016, f. & cert. ef. 1-29-16

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Rule Caption: Clarify rulemaking notice procedure.
Adm. Order No.: PERS 2-2016
Filed with Sec. of State: 1-29-2016
Certified to be Effective: 1-29-16
Notice Publication Date: 12-1-2015
Rules Amended: 459-001-0000
Subject: OAR 459-001-0000 sets forth the procedure for noticing the adoption, amendment, and repeal of administrative rules. The current rule, however, stipulates that notices of rulemaking will be sent via postal mail and lists a limited group of interested parties and employers as recipients of the rulemaking notices. The proposed rule modifications update the mailing requirement to conform to agency practice of emailing notices unless the recipient requests a postal mailing. The incomplete list of employers and interested parties has been removed, and section (2) has been updated to indicate that notices of rulemaking will be provided to all persons and organizations who request to receive the notices.
Rules Coordinator: Daniel Rivas—(503) 603-7713

459-001-0000
Notice of Proposed Rule

Prior to adoption, amendment or repeal of any permanent rule, the Public Employees Retirement System (PERS) shall give notice of the intended action:

(1) In the Secretary of State's Bulletin referred to in ORS 183.360, at least 21 days before the effective date of the intended action.

(2) By emailing, or sending via postal mail if the recipient has elected that option, notice to persons and organizations on the PERS mailing list established pursuant to ORS 183.335(8), at least 28 days before the effective date of the intended action. An interested person or organization may request to be placed on the PERS mailing list by submitting a request to the agency Administrative Rules Coordinator.

(3) By emailing notice to the Director of the Department of Administrative Services and, to the extent identified, affected participating public employers in the System, at least 28 days before the effective date of the intended action.

(4) By emailing notice to the legislators specified in ORS 183.335(15), at least 49 days before the effective date of the intended action.

Stat. Auth.: ORS 183.335 & 238.650
Stats. Implemented: ORS 183.335
Hist.: PER 13, f. & ef. 10-26-76; PER 4-1981, f. & ef. 1-15-81; PER 1-1982, f. 11-22-82, ef. 1-1-83; PERS 3-1994, f. & cert. ef. 5-10-94; PERS 14-2004, f. & cert. ef. 6-15-04; PERS 2-2016, f. & cert. ef. 1-29-16

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Oregon Racing Commission
Chapter 462

Rule Caption: Amend rule 462-220-0080 to reflect legislative action. Changes payment structure between agency and general fund.
Adm. Order No.: RC 1-2016
Filed with Sec. of State: 1-27-2016
Certified to be Effective: 1-27-16
Notice Publication Date: 12-1-2015
Rules Amended: 462-220-0080
Subject: Amendment changes distribution of receipts from Multi-Jurisdictional Simulcasting and Interactive Wagering Totalizators Hubs. Amended rule requires 25% of the receipts to be transferred to the general fund and retain 75% in the agency's cash account for the benefit of the pari-mutuel racing industry.
Rules Coordinator: Karen Parkman—(971) 673-0208

462-220-0080
Distribution of Receipts from Multi-Jurisdictional Simulcasting and Interactive Wagering Totalizator Hubs

From the payments made to the Oregon Racing Commission by Multi-Jurisdictional Simulcasting and Interactive Wagering Totalizator Hubs per ORS 462.725(3)(b), the commission shall:

(1) Transfer to the State General Fund 25% of the receipts;

(2) Retain 75% in the agency's cash account. Of the retained money, the commission may distribute it for the benefit of the Oregon pari-mutuel racing industry as follows:

(a) First, to race meets that were licensed under ORS 462.057 during the 1999 calendar year in the amounts necessary, in the commission's judgment, to allow an appropriate race meet with an appropriate purse level;

(b) Second, if there are funds remaining, to any entity in the Oregon pari-mutuel racing industry, after the receipt of a petition submitted to the commission, for purposes that benefit members of the pari-mutuel industry.

(3) The commission's decision on the distribution of these funds is final.

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 2-2012, f. 5-29-12, cert. ef. 6-1-12; RC 1-2016, f. & cert. ef. 1-27-16

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Oregon State Treasury
Chapter 170

Rule Caption: Modifies advance and current forward refunding rule requirements and updates permanent SEC Rule reference.
Adm. Order No.: OST 1-2016
Filed with Sec. of State: 2-10-2016
Certified to be Effective: 2-10-16
Notice Publication Date: 12-1-2015
Rules Amended: 170-062-0000
Subject: The amendment provides additional requirements and updates the reference number for SEC's Municipal Advisor Registration Permanent Rule.
Rules Coordinator: Dan McNally—(503) 373-1028

170-062-0000
Procedure for Submission, Review and Approval of an Advance Refunding Plan or Forward Current Refunding Plan

(1) Plan Contents and Filing. Every public body (as defined in ORS 287A.001(14) must submit its plans for an advance refunding or forward current refunding (the "Refunding Plan") and receive approval of the Refunding Plan by the Office of the State Treasurer ("OST") prior to the

sale of bonds connected to the Refunding Plan, as provided in this rule and ORS287A.365. The Refunding Plan request should include the name, phone number, U.S. mailing address, and e-mail address for the public body and for the public body's bond counsel, Municipal Advisor ("MA"), and underwriter. The Refunding Plan must contain:

(a) A statement of purpose of the Refunding Plan;

(b) A description of the bonds to be refunded, including: date and premium, if any, when each is first callable; par amount originally issued, current amount outstanding, proposed amount, and maturities to be refunded; and the dated date;

(c) A preliminary estimate of the Net Present Value Savings ("NPVS"): Present value savings is defined as the present value of the difference in debt service between the proposed refunded debt service and the proposed refunding debt service, discounted at the arbitrage yield of the refunding debt service. Any issuance expenses paid from sources other than bond proceeds and any other cash contributed to the escrow other than from bond proceeds must also be subtracted from proceeds to determine NPVS;

(d) A copy of the contract between the public body and its MA;

(e) Completed Municipal Debt Advisory Committee ("MDAC") Form 1;

(f) Estimated costs of issuance for the MA, bond counsel, and underwriting costs;

(g) Final Official Statement, if the bonds have been publicly offered;

(h) Final Net Present Value Savings as described in subsection (c) of this section;

(i) Copy of the letter from MA to the public body as described in section (2) of this rule;

(j) Completed MDAC Form 2;

(k) Completed MDAC Form 3, if using a synthetic fixed rate refunding issue;

(l) Final draft of Bond Counsel Legal Opinion with Executed version provided within 5 business days of Closing; and

(m) Any additional materials that may be required by OST in support of the Advance Refunding or Forward Current Refunding request.

(2) Municipal Advisor required. A public body must employ an independent registered MA whose function is to advocate for the public body and advise them on the refinancing transaction that is the subject of the Refunding Plan. The MA must be registered with the Securities and Exchange Commission as required under 17 CFR § 240.15Ba1-2. The MA may not also serve as the underwriter in the same negotiated bond sale as required in Rule G23 of the Municipal Securities Rulemaking Board. Prior to closing, the public body and the OST must receive from the MA a letter stating that the MA (i) has not within the past two years been associated with the public body within the meaning of 15 U.S.C. § 78o-4(e)(7); (ii) has reviewed the assumptions included in the Refunding Plan, and (iii) has provided a recommendation on the desirability or undesirability of completing the Refunding Plan and the reasons therefor. Forward current Refunding Plans must also include a description of the suitability of the public body for conducting a forward current refunding and an estimate in basis points of the premium paid to execute the forward refunding.

(3) OST Approval Procedure.

(a) Preliminary Approval. If the items in subsections (1)(a) through (1)(e) of this rule are completed and submitted to OST, then OST will notify the public body of OST's preliminary approval and state its intention to issue a final approval conditioned upon receipt and approval of items in subsections (1)(f) through (1)(m) of this rule;

(b) Preliminary Refunding Plans should be submitted to OST sufficiently in advance to allow 10 working days for review. The 10-day review period begins the working day after all items (1)(a) through (1)(e) of this rule and the application fee identified in OAR 170-061-0015 have been received;

(c) Preliminary approval is valid for a period of one year from the date of the preliminary approval letter. After the one year period expires, a new application fee and Refunding Plan are required;

(d) Final Approval. If the items in subsections (1)(f) through (1)(m) of this rule are received and approved by OST, then OST will issue its final approval for the Refunding Plan within five working days. The five-day period begins after receipt of all items required for final approval; and

(e) At the discretion of OST, drafts of preliminary and final components of Refunding Plans may be accepted and reviewed in lieu of finalized documents with the understanding that finalized documents will be provided within five working days of the bond closing.

(4) Administrative Expenses. To reimburse OST for the services, duties, and activities of OST in connection with reviewing the plan, fees and expenses will be charged to public bodies as identified in OAR 170-061-0015.

(5) Ongoing Evaluation. OST evaluates long term trends in Oregon debt issuance. Adverse trends associated with local government refundings may result in a review and revision of the factors used by OST to evaluate refundings with the goal of diminishing potential undesirable impacts upon the higher priority "new money" bond issues.

(6) Waiver of Certain Provisions. OST may waive certain provisions of this rule to accommodate unusual circumstances.

(7) Noncompliance. If OST finds that the Preliminary Refunding Plan is not in substantial compliance with ORS 287A and this rule, the plan may not be approved. Notice that the plan does not comply, and the reasons for this finding will be sent to the public body and its bond counsel within 10 business days after receipt of the plan.

(8) Submission. Refunding Plans should be submitted to OST as provided in OAR 170-055-0001(4).

(9) Through its review and approval or disapproval of a Refunding Plan, OST is not acting as a fiduciary or municipal advisor to a public body, is not providing advice with respect to the structure, timing, terms or other similar matters concerning the Refunding Plan, and expects the public body to rely on the advice of its MA with respect to such matters.

[Publications: Publications referenced are available from the Agency.]
Stat. Auth.: ORS 287A.365
Stats. Implemented: ORS 287A.360 - 287A.380
Hist.: TD 2-1986, f. & ef. 6-16-86; TD 2-1990, f. 9-18-90, cert. ef. 9-19-90; TD 2-1994, f. & cert. ef. 9-9-94; OST 5-2004, f. & cert. ef. 6-23-04; OST 2-2006, f. & cert. ef. 8-4-06; OST 7-2008, f. & cert. ef. 12-29-08; OST 5-2010(Temp), f. 11-29-10, cert. ef. 12-1-10 thru 5-29-11; OST 2-2011, f. & cert. ef. 4-1-11; OST 2-2012(Temp), f. & cert. ef. 11-19-12 thru 5-15-13; Administrative correction, 6-27-13; OST 2-2015, f. & cert. ef. 7-10-15; OST 1-2016, f. & cert. ef. 2-10-16

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Rule Caption: Modifies qualification requirements and application procedures related to the Oregon School Bond Guaranty Program.
Adm. Order No.: OST 2-2016(Temp)
Filed with Sec. of State: 2-12-2016
Certified to be Effective: 2-12-16 thru 8-8-16
Notice Publication Date:
Rules Amended: 170-063-0000
Subject: The temporary rule:

(1) Removes language requiring districts with combined projected future annual guaranteed debt service exceeding 80% of its annual State aid to provide additional collateral or bond insurance to reimburse the State Treasury for any debt service payments made on its behalf.

(2) Inserts language defining Repayment Assurance Agreement.

(3) Inserts language requiring districts to enter into a Repayment Assurance Agreement with Oregon State Treasury — Debt Management Division as a condition of Oregon School Bond Guaranty qualification.

(4) Inserts language requiring districts to provide a copy of Board adopted policy or internally implemented procedure that addresses post issuance compliance with federal tax and securities laws.
Rules Coordinator: Dan McNally—(503) 373-1028

170-063-0000
Oregon School Bond Guaranty Program

(1) Definitions. For purposes of this rule, the following definitions shall apply:

(a) "OST" means the Office of the State Treasurer.

(b) The "Act" means the Oregon School Bond Guaranty Act set forth in ORS 328.321 to 328.356.

(c) "Authorized District Official" means the chairperson of the board, the superintendent, president, or business administrator for the School District, or other designee of the board.

(d) "Business Day" means any day on which the offices of the State Treasurer are open to the public for the conduct of substantially all of the powers and duties of the agency. Saturdays, Sundays, or state holidays or any other day recognized by state government as a holiday or a day on which the State Treasurer's offices are officially closed to the public shall not be considered a Business Day.

(e) "Certificate of Qualification" means a letter from OST pursuant to ORS 328.331(3).

(f) "Determination of Ineligibility" means a letter from OST pursuant to ORS 328.336.

(g) "Guaranty Program" means the school bond guaranty program established by the Act.

(h) "Nationally Recognized Bond Counsel Firm" means a bond counsel firm listed in the most recent publication of The Bond Buyer's Municipal Market Place.

(i) "Qualified Bonds" means bonds that are originally issued as tax credit bonds under the Internal Revenue Code and any bonds resulting from a conversion of such tax credit bonds to an interest bearing format over and above interest payments that may be due and payable under the original terms of such tax credit bonds.

(j) "Qualified Paying Agent" means a paying agent acceptable to OST who agrees to comply with the applicable requirements of the Act and provides a letter to OST acknowledging as much.

(k) "School District" or "District" means a common or union high school district, an education service district, or a community college district.

(l) "State School Aid" means the State School Fund Grant described in ORS 327.008(2), plus amounts received from the Common School Fund under 327.410, plus amounts received from federal forest revenues under 294.060, plus amounts received from state managed forests under 530.115.

(m) "Repayment Assurance Agreement" means an agreement between the State of Oregon, acting by and through its Office of the State Treasurer and its Department of Education (the "State") and a "District" in which the District agrees that if the State pays under the guaranty the District will enter into a subsequent repayment agreement with respect to the amount(s) paid by OST.

(n) Terms not otherwise specifically defined herein shall have the meanings given in the Act. For purposes of calculating outstanding bonds or other outstanding borrowings as required under this rule, any borrowings that are defeased as provided in ORS 287A.195(1)(d)(B) shall be excluded and shall not be included in the amount of an outstanding borrowing.

(2) Request for Certificate of Qualification to Participate in Guaranty Program. School Districts may request a Certificate of Qualification at any time during the year by filing a Request for Certificate of Qualification. Such requests, however, must be submitted no less than 30 days prior to sale of the bonds for which the guaranty, if granted, will apply. Requests, and all other written communications pursuant to the Guaranty Program, shall be submitted to OST as provided in OAR 170-055-0001(4), and shall include:

(a) The name, county, and district number (if applicable) of the requesting School District;

(b) The name of the business administrator or other contact person for the requesting School District;

(c) The mailing address, phone number, e-mail address, and fax number (if applicable) of the requesting School District;

(d) A statement of whether any of the School District's previously issued and outstanding debt is covered by the Guaranty Program;

(e) A copy of the requesting School District's most recent audited financial statements, audit opinion, and management letter; and a statement by an Authorized District Official that they have not been contacted and are not participating in any investigation by an oversight agency or, alternatively, documentation of any conclusions reached by such agency regarding their activities.

(f) A listing of outstanding general obligation debt and associated debt service schedules, for debt issued by the School District since the date of its most recent financial audit;

(g) A copy of the School District's Board adopted policy or internal procedure that addresses post issuance compliance with federal tax and securities laws.

(h) A certificate, signed by an Authorized District Official:

(A) Stating whether the requesting School District has ever failed to pay debt service on any of its bonds, certificates of participation, or other financial obligations when due, and explaining the circumstances and resolution of any such defaults or failures;

(B) Describing current lawsuits against the School District challenging the ability or authority of the School District to issue bonds or that may materially affect the ability of the School District to make scheduled debt service payments on its bonds when due;

(C) Stating that the requesting School District has filed its current budget document(s) with the Oregon Department of Education, and in accordance with Oregon Local Budget Law;

(D) Stating the amount of debt the School District is authorized by law to incur, and stating that the requesting School District is within this limit;

(E) Describing the possible repayment structure of all bonds the School District may issue during the period of the requested Certificate of Qualification, including any Qualified Bonds. Such repayment structure shall cover the estimated debt service schedule and, for Qualified Bonds, include any scheduled deposits to a sinking fund and the interest rate to which such bonds may be converted, if they may be converted to an interest bearing format over and above interest payments that may be due and payable under the original terms of such bonds;

(F) Attesting to the accuracy and completeness of the materials provided; and

(G) Stating that the School District has engaged a Qualified Paying Agent, who, under the terms of the agreement between the two parties (the "Paying Agent Agreement"), has agreed to provide the School District with a written notification by January 15 of each year of the required debt service amounts (including any scheduled deposits to a sinking fund for Qualified Bonds) which are due in the then-current fiscal year and the following two fiscal years, such that the School District may have the proper information to levy adequate amounts for such payments coming due in the following fiscal years.

For example, a notification provided by January 15, 2010 shall include information on debt service due in the current FY 2010 year (July 1, 2009 through June 30, 2010), the FY 2011 year (July 1, 2010 through June 30, 2011), and FY 2012 year (July 1, 2011 through June 30, 2012).

(i) A non-refundable application processing fee as set forth in OAR 170-061-0015;

(j) An authorizing resolution of the District that expressly authorizes the District to participate in the Guaranty Program and that affirmatively pledges the taxing power and full faith and credit of the District to payment of any payments made by the State Treasurer pursuant to ORS 328.341; and

(k Any additional materials that may be required by OST in support of the request for participation in the Guaranty Program.

(3) Review of Request for Certificate of Qualification. Upon receipt of a request for a Certificate of Qualification, OST shall determine whether all items listed in section (2) of this rule have been provided, whether such items are current, and whether such items demonstrate that the requesting School District is likely to be able to repay any amounts paid by OST under ORS 328.341. To make its determination, OST may request additional information from the School District, as well as from any other person or entity that collects information pertaining to the financial well-being of the requesting School District.

(4) Issuance of Certificate of Qualification. Upon determining that a School District is eligible to participate in the Guaranty Program, OST shall issue a Certificate of Qualification to the School District, if the District has entered into a Repayment Assurance Agreement with OST. A Certificate of Qualification will not apply to Qualified Bonds unless the School District indicated in its request for a Certificate of Qualification that it planned to issue Qualified Bonds under the Certificate of Qualification. OST shall act upon a School District's request for a Certificate of Qualification within 10 business days after receipt of a request under section (2) of this rule. The Certificate of Qualification:

(a) Shall evidence the School District's immediate qualification for the Guaranty Program contingent upon compliance with section (6) and all other sections of this rule for each bond issue contemplated for guaranty under the Act;

(b) Be valid for one year from the date of its issuance;

(c) May be applied to any or all general obligation bonds or general obligation refunding bonds issued by the School District during such one-year period that comply with this rule and the Act, except Qualified Bonds for which specific approval must be noted as set forth in OAR 170-061-0015(4)(d). A bond shall be considered issued as of its dated date.

(d) Will specifically state whether it applies to Qualified Bonds issued by the School District during the period of its validity.

(5) A School District that has received a Certificate of Qualification, but did not request Qualified Bonds to be included under the Certificate of Qualification, may submit an amended request at least one month prior to the scheduled issuance date for any Qualified Bonds requesting an amended Certificate of Qualification that specifically covers the Qualified Bonds, which request shall include the information required for such bonds in OAR 170-063-0000(2). OST shall act upon such request within 5 business days.

(6) School Districts to Provide Information Specific to Each Bond Issued Under the Program. A School District which has received a Certificate of Qualification may, while the Certificate of Qualification is in effect, obtain the state's guaranty of a series of its bonds under the Guaranty Program, by:

(a) Fully complying with Oregon Administrative Rule 170-061-0000 (Notice and Reporting Requirements by Public Bodies When Issuing Bonds), including providing notification on MDAC Form 1 to OST at least 10 business days prior to the marketing of any bonds referencing participation in the Guaranty Program, for the bonds which will be guaranteed (this may be submitted simultaneously with information described in section (2) of this rule);

(b) Submitting the following documents to OST at least 5 business days prior to the closing of the bonds to which the guaranty will apply:

(A) A copy of a resolution adopted by the board or governing body of the School District, authorizing the School District to issue the bonds and participate in the Guaranty Program;

(B) An opinion from a Nationally Recognized Bond Counsel Firm that the bonds, when issued, will be general obligation bonds as defined in the Act, and will be valid and binding obligations of the issuer;

(C) A certificate stating that no litigation is pending or threatened against the School District, questioning the authority of the School District to issue the bonds or levy taxes to pay the bonds;

(D) A specific statement as to whether any of the bonds will be Qualified Bonds; and

(E) Any additional materials that may be required by OST in support of the request for participation in the Guaranty Program, including but not limited to, any information or agreement requested by OST with respect to creation of sufficient debt service funds, assurance that any bond insurance, pledge of security or other credit enhancement required for issuance of the Certificate remains in effect and available, or other repayment mechanisms to pay any outstanding bonds, including Qualified Bonds or to repay OST when payment is due.

(7) Letter of Confirmation. No later than the day on which the bonds are scheduled to close, OST shall, if the Certificate of Qualification is in effect and the School District has complied with section (6)(a) and (6)(b) of this rule, issue a Letter of Confirmation identifying the series of bonds to which the guaranty shall apply, and stating that the guaranty shall apply to that series of bonds if the series of bonds closes within 15 business days after the date of the letter, and there is filed with bond counsel a certificate, signed by an Authorized District Official and dated the date of the closing, stating that no litigation is pending or threatened against the School District which questions the authority of the District to issue the bonds or levy taxes to pay the bonds. If the series of bonds described in the letter of confirmation is closed within that 15 business day period, and the non-litigation certificate is filed with bond counsel as required by this Section, the series of bonds shall be guaranteed under the Guaranty Program, and the guaranty shall not be affected by any denial or revocation pursuant to section (10) of this rule.

(8) Guaranty Fees. School Districts whose bonds are guaranteed by the state shall submit to OST, within 10 business days of closing of any guaranteed bonds, a fee as set forth in OAR 170-061-0015.

(9) Ratings. OST will undertake to have the Oregon School Bond Guaranty Program rated by one or more of the major debt rating agencies. School Districts may contact the Debt Management Division of OST to determine which agencies have rated the program. School Districts proposing to issue bonds under the Guaranty Program may:

(a) Engage, at their own expense, one or more of the rating agencies to apply the rating of the Guaranty Program to their bonds; and

(b) At their discretion, and at their own expense, choose to obtain an underlying rating on the bonds.

(10) Denial or Revocation of Qualification/Determination of Ineligibility. OST may deny a School District's request for a Certificate of Qualification, or revoke a previously issued Certificate of Qualification, and issue a Determination of Ineligibility in accordance with the Act, if:

(a) The School District fails to meet the provisions outlined in the Act or any of the requirements outlined in this rule;

(b) The State has ever paid, pursuant to the Guaranty Program, any principal of or interest on any of the School District's bonds; or

(c) OST has reason to question the financial integrity of the School District, including but not limited to, whether sufficient funds exist to repay any outstanding Bonds, including Qualified Bonds, when payment is due or to repay the State of Oregon for any payments made by OST under ORS 328.341.

(11) Guaranty Final Upon Issuance. Pursuant to ORS 328.336, issuance of a Determination of Ineligibility shall not affect the validity of the state's guaranty of any outstanding bonds issued under a Letter of Confirmation pursuant to section (7) of this rule.

(12) Reference to Guaranty. School Districts with a valid Certificate of Qualification, and that have complied with section (6) and all other sections of this rule, shall evidence the State's guaranty of the School District's bonds by:

(a) Referencing the guaranty on the cover of the preliminary official statement(s) and official statement(s), or other offering document(s), for the applicable bond(s);

(b) Referencing the guaranty on the face of the School District's applicable bond(s); and

(c) Including language describing the guaranty (to be provided by OST) in the School District's preliminary official statement(s) and official statement(s), or any other offering document(s), for the applicable bond(s). Language supplied by OST must be used in its entirety and may not be modified or amended.

(13) School Districts to Report Changes Affecting Qualification. School Districts who have had bonds guaranteed under the Guaranty Program shall promptly notify OST if at any time there are material changes or occurrences that might affect the School District's eligibility to qualify or maintain its qualification to participate in the Guaranty Program, including but not limited to:

(a) Failure to adopt a resolution or ordinance that formally adopts the budget, sets appropriations, and if needed, levies property taxes in accordance with Oregon local budget law;

(b) Failure to pay debt service on any outstanding bond, certificate of participation, or similar financial obligation; or

(c) Failure to establish or levy for debt service scheduled (including any sinking fund deposits) for any outstanding bonds, including Qualified Bonds, or a material change in any other repayment mechanism for outstanding bonds, including Qualified Bonds.

(14) Notice to OST of debt service payments. School Districts who are unable to transfer scheduled debt service payments to a Qualified Paying Agent 15 days prior to the payment date and Qualified Paying Agents who have not received sufficient funds 10 days prior to the payment date, shall provide notice to OST as provided in OAR 170-055-0001(4) and by telephone to (503) 378-4930 or email to DMD@ost.state.or.us.

(15) Notice to OST of sinking fund deposits. School Districts shall provide written verification that they have made any required sinking fund deposits for Qualified Bonds by May 1 of each year to their Qualified Paying Agents and such Qualified Paying Agent shall promptly notify OST if they do not receive such annual verification.

(16) Repayment. Respective School Districts are responsible for paying all of their obligations guaranteed by the State under the Guaranty Program and for the advance funding of any debt service fund established for such obligations. Any funds paid by the State on behalf of a School District under the Guaranty Program shall be recovered by OST in a manner consistent with the Act.

(17) Reporting on Debt Service Fund. Any School District with outstanding Qualified Bonds guaranteed under the Guaranty Program shall report to the OST at least annually the amount of moneys paid into the School District's debt service fund to pay the Qualified Bonds together with a calculation demonstrating that such advance payments are scheduled to be fully funded and sufficient to repay the Qualified Bonds in full when payment is due. To the extent moneys are not scheduled to be paid into the debt service fund on an annual basis, the School District in its notification shall demonstrate that current balances in the debt service fund, along with any future deposits, will be sufficient to repay the Qualified Bonds in full when due. School Districts with outstanding Qualified Bonds that are subject to conversion to taxable interest bearing bonds and any Qualified Paying Agents for such Qualified Bonds shall promptly notify OST of such conversion as provided in OAR-170-055-0001(4) and by telephone to (503) 378-4930 or email to DMD@ost.state.or.us.

(18) Interest. OST will charge interest in connection with the recovery of funds under the Act. Any interest charged will be in a manner consistent with the Act.

(19) Penalty. In addition to charging interest, OST may impose a penalty on a School District for which the State made a payment under the Guaranty Program. Any penalty imposed will be consistent with the Act.

(20) Exceptions. OST may waive any or all provisions of this rule to the extent provided by law.

This rule shall be effective on the date it is adopted by OST and filed with the Secretary of State and its requirements shall apply to any Certificates of Qualification that are in effect on such date.

Stat. Auth.: ORS 328.321 - 328.356

Stats. Implemented: ORS 328.321 - 328.356 & 328.331

Hist.: OST 3-1998(Temp), f. 12-14-98, cert. ef. 1-2-99 thru 6-30-99; OST 2-1999, f. 6-22-99, cert. ef. 7-1-99; OST 1-2000(Temp), f. 10-31-00, cert. ef. 10-31-00 thru 4-27-01, Administrative correction 6-7-01; OST 7-2008, f. & cert. ef. 12-29-08; OST 5-2009(Temp), f. & cert. ef. 10-30-09 thru 4-27-10; OST 1-2010, f. & cert. ef. 1-15-10; OST 1-2014(Temp),

f. & cert. ef. 1-15-14 thru 7-14-14; OST 2-2014, f. & cert. ef. 4-11-14; OST 2-2016(Temp), f. & cert. ef. 2-12-16 thru 8-8-16

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Public Utility Commission,
Board of Maritime Pilots
Chapter 856

Rule Caption: Amendment to extend the duration of a graded license on a case-by-case basis.
Adm. Order No.: BMP 1-2016
Filed with Sec. of State: 1-25-2016
Certified to be Effective: 1-25-16
Notice Publication Date: 12-1-2015
Rules Amended: 856-010-0012
Subject: The Board's rules do not currently allow a lower grade license to be extended or renewed to allow additional time to complete training when training is interrupted by medical leave. The amendment will allow the Board to extend a graded (limited) license on a case-by-case basis.
Rules Coordinator: Susan Johnson—(971) 673-1530

856-010-0012
Degrees of Licenses for the Columbia and Willamette River Pilotage Ground

(1) Grade "C" License: The initial license issued by the Board to a pilot for the Columbia and Willamette River pilotage ground shall only authorize the pilot to pilot vessels under 600 feet length over-all (L.O.A.).(2) To obtain a Grade "B" License while holding a Grade "C" License: In order to obtain authority from the Board to pilot vessels from and including 600 feet L.O.A. up to 700 feet L.O.A. on the Columbia and Willamette River pilotage ground, an applicant must meet the following requirements:

(a) Complete at least 180 days service on the pilotage ground while holding a Grade "C" license;

(b) Complete at least 30 transits on the pilotage ground piloting ships of between 300 and 600 feet L.O.A.;

(c) Complete at least 25 transits on ships 600 feet L.O.A. or greater under the supervision of a minimum of ten different pilots, at least six of whom have held unlimited state licenses for at least 5 years;

(d) Complete at least 5 trips in either direction between Astoria and either Longview or Kalama on ships 600 feet L.O.A. or greater under the supervision of an unlimited state-licensed pilot;

(e) Make at least 6 trips under the supervision of unlimited state-licensed pilots while on the bridge of ships not less than 500 feet L.O.A., with at least 3 trips in each of the following directions:

(A) From the Willamette River, turning east (upstream) into the Columbia River; and

(B) From the Columbia River upstream of the mouth of the Willamette River, turning south (upstream) into the Willamette River;

(f) Complete at least 2 trips from dock to dock or anchor to dock while on ships not less than 600 feet L.O.A. while under the supervision of an unlimited state-licensed pilot, with each such trip requiring a 180 degree turn before docking;

(g) Present recommendations from the training course monitor and from at least ten pilots holding unlimited state licenses who participated in the training, certifying that the applicant has sufficient knowledge and shiphandling skills to pilot vessels from and including 600 feet L.O.A. up to 700 feet L.O.A.; and

(h) The requirements specified in subsections (b), (c), (d), (e) and (f) of this section must have been met during the 180 days preceding application for authority to pilot vessels from and including 600 feet L.O.A. up to 700 feet L.O.A.; and

(i) When the foregoing requirements are met, the Board shall issue a license to the applicant authorizing the applicant to pilot vessels which are less than 700 feet L.O.A., except that the applicant shall not pilot tankers, or vessels with a draft of 38 feet or greater, on the pilotage ground.

(3) To obtain a Grade "A" License while holding a Grade "B" License: In order to obtain authority from the Board to pilot vessels from and including 700 feet L.O.A. up to 800 feet L.O.A. on the Columbia and Willamette River pilotage ground, an applicant must meet the following requirements:

(a) Complete at least 270 days service on the pilotage ground while holding a Grade "B" license;

(b) Complete at least 40 transits piloting ships of between 300 and 700 feet L.O.A. as a state-licensed pilot;

(c) Complete at least 20 transits on ships 700 feet L.O.A. or greater while under the supervision of at least ten unlimited state-licensed pilots;

(d) Complete 2 trips from dock to dock or from an anchorage to a dock under the supervision of unlimited state-licensed pilots while on ships 700 feet L.O.A. or greater, with each trip including a 180 degree turn before docking;

(e) Make at least 4 trips under the supervision of unlimited state-licensed pilots within the 270 days preceding the application while on the bridge of a ship 700 feet L.O.A. or greater, with trips in each of the following directions:

(A) At least 3 trips from the Willamette River, turning east (upstream) into the Columbia River; and

(B) At least 1 trip from the Columbia River upstream of the mouth of the Willamette River, turning south (upstream) into the Willamette River;

(f) Train at least 5 additional days as directed by the training course monitor, with assignments chosen at the discretion of the training course monitor;

(g) Present recommendations from the training course monitor and from at least ten unlimited pilots who participated in the training, certifying that the applicant has sufficient knowledge and shiphandling skills to pilot vessels from and including 700 feet L.O.A. up to 800 feet L.O.A. on the pilotage ground;

(h) The requirements specified in subsections (b), (c), (d), (e) and (f) of this section must have been met during the 270 days preceding application for authority to pilot vessels from and including 700 feet L.O.A. up to 800 feet L.O.A.; and

(i) When the foregoing requirements are met, the Board shall issue a license to the applicant authorizing the applicant to pilot vessels which are less than 800 feet L.O.A. on the pilotage ground, except that the applicant shall not pilot tankers, or vessels with a draft of 40 feet or greater.

(4) To obtain an Unlimited License while holding a Grade "A" License: In order to obtain authority from the Board to pilot vessels on the Columbia and Willamette River pilotage ground without any limitation on the length and draft of the vessels, including tankers and vessels with a draft of 40 feet or greater, an applicant must meet the following requirements:

(a) Complete at least 180 days service on the pilotage ground while holding a Grade "A" license;

(b) Complete at least 30 transits on ships of between 300 and 800 feet L.O.A. during the 180 days preceding application for an unlimited license;

(c) Train at least 10 additional days as directed by the training course monitor, with assignments chosen at the discretion of the training course monitor;

(d) While holding a Grade "B" or Grade "A" license, complete at least ten transits on ships greater than 800 feet L.O.A. while under the supervision of ten different unlimited pilots. Five of these transits must be supervised by pilots with not less than five years' experience as unlimited state-licensed pilots;

(e) Present recommendations from the training course monitor and from at least ten unlimited pilots who participated in training, certifying that the applicant has sufficient knowledge and shiphandling skills to pilot vessels 800 feet L.O.A. or greater on the pilotage ground;

(f) While holding a Grade "B" or Grade "A" license, complete at least 12 transits on tankers (including at least nine transits on loaded tankers) while under the supervision of at least six different state-licensed pilots with not less than five years' experience as unlimited state-licensed pilots;

(g) Present recommendations from the training course monitor and from at least six pilots who participated in training on tankers, certifying that the applicant has sufficient knowledge and shiphandling skills to pilot tankers on the pilotage ground and understands the risks and hazards peculiar to piloting tankers on the pilotage ground;

(h) While holding a Grade "B" or a Grade "A" license, complete at least twelve transits on ships with drafts of 40 feet or greater while under the supervision of at least six different state-licensed pilots with not less than five years' experience as unlimited state-licensed pilots;

(i) Present recommendations from the training course monitor and from at least six unlimited pilots who participated in training on vessels with drafts 40 feet or greater, certifying that the applicant has sufficient knowledge and shiphandling skills to pilot vessels with drafts 40 feet or greater;

(j) Provide proof of completion of a United States Coast Guard approved course in automatic radar plotting aids (ARPA).

(k) Submit a license fee, which may be pro-rated, in order to synchronize the annual license renewal with the renewal of an unlimited license.

(l) When the foregoing requirements are met, the Board shall issue an unlimited license to the applicant authorizing the applicant to pilot vessels of any length and draft, including tankers, on the pilotage ground.

(5) Each grade of license will be valid for one year, except that, upon request of the training course monitor, the duration of a Grade "C", "B" or "A" license may be extended by the board for an additional period equal to the time that a trainee is absent from the pilotage ground due to medical disability. No license except an unlimited license may be renewed.

Stat. Auth.: ORS 776, 670

Stats. Implemented: ORS 776.115, 670.310

Hist.: MP 2-1985, f. & ef. 6-7-85; MP 3-1988, f. & cert. ef. 11-9-88; MP 1-1992, f. & cert. ef. 4-29-92; BMP 3-2001, f. & cert. ef. 10-30-01; BMP 1-2005, f. & cert. ef. 11-29-05; BMP 1-2007, f. 1-25-07, cert. ef. 1-26-07; BMP 4-2008, f. & cert. ef. 1-24-08; BMP 5-2011, f. 6-28-11, cert. ef. 6-29-11; BMP 2-2014(Temp), f. & cert. ef. 5-23-14 thru 11-19-14; BMP 4-2014, f. & cert. ef. 11-26-14; BMP 2-2015, f. & cert. ef. 6-1-15; BMP 1-2016, f. & cert. ef. 1-25-16

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Rule Caption: Extends time for completing certain training requirements for Columbia River pilot trainees.
Adm. Order No.: BMP 2-2016
Filed with Sec. of State: 2-10-2016
Certified to be Effective: 2-10-16
Notice Publication Date: 1-1-2016
Rules Amended: 856-010-0012
Subject: Amendments extend the time for completing two training requirements for Columbia River pilot trainees on graded (limited) licenses, due to recent changes in shipping patterns.
Rules Coordinator: Susan Johnson—(971) 673-1530

856-010-0012
Degrees of Licenses for the Columbia and Willamette River Pilotage Ground

(1) Grade "C" License: The initial license issued by the Board to a pilot for the Columbia and Willamette River pilotage ground shall only authorize the pilot to pilot vessels under 600 feet length over-all (L.O.A.).

(2) To obtain a Grade "B" License while holding a Grade "C" License: In order to obtain authority from the Board to pilot vessels from and including 600 feet L.O.A. up to 700 feet L.O.A. on the Columbia and Willamette River pilotage ground, an applicant must meet the following requirements:

(a) Complete at least 180 days service on the pilotage ground while holding a Grade "C" license;

(b) Complete at least 30 transits on the pilotage ground piloting ships of between 300 and 600 feet L.O.A.;

(c) Complete at least 25 transits on ships 600 feet L.O.A. or greater under the supervision of a minimum of ten different pilots, at least six of whom have held unlimited state licenses for at least 5 years;

(d) Complete at least 5 trips in either direction between Astoria and either Longview or Kalama on ships 600 feet L.O.A. or greater under the supervision of an unlimited state-licensed pilot;

(e) Make at least 6 trips under the supervision of unlimited state-licensed pilots while on the bridge of ships not less than 500 feet L.O.A., with at least 3 trips in each of the following directions:

(A) From the Willamette River, turning east (upstream) into the Columbia River; and

(B) From the Columbia River upstream of the mouth of the Willamette River, turning south (upstream) into the Willamette River;

(f) Complete at least 2 trips from dock to dock or anchor to dock while on ships not less than 600 feet L.O.A. while under the supervision of an unlimited state-licensed pilot, with each such trip requiring a 180 degree turn before docking;

(g) Present recommendations from the training course monitor and from at least ten pilots holding unlimited state licenses who participated in the training, certifying that the applicant has sufficient knowledge and shiphandling skills to pilot vessels from and including 600 feet L.O.A. up to 700 feet L.O.A.; and

(h) The requirements specified in subsections (b), (c), (d), (e), and (f) of this section must have been met during the 180 days preceding application for authority to pilot vessels from and including 600 feet L.O.A. up to 700 feet L.O.A.; and

(i) When the foregoing requirements are met, the Board shall issue a license to the applicant authorizing the applicant to pilot vessels which are less than 700 feet L.O.A., except that the applicant shall not pilot tankers, or vessels with a draft of 38 feet or greater, on the pilotage ground.

(3) To obtain a Grade "A" License while holding a Grade "B" License: In order to obtain authority from the Board to pilot vessels from and including 700 feet L.O.A. up to 800 feet L.O.A. on the Columbia and Willamette River pilotage ground, an applicant must meet the following requirements:

(a) Complete at least 270 days service on the pilotage ground while holding a Grade "B" license;

(b) Complete at least 40 transits piloting ships of between 300 and 700 feet L.O.A. as a state-licensed pilot;

(c) Complete at least 20 transits on ships 700 feet L.O.A. or greater while under the supervision of at least ten unlimited state-licensed pilots;

(d) Complete 2 trips from dock to dock or from an anchorage to a dock under the supervision of unlimited state-licensed pilots while on ships 700 feet L.O.A. or greater, with each trip including a 180 degree turn before docking;

(e) Train at least 5 additional days as directed by the training course monitor, with assignments chosen at the discretion of the training course monitor;

(f) Present recommendations from the training course monitor and from at least ten unlimited pilots who participated in the training, certifying that the applicant has sufficient knowledge and shiphandling skills to pilot vessels from and including 700 feet L.O.A. up to 800 feet L.O.A. on the pilotage ground;

(g) The requirements specified in subsections (b), (c), (d), (e) and (f) of this section must have been met during the 270 days preceding application for authority to pilot vessels from and including 700 feet L.O.A. up to 800 feet L.O.A.; and

(h) When the foregoing requirements are met, the Board shall issue a license to the applicant authorizing the applicant to pilot vessels which are less than 800 feet L.O.A. on the pilotage ground, except that the applicant shall not pilot tankers, or vessels with a draft of 40 feet or greater.

(4) To obtain an Unlimited License while holding a Grade "A" License: In order to obtain authority from the Board to pilot vessels on the Columbia and Willamette River pilotage ground without any limitation on the length and draft of the vessels, including tankers and vessels with a draft of 40 feet or greater, an applicant must meet the following requirements:

(a) Complete at least 180 days service on the pilotage ground while holding a Grade "A" license;

(b) Complete at least 30 transits on ships of between 300 and 800 feet L.O.A. during the 180 days preceding application for an unlimited license;

(c) Train at least 10 additional days as directed by the training course monitor, with assignments chosen at the discretion of the training course monitor;

(d) While holding a Grade "B" or Grade "A" license, complete at least ten transits on ships greater than 800 feet L.O.A., or if directed by the training course monitor, on ships greater than 700 feet L.O.A. with drafts of 40 feet or greater. The transits completed under this section must be under the supervision of a least ten different unlimited pilots, five of whom have not less than five years' experience as unlimited state-licensed pilots;

(e) Present recommendations from the training course monitor and from at least ten unlimited pilots who participated in training, certifying that the applicant has sufficient knowledge and shiphandling skills to pilot vessels 800 feet L.O.A. or greater on the pilotage ground;

(f) While holding a Grade "B" or Grade "A" license, complete at least 12 transits on tankers (including at least nine transits on loaded tankers) while under the supervision of at least six different state-licensed pilots with not less than five years' experience as unlimited state-licensed pilots;

(g) Present recommendations from the training course monitor and from at least six pilots who participated in training on tankers, certifying that the applicant has sufficient knowledge and shiphandling skills to pilot tankers on the pilotage ground and understands the risks and hazards peculiar to piloting tankers on the pilotage ground;

(h) While holding a Grade "B" or a Grade "A" license, complete at least twelve transits on ships with drafts of 40 feet or greater while under the supervision of at least six different state-licensed pilots with not less than five years' experience as unlimited state-licensed pilots;

(i) While holding a Grade "B" or Grade "A" license, make at least 4 trips under the supervision of unlimited state-licensed pilots while on the bridge of a ship 700 feet L.O.A. or greater, or if directed by the training course monitor, on the bridge of a ship 600 feet L.O.A. or greater with a draft of 40 feet or more, with such trips in each of the following directions:

(A) At least 3 trips from the Willamette River, turning east (upstream) into the Columbia River; and

(B) At least 1 trip from the Columbia River upstream of the mouth of the Willamette River, turning south (upstream) into the Willamette River;

(j) Present recommendations from the training course monitor and from at least six unlimited pilots who participated in training on vessels

with drafts 40 feet or greater, certifying that the applicant has sufficient knowledge and shiphandling skills to pilot vessels with drafts 40 feet or greater;

(k) Provide proof of completion of a United States Coast Guard approved course in automatic radar plotting aids (ARPA).

(l) Submit a license fee, which may be pro-rated, in order to synchronize the annual license renewal with the renewal of an unlimited license.

(m) When the foregoing requirements are met, the Board shall issue an unlimited license to the applicant authorizing the applicant to pilot vessels of any length and draft, including tankers, on the pilotage ground.

(5) Each grade of license will be valid for one year, except that, upon request of the training course monitor, the duration of a Grade "C", "B" or "A" license may be extended by the board for an additional period equal to the time that a trainee is absent from the pilotage ground due to medical disability. No license except an unlimited license may be renewed.

Stat. Auth.: ORS 776, 670

Stats. Implemented: ORS 776.115, 670.310

Hist.: MP 2-1985, f. & ef. 6-7-85; MP 3-1988, f. & cert. ef. 11-9-88; MP 1-1992, f. & cert. ef. 4-29-92; BMP 3-2001, f. & cert. ef. 10-30-01; BMP 1-2005, f. & cert. ef. 11-29-05; BMP 1-2007, f. 1-25-07, cert. ef. 1-26-07; BMP 4-2008, f. & cert. ef. 1-24-08; BMP 5-2011, f. 6-28-11, cert. ef. 6-29-11; BMP 2-2014(Temp), f. & cert. ef. 5-23-14 thru 11-19-14; BMP 4-2014, f. & cert. ef. 11-26-14; BMP 2-2015, f. & cert. ef. 6-1-15; BMP 1-2016, f. & cert. ef. 1-25-16; BMP 2-2016, f. & cert. ef. 2-10-16

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Teacher Standards and Practices Commission
Chapter 584

Rule Caption: Adopts, amends and repeals rules related to licensure redesign.

Adm. Order No.: TSPC 1-2016

Filed with Sec. of State: 2-10-2016

Certified to be Effective: 2-10-16

Notice Publication Date: 12-1-2015

Rules Adopted: 584-017-1100, 584-050-0150, 584-070-0510, 584-200-0005, 584-200-0010, 584-200-0020, 584-200-0030, 584-200-0040, 584-200-0050, 584-200-0060, 584-200-0070, 584-200-0080, 584-200-0090, 584-200-0100, 584-210-0165, 584-225-0010, 584-225-0020, 584-225-0030, 584-225-0040, 584-225-0050, 584-225-0090, 584-225-0100, 584-420-0010, 584-420-0020, 584-420-0030, 584-420-0040, 584-420-0300, 584-420-0310, 584-420-0345, 584-420-0360, 584-420-0365, 584-420-0375, 584-420-0390, 584-420-0415, 584-420-0420, 584-420-0425, 584-420-0440, 584-420-0460, 584-420-0475, 584-420-0490, 584-420-0600, 584-420-0610, 584-420-0620, 584-420-0630, 584-420-0640, 584-420-0650, 584-420-0660, 584-225-0070

Rules Amended: 584-070-0012, 584-210-0030, 584-210-0040, 584-210-0050, 584-210-0060, 584-210-0070, 584-210-0080, 584-210-0090, 584-210-0100, 584-210-0110, 584-210-0130, 584-210-0140, 584-210-0150, 584-210-0160, 584-210-0190, 584-220-0010, 584-220-0015, 584-220-0020, 584-220-0025, 584-220-0030, 584-220-0035, 584-220-0040, 584-220-0045, 584-220-0050, 584-220-0055, 584-220-0060, 584-220-0065, 584-220-0070, 584-220-0075, 584-220-0080, 584-220-0085, 584-220-0090, 584-220-0095, 584-220-0100, 584-220-0105, 584-220-0110, 584-220-0120, 584-220-0130, 584-220-0140, 584-220-0145, 584-220-0150, 584-220-0155, 584-220-0160, 584-220-0165, 584-220-0170, 584-220-0175, 584-220-0180, 584-220-0185, 584-220-0190, 584-220-0195, 584-220-0200, 584-220-0205, 584-220-0210, 584-220-0215, 584-220-0220, 584-220-0225, 584-220-0230, 584-255-0010, 584-255-0030

Rules Repealed: 584-040-0005, 584-040-0008, 584-040-0010, 584-040-0030, 584-040-0040, 584-040-0050, 584-040-0060, 584-040-0080, 584-040-0090, 584-040-0100, 584-040-0120, 584-040-0130, 584-040-0150, 584-040-0160, 584-040-0165, 584-040-0170, 584-040-0180, 584-040-0200, 584-040-0210, 584-040-0230, 584-040-0240, 584-040-0241, 584-040-0242, 584-040-0243, 584-040-0250, 584-040-0260, 584-040-0265, 584-040-0270, 584-040-0280, 584-040-0290, 584-040-0300, 584-040-0310, 584-040-0315, 584-040-0350, 584-052-0005, 584-052-0010, 584-052-0015, 584-052-0021, 584-052-0025, 584-052-0027, 584-065-0001, 584-065-0060, 584-065-0070, 584-065-0080, 584-065-0090, 584-065-0120, 584-065-0125, 584-066-0001, 584-066-0010, 584-066-0015, 584-066-0020, 584-066-0025, 584-066-0030, 584-070-0014

Subject: Makes substantive and technical changes to teaching licensure rules related to licensure redesign; Repeals rules from former licensure structure.

Rules Coordinator: Victoria Chamberlain—(503) 378-6813

584-017-1100

Teacher Candidate Performance Assessments

(1) All teacher candidates from Oregon educator preparation programs must complete a teacher candidate performance assessment prior to qualifying for a Preliminary Teaching License.

(2) The Commission has approved two performance assessments for Oregon teacher candidates:

(a) edTPA — a national standardized teacher performance assessment; and

(b) Oregon Teacher Work Sample as provided in subsection (4) of this rule.

(3) All Oregon educator preparation programs must require their teacher candidates to complete the edTPA assessment according to the following implementation requirements:

(a) Effective September 1, 2015, all Oregon preparation programs must have a Commission-approved number of their program candidates complete the edTPA assessment by July 1, 2016.

(A) The Commission will base the required number of edTPA completers on 30% of 2013-14 completers that the institution reported to TSPC for the purposes of the federal Higher Education Act program completion rates. The Commission will provide the exact number of edTPA participants required to meet the 2015-2016 participation requirement to each Oregon preparation program prior to March 1, 2016.

(B) If a 2015-16 program completer does not participate in the edTPA assessment, she or he must compete the Oregon Work Sample as provided in subsection (4) of this rule. A 2015-16 program completer is defined as a candidate who completes a teaching preparation program between September 1, 2015 and August 31, 2016.

(b) Effective September 1, 2016, one hundred percent of teacher candidates must complete the edTPA in order to be eligible for licensure unless a candidate meets the endorsement area exemption provided in subsection 3(c) of this rule.

(c) Effective September 1, 2016, only one Oregon Work Sample will be required for teacher candidates in program areas that do not have an edTPA assessment. Oregon educator preparation programs may use the Oregon Teacher Work Sample in place of the edTPA assessment only if no comparable edTPA assessment exists for the subject-matter endorsement area or where an edTPA assessment has not yet been adopted by the Commission.

(d) Scores on the edTPA assessment are subject to the following conditions:

(A) Between September 1, 2015 and August 31, 2017, the results of the edTPA performance assessment are non-consequential. Oregon teacher candidates will not be required to have a passing score on the assessment for program completion as defined by OAR 584-010-0100 or for eligibility for the Preliminary Teaching License;

(B) Effective September 1, 2017, all Oregon teacher candidates must receive a passing score on the edTPA assessment to be eligible for the Preliminary Teaching License as provided in OAR 584-210-0030 unless the candidate meets the requirements for the exemption to the edTPA assessment as provided in subsection (3)(c) of this rule.

(C) The Commission will set the passing score levels for the edTPA prior to September 1, 2017.

(e) Failure to meet the requirements for edTPA implementation as required by this subsection may result in loss of candidate eligibility for licensure.

(4) To qualify as an Oregon Work Sample, a teacher performance assessment must include:

(a) Context of the school and classroom is explained, learners with special needs, TAG learners, ESOL learners and learners from diverse cultural, linguistic and social backgrounds are described, adaptations for their learning needs are discussed, and prerequisite skills required for the unit are considered;

(b) Goals for the unit of study, that vary in kind and complexity, but that include concept attainment and application of knowledge and skills;

(c) Instructional plans to accomplish the learning goals for all groups of students that includes differentiation of instruction for all students listed in subsection (4) (a) of this rule;

(d) Data on learning gains resulting from instruction, analyzed for each student, and summarized in relation to students' level of knowledge prior to instruction;

(e) Interpretation and explanation of the learning gains, or lack thereof;

(f) A description of the uses to be made of the data on learning gains in planning subsequent instruction and in reporting student progress to the students and their parents; and

(g) Purposeful attention to literacy instruction based upon content requirements, appropriate authorization level and student needs in at least one subject.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.127, ORS 342.135, ORS 342.140, ORS 342.143, ORS 342.147, ORS 342.165, ORS 342.175 & ORS 342.176
Hist.: TSPC 1-2016, f. & cert. ef. 2-10-16

584-050-0150
Criminal Records and Professional Conduct Background Check

(1) An applicant must submit one fingerprint card for checking Oregon and Federal Bureau of Investigation criminal history records under the following conditions:

(a) First placement in a field experience once admitted to an Oregon approved educator-preparation program;

(b) First placement in a field experience in any Oregon public school if completing an educator preparation program by an out-of-state provider;

(c) First time Oregon licensure; or

(d) Reinstatement of a license that has been expired more than three years prior to the date the application form and full fee have been submitted for reinstatement.

(2) An applicant may only be fingerprinted through the process described in subsection (1) of this rule. A criminal background check conducted through fingerprints by any former employer, licensing board or by the Oregon Department of Education does not satisfy the requirements of this rule.

(3) Out of state applicants, or previously licensed Oregon educators returning from living outside of the state may also be subject to internet searches or previous employment checks.

Stat. Auth.: ORS 181 & 342
Stats. Implemented: ORS 181.525, 342.120 – 342.430, 342.455 – 342.495 & 342.533
Hist.: TSPC 13-2015(Temp), f. 11-13-15, cert. ef. 1-1-16 thru 6-28-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-070-0012
Preliminary School Counselor License

(1) Upon filing a correct and complete application in form and manner prescribed by the Commission, a qualified applicant may be granted a Preliminary School Counselor License for three years plus time to the applicant's birthday.

(2) The Preliminary School Counselor License is valid for school counselor assignments in prekindergarten to grade 12 assignments.

(a) The license is also valid for substitute counseling; and

(b) The license is also valid for substitute teaching in any subject-matter area.

(3) To be eligible for a Preliminary School Counselor License, an applicant must satisfy all of the following general preparation requirements:

(a) A master's institution in the United States, or the foreign equivalent of such degree approved by the Commission and a bachelor's degree. A master's degree or a doctoral degree from a regionally accredited institution in the United States validates a non-regionally accredited bachelor's degree;

(b) Admission to and completion of an Oregon or another U.S. jurisdiction, as part of the master's degree or separately, Commission-approved initial program in school counseling;

(c) Obtain a passing score on a Commission-adopted test of knowledge of U.S. and Oregon civil rights laws and professional ethics; and

(d) Complete a background clearance that includes:

(A) Furnishing fingerprints (if necessary);

(B) Providing satisfactory responses to character questions in the form and manner prescribed by the Commission; and

(e) If the Preliminary School Counselor license was issued on the basis of an out-of-state non-provisional license rather than completion of an Oregon-approved program; the educator must complete all requirements in subsection (3) of this rule.

(4) Renewal: To be eligible to apply for renewal of the Preliminary School Counselor License, the applicant must:

(a) Complete 75 continuing professional development units as provided in OAR 584-255-0010, Professional Development Requirements;

(b) Submit a complete and correct renewal application in the form and manner required by the Commission and the payment of all required fees as provided in OAR 584-200-0050.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 – 342.430; 342.455-342.495; 342.553
Hist.: TSPC 2-2007, f. & cert. ef. 4-23-07; TSPC 5-2008, f. & cert. ef. 6-13-08; TSPC 3-2009(Temp), f. & cert. ef. 5-15-09 thru 11-11-09; Administrative correction 11-19-09; TSPC 8-2009, f. & cert. ef. 12-15-09; TSPC 5-2013, f. & cert. ef. 11-14-13; TSPC 1-2014(Temp), f. & cert. ef. 3-15-14 thru 9-10-14; TSPC 5-2014, f. & cert. ef. 8-5-14; TSPC 6-2015(Temp), f. & cert. ef. 7-1-15 thru 12-27-15; TSPC 11-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-070-0510
Legacy School Counselor License

(1) Purpose of the License: The Legacy School Counselor License is a license that qualifies its holder to be assigned as a school counselor in prekindergarten through grade 12 Oregon public school districts, education service districts, and charter school assignments. It is issued to veteran educators who meet the experience requirements for the legacy school counselor.

(2) Authorization: the Legacy School Counselor License qualifies the holder to accept:

(a) Regular school counseling assignments in prekindergarten through grade 12;

(b) Substitute school counseling assignments in prekindergarten through grade 12; and

(c) Substitute teaching assignments in prekindergarten through grade 12 in any subject matter area.

(3) Term of Licensure: The Legacy School Counseling License is valid for three years and is continuously renewable as provided in subsection (5) of this rule.

(4) To be eligible to apply for a Legacy School Counselor License, an applicant must:

(a) Possess the personal qualifications for licensure including attainment of at least eighteen years of age and possessing good moral character and mental and physical health necessary for employment as an educator;

(b) Meet one of the following requirements:

(A) Hold an Oregon Basic or Standard Teaching License issued prior to January 1, 2016 with a Basic Elementary or Standard Elementary endorsement and have had four years of experience in a school counselor assignment in a prekindergarten through grade 8 environment obtained after January 1, 2011 and prior to January 1, 2016. The experience must be verified through a PEER form; or

(B) Hold an Oregon Basic Personnel Service License with a Basic or Standard school counselor endorsement issued prior to January 1, 2016;

(c) Complete a background clearance that includes:

(A) Furnishing fingerprints (if necessary);

(B) Providing satisfactory responses to character questions in the form and manner prescribed by the Commission; and

(d) Submit a complete and correct application in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

(5) Renewal Requirements: To be eligible to apply for renewal of the Legacy School Counselor License, the applicant must:

(a) Complete professional development requirements as provided in OAR 584-255-0010 Professional Development Requirements; and

(b) Submit a complete and correct renewal application in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553
Hist.: TSPC 1-2016, f. & cert. ef. 2-10-16

584-200-0005
Transition to New Licensure System

(1) Effective January 1, 2016: All OAR Chapter 584 rule titles, numbers and provisions adopted on or after January 1, 2016 will supersede all OAR Chapter 584 rule numbers, titles and provisions adopted prior to this date. Any conflicting rule requirements within OAR Chapter 584 will be resolved according to the OAR Chapter 584 rule provisions effective on or after January 1, 2016.

(2) Endorsements:

(a) Effective July 1, 2015, the endorsements as provided in OAR 584-220-0010 will be placed on first-issue licenses and renewals.

(b) Effective July 1, 2015, all teaching licenses will be issued endorsement in accordance with Division 220, Endorsements on Teaching Licenses and subsection (2)(c) of this rule.

(c) Multiple Subjects — Middle Level Endorsements: Effective July 1, 2015, the Multiple Subjects — Middle Level endorsement is abolished. The Multiple Subjects — Middle Level endorsement will not be added to or retained with an applicant's Initial, Initial I, Initial II, Continuing, Professional Teaching Licenses or any future licenses the applicant holds. Current holders of the Multiple Subjects — Middle Level endorsement will be subject to the following transition provisions:

(A) If the applicant has been assigned and taught multiple subjects (self-contained) for four full years or more in a public, charter or private school setting as evidenced by Professional Educational Experience Report (PEER) forms, the Elementary-Multiple Subjects endorsement may be added to the license. If the applicant has not taught four full years or more in an assignment that requires a multiple subjects (self-contained) endorsement, the Elementary-Multiple Subjects endorsement may not be added to the license. If necessary, the applicant and an Oregon school district may apply for an Emergency Teaching License pursuant to OAR 584-210-0130 or a License for Conditional Assignment (LCA) pursuant to OAR 584-210-0160 while the applicant is in the process of qualifying for an Elementary — Multiple Subjects or another valid endorsement.

(B) If the applicant has been assigned and taught Foundational Mathematics, Foundational Language Arts, Foundational Social Studies or Foundational Science for four full years or more in a public, charter or private school setting, as evidenced by Professional Educational Experience Report (PEER) forms, the appropriate foundational single subject may be added to the license. If the applicant has not taught four full years in an assignment that requires a foundational subject matter endorsement, the foundational subject matter endorsement may not be added to or retained on the license. If necessary, the applicant and a district may apply for an Emergency Teaching License pursuant to OAR 584-210-0130 or a License for Conditional Assignment (LCA) pursuant to 584-210-0160 while the applicant is in the process of qualifying for a valid subject-matter endorsement.

(3) Grade-Level Authorizations:

(a) Effective July 1, 2015, grade-level authorizations for Initial, Initial I, Initial II, Continuing, Professional Teaching and Distinguished Teacher Leader licenses are abolished and regardless of the printed grade authorizations held on the license, all licenses in this subsection are authorized prekindergarten through grade 12 within the scope of the NCES course codes associated with the endorsements held on the license.

(b) Effective January 1, 2016, grade-level authorizations for Basic and Standard teaching licenses are abolished and regardless of the printed grade authorizations held on the license, all licenses are authorized prekindergarten through grade 12 within the scope of the NCES course codes associated with the endorsements held on the license.

(c) Effective July 1, 2015, licensees will no longer be advised that they must add a grade-level authorization program in order to expand the grade levels on their license.

(d) Licensees advised they were required to complete a grade-level authorization program will not be held for failure to complete that requirement.

(e) The Commission will make every effort to identify these licensees to alert them to the new grade-level authorization requirements.

(4) Initial I Teaching Licenses: (a) All applicants issued an Initial I Teaching License between July 1, 2015 and December 31, 2015 will be issued a renewal of their license in accordance with the Preliminary Teaching License adopted on January 1, 2016.

(b) Effective January 1 2016, the Initial I Teaching License will be administratively renamed to the Preliminary Teaching License.

(5) Initial I and Initial II Teaching Licenses Based on a MAT or Post-Baccalaureate Preparation Program issued prior to July 1, 2015: General Provisions: Effective July 1 2015, the completion of the advanced coursework of six (6) semester or nine (9) quarter graduate hours required to advance to the Initial II Teaching License satisfies the advanced professional education program requirements for the Professional Teaching License.

(6) Initial I Teaching Licenses Based on a Bachelor's Degree issued prior to July 1, 2015: General Provisions: Effective July 1, 2015, for Initial I Teaching Licenses based on a Bachelor's degree, the requirements to complete the master's degree or equivalent post-Initial I Teaching License are modified as follows:

(a) Admission to and completion of a master's degree or higher in education or in the arts and sciences from a regionally accredited institution, or the foreign equivalent of such degree approved by the Commission will satisfy the advanced professional education program requirements of the Professional Teaching License;

(b) Completion of thirty (30) semester hours or forty-five (45) quarter hours of graduate coursework will be considered "equivalent" to completion of a master's degree;

(c) Effective July 1, 2015, the requirement that "equivalent" graduate coursework must include equal amounts of pedagogy; content; and electives (ten (10) semester or fifteen (15) quarter graduate hours each) has been eliminated; and

(d) Applicants who do not wish to complete these requirements may qualify for promotion to the Professional Teaching License upon completion of the advanced program requirements as provided in OAR 584-0210-0040.

(7) Initial I Teaching Licenses Based on a MAT or Post-Baccalaureate Preparation Program Issued Between July 1, 2012 through June 30, 2015: First Renewal: (a) Upon the first renewal of the Initial I Teaching License, applicants will be issued a new set of instructions for qualifying for the Professional Teaching License.

(b) Qualified applicants will be issued an Initial I Teaching license which will be administratively renamed to a Preliminary Teaching License after January 1, 2016.

(c) To qualify for first renewal of the Initial I Teaching License, an applicant subject to this subsection must:

(A) Meet the previously advised renewal requirements to show progress of 3 semester or 4.5 quarter hours (at least 90 professional development units); or

(B) Meet the new Preliminary Teaching License renewal requirements as provided in OAR 584-210-0030.

(d) If the applicant does not meet renewal requirements for either previously advised or new Preliminary Teaching License renewal options, the applicant may not renew the license. The applicant may apply to reinstate the Preliminary Teaching License upon completion of the renewal requirements in effect at the time of application for reinstatement. (See, OAR 584-210-0030 and OAR 584-210-0190.)

(e) Failure to complete renewal requirements is not considered an eligible emergency for purposes of the Emergency Teaching License.

(8) Initial I Teaching Licenses Based on a Bachelor's Degree Issued Between July 1, 2012 through June 30, 2015: First Renewal: (a) Upon the first renewal of the Initial I Teaching License, applicants will be issued a new set of instructions for the requirements to qualify for the Professional Teaching License.

(b) Qualified applicants will be issued an Initial I Teaching license which will be administratively renamed to a Preliminary Teaching License after January 1, 2016.

(c) To qualify for first renewal of the Initial I Teaching License, an applicant subject to this subsection must:

(A) Meet the previously advised renewal requirements of 3 semester or 4.5 quarter hours (at least 90 professional development units); or

(B) Meet the new Preliminary Teaching License renewal requirements as provided in OAR 584-210-0030.

(d) If the applicant does not meet renewal requirements for either the previously advised renewal option or the new Preliminary Teaching License renewal option, the applicant may not renew the license. The applicant may apply to reinstate the Preliminary Teaching License upon completion of the renewal requirements in effect at the time of application for reinstatement.

(e) Generally, failure to complete renewal requirements is not considered an eligible emergency for purposes of the Emergency Teaching License.

(9) Initial I Teaching Licenses Based on a Bachelor's Degree First Issued Between July 1, 2009 through June 30 2012: Second Renewal:

(a) Upon second and final renewal of the Initial I Teaching License, applicants will be issued a new set of instructions for the requirements that must be completed in order to obtain the Professional Teaching License.

(b) Qualified applicants will be issued an Initial I Teaching license which will be administratively renamed to a Preliminary Teaching License after January 1, 2016.

(c) To qualify for second renewal of the Initial I Teaching License, an applicant subject to this subsection must:

(A) Meet the previously advised renewal requirements to show progress of 3 semester or 4.5 quarter hours (at least 90 professional development units); or

(B) Meet the new Preliminary Teaching License renewal requirements as provided in OAR 584-210-0030.

(d) If the applicant does not meet renewal requirements for either the previously advised renewal option or the new Preliminary Teaching License renewal option, the applicant may not renew the license. The applicant may apply to reinstate the Preliminary Teaching License upon completion of the renewal requirements in effect at the time of application for reinstatement.

(e) Generally, failure to complete renewal requirements is not considered an eligible emergency for purposes of the Emergency Teaching License.

(f) If an applicant is eligible for the Professional Teaching License as provided in OAR 584-210-0040, the applicant will be issued the Professional Teaching License.

(10) Initial I Teaching Licenses Based on a MAT or Post-Baccalaureate Preparation Program Issued Between July 1, 2009 through June 30, 2012:

(a) Qualified applicants who have completed the advanced professional education program requirements and the professional experience requirement as previously advised by the Commission will be issued the Professional Teaching License.

(b) To qualify for the Professional Teaching License, applicants subject to this subsection must:

(A) Meet previously advised advanced coursework requirement of six (6) semester or nine (9) quarter graduate hours; or

(B) Meet the new requirements for the Professional Teaching License as provided in OAR 584-210-0040. Under this option, the applicant may use any qualifying coursework earned during the first two terms of her or his Initial I Teaching License to satisfy the new advanced professional education program requirements.

(c) If an applicant is unable to meet requirements for the Professional Teaching License as provided in subsection (10)(b) of this rule, the applicant will be issued a renewal of the Preliminary Teaching License.

(d) To qualify for the Professional Teaching License, all applicants must also meet the professional experience requirements provided in OAR 584-210-0040, Professional Teaching License.

(11) Initial I Teaching Licenses Based on a Bachelor's Degree First Issued Between July 1, 2006 through June 30, 2009: No Further Renewals:

(a) Qualified applicants who have completed the advanced coursework requirements as previously advised by the Commission and the professional experience requirement will be issued the Professional Teaching License;

(b) To qualify for the Professional Teaching License, applicants subject to this subsection must:

(A) Meet previously advised advanced master's degree or equivalent coursework requirements for the Initial II Teaching License as modified by subsection (5) and (6) of this rule; or

(B) Meet the new requirements for the Professional Teaching License as provided in OAR 584-210-0040. Under this option, the applicant may use any qualifying coursework earned during the first two terms of her or his Initial I Teaching License to satisfy the new advanced professional education program requirements.

(c) If an applicant is unable to meet requirements for the Professional Teaching License provided in subsection (10)(b) of this rule, the applicant will be issued a renewal of the Preliminary Teaching License.

(d) To qualify for the Professional Teaching License, all applicants must also meet the professional experience requirements provided in OAR 584-210-0040, Professional Teaching License.

(12) Initial II Teaching Licenses Effective July 1, 2015:

(a) Effective July 1, 2015, the Initial II Teaching License will no longer be issued.

(b) Qualified applicants who were issued the Initial II Teaching License prior July 1, 2015 are considered to have satisfied all advanced professional education program requirements provided in OAR 584-210-0040, Professional Teaching License;

(c) Qualified applicants who have completed the teaching experience requirements provided in OAR 584-210-0040 will be issued the Professional Teaching License;

(d) Qualified applicants who do not have sufficient teaching experience to meet the requirements for OAR 584-210-0040, Professional Teaching License, will be issued a continuously renewable Preliminary Teaching License as provided in OAR 584-210-0030, Preliminary Teaching License.

(e) On January 1, 2016, the Initial I Teaching License will be administratively renamed to the Preliminary Teaching License.

(13) Continuing Teaching Licenses:

(a) Effective March 1, 2014, the Continuing Teaching License is no longer issued.

(b) Qualified Continuing Teaching License holders will be issued a Professional Teaching License with instructions on how to qualify and apply for the Teacher Leader License;

(14) Basic Teaching Licenses:

(a) Effective January 1, 2016, the Basic Teaching License will no longer be issued.

(b) Qualified applicants who were issued the Basic Teaching License prior to December 31, 2015 are considered to have satisfied all advanced professional education program requirements provided in OAR 584-210-0040, Professional Teaching License;

(c) Qualified applicants who have completed the teaching experience requirements provided in OAR 584-210-0040 will be issued the Professional Teaching License;

(d) Qualified applicants who do not have sufficient teaching experience to meet the requirements for OAR 584-210-0040, Professional Teaching License, will be issued the Legacy Teaching License unless the applicant requests to have the Preliminary Teaching License.

(15) Standard Teaching License Renewals:

(a) Effective January 1, 2016, the Standard Teaching License will no longer be issued.

(b) Qualified Standard Teaching License holders will be issued a Professional Teaching License.

(16) First Time Out of State Applicants:

(a) Effective January 1, 2016, the Initial Teaching License will no longer be issued.

(b) Qualified new out of state applicants will be issued a Reciprocal Teaching License as provided in OAR 584-210-0060.

(17) Five Year Teaching Licenses (Pre-1965 licenses) Renewals:

(a) Effective January 1, 2016, the pre-1965 Five Year Teaching Licenses will no longer be issued.

(b) Qualified Five Year Teaching License holders will be issued either the Professional Teaching License.

(18) Teaching Licenses with Communication Disorder endorsements (speech language pathology):

(a) Effective January 1, 2016, all speech pathology related endorsements are retitled to Special Education: Communication Disorders.

(b) Until June 30, 2016, qualified applicants may be issued new non-provisional teaching licenses with special education: communications disorder endorsements.

(c) Effective July 1, 2016, new special education: communication disorder endorsements (speech language pathology) will no longer be issued.

(d) Effective July 1, 2016, licensed educators issued a non-provisional special education: communication disorder endorsements or other similar speech language pathology endorsements prior to June 30, 2016 are grandfathered into the licensure system and will be able to keep their special education: communication disorder endorsement. Grandfathered qualified applicants will be able to renew and reinstate teaching licenses with the special education: communication disorder endorsement. Applicants may not reinstate a restricted teaching license with a communication disorder or other similar speech pathology endorsement.

(19) Endorsements transitioning to Specializations:

(a) Early Childhood: All licenses issued prior to January 1, 2016 with an early childhood authorization or endorsement will be issued an early childhood specialization upon renewal of the license.

(b) ESOL/Bilingual: All licenses issued prior to January 1, 2016 with an ESOL/Bilingual endorsement will be issued an ESOL endorsement with a bilingual specialization upon renewal of the license.

(20) ESEA Alternative Route Teaching License Transition: Effective January 1, 2016, the ESEA Alternative Route Teaching License is no longer issued. Qualified applicants issued an ESEA license prior to January 1, 2016 must transition to full licensure at the end of their current three-year license term.

(21) Administrative and Personnel Service License Title Name Changes: Effective January 1, 2016, administrative and personnel service educator licenses titles will be renamed as follows:

(a) Basic Administrator is retitled to Legacy Preliminary Administrator;

(b) Standard Administrator is retitled to Professional Administrator;

(c) Initial Administrator is retitled to Preliminary Administrator;

(d) Continuing Administrator is retitled to Professional Administrator;

(e) Distinguished Administrator is retitled to Distinguished Administrator;

(f) Transitional Administrator is retitled to Reciprocal Administrator;

(g) Transitional Superintendent is retitled to Reciprocal Superintendent;

(h) Restricted Administrator is retitled to Restricted Administrator;

(i) Exceptional Administrator is retitled to Exceptional Administrator;

(j) Emergency Administrator is retitled to Emergency Administrator;

(k) Basic Personnel Service with a Basic or Standard Counselor endorsement is retitled to Legacy School Counselor;

(l) Basic Personnel Service with a Basic or Standard School Psychologist endorsement is retitled to Legacy School Psychologist;

(m) Standard Personnel Service with a Standard Counselor endorsement is retitled to Professional School Counselor;

(n) Standard Personnel Service with a Standard School Psychologist endorsement is retitled to Professional School Psychologist;

(o) Standard School Counselor is retitled to Professional School Counselor;

(p) Initial I School Counselor is retitled to Preliminary School Counselor;

(q) Initial II School Counselor is retitled to Preliminary School Counselor;

(r) Continuing School Counselor is retitled to Professional School Counselor;

(s) Transitional School Counselor is retitled to Reciprocal School Counselor;

(t) Restricted School Counselor is retitled to Restricted School Counselor;

(u) Emergency School Counselor is retitled to Emergency School Counselor;

(v) Basic School Psychologist is retitled to Preliminary School Psychologist;

(w) Standard School Psychologist is retitled to Professional School Psychologist;

(x) Initial School Psychologist is retitled to Preliminary School Psychologist;

(y) Continuing School Psychologist is retitled to Professional School Psychologist;

(z) Transitional School Psychologist is retitled to Reciprocal School Psychologist;

(aa) Limited Student Services is retitled to Limited Student Services;

(bb) Initial School Social Worker is retitled to Preliminary School Social Worker;

(cc) Continuing School Social Worker is retitled to Professional School Social Worker;

(dd) Transitional School Social Worker is retitled to Reciprocal School Social Worker;

(ee) Restricted School Social Worker is retitled to Restricted School Social Worker; and

(ff) Emergency School Social Worker is retitled to Emergency School Social Worker.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553

Hist.: TSPC 13-2015(Temp), f. 11-13-15, cert. ef. 1-1-16 thru 6-28-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-200-0010

Definitions for Licensure, Certification and Registration

(1) "Application:" A request for an Oregon license authorizing service in public schools or a request for reinstatement or renewal of such license.

(2) "Appropriately Assigned:" Assignments for administrator, teacher, school counselor, school psychologist, school social worker or school nurse duties for which the person involved holds the proper license, certificate or endorsements. (See OAR 584-210-0150 for License for Conditional Assignment.)

(3) "Approved Institution:" A U.S. regionally accredited institution of higher education approved to prepare education-licensed personnel by a U.S. governmental jurisdiction in which the institution is located.

(4) "Approved Programs:" An Oregon program of educator preparation approved by TSPC and offered by a regionally accredited Oregon institution or other legally approved provider. As it applies to out-of-state programs, a program approved by the licensure body of any U.S. governmental jurisdiction or member of the National Association of State Directors of Teacher Education and Certification (NASDTEC) authorized to approve educator preparation programs.

(5) "Completion of Approved Program:" The applicant has met the institution's academic requirements and any additional state or federal requirements and has obtained the institution's recommendation for licensure.

(6) "Endorsement:" The subject matter or specialty education field in which the individual is licensed to teach.

(7) "National Board for Professional Teaching Standards (NBPTS):" A professional board established to award a National Teaching Certificate or National Teacher Leader Certificate to qualified educators.

(8) "Non-Provisional License or Certificate:" Full state certification of licensure issued following completion of a state approved teacher preparation program and valid for full-time teaching assignments.

(a) Non-provisional Oregon teaching licenses include:

(A) Preliminary Teaching License;

(B) Professional Teaching License:

(C) Teacher Leader License;

(D) Reciprocal Teaching License; and

(E) Legacy Teaching License;

(b) Non-provisional out-of-state teaching licenses or certificates may include initial state licenses that require additional preparation or other requirements to move to the next-stage license if the initial license is issued following state approved teacher preparation program and is valid for full-time teaching assignments.

(9) Out of State/International Evaluation: Evaluation for the issuance of a license, endorsement or certificate that includes review of one or more of the following:

(a) A license or certificate issued by a NASDTEC jurisdiction;

(b) A license or certificate issued by an international body;

(c) Completion of an educator preparation program for licensure, certification or endorsement that is not Commission-approved to recommend candidates directly for Oregon licensure or endorsement;

(d) Any other out of state or international credential, coursework, or other supporting documentation that is essential for the issuance of an Oregon license or certificate.

(e) The out of state or international evaluation is not related to the domicile of the applicant. The need for an out of state or international evaluation is based on the documentation submitted with an application for licensure, endorsement or certificate.

(10) "Out of State Licenses or Certificates:" Any educator license or certificate issued from:

(a) A National Association of State Directors of Teacher Education and Certification (NASDTEC) jurisdiction;

(b) A U.S. Territory (American Samoa, Commonwealth of Northern Marianas, District of Columbia, Guam, Puerto Rico, and Virgin Islands); or

(c) The U.S. Department of Defense.

(11) "Personal Qualifications:" Personal qualifications for licensure including attainment of at least eighteen years of age and possessing good moral character and mental and physical health necessary for employment as an educator.

(12) "Private Schools:" A privately funded school, preprimary through grade twelve, approved, regionally accredited or registered by another U.S. jurisdiction or government.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553

Hist.: TSPC 13-2015(Temp), f. 11-13-15, cert. ef. 1-1-16 thru 6-28-16; TSPC 14-2015(Temp), f. 12-18-15, cert. ef. 1-1-16 thru 6-28-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-200-0020

Personnel Required to Hold Licenses or Charter School Registrations

(1) Except as provided by subsection (3) of this rule, an educator must hold a license or registration issued by the Commission if she or he is:

(a) Employed by an Oregon public school; and

(b) Compensated for their services from public funds.

(2) Licenses or registrations are required for:

(a) Teachers;

(b) Substitute Teachers;

(c) Principals;

(d) School counselors;

(e) School psychologists;

(f) Supervisors;

(g) Program directors, including: special education and career and technical directors;

(h) District administrators who evaluate or discipline licensed personnel, or who authorize out-of-school suspensions or expulsions of students;

(i) Superintendents and Assistant or Deputy Superintendents;

(j) Athletic coaches who coach during the school day in courses or activities for which students receive academic credit;

(k) Charter school teachers (registrations);

(l) Charter school administrators (registrations); and

(m) Other personnel performing the above duties regardless of title.

(3) School districts may provide related services for children identified as requiring special education services by employing a public agency, such as a community mental health program, or by employing professionals who are licensed within their own specialties by the State of Oregon. These personnel are not required to hold licensure from the Commission. See also ORS 343.221.

(4) Notwithstanding ORS 342.173, community college faculty who provide instruction in cooperation with a school district for academic career and technical education, school-to-work or other work-related programs under ORS Chapter 329 will not be required to have teaching licenses. See also ORS 341.535. Both full-time and part-time faculty employed under this section are subject to criminal history records checks by the Oregon State Police and the Federal Bureau of Investigation. See also ORS 326.603 and OAR 581-022-1730.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553
Hist.: TSPC 13-2015(Temp), f. 11-13-15, cert. ef. 1-1-16 thru 6-28-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-200-0030
Application Processing Requirements and Procedures

(1) All applicants must create an online user account and use the online system for applications for licenses, endorsements, renewals, specializations, and reinstatements.

(2) All applicants must pay for fees through the online system. Check and cash payments are not permitted.

(3) Requirement for Complete Application: The Commission will only process complete applications for new licenses, endorsements, renewals, specializations and reinstatements. An application is incomplete if the applicant has not submitted a correct and complete application, all required fee payments, and all supporting documentation required to evaluate the application.

(4) Expiration of License: A license, certificate or registration is expired one day after the expiration date on the license, certificate or registration unless the license, registration or certificate is eligible for the grace period.

(a) The grace period is active for 120 days after the expiration date of a license, registration and certificate.

(b) To activate the 120 day grace period, an applicant must submit a correct and complete application and all required fees prior to the expiration date.

(A) If it is determined that the application was not correct or complete after the grace period is activated, the applicant has the remainder of the 120 grace period to correct the incomplete application.

(B) If the application is not corrected by the expiration of the 120 day grace period, the applicant must submit a new application for reinstatement of the license, registration or certificate and pay reinstatement fees. The applicant will forfeit the previous application fees and any late fees paid on the prior application.

(c) If an applicant submits a correct and complete application and all required fees after the expiration date, the license, registration or certificate will be processed according to the following provisions:

(A) Submission after expiration date until the end of the expiration month: Applicant pays $40 late fees plus all other required fees. The applicant will receive a grace period from the date of application until 120 days after the expiration date;

(B) Submission in second month after expiration date: Applicant pays $80 late fees plus all other required fees. The applicant will receive a grace period from the date of application until 120 days after the expiration date;

(C) Submission in third month after expiration date: Applicant pays $120 late fees plus all other required fees. The applicant will receive a grace period from the date of application until 120 days after the expiration date;

(D) Submission in fourth month after expiration date up to 120 days after expiration date: Applicant pays $160 late fees plus all other required fees. The applicant will receive a grace period from the date of application until 120 days after the expiration date;

(E) Submission on 121 days or more after expiration date: Applicant pays for new application for reinstatement, reinstatement fees and all other required fees.

(F) If an applicant submits a correct a complete application prior to the expiration of the 120 day grace period, the renewal period of the license, registration or certificate will start one day after the original expiration date.

(d) The following licenses are not eligible for 120 grace period due to renewal restrictions:

(A) Emergency licenses; (Not eligible for renewal);

(B) Restricted licenses; (Eligible for reissue only);

(C) International Visiting Teacher License: (Eligible for reissue only);

(D) Restricted Substitute Teaching License if issued for one-year term;

(E) License for Conditional Assignment. (Eligible for reauthorization only)

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553
Hist.: TSPC 13-2015(Temp), f. 11-13-15, cert. ef. 1-1-16 thru 6-28-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-200-0040
Expedited Service for Licensure, Registration and Certificate Applications

(1) Pursuant to ORS 342.125, expedited service is defined as the priority processing of a license, registration or certificate within two working days after receiving a correct and complete application.

(2) Expedited service is only available in the following circumstances:

(a) District requests for the issuance of a license, registration or certificate in an urgent situation; and

(b) Military Spouse or Military Domestic Partner Applications pursuant to ORS 342.195(2).

(3) Except as provided in subsection (6) of this rule, only a district may request an expedited service of a license, registration or certificate application. To request an expedited service on an application, a district must provide:

(a) A request to expedite service on the application.

(A) A request for expedited service will not be accepted until a correct and complete application is received. A correct and complete application must include:

(i) Evidence of meeting all requirements for the license, certification or registration associated with the application;

(ii) A background clearance; and

(iii) Payment of all required fees as provided in OAR 584-200-0050.

(B) If the district requests an expedited service prior to the application being correct and complete, the request will be considered null and void. The district must resubmit the request after a correct and complete application is received;

(b) A Statement of Need describing the urgent situation requiring the expedited service. The district may be required to provide evidence to support the Statement of Need; and

(c) The expedited service fee pursuant to OAR 584-200-0050.

(4) Upon receipt of a request for expedited service on a correct and complete application, the license will be issued within two working days. The two working day provision does not apply to incomplete applications or incomplete requests for expedited service.

Note: An application is not complete until all background clearance protocols and items within the Executive Director's discretion are finalized.

(5) Applications for renewal within the 120 grace period are not eligible for expedited service unless:

(a) The application was submitted too late to allow processing within the 120 period following the expiration date on the license; and

(b) All late and expedited fees have been paid.

(6) To be eligible for expedited service of a military spouse or military domestic partner application pursuant to ORS 342.195(2), an applicant must:

(a) Hold a current license from another state;

(b) Be a military spouse or domestic partner of an active member of the Armed Forces of the United States who has been subject to a military transfer to Oregon within the 12 months prior to the application of the license;

(c) Submit a complete application as provided in OAR chapter 584, divisions 210, 70 or 80, including evidence of the spousal or domestic relationship and evidence of the recent military transfer; and

(d) Submit the fees for an out-of-state evaluation and for the expedited service.

(7) A qualifying applicant for an expedited military spouse or domestic partner of an active member of the Armed Forces of the United States will only be eligible for an equivalent license issued by the Commission if:

(a) The applicant has met all the requirements of the license for which the applicant is applying; and

(b) The applicant has not been subject to discipline in another state against any educator certificate, license or charter school registration. For

this section, discipline is defined as any discipline for conduct that would bar an applicant from licensure as an educator in the state of Oregon.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553
Hist.: TSPC 13-2015(Temp), f. 11-13-15, cert. ef. 1-1-16 thru 6-28-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-200-0050
Fees

(1) Pursuant to ORS 342.127, the Commission has established fees for the processing of applications.

(2) All fees are non-refundable.

(3) Effective January 19, 2016, all fees must be paid by Electronic Funds Transfer (EFT) through the TSPC online payment process. Electronic Funds Transfer (EFT) is defined as the movement of funds by non-paper means usually through a payment system, including but not limited, an automated clearinghouse or the Federal Reserve's Fedwire system.

(4) Application fees for first licensure, registration or certification are as follows:

(a) American Indian Language Teaching license: $140

(b) Career and technical education licenses: $140

(c) Charter school registrations: $140

(d) Emergency licenses: $140

(e) Exceptional Administrator license: $140

(f) International Visiting Teacher: $190 (The $190 fee includes the $50 out-of-state evaluation fee.)

(g) Legacy licenses: $140

(h) License for Conditional Assignment: $140

(i) Limited licenses: $140

(j) Preliminary licenses: $140

(k) Professional licenses: $140

(l) Reciprocal licenses: $190 (The $190 fee includes the $50 out-of-state evaluation fee.)

(m) Restricted licenses: $140

(n) School nurse certificates: $140

(o) Substitute licenses: $140

(p) Teacher Leader: $140

(q) Teacher Associate: $140

(5) Out-of-state/international application evaluation fee: $50 (The evaluation fee is in addition to all required application and background clearance fees unless otherwise noted in this rule.)

(6) Renewals, Reissues and Reauthorizations: All renewals, reissues and reauthorizations of licenses, certificates, and registrations: $140 except as follows:

(a) International Visiting Teacher License (Reissue): $50

(b) License for Conditional Assignment (Reauthorization): $50

(c) Career and Technical Education I Teaching License (Renewal): $50

(d) Restricted teaching, administrator, school counselor and school social worker licenses (Reissue): $50

(7) Late Fees: Pursuant to ORS 342.127, the Commission has established the following late fee process:

(a) An applicant will pay $40 per month late fee for each portion of a month following expiration of the license, registration or certificate for a maximum of $200.

(b) Late fees are in addition to all other required fees.

(c) Late fees may only be imposed one time following the expiration of a license, registration or school nurse certificate. If the applicant does not initially qualify for the license or certificate the applicant is seeking to reinstate, no additional late fees will be imposed upon application for subsequent licenses so long as the applicant has a current active license, registration or certification in effect at the time of application.

(8) Reinstatement of licenses, registrations, and certificates:

(a) Expired: $340 (The fee includes the application fee but does not include background clearance fee.)

(b) Suspended: $290 (The fee includes the application fee but does not include background clearance fee.)

(c) Revoked: $340 (The fee includes the application fee but does not include background clearance fee.)

(d) If the applicant holds another active and valid Oregon educator license at the time of the application for reinstatement, the applicant will not be assessed the additional $200 reinstatement fee to reinstate the second license.

(9) Endorsements and Specializations:

(a) Adding or removing an endorsement outside of licensure renewal application process: $140

(b) Adding a specialization outside of licensure renewal application process: $140

(10) Other Fees:

(a) Background clearance: $57

(b) Expedited service: $149

(c) Gold-seal paper license: $50

Note: Gold seal paper license are only available for current licenses.

(d) Extensions to provisional license: $50

(e) Non-Sufficient Funds (NSF): $25

(11) Online Portal Provider Fee: In addition to the Commission-established fees under this subsection, applicants must pay a fee associated with accessing the online application system that is collected by the operators of the online system. This fee is collected and assessed according to agreements with the Commission, Department of Administrative Services and the operators of the online application system.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553
Hist.: TSPC 13-2015(Temp), f. 11-13-15, cert. ef. 1-1-16 thru 6-28-16; TSPC 14-2015(Temp), f. 12-18-15, cert. ef. 1-1-16 thru 6-28-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-200-0060
Addresses and Uses of Addresses

(1) The Commission will use the most recent mailing and email address on the licensee's or applicant's account to provide information to the licensee or applicant.

(2) A license, registration or certificate holder must report changes of residential, mailing and email addresses within 90 days of the change;

(3) All licenses, registrations, certificates, or correspondence will be sent to the last known email address on file for the educator. Notices and gold-seal paper licenses will be sent to the last known residential or mailing address on file for the educator.

(4) If the educator fails to notify the Commission of a new mailing or email address, the applicant may not receive all information related to their license, registration or certificate. In these cases, the Commission is not responsible for any consequence or action resulting from the applicant's failure to receive important information related to licensure, registration, certification or discipline.

(5) The Commission may send notice for opportunity for a hearing pursuant to ORS 342.175 (notice of charges related to discipline) or ORS 183.430 (notice of denial of renewal) to an educator at the address the educator provides in writing to the Commission. The Commission may complete service of notice under ORS 342.143(4), 342.176(5) or 183.430, by mailing the notice through certified or registered mail addressed to the educator's address on file with the Commission and such mailing will be deemed conclusive evidence of service.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553
Hist.: TSPC 13-2015(Temp), f. 11-13-15, cert. ef. 1-1-16 thru 6-28-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-200-0070
Name Changes

(1) An applicant must notify the TSPC agency of an official name change within 90 days of the name change becoming effective by:

(a) Notification of a name change in writing and sending the required documentation of the official name change by mail to the TSPC offices;

(b) Notification of a name change through their TSPC user account and uploading the required documentation to the account.

(2) All notifications of name changes must include the educator's former and new names, user account ID number, date of birth and one of the following documents:

(a) Employing superintendent's signature on the Professional Educational Experience Report Form verifying the change of name;

(b) Official sealed transcripts from a regionally accredited institution in the United States;

(c) An official passport issued by the United States;

(d) An official government-issued marriage certificate/license (signed by a government official and including a filed date, stamp, seal or other notation showing that the document has been filed with a government agency);

(e) A record of Domestic Partnership issued by Oregon Vital Statistics signed by a government official with a stamp or seal showing the document has been recorded with the State Registrar;

(f) An out-of-state government issued record of Domestic Partnership signed by a government official with a stamp or seal showing the document was filed with the city, county or state agency responsible for registering Domestic Partnerships in that state;

(g) A U.S. city, county or state court-issued divorce decree, judgment of dissolution of marriage, annulment of marriage decree, judgment of dissolution of domestic partnership, or annulment of domestic partnership;

(h) A government-issued death certificate of spouse, that includes a connection to your current full legal name (signed by a government official and including a stamp to show that the document has been filed);

(i) A U.S. city, county or state court-issued legal name change decree;

(j) Oregon Driver License, Instruction Permit or ID Card;

(k) Military ID card, Common Access card and Uniform Services ID & Privilege card (including all branches of military personnel and dependents, not including Merchant Marines);

(l) Other U.S. state, U.S. territory, District of Columbia, Canadian or U.S. Department of State driver license, instruction permit or identification card;

(m) Oregon Concealed Weapon permit/Concealed Handgun license; or

(n) Tribal identification card issued by a federally recognized tribe.

(3) If the educator reverts to a name previously established with the Commission, the notification must be in writing and must include the educator's previously established name and the new names and TSPC Account ID. Documentation from a court is not required, but other evidence that the educator is using the former name must be supplied.

(4) If a new paper gold seal license is requested bearing the new name, an application and gold seal paper license fee are required.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553
Hist.: TSPC 13-2015(Temp), f. 11-13-15, cert. ef. 1-1-16 thru 6-28-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-200-0080
Preparation in Another Jurisdiction

(1) First Oregon License: If an applicant has completed an educator preparation program from another jurisdiction, the candidate must hold or obtain an active and valid license from that jurisdiction prior to application for licensure in Oregon.

(2) Applicants holding a non-provisional educator license or certificate issued by another state that is substantially equivalent to an Oregon educator non-provisional license may be eligible for an unrestricted Oregon equivalent license under the terms and conditions associated with that license.

(3) If the applicant does not meet requirements for an unrestricted non-provisional license, the Commission may issue any other license for which the applicant qualifies.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553
Hist.: TSPC 13-2015(Temp), f. 11-13-15, cert. ef. 1-1-16 thru 6-28-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-200-0090
Preparation in Another Country

(1) Applicants who have completed professional education preparation programs outside the United States may be eligible for Oregon educator licensure. Prior to qualifying for licensure, the applicant must submit their foreign educator qualifications to the Commission for official evaluation as provided:

(a) The evaluation may include official foreign transcript evaluation in the form and manner required by the Commission.

(b) The evaluation may include official translation or evaluation of other required documents at the discretion of the Executive Director or designee.

(c) Any expense associated with the professional translation or evaluation services is the responsibility of the applicant.

(2) Upon evaluation of the foreign documentation, the Commission may waive, in part or in whole, Oregon educator licensure requirements in accordance with 584-200-0100. The waiver of licensure requirements is within the sole discretion of the Executive Director or designee.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553
Hist.: TSPC 13-2015(Temp), f. 11-13-15, cert. ef. 1-1-16 thru 6-28-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-200-0100
Waiver of Licensure Requirements by the Commission

(1) The Executive Director may waive, in part or in whole, the requirements for teaching, administrative and personnel service licenses if the applicant provides evidence of academics skills, experience and knowledge demonstrating mastery of the Commission-adopted standards for the license.

(a) To receive a waiver under this subsection, an applicant must specifically and substantially demonstrate the knowledge and skills required to perform the duties of the position as measured by the Commission adopted standards for the license.

(b) The Executive Director, or designee, will evaluate all evidence and make the determination on the waiver. It is solely within the discretion of the Executive Director, or designee, to grant waivers under this subsection.

(c) The Commission will monitor any waivers granted under this subsection and will receive reports on such waivers from the Executive Director.

(2) To be considered for a waiver, an applicant must:

(a) Submit a complete and correct application in the form and manner required by the Commission, including payment of all required fees.

(b) Provide all required documentation such as: official sealed transcripts, a resume, job descriptions, and other credible evidence of academic achievement or experience demonstrating mastery of the standards for the license;

(c) Provide a written statement indicating:

(A) The type of license requested;

(B) Specific requirements requested for waiver;

(C) Alternative qualifications to be considered; and

(D) Reasons for requesting the waiver.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553
Hist.: TSPC 13-2015(Temp), f. 11-13-15, cert. ef. 1-1-16 thru 6-28-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-210-0030
Preliminary Teaching License

(1) Purpose of the License: The Preliminary Teaching License qualifies its holder to teach in prekindergarten through grade 12 Oregon public school districts, education service districts, and charter school assignments. The Preliminary Teaching License is issued to new teachers who have successfully completed an Oregon teacher preparation program or who have entered the state as a licensed beginning teacher. The Preliminary Teaching License signifies that the educator is a novice teacher who has not met the advanced competencies and experience requirements necessary to meet the qualifications of the Professional Teaching License.

(2) Term of Licensure: The Preliminary Teaching License is valid for three years and is renewable as provided in subsection (7) of this rule. The license may be renewed continuously until the applicant has met both the advanced competencies and experience requirements for the Professional Teaching License. The date of the first expiration of the license is three years from the date of issue plus time until the applicant's birthday.

(3) Assignment and Endorsement Authorization: The Preliminary Teaching License qualifies the teacher to accept:

(a) Any instructional assignment from prekindergarten through grade 12 within the scope of the subject-matter endorsement(s) on the Preliminary Teaching License. The scope of the endorsement shall be determined by the National Center for Educational Statistics (NCES) course codes associated with the endorsement as provided by the TSPC Licensure Guide; and

(b) Any substitute teaching assignments.

(4) Recency of Oregon Teacher Preparation: The Commission requires Oregon-prepared applicant for the Preliminary Teaching License to have recent teacher preparation in accordance with the following provisions:

(a) If the applicant completed an Oregon teacher preparation program within the six years preceding their first application for licensure, there are no additional recency requirements to qualify for the Preliminary Teaching License.

(b) If the applicant completed an Oregon teacher preparation more than six years prior to their first application for licensure, the applicant must submit:

(A) A recent passing score on the content test of knowledge for each endorsement the applicant is seeking to hold on their license. A passing score is recent if it has been obtained within the two years immediately preceding the application for licensure; and

(B) Evidence of completion of a pedagogy course. The pedagogy course must:

(i) Include the word pedagogy or methods in the course title or be acceptable to the Commission upon evaluation of course syllabi or other evidence;

(ii) Be at least three quarter hours or two semester hours;

(iii) Be related to the subject-matter endorsement area requested for the license;

(iv) Include official verification that the course was passed within the two years immediately preceding the application for the Preliminary Teaching License; and

(v) Be verified by official sealed transcripts from a regionally accredited college or university.

(c) The Executive Director, or Director of Licensure, may accept alternative evidence of recent practice or professional development if the Executive Director, or Director of Licensure, determines the evidence sufficiently addresses the need for recent engagement in the content knowledge and pedagogy required for the Preliminary Teaching License.

(d) The recency requirements provided in this subsection do not apply to applicants moving from a Reciprocal Teaching License to a Preliminary Teaching License or to qualified out-of-state licensed applicants moving directly to the Preliminary Teaching License.

(5) Out-of-state applicants: An out-of-state applicant may apply for the Preliminary Teaching License If the applicant:

(a) Holds a valid and active non-provisional teaching license from another National Association of State Directors of Teacher Education and Certification (NASDTEC) jurisdiction;

(b) Meets the requirements for the Preliminary Teaching License provided in this rule; and

(c) Meets the requirements for the Reciprocal Teaching License provided in OAR 584-210-0060.

(6) To be eligible to apply for a Preliminary Teaching License, an applicant must:

(a) Possess the personal qualifications for licensure including attainment of at least eighteen years of age and possessing good moral character and mental and physical health necessary for employment as an educator;

(b) Hold a bachelor's degree or higher from a regionally accredited institution in the United States, or the foreign equivalent of such degree approved by the Commission. A master's degree or a doctoral degree from a regionally accredited institution in the United States validates a non-regionally accredited bachelor's degree for licensure purposes;

(c) (A) Provide evidence of admission to and completion of an Oregon Preliminary Teaching License preparation program approved by the Commission; or

(B) Provide evidence of completion of a teaching preparation program as provided in OAR 584-210-0060(8)(Reciprocal Teaching License) if applying from out-of-state;

(d) Obtain a passing score as currently specified by the Commission on each of one or more tests of subject mastery for subject-matter endorsement or otherwise complete endorsement requirements established by the Commission;

(e) Meet the recency of preparation requirements as provided in subsection (4) of this rule;

(f) Obtain a passing score on a Commission-approved test of knowledge of U.S. and Oregon civil rights laws and professional ethics;

(g) Complete a background clearance that includes:

(A) Furnishing fingerprints (if necessary);

(B) Providing satisfactory responses to character questions in the form and manner prescribed by the Commission; and

(h) Submit a complete and correct application in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

(7) To be eligible to apply for renewal of the Preliminary Teaching License, an applicant must:

(a) Complete 75 advanced professional development units as provided in OAR 584-200-0040 Professional Teaching License and OAR 584-255-0010 Professional Development Requirements; or

(b) Complete 75 continuing professional development units as provided in OAR 584-255-0010 Professional Development Requirements.

(c) Submit a complete and correct renewal application in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

(8) Upon qualifying for the advanced competencies and teaching experience requirements of the Professional Teaching License, an applicant will be promoted from the Preliminary Teaching License to the Professional Teaching License. Licensees may renew the Preliminary Teaching License until they have met all qualifications for the Professional Teaching License.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553

Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-210-0040

Professional Teaching License

(1) Purpose of the License: The Professional Teaching License is a license that qualifies its holder to teach in prekindergarten through grade 12 Oregon public school districts, education service districts, and charter school assignments. The Professional Teaching License signifies that the educator is an experienced teacher who has successfully demonstrated an advanced level of educator knowledge, skills and dispositions.

(2) Term of Licensure: The Professional Teaching License is valid for five years and is renewable as provided in subsection (8) of this rule. The date of the first expiration of the license is five years from the date of issue plus time until the applicant's birthday.

(3) Assignment and Endorsement Authorization: The Professional Teaching License qualifies the teacher to accept:

(a) Any instructional assignment from prekindergarten through grade 12 within the scope of the subject-matter endorsement(s) on the Professional Teaching License. The scope of the endorsement shall be determined by the National Center for Educational Statistics (NCES) course codes associated with the endorsement as provided by the TSPC Licensure Guide; and

(b) Any substitute teaching assignment.

(4) Pursuant to ORS 342.138, the Commission has approved the following advanced professional education programs to develop advanced level competencies required for promotion to the Professional Teaching License:

(a) Advanced Professional Development Program: The purpose of the Advanced Professional Development Program is to provide the individual teacher with the specific professional development needed to advance to a professional teacher level. The program is developed by the applicant in conjunction with the employing district and includes professional development specifically tailored to the performance goals of the novice teacher in accordance with ORS 342.815 to 342.856. To qualify as an Advanced Professional Development Program, the program must consist of:

(A) A teacher who holds the Preliminarily Teaching License and is employed in accordance with ORS 342.815 to 342.856; and

(B) A requirement to complete 150 advanced professional development units while holding a Preliminary Teaching License. To qualify as advanced professional development, the units must:

(i) Be completed in conjunction with the performance goals of the teacher established in accordance with ORS 342.815 to 342.856;

(ii) Be verified as advanced professional development by the employing district or charter school; and

(iii) Meet all other requirements provided in OAR 584-255-0010, Professional Development Requirements.

(b) Advanced Degree Programs: Admission to and completion of an educational specialist, master's or doctoral degree program that is reasonably related to improving the teaching skills of the educator. The program must be regionally accredited or foreign equivalent.

(c) Endorsement Program: Admission to and completion of a Commission-approved subject-matter endorsement program;

(d) Specialization Program: Admission to and completion of a Commission-approved Oregon specialization program;

(e) Advanced Licensure: Admission to and completion of a Commission-approved advanced licensure program;

(f) National Board Certification: National Board of Professional Teaching Standards certification;

(g) Out-of-State Professional Certification: A professional certificate issued by the State of Washington or other equivalent out-of-state professional teaching licenses approved by the Commission; and

(h) Other acceptable advanced coursework or assessment approved by the Executive Director or the Director of Licensure as provided in OAR 584-200-0100, Waiver of Licensure Requirements by the Commission.

(5) All evidence of advanced professional education programs must be equal to at least 150 professional development units as calculated in OAR 584-255-0010(3) and must have been obtained by the applicant after the date of issuance of their first non-provisional teaching license in Oregon or another National Association of State Directors of Teacher Education and Certification (NASDTEC) jurisdiction.

(6) Professional Teaching Experience Requirements: To qualify for the Professional Teaching License, an educator must obtain four full years of teaching experience subject to the following conditions:

(a) One full year of teaching experience is equal to 135 days of at least six hours per day of contracted classroom teaching within an academic year (July 1 to June 30). The full four years do not have to be earned consecutively.

(b) Substitute experience is not considered qualifying teaching experience under this subsection unless the educator is assigned to a single substitute assignment in accordance with subsection (6)(a) of this rule.

(c) The teaching experience must include direct instruction of students as provided in ORS 342.120 and must occur in one, or a combination of, the following employment settings:

(A) Public prekindergarten through grade 12 classroom;

(B) Private, regionally-accredited, prekindergarten through grade 12 classroom; or

(C) Alternative education, post-secondary or other similar teaching settings closely-related to prekindergarten through grade 12 classroom instruction as approved by the Director of Licensure.

(7) To be eligible to apply for a Professional Teaching License, an applicant must:

(a) Possess the personal qualifications for licensure including attainment of at least eighteen years of age and possessing good moral character and mental and physical health necessary for employment as an educator;

(b) Meet or complete all requirements of the Preliminary, Initial I, Initial II, Basic, Continuing, Standard, or an equivalent teaching license issued previously by the Commission or issued by another National Association of State Directors of Teacher Education and Certification (NASDTEC) jurisdiction;

(c) Complete an advanced professional education program as provided in subsections (4) and (5) of this rule;

(d) Complete the teaching experience requirements as provided in subsection (6) of this rule;

(e) Complete a background clearance that includes:

(A) Furnishing fingerprints (if necessary);

(B) Providing satisfactory responses to character questions in the form and manner prescribed by the Commission; and

(f) Submit a complete and correct application in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

(8) To be eligible to apply for renewal of the Professional Teaching License, the applicant must:

(a) Complete continuing professional development requirements as provided in OAR 584-255-0010 Professional Development Requirements and

(b) Submit a complete and correct renewal application in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553
Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-210-0050
Teacher Leader License

(1) Purpose of the License: The Teacher Leader License is issued to professional teachers who have demonstrated exceptional leadership in the school environment, education profession and the larger community while consistently advancing student growth and achievement. The Teacher Leader License designates that the licensee is qualified to hold the title of Teacher Leader and to provide educational leadership that may include, but is not limited to: mentoring, curriculum development support, teacher preparation support and other leadership activities consistent with the Teacher Leader Standards adopted by the Commission.

(2) Teacher Leader Pilot Project: Effective July 1, 2015 the Commission commenced a two year pilot for implementation of this rule. The pilot is intended to gather sufficient information to ensure that future issuance of the license is based on an evaluation of evidence submitted and verified to be in alignment with the Teacher Leaders standards adopted by the Commission and statutory provisions adopted by the Oregon State Legislature. This rule is effective until June 30, 2017. Prior to this date, the Commission will adopt a revised Teacher Leader License rule based on the results of the pilot project.

(3) Term of Licensure: The Teacher Leader License is valid for five years and is renewable as provided in subsection (10) of this rule. The date of the first expiration of the license is five years from the date of issue plus time until the applicant's birthday.

(4) Assignment and Endorsement Authorization: The Teacher Leader License qualifies the teacher to accept:

(a) Any instructional assignment from preprimary through grade 12 within the scope of the subject-matter endorsements held on the Professional Teaching License;

(b) Any substitute teaching assignments; and

(c) Teacher leader activities, as agreed upon with any employing school district, as provided in subsection (1) of this rule.

(5) Evidence of Effectiveness: To be eligible to qualify for a Teacher Leader License, an applicant must be deemed to be effective or highly effective as provided in ORS 342.856. The applicant must:

(a) Must have two consecutive (employed) years of "effective" to "highly effective" evaluations within a summative evaluation cycle/s from an employing prekindergarten through grade 12 public school district, education service district or charter school while holding an Initial II, Continuing, Standard or Professional Teaching License.

(b) The evaluation evidence must include all summative evaluation rubrics completed during the summative evaluation cycles from which the evaluations in subsection 5(a) above are being submitted.

(c) The evaluations must have been completed within five years immediately preceding the application for the Teacher Leader license.

(d) "Effective" and "Highly Effective" equate to the top two differentiated levels established as provided in the Oregon Department of Education's "Oregon Matrix Model for Educator Evaluation." Similar evaluation terms may include, but are not limited to: proficient, exemplary, accomplished, or distinguished.

(6) Evidence of Current Professional Leadership Practices: To be eligible to qualify for a Teacher Leader License, an applicant must submit evidence of current professional leadership practices as provided in ORS 342.856.

(a) To submit an advanced portfolio of "current professional leadership practices" the evidence must:

(A) Align with the standards for the Teacher Leader License as provided in OAR 584-420-0040;

(B) Have occurred within the five years immediately prior to the application for the Teacher Leader License; and

(C) Meet the following criteria:

(i) The applicant must demonstrate through submitted documentation that they have fully met at least twelve (12) elements of the existing thirty-seven (37) elements under any of the seven (7) domains within the standards for the Teacher Leader License;

(ii) The evidence for each element submitted must be verified as valid by at least two professional colleagues, which may include coworkers, supervisors, or other professional peers; and

(iii) The evidence for each element submitted must be unique and separate. For example, an applicant may not reuse evidence from one element to support meeting another element.

(b) To submit National Board for Professional Teacher Standards Certification to demonstrate "current professional leadership practices" the evidence must:

(A) Show the national board certification occurred in the five years immediately prior to the application; and

(B) Demonstrate how board certification and subsequent professional practice by the teacher meets at least twelve (12) elements of the existing thirty-seven (37) elements under any of the seven (7) domains within the standards for the Teacher Leader License.

(c) To submit admission to and completion of a Commission-approved teacher leader program to demonstrate "current professional leadership practices" evidence, the applicant must provide documentation that:

(A) The program was completed in the five years immediately prior to the application; and

(B) The completion of the Commission-approved teacher leader preparation program and subsequent professional practice by the teacher meets at least twelve (12) elements of the existing thirty-seven (37) elements under any of the seven (7) domains within the standards for the Teacher Leader License.

(7) To be eligible to apply for a Teacher Leader License, an applicant must:

(a) Possess the personal qualifications for licensure including attainment of at least eighteen (18) years of age and possessing good moral character and mental and physical health necessary for employment as an educator;

(b) Hold a valid Professional, Initial II or Standard teaching License;

(c) Have taught five full academic school years within the five years preceding application;

(d) Meet the "evidence of effectiveness" requirements as provided in subsection (5) of this rule;

(e) Meet the "evidence of current professional leadership practices" requirements as provided in subsection (6) of this rule;

(f) Submit the adopted the Rubric for Teacher Leader Evaluation for review by the Commission. The applicant must indicate the exact evidence

they are using to satisfy each of their selected elements. There must be a clear indication on the evidence which of the elements the evidence is being submitted to support;

(g) Complete a background clearance that includes:

(A) Furnishing fingerprints (if necessary);

(B) Providing satisfactory responses to character questions in the form and manner prescribed by the Commission; and

(h) Submit a complete and correct application in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

(8) All applications for the Teacher Leader License must be received in the TSPC office no later than one calendar month prior to the Commission meeting at which the applicant wishes to have their application evaluated.

(9) All current teaching licenses held prior the application for the Teacher Leader License will expire on the date the Teacher Leader License is issued regardless of the expiration date on the license.

(10) Renewal Requirements: To be eligible to apply for renewal of the Teacher Leader License, an applicant must:

(a) Provide documentation of ongoing teacher leader activities, including but not limited to, mentoring, curriculum development support, teacher preparation support and other educational leadership activities;

(b) Complete professional development units as provided in OAR 584-255-0010 Professional Development Requirements; and

(c) Submit a complete and correct renewal application in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

(11) If an applicant does not meet the renewal requirements of subsection (10) of this rule or decides not to renew the Teacher Leader License, the applicant may apply for or will be issued a Professional Teaching License as provided in OAR 584-210-0040.

(12) Sunset Clause: This rule is effective until July 1, 2017.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553

Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-210-0060

Reciprocal Teaching License

(1) Purpose of the License: The Reciprocal Teaching License is a license that qualifies its holder to teach prekindergarten through grade 12 Oregon public school district, education service districts, and charter school assignments. The Reciprocal Teaching License is issued to teachers who have completed an educator preparation program and hold an active and valid non-provisional initial or advanced teaching license in another National Association of State Directors of Teacher Education and Certification (NASDTEC) jurisdiction. The purpose of the Reciprocal Teaching License is to allow an out-of-state or out-of-country licensed teacher to transition into the Oregon licensure system based on the credentials they earned in the other jurisdiction.

(2) Out of State or out-of-country License Reciprocity: An out of state or out-of-country teaching license alone does not authorize a teacher to teach or work as a teacher in Oregon public schools. The out-of-state or out-of-country license is used only as a basis for qualifying for the Reciprocal Teaching License. The out-of-state or out-of-country licensed applicant must apply for and receive the Reciprocal Teaching License or another non-provisional teaching license for which the applicant qualifies prior to employment in any Oregon public school, charter school or education service district.

Note: The out of country licensed applicant may also be eligible to apply for the International Visiting Teacher License.

(3) Out-of-State License Holders: An applicant must hold a valid and active out-of-state license from a NASDTEC jurisdiction prior to qualifying for an Oregon non-provisional teaching license. If an applicant only holds an expired out-of-state teaching license, the applicant must first reinstate their teaching license from a NASTDEC jurisdiction prior to qualifying for the Reciprocal Teaching License or any other non-provisional Oregon Teaching License.

(4) Out-of-state teacher preparation program completers: If an applicant completes a teacher preparation program in another state, the applicant must first obtain a valid and active non-provisional teaching license in that state or another NASDTEC jurisdiction in order to qualify for the Oregon Reciprocal Teaching License.

Note: This provision does not apply to Oregon non-provisional teaching license holders who complete out-of-state endorsement, administrator, or personnel service programs.

(5) Fully-qualified Out-of-State License Holders: If an applicant with a valid and active non-provisional out-of-state license fully qualifies for a Preliminary, Professional, Teacher Leader, Substitute or Legacy Teaching License, the applicant may bypass the Reciprocal Teaching License and apply immediately for the other license. In order to qualify for a non-provisional Oregon teaching license upon first application, the applicant must meet all of the requirements in subsections (10) and (11) of this rule.

(6) Out-of-country applicants: Applicants prepared or licensed outside the United States may be eligible to qualify for the Reciprocal Teaching License or another teaching license upon evaluation of:

(a) Official transcripts from professional the education preparation program from the other country;

(b) Official educator credential or license from the other country.

(c) The evaluation of foreign documentation must be completed as provided in OAR 584-200-0090, Preparation in Another Country.

(7) Endorsements: Out-of-state or out-of-country endorsements will be added to the Reciprocal Teaching License, or other non-provisional licenses, as provided:

(a) Out-of-state applicants holding a valid and active non-provisional license issued by a NASDTEC jurisdiction will be granted endorsements on their new Oregon license based on the endorsement(s) on their valid and active out-of-state license if a similar Commission-adopted endorsement exits.,

(b) Out-of-country license holders will be granted endorsements based on their out-of-country license if a similar Commission-adopted endorsement exists. The endorsements on the out-of-state license may be evaluated as provided in OAR 584-200-0090, Preparation in Another Country.

(c) Endorsements not recognized by the Commission will not be added to the license.

(d) To maintain the endorsements when moving from the Reciprocal to the Preliminary or Professional teaching license, the applicant must provide acceptable evidence of content knowledge and pedagogy skills as provided in OAR 584-220-0015.

(8) Term of Licensure: The Reciprocal Teaching License is valid for one year and expires one year from the date of issue. It is not renewable. Prior to the expiration of the Reciprocal Teaching License, an applicant must meet the subsequent licensure requirements in subsection (11) of this rule.

(9) Assignment and Endorsement Authorization: The Reciprocal Teaching License qualifies the teacher to accept:

(a) Any instructional assignment from prekindergarten through grade 12 within the scope of the subject-matter endorsement(s) on the Reciprocal Teaching License. The scope of endorsements will be determined by the National Center for Educational Statistics (NCES) course codes associated with the endorsements as provided by the TSPC Licensure Guide; and

(b) Any substitute teaching assignments.

(10) To be eligible to apply for a Reciprocal Teaching License, an out-of-state or out-of-country applicant must:

(a) Have never held an Oregon educator license, Oregon charter school registration, or completed an Oregon educator preparation program;

(b) Possess the personal qualifications for licensure including attainment of at least eighteen years of age and possessing good moral character and mental and physical health necessary for employment as an educator;

(c) Hold a bachelor's degree or higher from a regionally accredited institution in the United States, or the foreign equivalent of such degree approved by the Commission.

(A) The applicant must submit official transcripts to verify the completion of a bachelor's degree.

(B) An education specialist degree, a master's degree or a doctoral degree from a regionally accredited institution in the United States validates a non-regionally accredited bachelor's degree for licensure. The applicant must submit official transcripts to verify the completion of the advanced degree.

(d) Have completed a teacher preparation program from another National Association of State Directors of Teacher Education and Certification (NASDTEC) jurisdiction or a foreign program evaluated as satisfactory by the Commission.

(A) The applicant must submit official transcripts to verify the completion of the teacher preparation program.

(B) Completion of alternative route teaching programs resulting in licensure through school districts or other alternative routes are subject to the Executive Director's or Licensure Director's approval;

(e) Meet one of the following:

(A) Hold a valid and active non-provisional teaching license from another NASDTEC jurisdiction valid for unrestricted full time teaching assignments;

(B) Have held a teaching license valid in another country. The Commission will determine if the applicant's official transcripts and teaching credentials from the other country meet Oregon requirements as provided in OAR 584-200-0090, Preparation in Another Country.

(f) Complete a background clearance that includes:

(A) Furnishing fingerprints (if necessary);

(B) Providing satisfactory responses to character questions in the form and manner prescribed by the Commission; and

(g) Submit a complete and correct application in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

(11) Subsequent Licensure Requirements: Prior to the expiration of the Reciprocal Teaching License, an applicant must apply for and meet the requirements for a Preliminary, Professional, Teacher Leader or Legacy Teaching License in accordance with the following provisions:

(a) The applicant must qualify for a Commission-adopted endorsement by receiving a passing score as currently specified by the Commission on one or more of subject matter tests unless the applicant qualifies for reciprocity or waiver of subject matter tests as provided in OAR 584-220-0015; and

(b) The applicant must obtain a passing score on a Commission-approved test of knowledge of U.S. and Oregon civil rights laws and professional ethics.

(c) An Emergency Teaching License will not be issued if the holder of the Reciprocal Teaching License fails to meet the requirements of the Preliminary, Professional, or Legacy Teaching License or any Oregon nonprovisional teaching license by the end of the one year term.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553

Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-210-0070

Legacy Teaching License

(1) Purpose of the License: The Legacy Teaching License is a license that qualifies its holder to teach in prekindergarten through grade 12 Oregon public school districts, education service districts, and charter school assignments. The Legacy Teaching License is issued to veteran teachers in order to recognize their long-term employment and experience in the public schools without obliging them to meet the advanced competency requirements of the Professional Teaching License.

(2) Assignment and Endorsement Authorization: The Legacy Teaching License qualifies the teacher to accept:

(a) Any instructional assignment prekindergarten through grade 12 within the scope of the subject-matter endorsement(s) on the Legacy Teaching License. The scope of the endorsement shall be determined by the National Center for Educational Statistics (NCES) course codes associated with the endorsement as provided by the TSPC Licensure Guide; and

(b) Any substitute teaching assignments.

(3) Term of Licensure: The Legacy Teaching License is valid for three years and is continuously renewable as provided in subsection (5) of this rule. For applicants who qualify for the license from out of state, the date of the first expiration of the license is three years from the date of issue plus time until the applicant's birthday.

(4) To be eligible to apply for a Legacy Teaching License, an applicant must:

(a) Possess the personal qualifications for licensure including attainment of at least eighteen years of age and possessing good moral character and mental and physical health necessary for employment as an educator;

(b) Hold a Basic teaching license issued prior to January 1, 1999;

(c) Hold a teaching license issued by a National Association of State Directors of Teacher Education and Certification (NASDTEC) jurisdiction prior to January 1, 1999;

(d) Hold a Substitute Teaching License based upon a Basic or Standard Teaching License issued prior to January 1, 1999;

(e) Complete a background clearance that includes:

(A) Furnishing fingerprints (if necessary);

(B) Providing satisfactory responses to character questions in the form and manner prescribed by the Commission; and

(f) Submit a complete and correct application in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

(5) Renewal Requirements: To be eligible to apply for renewal of the Legacy Teaching License, the applicant must:

(a) Complete professional development requirements as provided in OAR 584-255-0010 Professional Development Requirements; and

(b) Submit a complete and correct renewal application in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553

Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-210-0080

American Indian Languages Teaching License

(1) Purpose of the License: The American Indian Languages Teaching License is issued to qualified individuals to provide the essential teaching of American Indian languages. It qualifies its holder to teach prekindergarten through grade 12 Oregon public school district, education service districts, and charter school assignments in the American Indian Language authorized by the license.

(2) Tribal Sponsorship: The American Indian Languages Teaching License requires sponsorship of a tribe, as provided in ORS 97.740, whose language will be taught. The sponsoring tribe must submit a statement that certifies that the applicant is qualified to teach the language of the tribe.

(3) Term of Licensure: The American Indian Languages Teaching License is valid for three years and is renewable as provided in subsection (7) of this rule. The date of the first expiration of the license is three years from the date of issue plus time until the applicant's birthday.

(4) Assignment and Endorsement Authorization: The American Indian Languages Teaching License qualifies the teacher to accept:

(a) Any instructional assignment from prekindergarten through grade 12 within the scope of the American Indian Language on the American Indian Languages Teaching License; and

(b) Substitute teaching assignments within the scope of American Indian Language on the American Indian Languages Teaching License.

(c) The Commission-adopted endorsements for the American Indian Languages Teaching Licenses are:

(A) American Indian Language: Cayuse / Nez Perce

(B) American Indian Language: Chinuk Wawa

(C) American Indian Language: Dee-ni

(D) American Indian Language: Ichishkiin

(E) American Indian Language: Klamath

(F) American Indian Language: Numu

(G) American Indian Language: Umatilla

(H) American Indian Language: Walla Walla

(I) American Indian Language: Other

(5) A holder of an American Indian Languages Teaching license who does not also have a teaching license or registration issued under ORS 342.125 may not teach any subject other than the American Indian language the holder approved to teach by the sponsoring tribe.

(6) To be eligible to apply for the American Indian Language Teaching License, the applicant must:

(a) Possess the personal qualifications for licensure including attainment of at least eighteen years of age and possessing good moral character and mental and physical health necessary for employment as an educator;

(b) Obtain a passing score on a Commission-approved test of knowledge of U.S. and Oregon civil rights and professional ethics;

(c) Submit a statement from a sponsoring tribe as provided in subsection (2) of this rule;

(d) Complete a background clearance that includes:

(A) Furnishing fingerprints (if necessary);

(B) Providing satisfactory responses to character questions in the form and manner prescribed by the Commission; and

(e) Submit a complete and correct application in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

(7) To be eligible to apply for renewal of the American Indian Language Teaching License, an applicant must:

(a) Submit a statement from the original sponsoring tribe verifying the applicant continues to be qualified to teach the tribal language;

(b) Complete professional development as provided in Chapter 584, Division 255, Professional Development; and

(c) Submit a complete and correct renewal application in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553

Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-210-0090
International Visiting Teacher License

(1) Purpose of the License: The International Visiting Teacher License is issued to educators who permanently reside in another country and who are participating in a cultural exchange of teachers and pedagogy strategies between Oregon and their home country.

(2) District Sponsorship: The International Visiting Teacher License requires district sponsorship. The sponsoring district must submit a statement:

(a) Specifying the grade level(s) and subject-matter endorsement area(s) the applicant has been hired to teach;

(b) Describing the district's plan for supervision of the teacher;

(c) Describing the district's plan to provide a mentor for the applicant. The plan must specifically identify the mentor; and

(d) Assuring the Commission that the district will obtain the license for the educator prior to assignment within the district.

(3) Renewal of District Sponsorship: Upon first and second reissue of the International Visiting Teacher License, a district must provide a statement of renewed sponsorship that includes confirmation that:

(a) All assignments of the licensed teacher will remain within the scope the subject-matter endorsements on the license; and

(b) The plan for supervision and mentoring remains in place. The statement must update the name of the mentor if appropriate.

(4) Term of Licensure: Terms of Licensure: The International Visiting Teacher License is valid for one year and can be reissued up to two times for a total of three years (plus time to June 30 if needed) on the license.

(a) The license will expire on June 30 of the academic year following issuance of the license.

(b) Upon expiration of the final term (after second reissue) of the International Visiting Teacher License, the educator must qualify for another Oregon teaching license if the educator plans to continue teaching in Oregon public schools.

(c) The International Visiting Teacher License is not subject to the 120 day grace period.

(5) Assignment and Endorsement Authorization: The International Visiting Teacher License qualifies the teacher to accept within the sponsoring district:

(a) Any instructional assignment from prekindergarten through grade 12 within the scope of the subject-matter endorsement(s) on the International Visiting Teaching License; and

(b) Substitute teaching assignments within the subject-matter endorsement areas authorized by the license.

(6) To be eligible to apply for the International Visiting Teacher License, the applicant must:

(a) Provide a statement from the sponsoring district in accordance with subsection (2) of this rule;

(b) Have not previously held any TSPC license;

(c) Possess the personal qualifications for licensure including attainment of at least eighteen years of age and possessing good moral character and mental and physical health necessary for employment as an educator;

(d) Provide evidence that the applicant is not a resident of the United States;

(e) Provide a copy of a valid and current J-1 Visa;

(f) Provide transcript evaluation or some other convincing evidence that the applicant holds the equivalent of a U.S. baccalaureate or higher degree and proof that the applicant has completed a professional teacher preparation program in their country. The transcript and other evidence submitted will be evaluated for subject-matter competency in the subject-area in which the license is being requested;

(g) Provide a copy of all the professional teaching credentials from a country other than the United States held by the applicant;

(h)(A) Provide evidence that the applicant has completed the equivalent of three full years (not less than 27 months) of teaching experience in the applicant's home country; or

(B) Provide proof of participation in the Cultural Exchange Program in a J-1 Visa status monitored by the U.S. State Department. Proof of participation must include verification from the Designated Sponsor Organization monitored by the U.S. State Department;

(i) Complete a background clearance that includes:

(A) Furnishing fingerprints (if necessary);

(B) Providing satisfactory responses to character questions in the form and manner prescribed by the Commission; and

(j) Submit a complete and correct application in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

(7) First and Second Reissue: To be eligible to apply for first or second reissue of the International Visiting Teaching License, an applicant must submit:

(a) A PEER form verifying the applicant's assignment;

(b) A statement from the sponsoring district in accordance with subsection (3) of this rule; and

(c) A complete and correct renewal application in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553
Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-210-0100
Restricted Teaching License

(1) Purpose of the License: The Restricted Teaching License qualifies its holder to teach in a prekindergarten through grade 12 Oregon public school district, education service districts, and charter school assignments. The Restricted Teaching License is issued to qualified individuals who have at least a bachelor's degree and have substantial preparation in the subject matter endorsements on the license, but have not completed a teacher preparation program. The recipient of the license is required to qualify for the Preliminary Teaching License within three years of the issuance of the Restricted Teaching License. The purpose of the Restricted Teaching License is to provide a school district with a licensed educator, on a restricted basis, if the school district demonstrates extenuating circumstances that merit the issuance of the restricted license in order to protect the district's programs or students.

(2) District Sponsorship: The Restricted Teaching License requires district sponsorship. The sponsoring district must submit a statement:

(a) Describing the extenuating circumstances preventing the district from hiring a teacher holding an unrestricted teaching license appropriate for the assignment and how the issuance of the restricted license will protect the district's programs or students;

(b) Explaining how the qualifications of the applicant will resolve the extenuating circumstances;

(c) Assuring the Commission that the district will obtain the license for the educator prior to assignment within the district;

(d) Describing the district's plan to provide a mentor for the teacher. The plan must specifically identify the mentor; and

(e) Describing the plan for how the teacher will make progress toward qualifying for non-provisional state licensure within the first term of the Restricted Teaching License.

(3) Renewal of District Sponsorship: Upon application for a reissue of the Restricted Teaching License, the sponsoring district must provide a new statement confirming that:

(A) The extenuating circumstances necessitating the Restricted Teaching License still exists;

(B) The applicant is still qualified and needed to remedy the situation;

(C) The plan for mentoring remains in place. The statement must update the name of the mentor, if appropriate; and

(D) The teacher is on track to meet the qualifications for the Preliminary Teaching License by the end of the final term (after second reissue) of the Restricted Teaching License.

(4) Terms of Licensure: The Restricted Teaching License is valid for one year and can be reissued up to two times for a total of three years (plus time to June 30 if needed) on the license.

(a) The license will expire on June 30 of the academic year following issuance of the license.

(b) Upon expiration of the final term (after second reissue) of the Restricted Teaching License, the educator must qualify for the Preliminary Teaching License.

(c) The Restricted Teaching License is not eligible for the 120 grace period.

(5) Assignment and Endorsement Authorization: The Restricted Teaching License qualifies the teacher to accept within the sponsoring district:

(a) Any instructional assignment from prekindergarten through grade 12 within the scope of the subject-matter endorsement(s) on the Restricted Teaching License; The scope of the endorsement shall be determined by the National Center for Educational Statistics (NCES) course codes associated with the endorsement as provided by the TSPC Licensure Guide; and

(b) Substitute teaching assignments within the subject-matter endorsement areas authorized by the license.

(6) To be eligible to apply for a Restricted Teaching License, the applicant must:

(a) Provide a statement from the sponsoring district in accordance with subsection (2) of this rule;

(b) Have never held any type of Restricted Teaching License;

(c) Possess the personal qualifications for licensure including attainment of at least eighteen years of age and possessing good moral character and mental and physical health necessary for employment as an educator;

(d) Hold a bachelor's degree or higher from a regionally accredited institution or approved foreign equivalent. A master's degree or a doctoral degree from a regionally accredited institution in the United States validates a non-regionally accredited bachelor's degree for licensure;

(e) Obtain a passing score on a Commission-approved test of knowledge of U.S. and Oregon civil rights and professional ethics;

(f) Provide evidence of substantial preparation in the subject-matter area in which licensure is requested by submitting official sealed transcripts, and any other evidence required by the Commission, as proof of substantial completion of academic preparation or substantial work experience in the area in which the co-applicant educator is seeking licensure;

(g) Complete a background clearance that includes:

(A) Furnishing fingerprints (if necessary);

(B) Providing satisfactory responses to character questions in the form and manner prescribed by the Commission; and

(h) Submit a complete and correct application in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

(7) Applicants who have failed to complete an Oregon program teacher preparation program are not eligible for the Restricted Teaching License under any circumstance.

(8) First Reissue: To be eligible to apply for the first reissue of a Restricted Teaching License, an applicant must submit:

(a) A statement from the sponsoring district in accordance with subsection (3) of this rule;

(b) Evidence of admission and enrollment, or pending enrollment, into a Commission-approved educator preparation program for licensure in the area in which the applicant is teaching;

(c) A complete and correct application in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

(9) Second Reissue: To be eligible to apply for the second reissue a Restricted Teaching License, an applicant must submit:

(a) A statement from the sponsoring district in accordance with subsection (3) of this rule; and

(b) Evidence the educator has completed more than 50 percent of a Commission-approved educator preparation program to qualify for the Preliminary Teaching License requirements. The completion of more than 50 percent of the program must be verified by the educator preparation program in which the educator is enrolled; and

(d) A complete and correct application in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

(10) Reissue Restrictions: The reissue of the Restricted Teaching License is subject to the following provisions:

(a) A Restricted Teaching License will expire on June 30 of the academic year in which the license was granted regardless of the term for licensure. Extending the license beyond the June 30 expiration date is at the discretion of the Executive Director after considering all extenuating circumstances.

(b) Reissue under these conditions is not subject to the 120-day grace period and must be submitted sufficiently in advance of the license expiration date to ensure continuity of licensure. Failure to submit a timely application is grounds for denial of a reissue pursuant to this subsection and may be grounds for discipline under OAR 584-020-0040 if the educator continues to teach without a valid license.

(c) The Executive Director may deny the application for reissue of the license upon failure to demonstrate progress in the licensure program needed for the Preliminary Teaching License.

(11) Upon expiration of the final term (after second reissue) of the Restricted Teaching License, recipients of this license must meet all the requirements of the Preliminary Teaching License.

(a) The educator may apply for the Preliminary Teaching License prior to the expiration of the final term of the Restricted Teaching License.

(b) If the educator does not meet the qualifications for the Preliminary Teaching License prior to the expiration of the final term of the Restricted Teaching License, the educator may apply for an Emergency Teaching License as provided in subsection (12) of this rule.

(12) Emergency Teaching License: When the Executive Director determines that extenuating circumstances have prevented the applicant from completing requirements for the Preliminary Teaching License within the required time, an extension for up to one year may be issued upon joint request from an educator and the sponsoring district.

(a) The Emergency Teaching License will be issued for the shortest amount of time needed to address the extenuating circumstances.

(b) The applicant must meet all the requirements for an Emergency Teaching License set forth in OAR 584-210-0130 and provide an explanation of the circumstances which make the request necessary. The sponsoring district must ensure the applicant will meet all requirements for the Preliminary Teaching License upon expiration of the Emergency Teaching License issued pursuant to this subsection.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553
Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-210-0110
Limited Teaching License

(1) Purpose of the License: The Limited Teaching License qualifies its holder to teach in a prekindergarten through grade 12 Oregon public school district, education service districts, and charter school assignments. The purpose of the Limited Teaching License is to provide a district with a licensed teacher for one or more highly specialized subjects of instruction for which the Commission does not issue a specific endorsement.

(2) District Sponsorship: The Limited Teaching License requires district sponsorship. The sponsoring district must submit a statement:

(a) Explaining the district's need for instruction in highly specialized subjects for which the Commission does not issue a specific endorsement;

(b) Describing how the applicant is qualified to teach the highly specialized subject;

(c) Assuring the Commission that the district will limit the assignment(s) of the applicant to the requested specialized subject; and

(d) Assuring the Commission that the district has obtained the license prior to assignment within the district.

(3) Renewal of District Sponsorship: Upon renewal of the Limited Teaching License, the sponsoring district must provide a new statement confirming that the applicant will continue to be assigned to the same highly specialized instruction areas.

(4) Term of Licensure: The Limited Teaching License is valid for three years and is renewable as provided in subsection (8) of this rule. The date of the first expiration of the license is three years from the date of issue plus time until the applicant's birthday.

(5) Assignment and Endorsement Authorization: The Limited Teaching License qualifies the teacher to accept within the sponsoring district:

(a) Any instructional assignment within the highly specialized subject-area authorized by the limited license; and

(b) Substitute teaching assignments only within the highly specialized subject-matter areas authorized by the limited license.

(6) Granting of License: The Executive Director has the authority to grant a Limited Teaching License for one or more discreet subjects within an established endorsement upon a showing of district need.

(7) To be eligible to apply for a Limited Teaching License, an applicant must:

(a) Provide a statement from the sponsoring district in accordance with subsection (2) of this rule;

(b)(A) Provide official sealed transcripts documenting an accredited associate's degree or its approved equivalent in objectively evaluated post-secondary education; or

(B) Provide evidence of experience related to the intended subject of instruction that is substantially equivalent to at least two years of post-secondary education;

(c) Obtain a passing score on a Commission-approved test of knowledge of U.S. and Oregon civil rights and professional ethics;

(d) Complete a background clearance that includes:

(A) Furnishing fingerprints (if necessary);

(B) Providing satisfactory responses to character questions in the form and manner prescribed by the Commission; and

(e) Submit a complete and correct application in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

(8) To be eligible to apply for renewal of the Limited Teaching License, an applicant must:

(a) Provide a statement from the sponsoring district in accordance with subsection (3) of this rule;

(b) Complete professional development requirements as provided in OAR 584-255-0010 Professional Development Requirements; and

(c) Submit a complete and correct renewal application in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553
Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-210-0130
Emergency Teaching License

(1) Purpose of the License: An Emergency Teaching License qualifies its holder to teach in prekindergarten through grade 12 Oregon public school districts, education service districts, and charter school assignments. The Emergency Teaching License is issued to persons who demonstrated adequate qualifications to receive a teaching license on an emergency basis. The purpose of the Emergency Teaching License is to provide a school district with a licensed educator, on an emergency basis, if the school district demonstrates urgent circumstances that merit the issuance of the license in order to protect the district's programs or students. The Emergency Teaching License is designed for short-term licensure only and may not continue once the emergency situation has been remedied.

(2) District Sponsorship: The Emergency Teaching License requires district sponsorship. The sponsoring district must submit a statement:

(a) Explaining the urgent circumstances that constitute the emergency and how the qualifications of the applicant will resolve the emergency;

(b) Verifying the urgent circumstances that prevents hiring of a suitable teacher who holds an unrestricted teaching license appropriate for the assignment to be filled;

(c) Assuring the Commission that the district will obtain the license prior to assignment within the district; and

(d) Requesting and identifying the least amount of time necessary to meet the emergency needs of the district.

(3) Assignment Authorization: The Emergency Teaching License qualifies the teacher to accept within the sponsoring district any instructional assignment within the subject-area authorized by the emergency license. The scope of the endorsement shall be determined by the National Center for Educational Statistics (NCES) course codes associated with the endorsement as provided by the TSPC Licensure Guide.

(4) Granting of License: The Emergency Teaching License shall be issued solely at the discretion of the Executive Director, or the Director of Licensure, for any length of time deemed necessary to protect the district's programs or students.

(a) In most cases, an Emergency Teaching License will not exceed one year unless the educator or the district has presented unusual extenuating circumstances.

(b) The Executive Director, or the Director of Licensure may consider efforts the educator has made in meeting licensure requirements. Additionally, the Executive Director, or Director of Licensure, will consider academic preparation or experience the proposed educator has had in the area in which the district is requesting the license.

(c) Generally, failure to meet renewal requirements does not constitute an emergency or extenuating circumstances.

(d) In most cases, an Emergency Teaching License will expire on June 30 of the academic year in which the license was granted regardless of the term for licensure. Extending the license beyond the June 30 expiration date is at the discretion of the Executive Director after considering all extenuating circumstances.

(e) The Emergency Teaching License is not renewable and not subject to the 120 day grace period.

(f) It is the applicant's responsibility to apply for the subsequent license in a timely manner to ensure that the applicant remains properly licensed. The applicant must submit a new application, including all required fees, for the subsequent license.

(g) The following situations are not eligible for an Emergency Teaching License:

(A) Renewal applications within the 120 days grace period; or

(B) Applications that include requests for Emergency Teaching Licenses due to the applicant's failure to meet renewal or upgrade requirements such as required coursework or professional development.

(5) To be eligible to apply for the Emergency Teaching License, an applicant must:

(a) Provide a statement from the sponsoring district in accordance with subsection (2) of this rule;

(b) Complete a background clearance that includes:

(A) Furnishing fingerprints (if necessary);

(B) Providing satisfactory responses to character questions in the form and manner prescribed by the Commission; and

(c) Submit a complete and correct application in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

(d) An applicant may be asked to provide a resume, official transcripts or other evidence of qualifications if requested by the Executive Director.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553
Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-210-0140
Substitute Teaching License

(1) Purpose of the License: The Substitute Teaching License is a license that permits a qualified individual to substitute teach in a prekindergarten through grade 12 Oregon public school district, education service districts, and charter school assignments to replace a teacher who is temporarily unable to work.

(2) Term of Licensure: The Substitute Teaching License is valid for three years and may be renewed continuously as provided by subsection (6) of this rule. The date of the first expiration of the license is three years from the date of issue plus time to the applicant's birthday.

(3) Assignment Authorization: The Substitute Teaching License is valid for substitute teaching assignments in any Oregon school district, including education service districts. The length of the substitute teaching assignment is limited as follows:

(a) The length of any one assignment may not exceed one academic school year;

(b) If the length of any one assignment must exceed one academic school year, one of the following must occur:

(A) If the educator holding the Substitute Teaching License previously held a non-provisional license appropriate for the assignment, the previous license must be reinstated.

(B) If the educator holding the Substitute Teaching License did not previously hold a non-provisional license appropriate for the assignment, the applicant and sponsoring district may apply for an Emergency Teaching License as provided for in OAR 584-210-0130, Emergency Teaching License.

(i) The Executive Director may approve the Emergency Teaching License upon proof of the district's emergency and may only issue the license for the amount of time to cover the emergency.

(ii) The Emergency Teaching License may permit the educator to teach for time beyond the allowed timelines stated in subsection (3)(a) of this rule.

(iii) In all cases, the Emergency Teaching License may not extend beyond the end of the school year for which the Emergency Teaching License was issued.

(iv) Upon the expiration of the Emergency Teaching License as provided in this subsection, the applicant must qualify for a non-provisional teaching license with all required endorsements or may apply to reinstate the Substitute Teaching License if the educator is no longer working in a long-term assignment.

(4) Sanctions: The Commission may sanction the teacher or assigning administrator or both for failure to meet the following:

(a) The requirements for purpose of the Substitute Teaching License as provided in subsection (1) of this rule; or

(b) The requirements for length of assignment of the Substitute Teaching License as provided in subsection (3) of this rule.

(5) To be eligible to apply for a Substitute Teaching License, the applicant must:

(a) Possess the personal qualifications for licensure including attainment of at least eighteen years of age and possessing good moral character and mental and physical health necessary for employment as an educator;

(b) Hold a bachelor's degree or higher from a regionally-accredited institution in the United States, or the foreign equivalent of such degree approved by the Commission. A master's degree or a doctoral degree from a regionally-accredited institution in the United States validates a non-regionally accredited bachelor's degree for licensure;

(c) Provide documentation of one of the following:

(A) A valid and active non-provisional teaching license from another NASDTEC jurisdiction valid for unrestricted full time teaching assignments; or

(B) Admission to and completion of an Oregon teacher preparation program approved by the Commission that resulted in eligibility for a non-provisional Oregon teaching license;

(d) Obtain a passing score on a Commission-adopted test of knowledge of U.S. and Oregon civil rights and professional ethics;

(e) Complete a background clearance that includes:

(A) Furnishing fingerprints (if necessary);

(B) Providing satisfactory responses to character questions in the form and manner prescribed by the Commission; and

(f) Submit a complete and correct application in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

(6) Renewal Requirements: To be eligible for renewal of the Substitute Teaching License, an applicant must submit a complete and correct application in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

(7) Sunset Clause: This rule is effective until July 1, 2017. Prior to this date, the Commission must determine if the provisions of this rule related to long-term assignments and waiver of continuing professional development continue to be necessary to address substitute supply issues in Oregon.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553
Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-210-0150
Restricted Substitute Teaching License

(1) Purpose of the License: The Restricted Substitute Teaching License is a license that permits a qualified individual to substitute teach in prekindergarten through grade 12 Oregon public school district, education service districts, and charter school assignments with the restriction that the individual must obtain and maintain district sponsorship.

(2) District Sponsorship: The Restricted Substitute Teaching License requires district sponsorship. The sponsoring district must submit a statement:

(a) Explaining the district's need for the restricted substitute;

(b) Assuring the Commission that the district will obtain the license for the educator prior to assignment within the district;

(3) Renewal of District Sponsorship: Upon renewal of the Restricted Teaching License, the sponsoring district must provide a new statement confirming the continued need for the substitute.

(4) Assignment Authorization: The Restricted Substitute Teaching License is valid for substitute teaching assignments as follows:

(a) The Restricted Substitute Teaching License is valid for substitute teaching in any Oregon prekindergarten through grade 12 assignments to replace a teacher who is temporarily unable to work;

(b) The Restricted Substitute Teaching License is valid for substitute assignments in any Oregon school district, including education service districts; and

(c) Any single assignment on the Restricted Substitute Teaching License may not exceed 10 days consecutively under any circumstances.

(5) Term of Licensure: The Restricted Substitute Teaching License is valid in accordance with the following provisions:

(a) For applications received from July 1 through December 31, the first Restricted Substitute Teaching License is valid through June 30 of the school year for which it is issued.

(b) For applications received from January 1 through June 30, the first Restricted Substitute Teaching License is valid through June 30 of the following school year unless otherwise requested by the sponsoring district;

(c) If the Restricted Substitute Teaching License is renewed with the same sponsoring district, the renewed Restricted Substitute Teaching License is valid for three years. The license will expire on June 30 of the third academic year following the issuance of the license. The Restricted Substitute Teaching License may be continuously renewed if the applicant maintains an active Restricted Substitute Teaching License with the original sponsoring district and meets the requirements of subsection (7) of this rule.

(d) If the Restricted Substitute Teaching License expires or the applicant obtains a new district sponsor, the applicant will be issued a first Restricted Substitute Teaching License as provided in subsection (5)(a) and (5)(b) of this rule.

(6) To be eligible to apply for a Restricted Substitute Teaching License, an applicant must:

(a) Provide a statement from the sponsoring district in accordance with subsection (2) of this rule

(b) Possess the personal qualifications for licensure including attainment of at least eighteen years of age and possessing good moral character and mental and physical health necessary for employment as an educator;

(c) Hold a bachelor's degree or higher from a regionally accredited institution or an approved foreign equivalent. Awarding of a higher degree in the arts and sciences or an advanced degree in the professions from a regionally accredited institution in the United States validates a non-regionally accredited bachelor's degree for licensure;

(d) Obtain a passing score on a Commission-approved test of knowledge of U.S. and Oregon civil rights and professional ethics;

(e) Complete a background clearance that includes:

(A) Furnishing fingerprints (if necessary);

(B) Providing satisfactory responses to character questions in the form and manner prescribed by the Commission; and

(f) Submit a complete and correct application in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

(7) Renewal Requirements: To be eligible to apply for renewal of the Restricted Substitute Teaching License, an applicant must:

(a) Provide a statement from the original sponsoring district in accordance with subsection (3) of this rule; and

(b) Submit a complete and correct renewal application in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

(8) Emergency Teaching License: A sponsoring district and co-applicant educator may apply for an Emergency Teaching License if the applicant has yet to obtain a passing score on the Commission-approved civil rights and ethics test. The Executive Director or Licensure Director may determine if the sponsoring district and applicant meet the requirements set forth in OAR 584-210-0130, Emergency Teaching License.

(9) Sunset Clause: This rule is effective until July 1, 2017. Prior to this date, the Commission must determine if the provisions of this rule related to assignments and waiver of continuing professional development continue to be necessary to address substitute supply issues in Oregon.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553
Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-210-0160
License for Conditional Assignment

(1) Purpose of License Conditional Assignment: An Oregon school district may request a License for Conditional Assignment (LCA) for any educator holding a Preliminary, Professional, Teacher Leader, Legacy or Reciprocal teaching license. The purpose of an LCA is to allow a school district to request misassignment for an educator to teach in an out-of-field subject-matter endorsement area for which the educator is not authorized to teach, while the educator completes requirements necessary either to add the subject-matter to the underlying license or to obtain a new license type.

(2) The LCA is required when teaching or working out-of-field under any of the following circumstances:

(a) Teaching assignments for more than 10 hours weekly in one subject-matter area without the appropriate subject-matter endorsement;

EXAMPLE: A physical education teacher without a health endorsement teaching health three periods of the day would require a LCA for health. If only teaching two periods a day; that would fall under the 10 hours per week threshold.

(b) Teaching in more than one unendorsed subject-matter endorsement area for any amount of time; or

EXAMPLE: If the physical education teacher above was teaching one period of health and one period of math; then an LCA would be required for both areas regardless of the 10 hours per week rule. The 10 hours per week rule applies to one subject only.

(c) Moving from one license to another.

EXAMPLE: A teacher moving to administration; an administrator moving to teaching (if the educator does not hold a valid teaching license); a teacher moving to school psychology.

(3) Term of License for Conditional Assignment: The LCA is a provisional license that provides temporary conditional approval to teach out-of-field under the following conditions:

(a) All LCAs will expire on June 30 following the date the LCA is issued;

(b) For endorsements that require only a test, experience or nine quarter hours or less of coursework, all endorsement requirements must be completed by June 30th following the date the LCA is issued;

(c) For endorsements requiring coursework exceeding nine quarter or six semester hours of coursework, the LCA will not exceed more than three academic years in total. The LCA for these endorsements will be issued as follows:

(A) The first LCA will expire on June 30th following the date the first LCA is issued;

(B) The second LCA will be reauthorized upon application by the educator and the school district upon evidence the educator has completed

some coursework toward adding the endorsement and will expire on June 30th following the date the second LCA is issued;

(C) The third LCA will be reauthorized upon application by the educator and the school district and upon evidence the educator has substantially completed the coursework needed to add the endorsement or complete the new licensure program and will expire on June 30th following the date the third LCA is issued.

(4) The LCA will not be "back dated." Time spent on assignments where the district failed to request the LCA will be deducted from the allowable LCA total (either one year or three years).

(5) The LCA is not renewable and is not eligible for a 120 day grace period beyond its expiration date.

(6) The LCA is not a stand-alone or independent license. The underlying license must be kept current in order for the LCA to remain active. The LCA will not be issued for a duration that exceeds the expiration date of the underlying license. In cases where there is a lapse in the underlying license, the LCA may be re-activated for a time as determined by the Executive Director or Licensure Director upon reinstatement of the underlying license.

(7) The district applying for an LCA is assumed to have informed the educator for which the LCA is being requested. Failure to inform the educator may result in an invalid LCA upon a finding by the Commission that the educator did not grant the district permission to add the LCA to the educator's license.

(8) Licenses not eligible for an LCA include, but are not limited to the following provisional licenses:

(a) Any Restricted License;

(b) Limited Teaching License;

(c) American Indian Language;

(d) Teaching Associate License;

(e) Career and Technical Education Teaching License;

(f) Substitute Teaching License;

(g) Restricted Substitute Teaching License;

(h) Limited Student Services License;

(j) Exceptional Administrator License; or

(k) International Visiting Teaching License.

(9) Other Special LCA Limitations:

(a) An administrator, school counselor, or school psychologist who has never held a non-provisional teaching license in any state may not be issued an LCA to teach;

(b) Applicants seeking conditional assignment as an administrator must hold a master's degree educational specialist, or doctoral in education to be eligible for the LCA; [See, OAR 584-080-0153 Restricted Transitional Administrator License for other possible alternatives.]

(c) Applicants seeking conditional assignment in school counseling or school psychology must hold at least a bachelor's degree or master's, educational specialist, or doctoral degree in the respective field of counseling or psychology; and

(d) Applying educators must never have held any one of the following licenses or permits endorsed in the subject-matter area or licensure areas in which the educator is seeking to work out-of- field:

(A) Conditional assignment permit;

(B) Restricted Licenses;

(C) Transitional or out-of-state Initial Teaching License; or

(D) Out of state license in the out-of-field subject-area or grade-levels.

(10) The LCA is restricted to use within the district that has applied for it. A new district may request to transfer the LCA so long as there is time remaining since the date the LCA was first issued.

(11) A district must:

(a) Apply for an LCA by October 31 for the fall term; or thereafter, apply for the LCA within two weeks after the assignment has begun;

(b) Agree to provide professional assistance specific to the assignment for the educator during the first year of the conditional assignment; and

(c) Ensure that federal laws related to Highly Qualified Teachers are taken into account when applying for an LCA.

(12) After an LCA has expired, the educator must have completed all requirements necessary to add the appropriate endorsement or new licensure program in order to continue working in the area in which the educator held the LCA. Continuing to work in an out-of-field position on an expired LCA is a violation of licensure law and is unauthorized. In these cases, the license-holder or the assigning administrator or both may be subject to sanctions for gross neglect of duty by the Commission pursuant to OAR 584-020-0040(4).

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553

Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-210-0165

Teaching Associate License

(1) Upon filing a correct and complete application in form and manner prescribed by the commission, a qualified applicant may be granted a Teaching Associate License. This license, issued for two years and not renewable. The Teaching Associate License is valid for regular teaching at one or more designated levels in one or more designated specialties but is not valid for substitute teaching.

(2) The Teaching Associate License is issued only to an experienced teaching assistant engaged in an intensive professional development program for teaching assistants approved by the commission under institutional standards found in OAR 584-017.

(3) The Teaching Associate License is restricted to use within the district that has applied for it jointly with the applicant.

(4) To be eligible for a Teaching Associate License, an applicant must satisfy the following requirements:

(a) Be enrolled in a specified institutional program of undergraduate education and professional teacher preparation approved by the commission and have completed 75% of the program required to qualify for assignment as a full-time intern.

(b) Successfully complete one year as a full-time intern in an approved program under the supervision of a school-based supervisor and unit supervisor.

(c) Obtain a passing score on a commission-adopted test of knowledge of U.S. and Oregon civil rights laws and professional ethics.

(d) Have three academic years of half-time or more experience as a teaching assistant assigned primarily to direct instruction and related support.

(e) Complete a background clearance that includes:

(A) Furnishing fingerprints (if necessary); and

(B) Providing satisfactory responses to character questions in the form and manner prescribed by the Commission.

(5) The institutional program and school district will provide supervision for the individual holding a Teaching Associate License. The institutional program and the district will provide a mentor for the teaching associate. The mentor will be designated the teacher of record.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 – 342.430; 342.455 - 342.495; 342.533

Hist.: TSPC 1-2016, f. & cert. ef. 2-10-16

584-210-0190

Reinstatement of Teaching Licenses

(1) Oregon teaching licenses may be reinstated upon application from the formerly licensed Oregon educator. The reinstatement must meet the Commission-adopted standards for reinstatement as provided in this rule.

(2) Reciprocal and Initial Teaching Licenses may not be reinstated. If an applicant holds an expired Initial or Reciprocal Teaching License, the applicant must:

(a) Qualify for an Oregon Preliminary, Professional, Legacy teaching license; or

(b) Qualify for an Oregon provisional license for which they are eligible.

(c) The applicant with the expired Initial or Reciprocal Teaching license will not be required to complete continuing PDUs prior to qualifying for the first-issue Preliminary, Professional or Legacy Teaching License.

(3) Initial I Teaching Licenses: Initial I Teaching Licenses may not be reinstated. Holders of these licenses must apply for reinstatement of the Preliminary Teaching License and must meet the requirements in subsection (12) of this rule.

(4) Initial II Teaching Licenses: Initial II Teaching Licenses may not be reinstated. Holders of these licenses must apply for reinstatement to the Preliminary Teaching License or Professional Teaching License and must meet the requirements in subsection (12) of this rule.

(5) Basic: Basic Teaching Licenses may not be in reinstated. Holders of these licenses must apply for reinstatement of the Professional, Preliminary, or Legacy Teaching License and must meet the requirements in subsection (12) of this rule.

(6) Standard, Continuing Teaching Licenses: and Continuing Teaching Licenses may not be reinstated. Holders of these licenses must apply for reinstatement of the Professional Teaching License and must meet the requirements in subsection (12) of this rule.

(7) Provisional Oregon Teaching Licenses: Oregon provisional teaching licenses are issued upon new application for the provisional Oregon

teaching license. The applicant must meet the requirements for the provisional teaching license in effect at the time of the new application. The applicant is not required to pay reinstatement fees or complete additional continuing PDUs to qualify for the new provisional license.

Note: Some applicants may not be eligible for additional terms of a provisional license due to restrictions on the license terms or other circumstances.

(8) Teacher Leader: Teacher Leader licenses may not be reinstated. A holder of an expired Teacher Leader license may apply to reinstate a Professional or Legacy Teaching license. To obtain the Teacher Leader license after it has expired, the applicant may submit a new application for the Teacher Leader License.

(9) Only endorsements held on the previous expired license will be added to the reinstated license. If applicant wants to add new endorsements to their reinstated license, they must add the endorsement in accordance with Chapter 584, Division 220.

(10) If the applicant holds another active and current Oregon educator license at the time of the application for reinstatement of a Preliminary, Professional or Legacy Teaching License, the applicant is not required to complete the additional continuing PDUs as provided in subsection (12) of this rule.

(a) To qualify for this subsection, the applicant must hold another license, registration or certificate that requires completion of continuing PDUs for renewal;

(b) If the applicant holds another license, registration or certificate that does not require the completion of continuing PDUs for renewal, the applicant must complete the additional continuing PDUs as provided in subsection (12) of this rule to reinstate a Preliminary, Professional or Legacy Teaching License.

(11) Reinstatement of suspended or revoked licenses must also meet the requirements provided in Chapter 584, Division 50.

(12) To be eligible to apply for reinstatement of an Oregon Preliminary, Professional or Legacy Teaching License, an applicant must:

(a) Submit a complete and correct reinstatement application in the form and manner required by the Commission, including payment of the required reinstatement fee (which includes the application fee) as provided in OAR 584-200-0050; and

(b) Meet the renewal or advancement requirements that would have been required if the license had not lapsed. In addition, the applicant must submit proof of completion of 25 professional development units (PDUs) for each year the license is expired as provided:

(A) Expired for less than one year: Must only meet the renewal or advancement requirements for the license.

(B) Expired for more than one year, but less than two years: Must meet the renewal or advancement requirements for the license plus 25 additional PDUs.

(C) Expired for more than two years but less than three years: Must meet the renewal or advancement requirements for the license plus 50 additional PDUs.

(D) Expired for more than three years but less than four years: Must meet the renewal or advancement requirements for the license plus 75 additional PDUs.

(E) Expired for more than four years but less than five years: Must meet the renewal or advancement requirements for the license plus 100 additional PDUs.

(F) Expired for more than five years but less than six years: Must meet the renewal or advancement requirements for the license plus 125 additional PDUs.

(G) Expired for more than six years: Must meet the renewal or advancement requirements for the license plus 150 additional PDUs.

(c) To qualify as continuing PDUs for requirements of this subsection, the continuing PDUs must have been completed within five (5) years of the date of application for reinstatement of the teaching license.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553

Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-220-0010

Endorsement on Teaching Licenses: General Provisions

(1) Purpose of Teaching License Endorsements: The purpose of an endorsement on a teaching license is to indicate the subject areas (content knowledge) for which the educator is authorized to teach. New educators must meet the requirements for content and subject-specific pedagogical knowledge prior to adding an endorsement to an existing Preliminary Teaching License. Experienced educators must meet the Commission-established requirements for content knowledge prior to adding the endorsement to an existing Professional, Teacher Leader or Legacy Teaching Licenses. Only Commission-adopted endorsements may be added to teaching licenses. New endorsement may only be established through official Commission action at a meeting.

(2) Teaching endorsements may be added to the following teaching licenses:

(a) Preliminary Teaching License;

(b) Professional Teaching License;

(c) Teacher Leader License; and

(d) Legacy Teaching License.

(3) Teaching endorsements may not be added to the following teaching licenses and registrations, except as noted:

(a) American Indian Languages Teacher (May add another American Indian Language);

(b) Charter school teacher registration;

(c) Reciprocal Teaching License;

(d) Restricted Teaching License;

(e) Emergency Teaching License;

(f) Limited Teaching License;

(g) Career and Technical Education Teaching License (May add Career and Technical Education endorsements);

(h) International Visiting Teaching License;

(i) Substitute Teaching License (Already valid to teach any subject); and

(j) Restricted Substitute Teaching License (Already valid to teach any subject);

(4) Scope of Endorsements: The scope of the endorsement shall be determined by the National Center for Educational Statistics (NCES) course codes associated with the endorsement as provided by the TSPC Licensure Guide. An educator may only be assigned to teach courses within the scope of the endorsements on their license except as provided in OAR 584-210-0170, Atypical Assignments and OAR 584-210-0160, License on Conditional Assignment.

(5) Removing an Endorsement: An educator may request to remove an endorsement from their license. It is the responsibility of the educator to understand all employment issues related to the removal of the endorsement. To remove an endorsement from a license, an educator must submit a correct and complete application for removal of the endorsement in the manner and form required by the Commission, including all required fees as provided in OAR 584-200-0050. Once removed, the educator must meet all current endorsement requirements in order to add back the endorsement.

(6) The Commission approved general education endorsements for teaching licenses are:

(a) Advanced Mathematics;

(b) Agricultural Science;

(c) Art;

(d) Biology;

(e) Business: Generalist;

(f) Business: Marketing;

(g) Career Trades: Generalist (formerly Technology Education);

(h) Chemistry;

(i) Drama;

(j) Elementary – Multiple Subjects (formerly Multiple Subjects Self-Contained);

(k) English Language Arts;

(l) English to Speakers of Other Languages (ESOL);

(m) Family and Consumer Studies;

(n) Foundational English Language Arts (formerly Middle School Language Arts);

(o) Foundational Mathematics (formerly Basic Math);

(p) Foundational Science (formerly Middle School Science);

(q) Foundational Social Studies (formerly Middle School Social Studies);

(r) Health;

(s) Integrated Science;

(t) Legacy Art;

(u) Legacy English to Speakers of Other Languages;

(v) Legacy Health;

(w) Legacy World Language;

(x) Legacy Family and Consumer Science;

(y) Legacy Career Trades Generalist Education;

(z) Legacy Library Media;

(aa) Legacy Music;

(bb) Legacy Physical Education;

(cc) Legacy Reading;

(dd) Legacy Five Year Elementary;

(ee) Legacy Five Year Secondary;

(ff) Library Media;
(gg) Music;
(hh) Physical Education;
(ii) Physics;
(jj) Reading Intervention (formerly Reading Specialist);
(kk) Social Studies;
(ll) Special Education: Generalist;
(mm) Special Education: Early Intervention;
(nn) Special Education: Deaf and Hard-of-Hearing ;
(oo) Special Education: Visually Impaired;
(pp) Special Education: Communication Disorders;
(qq) Speech (Forensics);
(rr) World Language: Chinese;
(ss) World Language: French;
(tt) World Language: German;
(uu) World Language: Japanese;
(vv) World Language: Latin;
(ww) World Language: Russian; and
(xx) World Language: Spanish.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553
Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-220-0015
Evidence of Content Knowledge and Pedagogy Skills

(1) All applicants must provide evidence of content knowledge and pedagogy skills to in order have the endorsement on the license. Acceptable evidence of content knowledge and pedagogy skills includes:

(a) A passing score on Commission-approved subject matter licensure test;

(b) Completion of Commission-approved subject matter program or coursework; or

(c) Other evidence at the discretion of the Director of Licensure or designees.

(2) Validation of Subject Matter Tests: To verify a passing score on a Commission-approved subject-matter test, the applicant must provide:

(a) Either the original or an authentic facsimile paper score report;

(b) An electronic score report submitted directly to TSPC by the testing company that administers the test; or

(c) Other evidence documenting a passing score on a subject-matter test if compelling circumstances prohibit the applicant from providing an original score report.

(A) It is solely within the discretion of the Director of Licensure of designee to determine if the alternative documentation of the passing score is acceptable.

(B) The Director of Licensure may submit the evidence to the Commission if the Director determines the evidence requires Commission review.

(C) The Director of Licensure may require the applicant to produce authentic evidence of a passing score on any test the applicant submits for consideration for test waiver in accordance with subsection (6) of this rule.

(3) Acceptable Evidence of Endorsement Program or Coursework: If the Commission requires or accepts completion of a Commission-approved program or coursework to qualify for an endorsement, the applicant must submit verification of:

(a) Acceptance to and completion of the educator preparation program and official sealed transcripts (for Commission-approved programs); or

(b) Official sealed transcripts of the coursework (for Commission-approved coursework).

(4) The Commission may provide reciprocity for an out-of-state test if:

(a) The applicant provides evidence of a passing score on a subject-matter test approved by another National Association of State Directors of Teacher Education and Certification (NASDTEC) jurisdiction. The score report and evidence must demonstrate that the test and passing score is approved for licensure by the other jurisdiction in accordance with subsection (2) of this rule; and

(b) The Director of Licensure determines the content of the out-of-state test is more similar than not to the Oregon test.

(5) The Commission may provide a waiver of subject-matter testing requirements if the out-of-state applicant can provide evidence of:

(a) Academic preparation satisfactory to the Commission; and

(b) Five years of half-time or more teaching the specific subject matter while properly licensed and endorsed in the content area requested.

(A) The license must be valid for the assignment in a public school or regionally accredited private school in a National Association of State Directors of Teacher Education and Certification (NASDTEC) jurisdiction.

(B) Teaching experience submitted for waiver must have occurred prior to application for licensure in Oregon.

(C) Teaching experience without a valid license may count toward test waiver, at the discretion of the Director of Licensure.

(6) For situations not covered by the provisions of this rule, the Commission grants the Director of Licensure the discretion to determine whether test scores, licensure or experience submitted pursuant to this section meets the Commission's intent with regard to preventing redundancy in completing subject-matter testing requirements.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553
Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-220-0020
Advanced Mathematics

(1) Purpose: An Advanced Mathematics endorsement indicates that an educator is qualified to teach prekindergarten through grade 12 assignments in advanced mathematics as provided by the TSPC Licensure Guide for Advanced Mathematics.

(2) An Advanced Mathematics endorsement permits the holder to teach all levels of single subject mathematics, including foundational mathematics courses. (Foundational Mathematics courses are a subset of the full Advanced Mathematics endorsement.)

(3) An educator is not authorized to teach in the endorsed area unless and until the endorsement is officially added to the license, except as provided in as provided in OAR 584-210-0170, Atypical Assignments and OAR 584-210-0160 License for Conditional Assignment.

(4) Adding to existing Preliminary Teaching License: To be eligible to add an Advanced Mathematics endorsement to an existing Preliminary Teaching License, an applicant must meet the following content and pedagogy requirements:

(a) Meet one of the following content knowledge requirements:

(A) Provide documentation of a passing score on the Commission-approved subject mastery test for Advanced Mathematics; or

(B) Complete Commission-approved advanced mathematics coursework of at least fifty-seven quarter or thirty-eight semester hours designed to develop competence in:

(i) Mathematical Processes and Number Sense:
(ii) Patterns, Algebra and Functions;
(iii) Measurement and Geometry;
(iv) Trigonometry and Calculus; and
(v) Statistics, Probability and Discreet Mathematics.

(C) At least fifty percent (50%) of the Advanced Mathematics coursework must have been completed within five years prior to the date of application for the endorsement.

(b) Meet one of the following Advanced Mathematics pedagogy requirements:

(A) Admission to and completion of a Commission-approved Advanced Mathematics preparation program as verified by the approved program in accordance with OAR 584-420-0300; or

(B) Complete an Advanced Mathematics pedagogy course of at least three quarter or two semester hours acceptable to the Commission. The course must include the word pedagogy or methods in the course title or must be acceptable to the Commission upon evaluation of course syllabi or other evidence; or

(C) Complete a supervised practicum in an advanced mathematics assignment in a public school setting. To verify the practicum, a school district must submit a PEER form and a statement verifying that:

(i) The applicant completed at least 60 hours of a supervised practicum in advanced mathematics courses above Algebra I;

(ii) The practicum was supervised by a teacher holding a Professional, Teacher Leader or Legacy Teaching license with an Advanced Mathematics endorsement;

(iii) The applicant has obtained the required pedagogy skills to teach advanced mathematics.

Note: The district must indicate in the statement that the supervisory teacher supports the verification of applicant skill level.

(iv) At the Executive Director's or Licensure Director's discretion, other Advanced Mathematics teaching experience such as teaching in at a post-secondary institution or in a private school setting may qualify to satisfy the practicum experience. In these settings, verification from the employer of satisfactory completion of the supervised teaching experience with at least 60 clock hours of Advanced Mathematics above Algebra I

instruction is required to qualify as a suitable practicum to add the endorsement.

(c) Submit a complete and correct application to obtain the endorsement in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note: Adding the endorsement at the time of renewal will not require an additional cost to add the licensure renewal process.

(5) Adding to Advanced Math to Other Licenses: To be eligible to add an Advanced Mathematics endorsement to an existing Professional, Teacher Leader or Legacy teaching license, an applicant must:

(a) Meet one of the following content knowledge requirements:

(A) Provide documentation of a passing score on the Commission-approved subject mastery test for Advanced Mathematics; or

(B) Complete Commission-approved advanced mathematics coursework of at least fifty-seven quarter or thirty-eight semester hours designed to develop competence in:

(i) Mathematical Processes and Number Sense:

(ii) Patterns, Algebra and Functions;

(iii) Measurement and Geometry;

(iv) Trigonometry and Calculus; and

(v) Statistic, Probability and Discreet Mathematics.

(C) At least fifty percent (50%) of the Advanced Mathematics coursework must have been completed within five years prior to the date of application for the endorsement.

(b) Submit a complete and correct application to obtain the endorsement in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note: Adding the endorsement at the time of renewal will not require an additional cost to add the licensure renewal process.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553

Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-220-0025

Agricultural Science

(1) Purpose: An Agricultural Science endorsement indicates that an educator is qualified to teach prekindergarten through grade 12 assignments in agricultural science as provided by the TSPC Licensure Guide for Agricultural Science.

(2) An educator is not authorized to teach in the endorsed area unless and until the endorsement is officially added to the license, except as provided in as provided in OAR 584-210-0170, Atypical Assignments and OAR 584-210-0160, License on Conditional Assignment.

(3) Adding to existing Preliminary Teaching License: An Agricultural Science endorsement may be added to an existing Preliminary Teaching license by demonstrating content knowledge and completing Agricultural Science pedagogy requirements as defined in this rule. To be eligible to add an Agricultural Science endorsement to an existing Preliminary Teaching License, an applicant must:

(a) Meet one of the following content knowledge requirements:

(A) Provide documentation of a passing score on the Commission-approved subject mastery test for Agricultural Science; or

(B) Complete Commission-approved coursework of at least sixty quarter or forty semester hours designed to develop competence in agriculture education, to include:

(i) Agribusiness management;

(ii) Agricultural mechanics;

(iii) Animal science;

(iv) Crop sciences;

(v) Soil science;

(vi) Horticulture; and

(vii) Program organization and administration, such as advisory committees, student organizations, and supervision of occupational experience.

(C) At least fifty percent (50%) of the Agricultural Science coursework must have been completed within five years prior to the date of application for the endorsement.

(b) Meet one of the following Agricultural Science pedagogy requirements:

(A) Admission to and Completion of a Commission-approved Agricultural Science preparation program; or

(B) Complete an Agricultural Science pedagogy course of at least three quarter or two semester hours acceptable to the Commission. The course must include the word pedagogy or methods in the course title or must be acceptable to the Commission upon evaluation of course syllabi or other evidence; or

(C) Complete a supervised practicum in an agricultural science assignment in a public school setting. To verify the practicum, a school district must submit a PEER form and a statement verifying that:

(i) The applicant completed at least 60 hours of a supervised practicum in agricultural science courses;

(ii) The practicum was supervised by a teacher holding a Professional, Teacher Leader or Legacy Teaching license with an agricultural science endorsement;

(iii) The applicant has obtained the required pedagogy skills to teach agricultural science.

Note: The district must indicate in the statement that the supervisory teacher supports the verification of applicant skill level.

(iv) At the Executive Director's or Licensure Director's discretion, agricultural science teaching experience such as teaching in at a post-secondary institution or in a private school setting may qualify to satisfy the practicum experience. In these settings, verification from the employer of satisfactory completion of the supervised teaching experience with at least 60 clock hours of agricultural science instruction is required to qualify as a suitable practicum to add the endorsement.

(c) Submit a complete and correct application to obtain the endorsement in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note: Adding the endorsement at the time of renewal will not require an additional cost to add the licensure renewal process.

(4) Adding Agriculture Science to Other Licenses: To be eligible to add an Agricultural Science endorsement to an existing Professional, Teacher Leader or Legacy teaching license, an applicant must:

(a) Meet one of the following content knowledge requirements:

(A) Provide documentation of a passing score on the Commission-approved subject mastery test for Agricultural Science; or

(B) Complete a Commission-approved Agricultural Science coursework of at least sixty quarter or forty semester hours designed to develop competence in agriculture education, to include:

(i) Agribusiness management;

(ii) Agricultural mechanics;

(iii) Animal science;

(iv) Crop sciences;

(v) Soil science;

(vi) Horticulture; and

(vii) Program organization and administration, such as advisory committees, student organizations, and supervision of occupational experience.

(C) At least fifty percent (50%) of the Agricultural Science coursework must have been completed within five years prior to the date of application for the endorsement.

(b) Submit a complete and correct application to obtain the endorsement in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note: Adding the endorsement at the time of renewal will not require an additional cost to add the licensure renewal process.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553

Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-220-0030

Art

(1) An Art endorsement indicates that an educator is qualified to teach prekindergarten to grade 12 Art assignments as provided by TSPC Licensure Guide for Art.

(2) An educator is not authorized to teach in the endorsed area unless and until the endorsement is officially added to the license, except as provided in OAR 584-210-0170, Atypical Assignments and OAR 584-210-0160, License on Conditional Assignment.

(3) Eligibility Requirements: To be eligible to add an Art endorsement to an existing Preliminary, Professional, Teacher Leader or Legacy teaching License, an applicant must:

(a) Be admitted to and complete a Commission-approved Art preparation program that meets the program standards pursuant to Chapter 584, Division 420; and

(b) Submit a complete and correct application to obtain the endorsement in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note: Adding the endorsement at the time of renewal will not require an additional cost to add the licensure renewal process.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553

Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-220-0035
Biology

(1) Purpose: A Biology endorsement indicates that an educator is qualified to teach prekindergarten through grade 12 assignments in Biology as provided by the TSPC Licensure Guide for Biology.

(2) An educator is not authorized to teach in the endorsed area unless and until the endorsement is officially added to the license, except as provided in OAR 584-210-0170 Atypical Assignments and OAR 584-210-0160 License for Conditional Assignment.

(3) Adding to existing Preliminary Teaching License: A Biology endorsement may be added to an existing Preliminary Teaching license by demonstrating content knowledge and completing Biology pedagogy requirements as defined in this rule. To be eligible to add a Biology endorsement to an existing Preliminary Teaching License, an applicant must:

(a) Meet one of the following content knowledge requirements:

(A) Provide documentation of a passing score on the Commission-approved subject mastery test for Biology; or

(B) Complete Commission-approved coursework of at least forty-five quarter or thirty semester hours designed to develop competency in Biology that includes:

(i) At least twenty-seven quarter or eighteen semester hours in biology science, including:

(a) Classical and molecular genetics;

(b) Evolution;

(c) General microbiology; and

(d) Ecology; and

(ii) At least eighteen quarter or twelve semester hours in physical and earth science.

(C) At least fifty percent (50%) of the Biology coursework must have been completed within five years prior to the date of application for the endorsement.

(b) Meet one of the following Biology pedagogy requirements:

(A) Admission to and completion of a Commission-approved Biology preparation program; or

(B) Complete a Biology pedagogy course of at least three quarter or two semester hours acceptable to the Commission. The course must include the word pedagogy or methods in the course title or must be acceptable to the Commission upon evaluation of course syllabi or other evidence; or

(C) Complete a supervised practicum in a biology assignment in a public school setting. To verify the practicum, a school district must submit a PEER form and a statement verifying that:

(i) The applicant completed at least 60 hours of a supervised practicum in biology courses;

(ii) The practicum was supervised by a teacher holding a Professional, Teacher Leader or Legacy Teaching license with a biology endorsement;

(iii) The applicant has obtained the required pedagogy skills to teach biology.

Note: The district must indicate in the statement that the supervisory teacher supports the verification of applicant skill level.

(iv) At the Executive Director's or Licensure Director's discretion, biology teaching experience such as teaching in at a post-secondary institution or in a private school setting may qualify to satisfy the practicum experience. In these settings, verification from the employer of satisfactory completion of the supervised teaching experience with at least 60 clock hours of biology instruction is required to qualify as a suitable practicum to add the endorsement.

(c) Submit a complete and correct application to obtain the endorsement in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note: Adding the endorsement at the time of renewal will not require an additional cost to add the licensure renewal process.

(4) Adding Biology to Other Licenses: To be eligible to add a Biology endorsement to an existing Professional, Teacher Leader or Legacy teaching license, an applicant must:

(a) Meet one of the following content knowledge requirements:

(A) Provide documentation of a passing score on the Commission-approved subject mastery test for Biology; or

(B) Complete Commission-approved coursework of at least forty-five quarter or thirty semester hours designed to develop competency in Biology that includes:

(i) At least twenty-seven quarter or eighteen semester hours in biology science, including:

(a) Classical and molecular genetics;

(b) Evolution;

(c) General microbiology; and

(d) Ecology; and

(ii) At least eighteen quarter or twelve semester hours in physical and earth science,

(C) At least fifty percent (50%) of the Biology coursework must have been completed within five years prior to the date of application for the endorsement.

(b) Submit a complete and correct application to obtain the endorsement in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note: Adding the endorsement at the time of renewal will not require an additional cost to add the licensure renewal process.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553

Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-220-0040
Business: Generalist

(1) Purpose: A Business: Generalist endorsement indicates that an educator is qualified to teach prekindergarten through grade 12 assignments in General Business as provided by the TSPC Licensure Guide for Business: Generalist.

(2) An educator is not authorized to teach in the endorsed area unless and until the endorsement is officially added to the license, except as provided in OAR 584-210-0170 Atypical Assignments and OAR 584-210-0160 License for Conditional Assignment.

(3) Adding to existing Preliminary Teaching License: A Business: Generalist endorsement may be added to an existing Preliminary Teaching license by demonstrating content knowledge and completing Business: Generalist pedagogy requirements as defined in this rule. To be eligible to add a Business: Generalist endorsement to an existing Preliminary Teaching License, an applicant must:

(a) Meet one of the following content knowledge requirements:

(A) Provide documentation of a passing score on the Commission-approved subject mastery test for Business: Generalist; or

(B) Complete Commission-approved coursework of at least forty-eight quarter or thirty-two semester hours designed to develop competency in Business: Generalist that includes:

(i) Economics;

(ii) Business law;

(iii) Business communications;

(iv) Data and information processing;

(v) Accounting;

(vi) Keyboard operation;

(vii) Finance; and

(viii) Program organization and administration, such as advisory committees, student organizations, and supervision of occupational experience.

(C) At least fifty percent (50%) of the Business: Generalist coursework must have been completed within five years prior to the date of application for the endorsement.

(b) Meet one of the following Business: Generalist pedagogy requirements:

(A) Admission to and completion of a Commission-approved Business: Generalist preparation program; or

(B) Complete a Business: Generalist pedagogy course of at least three quarter or two semester hours acceptable to the Commission. The course must include the word pedagogy or methods in the course title or must be acceptable to the Commission upon evaluation of course syllabi or other evidence; or

(C) Complete a supervised practicum in a business assignment in a public school setting. To verify the practicum, a school district must submit a PEER form and a statement verifying that:

(i) The applicant completed at least 60 hours of a supervised practicum in business courses;

(ii) The practicum was supervised by a teacher holding a Professional, Teacher Leader or Legacy Teaching license with a business: generalist endorsement;

(iii) The applicant has obtained the required pedagogy skills to teach business.

Note: The supervisory teacher must support the verification of applicant skill level.]

(iv) At the Executive Director's or Licensure Director's discretion, business teaching experience such as teaching in at a post-secondary institution or in a private school setting may qualify to satisfy the practicum experience. In these settings, verification from the employer of satisfactory completion of the supervised teaching experience with at least 60 clock hours of business instruction is required to qualify as a suitable practicum to add the endorsement.

(c) Submit a complete and correct application to obtain the endorsement in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note: Adding the endorsement at the time of renewal will not require an additional cost to add the licensure renewal process.

(4) Adding Business: Generalist Endorsement to Other Licenses: To be eligible to add a Business: Generalist endorsement to an existing Professional, Teacher Leader or Legacy teaching license, an applicant must:

(a) Meet one of the following content knowledge requirements:

(A) Provide documentation of a passing score on the Commission-approved subject mastery test for Business: Generalist; or

(B) Complete Commission-approved coursework of at least forty-eight quarter or thirty-two semester hours designed to develop competency in Business: Generalist that includes:

(i) Economics;

(ii) Business law;

(iii) Business communications;

(iv) Data and information processing;

(v) Accounting;

(vi) Keyboard operation;

(vii) Finance; and

(viii) Program organization and administration, such as advisory committees, student organizations, and supervision of occupational experience.

(C) At least fifty percent (50%) of the Business: Generalist coursework must have been completed within five years prior to the date of application for the endorsement.

(b) Submit a complete and correct application to obtain the endorsement in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note: Adding the endorsement at the time of renewal will not require an additional cost to add the licensure renewal process.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553

Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-220-0045

Business: Marketing

(1) Purpose: A Business: Marketing endorsement indicates that an educator is qualified to teach prekindergarten through grade 12 assignments in Marketing as provided by the TSPC Licensure Guide for Business: Marketing.

(2) An educator is not authorized to teach in the endorsed area unless and until the endorsement is officially added to the license, except as provided in OAR 584-210-0170 Atypical Assignments and OAR 584-210-0160 License for Conditional Assignment.

(3) Adding to existing Preliminary Teaching License: A Business: Marketing endorsement may be added to an existing Preliminary Teaching license by demonstrating content knowledge and completing Business: Marketing pedagogy requirements as defined in this rule. To be eligible to add a Business: Marketing endorsement to an existing Preliminary Teaching License, an applicant must:

(a) Meet one of the following content knowledge requirements:

(A) Provide documentation of a passing score on the Commission-approved subject mastery test for Business: Marketing; or

(B) Complete Commission-approved coursework of at least forty-eight quarter or thirty two semester hours designed to develop competency in Business: Marketing that includes:

(i) Retail merchandising;

(ii) Marketing management;

(iii) Sales promotion;

(iv) Management and organizational behavior;

(v) Finance;

(vi) Accounting;

(vii) Economics;

(viii) Business law;

(ix) Business communications; and

(x) Program organization and administration, such as advisory committees, student organizations, and supervision of occupational experience.

(C) All or part of this credit may be granted by the preparing institution on the basis of formal evaluation of practical occupational experience or training.

(D) At least fifty percent (50%) of the Business: Marketing coursework must have been completed within five years prior to the date of application for the endorsement.

(b) Meet one of the following Business: Marketing pedagogy requirements:

(A) Admission to and Completion of a Commission-approved Business: Marketing preparation program; or

(B) Complete a Business: Marketing pedagogy course of at least three quarter or two semester hours acceptable to the Commission. The course must include the word pedagogy or methods in the course title or must be acceptable to the Commission upon evaluation of course syllabi or other evidence; or

(C) Complete a supervised practicum in a business: marketing assignment in a public school setting. To verify the practicum, a school district must submit a PEER form and a statement verifying that:

(i) The applicant completed at least 60 hours of a supervised practicum in business: marketing courses;

(ii) The practicum was supervised by a teacher holding a Professional, Teacher Leader or Legacy Teaching license with a business: marketing endorsement;

(iii) The applicant has obtained the required pedagogy skills to teach business marketing.

Note: The district must indicate in the statement that the supervisory teacher supports the verification of applicant skill level.

(iv) At the Executive Director's or Licensure Director's discretion, other Business: Marketing teaching experience such as teaching in at a post-secondary institution or in a private school setting may qualify to satisfy the practicum experience. In these settings, verification from the employer of satisfactory completion of the teaching experience with at least 60 clock hours of Business Marketing instruction is required to qualify as a suitable practicum to add the endorsement.

(c) Submit a complete and correct application to obtain the endorsement in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note: Adding the endorsement at the time of renewal will not require an additional cost to add the licensure renewal process.

(4) Adding Business: Marketing to Other Licenses: To be eligible to add a Business: Marketing endorsement to an existing Professional, Teacher Leader or Legacy teaching license, an applicant must:

(a) Meet one of the following content knowledge requirements:

(A) Provide documentation of a passing score on the Commission-approved subject mastery test for Business: Marketing; or

(B) Complete Commission-approved coursework of at least forty-eight quarter or thirty-two semester hours designed to develop competency in Business: Marketing that includes:

(i) Retail merchandising;

(ii) Marketing management;

(iii) Sales promotion;

(iv) Management and organizational behavior;

(v) Finance;

(vi) Accounting;

(vii) Economics;

(viii) Business law;

(ix) Business communications; and

(x) Program organization and administration, such as advisory committees, student organizations, and supervision of occupational experience.

(C) At least fifty percent (50%) of the Business: Marketing coursework must have been completed within five years prior to the date of application for the endorsement.

(b) Submit a complete and correct application to obtain the endorsement in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note: Adding the endorsement at the time of renewal will not require an additional cost to add the licensure renewal process.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553

Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-220-0050

Career Trades Generalist

(1) Purpose: A Career Trade Generalist endorsement indicates that an educator is qualified to teach prekindergarten through grade 12 assignments in Career Trades: Generalist as provided by the TSPC Licensure Guide for Career Trades: Generalist.

(2) An educator is not authorized to teach in the endorsed area unless and until the endorsement is officially added to the license, except as provided in OAR 584-210-0170 Atypical Assignments and OAR 584-210-0160 License for Conditional Assignment.

(3) Adding to Existing Preliminary Teaching License: A Career Trades: Generalist endorsement may be added to an existing Preliminary Teaching license by demonstrating content knowledge and completing Career Trades: Generalist pedagogy requirements as defined in this rule. To

be eligible to add a Career Trades: Generalist endorsement to an existing Preliminary Teaching License, an applicant must:

(a) Provide documentation of a passing score on the Commission-approved subject mastery test for Career Trades: Generalist; and

(b) Meet one of the following Career Trades: Generalist pedagogy requirements:

(A) Admission to and completion of a Commission-approved Career Trades: Generalist preparation program; or

(B) Complete a Career Trades: Generalist pedagogy course of at least three quarter or two semester hours acceptable to the Commission. The course must include the word pedagogy or methods in the course title or must be acceptable to the Commission upon evaluation of course syllabi or other evidence; or

(C) Complete a supervised practicum in a career trade assignment in a public school setting. To verify the practicum, a school district must submit a PEER form and a statement verifying that:

(i) The applicant completed at least 60 hours of a supervised practicum in career trade courses;

(ii) The practicum was supervised by a teacher holding a Professional, Teacher Leader or Legacy Teaching license with a career trade: generalist endorsement;

(iii) The applicant has obtained the required pedagogy skills to teach career trades.

Note: The district must indicate in the statement that the supervisory teacher supports the verification of applicant skill level.

(iv) At the Executive Director's or Licensure Director's discretion, other Career Trades: Generalist teaching experience such as teaching in at a post-secondary institution or in a private school setting may qualify to satisfy the practicum experience. In these settings, verification from the employer of satisfactory completion of the teaching experience with at least 60 clock hours of Career Trade Generalist instruction is required to qualify as a suitable practicum to add the endorsement.

(c) Submit a complete and correct application to obtain the endorsement in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note: Adding the endorsement at the time of renewal will not require an additional cost to add the licensure renewal process.

(4) Adding Career Trades: Generalist Endorsement to Other Licenses: To be eligible to add a Career Trades: Generalist endorsement to an existing Professional, Teacher Leader or Legacy teaching license, an applicant must:

(a) Provide documentation of a passing score on the Commission-approved subject mastery test for Career Trades: Generalist; and

(b) Submit a complete and correct application to obtain the endorsement in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note: Adding the endorsement at the time of renewal will not require an additional cost to add the licensure renewal process.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553

Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-220-0055

Chemistry

(1) Purpose: A Chemistry endorsement indicates that an educator is qualified to teach prekindergarten through grade 12 assignments in Chemistry as provided by the TSPC Licensure Guide for Chemistry.

(2) An educator is not authorized to teach in the endorsed area unless and until the endorsement is officially added to the license, except as provided in OAR 584-210-0170, Atypical Assignments and OAR 584-210-0160, License on Conditional Assignment.

(3) Adding to Existing Preliminary Teaching License: A Chemistry endorsement may be added to an existing Preliminary Teaching license by demonstrating content knowledge and completing Chemistry pedagogy requirements as defined in this rule. To be eligible to add a Chemistry endorsement to an existing Preliminary Teaching License, an applicant must:

(a) Meet one of the following Chemistry content knowledge requirements:

(A) Provide documentation of a passing score on the Commission-approved subject mastery test for Chemistry; or

(B) Complete Commission-approved coursework of at least twenty seven quarter or eighteen semester hours designed to develop competency in Chemistry that includes organic and physical chemistry.

(C) At least fifty percent (50%) of the Chemistry coursework must have been completed within five years prior to the date of application for the endorsement.

(b) Meet one of the following Chemistry pedagogy requirements:

(A) Admission to and completion of a Commission-approved Chemistry preparation program; or

(B) Complete a Chemistry pedagogy course of at least three quarter or two semester hours acceptable to the Commission. The course must include the word pedagogy or methods in the course title or must be acceptable to the Commission upon evaluation of course syllabi or other evidence; or

(C) Complete a supervised practicum in a chemistry assignment in a public school setting. To verify the practicum, a school district must submit a PEER form and a statement verifying that:

(i) The applicant completed at least 60 hours of a supervised practicum in chemistry courses;

(ii) The practicum was supervised by a teacher holding a Professional, Teacher Leader or Legacy Teaching license with a chemistry endorsement;

(iii) The applicant has obtained the required pedagogy skills to teach chemistry.

Note: The district must indicate in the statement that the supervisory teacher supports the verification of applicant skill level.

(iv) At the Executive Director's or Licensure Director's discretion, other Chemistry teaching experience such as teaching in at a post-secondary institution or in a private school setting may qualify to satisfy the practicum experience. In these settings, verification from the employer of satisfactory completion of the teaching experience with at least 60 clock hours of Chemistry instruction is required to qualify as a suitable practicum to add the endorsement.

(c) Submit a complete and correct application to obtain the endorsement in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note: Adding the endorsement at the time of renewal will not require an additional cost to add the licensure renewal process.

(4) Adding Chemistry Endorsement to Other Licenses: To be eligible to add a Chemistry endorsement to an existing Professional, Teacher Leader or Legacy teaching license, an applicant must:

(a) Meet one of the following content knowledge requirements:

(A) Provide documentation of a passing score on the Commission-approved subject mastery test for Chemistry; or

(B) Complete Commission-approved coursework of at least twenty seven quarter or eighteen semester hours designed to develop competency in Chemistry that includes organic and physical chemistry.

(C) At least fifty percent (50%) of the Chemistry coursework must have been completed within five years prior to the date of application for the endorsement.

(b) Submit a complete and correct application to obtain the endorsement in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note: Adding the endorsement at the time of renewal will not require an additional cost to add the licensure renewal process.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553

Hist.: TSPC 1-2016, f. & cert. ef. 2-10-16

584-220-0060

Drama

(1) A Drama endorsement indicates that an educator is qualified to teach prekindergarten to grade 12 Drama assignments as provided by TSPC Licensure Guide for Drama.

(2) An educator is not authorized to teach in the endorsed area unless and until the endorsement is officially added to the license, except as provided in OAR 584-210-0170, Atypical Assignments and OAR 584-210-0160, License on Conditional Assignment.

(3) Eligibility Requirements: To be eligible to add a Drama endorsement to an existing Preliminary, Professional, Teacher Leader or Legacy teaching License, an applicant must:

(a) Be admitted to and complete a Commission-approved Drama preparation program that meets the program standards pursuant to Chapter 584, Division 420; and

(b) Submit a complete and correct application to obtain the endorsement in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note: Adding the endorsement at the time of renewal will not require an additional cost to add the licensure renewal process.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553

Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-220-0065

Elementary — Multiple Subjects

(1) Elementary-Multiple Subjects Endorsement: An Elementary-Multiple Subjects Endorsement signifies that an educator is qualified to

teach prekindergarten through grade 12 assignments in Elementary-Multiple Subjects as provided by the TSPC Licensure Guide for Elementary-Multiple Subjects.

(2) An educator is not authorized to teach in the endorsed area unless and until the endorsement is officially added to the license, except as provided in OAR 584-210-0170, Atypical Assignments and OAR 584-210-0160, License on Conditional Assignment.

(3) Adding to an Elementary-Multiple Subjects Endorsement: To be eligible to add an Elementary-Multiple Subjects endorsement to an existing Preliminary, Professional or Teacher Leader, or Legacy Teaching license, an applicant must:

(a) Be admitted to and complete a Commission-approved Elementary-Multiple Subjects preparation program that meets the program standards pursuant to OAR 584-420-0345 Elementary Education: Multiple Subjects: Program Standards; and

(b) Submit a complete and correct application to obtain the endorsement in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note: Adding the endorsement at the time of renewal will not require an additional cost to add the licensure renewal process.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553

Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-220-0070

English Language Arts

(1) Purpose: A English Language Arts endorsement indicates that an educator is qualified to teach prekindergarten through grade 12 assignments in English Language Arts as provided by the TSPC Licensure Guide for English Language Arts.

(2) An educator is not authorized to teach in the endorsed area unless and until the endorsement is officially added to the license, except as provided in OAR 584-210-0170, Atypical Assignments and OAR 584-210-0160, License on Conditional Assignment.

(3) Adding to Existing Preliminary Teaching License: An English Language Arts endorsement may be added to an existing Preliminary Teaching license by demonstrating content knowledge and completing English Language Arts pedagogy requirements as defined in this rule. To be eligible to add an English Language Arts endorsement to an existing Preliminary Teaching License, an applicant must:

(a) Meet one of the following content knowledge requirements:

(A) Provide documentation of a passing score on the Commission-approved subject mastery test for English Language Arts; or

(B) Complete Commission-approved coursework of at least forty-five quarter or thirty semester hours designed to develop competency in English Language Arts that includes:

(i) American literature;

(ii) English literature;

(iii) World literature;

(iv) Advanced written expression;

(v) Oral expression; and

(vi) General and cultural linguistics.

(C) At least fifty percent (50%) of the English Language Arts coursework must have been completed within five years prior to the date of application for the endorsement.

(b) Meet one of the following English Language Arts pedagogy requirements:

(A) Admission to and completion of a Commission-approved English Language Arts preparation program; or

(B) Complete an English Language Arts pedagogy course of at least three quarter or two semester hours acceptable to the Commission. The course must include the word pedagogy or methods in the course title or must be acceptable to the Commission upon evaluation of course syllabi or other evidence; or

(C) Complete a supervised practicum in an English Language Arts assignment in a public school setting. To verify the practicum, a school district must submit a PEER form and a statement verifying that:

(i) The applicant completed at least 60 hours of a supervised practicum in English Language Arts courses;

(ii) The practicum was supervised by a teacher holding a Professional, Teacher Leader or Legacy Teaching license with an English Language Arts endorsement;

(iii) The applicant has obtained the required pedagogy skills to teach English Language Arts.

Note: The district must indicate in the statement that the supervisory teacher supports the verification of applicant skill level.

(iv) At the Executive Director's or Licensure Director's discretion, other English Language Arts teaching experience such as teaching in at a post-secondary institution or in a private school setting may qualify to satisfy the practicum experience. In these settings, verification from the employer of satisfactory completion of the teaching experience with at least 60 clock hours of English Language Arts instruction is required to qualify as a suitable practicum to add the endorsement.

(c) Submit a complete and correct application to obtain the endorsement in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note: Adding the endorsement at the time of renewal will not require an additional cost to add the licensure renewal process.

(4) Adding English Language Arts Endorsement to Other Licenses: To be eligible to add an English Language Arts endorsement to an existing Professional, Teacher Leader or Legacy teaching license, an applicant must:

(a) Meet one of the following content knowledge requirements:

(A) Provide documentation of a passing score on the Commission-approved subject mastery test for English Language Arts; or

(B) Complete Commission-approved coursework of at least forty-five quarter or thirty semester hours designed to develop competency in English Language Arts that includes:

(i) American literature;

(ii) English literature;

(iii) World literature;

(iv) Advanced written expression;

(v) Oral expression; and

(vi) General and cultural linguistics.

(C) At least fifty percent (50%) of the English Language Arts coursework must have been completed within five years prior to the date of application for the endorsement.

(b) Submit a complete and correct application to obtain the endorsement in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note: Adding the endorsement at the time of renewal will not require an additional cost to add the licensure renewal process.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553

Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-220-0075

English to Speakers of Other Languages

(1) English to Speakers of Other Languages Endorsement: An English to Speakers of Other Languages Endorsement (ESOL) on a license indicates that the educator is licensed to teach prekindergarten through grade 12 assignments in ESOL as provided by the TSPC Licensure Guide for ESOL.

(2) An educator is not authorized to teach in the endorsed area unless and until the endorsement is officially added to the license, except as provided in OAR 584-210-0170, Atypical Assignments and OAR 584-210-0160, License on Conditional Assignment.

(3) Adding to an ESOL Endorsement: To be eligible to add an English to Speakers of Other Languages (ESOL) endorsement to an existing Preliminary, Professional or Teacher Leader, or Legacy Teaching license, an applicant must:

(a) Be admitted to and complete a Commission-approved ESOL program that meets the standards provided in OAR 584-420-0360 ESOL: Program Standards; and

(b) Submit a complete and correct application to obtain the endorsement in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note: Adding the endorsement at the time of renewal will not require an additional cost to add the licensure renewal process.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553

Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16;

584-220-0080

Family and Consumer Studies

(1) Purpose: A Family and Consumer Studies endorsement indicates that an educator is qualified to teach prekindergarten through grade 12 assignments in Family and Consumer Studies as provided by the TSPC Licensure Guide for Family and Consumer Studies.

(2) An educator is not authorized to teach in the endorsed area unless and until the endorsement is officially added to the license, except as provided in OAR 584-210-0170, Atypical Assignments and OAR 584-210-0160, License on Conditional Assignment.

(3) Adding to Existing Preliminary Teaching License: A Family and Consumer Studies endorsement may be added to an existing Preliminary

Teaching license by demonstrating content knowledge and completing Family and Consumer Studies pedagogy requirements as defined in this rule. To be eligible to add a Family and Consumer Studies endorsement to an existing Preliminary Teaching License, an applicant must:

(a) Meet one of the following Family and Consumer Studies content knowledge requirements:

(A) Provide documentation of a passing score on the Commission-approved subject mastery test for Family and Consumer Studies; or

(B) Complete Commission-approved coursework of at least forty-eight quarter or thirty-two semester hours designed to develop competency in family and consumer studies that includes:

(i) Life-span development;

(ii) Clothing and textiles;

(iii) Family relationships;

(iv) Personal and family resource management;

(v) Foods and nutrition;

(vi) Housing; and

(vii) Program organization and administration, such as advisory committees, student organizations, and supervision of occupational experience.

(C) At least fifty percent (50%) of the Family and Consumer Studies coursework must have been completed within five years prior to the date of application for the endorsement.

(b) Meet one of the following Family and Consumer Studies pedagogy requirements:

(A) Admission to and completion of a Commission-approved Family and Consumer Studies preparation program; or

(B) Complete a Family and Consumer Studies pedagogy course of at least three quarter or two semester hours acceptable to the Commission. The course must include the word pedagogy or methods in the course title or must be acceptable to the Commission upon evaluation of course syllabi or other evidence; or

(C) Complete a supervised practicum in a Family and Consumer Studies assignment in a public school setting. To verify the practicum, a school district must submit a PEER form and a statement verifying that:

(i) The applicant completed at least 60 hours of a supervised practicum in Family and Consumer Studies courses;

(ii) The practicum was supervised by a teacher holding a Professional, Teacher Leader or Legacy Teaching license with a Family and Consumer Studies endorsement;

(iii) The applicant has obtained the required pedagogy skills to teach Family and Consumer Studies.

Note: The district must indicate in the statement that the supervisory teacher supports the verification of applicant skill level.

(iv) At the Executive Director's or Licensure Director's discretion, other Family and Consumer Studies teaching experience such as teaching in at a post-secondary institution or in a private school setting may qualify to satisfy the practicum experience. In these settings, verification from the employer of satisfactory completion of the teaching experience with at least 60 clock hours of Family and Consumer Studies instruction is required to qualify as a suitable practicum to add the endorsement.

(c) Submit a complete and correct application to obtain the endorsement in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note: Adding the endorsement at the time of renewal will not require an additional cost to add the licensure renewal process.

(4) Adding Family and Consumer Studies Endorsement to Other Licenses: To be eligible to add a Family and Consumer Studies endorsement to an existing Professional, Teacher Leader or Legacy teaching license, an applicant must:

(a) Meet one of the following content knowledge requirements:

(A) Provide documentation of a passing score on the Commission-approved subject mastery test for Family and Consumer Studies;

(B) Complete Commission-approved coursework of at least forty-eight quarter or thirty-two semester hours designed to develop competency in Family and Consumer Studies that includes:

(i) Life-span development;

(ii) Clothing and textiles;

(iii) Family relationships;

(iv) Personal and family resource management;

(v) Foods and nutrition;

(vi) Housing; and

(vii) Program organization and administration, such as advisory committees, student organizations, and supervision of occupational experience.

(C) At least fifty percent (50%) of the Family and Consumer Studies coursework must have been completed within five years prior to the date of application for the endorsement.

(b) Submit a complete and correct application to obtain the endorsement in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note: Adding the endorsement at the time of renewal will not require an additional cost to add the licensure renewal process.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553

Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-220-0085

Foundational English Language Arts

(1) Purpose: A Foundational English Language Arts endorsement indicates that an educator is qualified to teach prekindergarten through grade 12 assignments in Foundational English Language Arts as provided by the TSPC Licensure Guide for Foundational English Language Art.

(2) An educator is not authorized to teach in the endorsed area unless and until the endorsement is officially added to the license, except as provided in OAR 584-210-0170, Atypical Assignments and OAR 584-210-0160, License on Conditional Assignment.

(3) Adding to Existing Preliminary Teaching License: A Foundational English Language Arts endorsement may be added to an existing Preliminary Teaching license by demonstrating content knowledge and completing Foundational English Language Arts pedagogy requirements as defined in this rule. To be eligible to add a Foundational English Language Arts endorsement to an existing Preliminary Teaching License, an applicant must:

(a) Provide documentation of a passing score on the Commission-approved subject mastery test for Foundational English Language Arts; and

(b) Meet one of the following Foundational English Language Arts pedagogy requirements:

(A) Admission to and completion of a Commission-approved Foundational English Language Arts preparation program; or

(B) Complete a Foundational English Language Arts pedagogy course of at least three quarter or two semester hours acceptable to the Commission. The course must include the word pedagogy or methods in the course title or must be acceptable to the Commission upon evaluation of course syllabi or other evidence; or

(C) Complete a supervised practicum in a Foundational English Language Arts assignment in a public school setting. To verify the practicum, a school district must submit a PEER form and a statement verifying that:

(i) The applicant completed at least 60 hours of a supervised practicum in Foundational English Language Arts courses;

(ii) The practicum was supervised by a teacher holding a Professional, Teacher Leader or Legacy Teaching license with a Foundational or full English Language Arts endorsement;

(iii) The applicant has obtained the required pedagogy skills to teach Foundational English Language Arts

Note: The district must indicate in the statement that the supervisory teacher supports the verification of applicant skill level.

(iv) At the Executive Director's or Licensure Director's discretion, other Foundational English Language Arts teaching experience such as teaching in at a post-secondary institution or in a private school setting may qualify to satisfy the practicum experience. In these settings, verification from the employer of satisfactory completion of the teaching experience with at least 60 clock hours of Foundational Language Arts instruction is required to qualify as a suitable practicum to add the endorsement.

(c) Submit a complete and correct application to obtain the endorsement in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note: Adding the endorsement at the time of renewal will not require an additional cost to add the licensure renewal process.

(4) Adding Foundational English Language Arts Endorsement to Other Licenses: To be eligible to add a Foundational English Language Arts endorsement to an existing Professional, Teacher Leader or Legacy teaching licenses teaching license, an applicant must:

(a) Provide documentation of a passing score on the Commission-approved subject mastery test for Foundational English Language Arts; and

(b) Submit a complete and correct application to obtain the endorsement in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note: Adding the endorsement at the time of renewal will not require an additional cost to add the licensure renewal process.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553

Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-220-0090
Foundational Mathematics

(1) Purpose: A Foundational Mathematics endorsement indicates that an educator is qualified to teach prekindergarten through grade 12 assignments in Foundational Mathematics as provided by the TSPC Licensure Guide for Foundational Mathematics.

(2) An educator is not authorized to teach in the endorsed area unless and until the endorsement is officially added to the license, except as provided in OAR 584-210-0170, Atypical Assignments and OAR 584-210-0160, License on Conditional Assignment.

(3) Adding to Existing Preliminary Teaching License: A Foundational Mathematics endorsement may be added to an existing Preliminary Teaching license by demonstrating content knowledge and completing Foundational Mathematics pedagogy requirements as defined in this rule. To be eligible to add a Foundational Mathematics endorsement to an existing Preliminary Teaching License, an applicant must:

(a) Provide documentation of a passing score on the Commission-approved subject mastery test for Foundational Mathematics; and

(b) Meet one of the following Foundational Mathematics pedagogy requirements:

(A) Admission to and completion of a Commission-approved Foundational Mathematics preparation program; or

(B) Complete a Foundational Mathematics pedagogy course of at least three quarter or two semester hours acceptable to the Commission. The course must include the word pedagogy or methods in the course title or must be acceptable to the Commission upon evaluation of course syllabi or other evidence; or

(C) Complete a supervised practicum in a Foundational Mathematics assignment in a public school setting. To verify the practicum, a school district must submit a PEER form and a statement verifying that:

(i) The applicant completed at least 60 hours of a supervised practicum in Foundational Mathematics courses;

(ii) The practicum was supervised by a teacher holding a Professional, Teacher Leader or Legacy Teaching license with a Foundational or Advanced Mathematics endorsement;

(iii) The applicant has obtained the required pedagogy skills to teach Foundational Mathematics.

Note: The district must indicate in the statement that the supervisory teacher supports the verification of applicant skill level.

(iv) At the Executive Director's or Licensure Director's discretion, other Foundational Mathematics teaching experience such as teaching in at a post-secondary institution or in a private school setting may qualify to satisfy the practicum experience. In these settings, verification from the employer of satisfactory completion of the teaching experience with at least 60 clock hours of Foundational Mathematics instruction is required to qualify as a suitable practicum to add the endorsement.

(c) Submit a complete and correct application to obtain the endorsement in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note: Adding the endorsement at the time of renewal will not require an additional cost to add the licensure renewal process.

(4) Adding Foundational Mathematics Endorsement to Other Licenses: To be eligible to add a Foundational Mathematics endorsement to an existing Professional, Teacher Leader or Legacy teaching license, an applicant must:

(a) Provide documentation of a passing score on the Commission-approved subject mastery test for Foundational Mathematics; and

(b) Submit a complete and correct application to obtain the endorsement in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note: Adding the endorsement at the time of renewal will not require an additional cost to add the licensure renewal process.
Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553
Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-220-0095
Foundational Science

(1) Purpose: A Foundational Science endorsement indicates that an educator is qualified to teach prekindergarten through grade 12 assignments in Foundational Science as provided by the TSPC Licensure Guide for Foundational Science.

(2) An educator is not authorized to teach in the endorsed area unless and until the endorsement is officially added to the license, except as provided in OAR 584-210-0170, Atypical Assignments and OAR 584-210-0160, License on Conditional Assignment.

(3) Adding to Existing Preliminary Teaching License: A Foundational Science endorsement may be added to an existing Preliminary Teaching license by demonstrating content knowledge and completing Foundational Science pedagogy requirements as defined in this rule. To be eligible to add a Foundational Science endorsement to an existing Preliminary Teaching License, an applicant must:

(a) Provide documentation of a passing score on the Commission-approved subject mastery test for Foundational Science; and

(b) Meet one of the following Foundational Science pedagogy requirements:

(A) Admission to and completion of a Commission-approved Foundational Science preparation program; or

(B) Complete a Foundational Science pedagogy course of at least three quarter or two semester hours acceptable to the Commission. The course must include the word pedagogy or methods in the course title or must be acceptable to the Commission upon evaluation of course syllabi or other evidence; or

(C) Complete a supervised practicum in a Foundational Science assignment in a public school setting. To verify the practicum, a school district must submit a PEER form and a statement verifying that:

(i) The applicant completed at least 60 hours of a supervised practicum in Foundational Science courses;

(ii) The practicum was supervised by a teacher holding a Professional, Teacher Leader or Legacy Teaching license with a Foundational or full Science endorsement;

(iii) The applicant has obtained the required pedagogy skills to teach Foundational Science.

Note: The district must indicate in the statement that the supervisory teacher supports the verification of applicant skill level.

(iv) At the Executive Director's or Licensure Director's discretion, other Foundational Science teaching experience such as teaching in at a post-secondary institution or in a private school setting may qualify to satisfy the practicum experience. In these settings, verification from the employer of satisfactory completion of the teaching experience with at least 60 clock hours of Foundational Science instruction is required to qualify as a suitable practicum to add the endorsement.

(c) Submit a complete and correct application to obtain the endorsement in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note: Adding the endorsement at the time of renewal will not require an additional cost to add the licensure renewal process.

(4) Adding Foundational Science Endorsement to Other Licenses: To be eligible to add a Foundational Science endorsement to an existing Professional, Teacher Leader or Legacy teaching license, an applicant must:

(a) Provide documentation of a passing score on the Commission-approved subject mastery test for Foundational Science; and

(b) Submit a complete and correct application to obtain the endorsement in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note: Adding the endorsement at the time of renewal will not require an additional cost to add the licensure renewal process.
Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553
Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-220-0100
Foundational Social Studies

(1) Purpose: A Foundational Social Studies endorsement indicates that an educator is qualified to teach prekindergarten through grade 12 assignments in Foundational Social Studies as provided by the TSPC Licensure Guide for Foundational Social Studies.

(2) An educator is not authorized to teach in the endorsed area unless and until the endorsement is officially added to the license, except as provided in OAR 584-210-0170, Atypical Assignments and OAR 584-210-0160, License on Conditional Assignment.

(3) Adding to Existing Preliminary Teaching License: A Foundational Social Studies endorsement may be added to an existing Preliminary Teaching license by demonstrating content knowledge and completing Foundational Social Studies pedagogy requirements as defined in this rule. To be eligible to add a Foundational Social Studies endorsement to an existing Preliminary Teaching License, an applicant must:

(a) Provide documentation of a passing score on the Commission-approved subject mastery test for Foundational Social Studies; and

(b) Meet one of the following Foundational Social Studies pedagogy requirements:

(A) Admission to and completion of a Commission-approved Foundational Social Studies preparation program as verified by the approved program in accordance with Chapter 584, Division 420; or

(B) Complete a Foundational Social Studies pedagogy course of at least three quarter or two semester hours acceptable to the Commission. The course must include the word pedagogy or methods in the course title or must be acceptable to the Commission upon evaluation of course syllabi or other evidence; or

(C) Complete a supervised practicum in a Foundational Social Studies assignment in a public school setting. To verify the practicum, a school district must submit a PEER form and a statement verifying that:

(i) The applicant completed at least 60 hours of a supervised practicum in Foundational Social Studies courses;

(ii) The practicum was supervised by a teacher holding a Professional, Teacher Leader or Legacy Teaching license with a Foundational or full social studies endorsement;

(iii) The applicant has obtained the required pedagogy skills to teach Foundational Social Studies.

Note: The district must indicate in the statement that the supervisory teacher supports the verification of applicant skill level.

(iv) At the Executive Director's or Licensure Director's discretion, other Foundational Social Studies teaching experience such as teaching in at a post-secondary institution or in a private school setting may qualify to satisfy the practicum experience. In these settings, verification from the employer of satisfactory completion of the teaching experience with at least 60 clock hours of Foundational Social Studies instruction is required to qualify as a suitable practicum to add the endorsement.

(c) Submit a complete and correct application to obtain the endorsement in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note: Adding the endorsement at the time of renewal will not require an additional cost to add the licensure renewal process.

(4) Adding Foundational Social Studies Endorsement to Other Licenses: To be eligible to add a Foundational Social Studies endorsement to an existing Professional, Teacher Leader or Legacy teaching license, an applicant must:

(a) Provide documentation of a passing score on the Commission-approved subject mastery test for Foundational Social Studies; and

(b) Submit a complete and correct application to obtain the endorsement in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note: Adding the endorsement at the time of renewal will not require an additional cost to add the licensure renewal process.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553

Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-220-0105
Health

(1) Purpose: A Health endorsement indicates that an educator is qualified to teach prekindergarten through grade 12 assignments in Health as provided by the TSPC Licensure Guide for Health.

(2) An educator is not authorized to teach in the endorsed area unless and until the endorsement is officially added to the license, except as provided in OAR 584-210-0170, Atypical Assignments and OAR 584-210-0160, License on Conditional Assignment.

(3) Adding to Existing Preliminary Teaching License: A Health endorsement may be added to an existing Preliminary Teaching license by demonstrating content knowledge and completing Health pedagogy requirements as defined in this rule. To be eligible to add a Health endorsement to an existing Preliminary Teaching License, an applicant must:

(a) Meet one of the following Health content knowledge requirements:

(A) Provide documentation of a passing score on the Commission-approved subject mastery test for Health; or

(B) Complete Commission-approved coursework of at least forty-two quarter or twenty eight semester hours designed to develop competency in Health that includes:

(i) Personal health;

(ii) Environmental and consumer health;

(iii) Mental and social health;

(iv) Safe living and emergency care; and

(v) School health program.

(C) At least fifty percent (50%) of the Health coursework must have been completed within five years prior to the date of application for the endorsement.

(b) Meet one of the following Health pedagogy requirements:

(A) Admission to and completion of a Commission-approved Health preparation program; or

(B) Complete a Health pedagogy course of at least three quarter or two semester hours acceptable to the Commission. The course must include the word pedagogy or methods in the course title or must be acceptable to the Commission upon evaluation of course syllabi or other evidence; or

(C) Complete a supervised practicum in a Health assignment in a public school setting. To verify the practicum, a school district must submit a PEER form and a statement verifying that:

(i) The applicant completed at least 60 hours of a supervised practicum in Health courses;

(ii) The practicum was supervised by a teacher holding a Professional, Teacher Leader or Legacy Teaching license with a Health endorsement;

(iii) The applicant has obtained the required pedagogy skills to teach Health.

Note: The district must indicate in the statement that the supervisory teacher supports the verification of applicant skill level.

(iv) At the Executive Director's or Licensure Director's discretion, other Health teaching experience such as teaching in at a post-secondary institution or in a private school setting may qualify to satisfy the practicum experience. In these settings, verification from the employer of satisfactory completion of the teaching experience with at least 60 clock hours of Health instruction is required to qualify as a suitable practicum to add the endorsement.

(c) Submit a complete and correct application to obtain the endorsement in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note: Adding the endorsement at the time of renewal will not require an additional cost to add the licensure renewal process.

(4) Adding Health Endorsement to Other Licenses: To be eligible to add a Health endorsement to an existing Professional, Teacher Leader or Legacy teaching license, an applicant must:

(a) Meet one of the following content knowledge requirements:

(A) Provide documentation of a passing score on the Commission-approved subject mastery test for Health; or

(B) Complete Commission-approved coursework of at least forty-two quarter or twenty-eight semester hours designed to develop competency in Health that includes:

(i) Personal health;

(ii) Environmental and consumer health;

(iii) Mental and social health;

(iv) Safe living and emergency care; and

(v) School health program.

(C) At least fifty percent (50%) of the Health coursework must have been completed within five years prior to the date of application for the endorsement.

(b) Submit a complete and correct application to obtain the endorsement in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note: Adding the endorsement at the time of renewal will not require an additional cost to add the licensure renewal process.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553

Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-220-0110
Integrated Science

(1) Purpose: A Integrated Science endorsement indicates that an educator is qualified to teach prekindergarten through grade 12 assignments in Integrated Science as provided by the TSPC Licensure Guide for Integrated Science.

(2) An educator is not authorized to teach in the endorsed area unless and until the endorsement is officially added to the license, except as provided in OAR 584-210-0170, Atypical Assignments and OAR 584-210-0160, License on Conditional Assignment.

(3) Adding to Existing Preliminary Teaching License: An Integrated Science endorsement may be added to an existing Preliminary Teaching license by demonstrating content knowledge and completing Integrated Science pedagogy requirements as defined in this rule. To be eligible to add an Integrated Science endorsement to an existing Preliminary Teaching License, an applicant must:

(a) Meet one of the following Integrated Science content knowledge requirements:

(A) Provide documentation of a passing score on the Commission-approved subject mastery test for Integrated Science; or

(B) Complete Commission-approved coursework of at least forty-five quarter or thirty semester hours designed to develop competency in Integrated Science that includes:

(a) Astronomy;

(b) Geology;

(c) Meteorology;

(d) Oceanography.

(a) Biology; and
(b) Chemistry or physics.
(C) At least fifty percent (50%) of the Integrated Science coursework must have been completed within five years prior to the date of application for the endorsement.
(b) Meet one of the following Integrated Science pedagogy requirements:
(A) Admission to and Completion of a Commission-approved Integrated Science preparation program; or
(B) Complete an Integrated Science pedagogy course of at least three quarter or two semester hours acceptable to the Commission. The course must include the word pedagogy or methods in the course title or must be acceptable to the Commission upon evaluation of course syllabi or other evidence; or
(C) Complete a supervised practicum in an Integrated Science assignment in a public school setting. To verify the practicum, a school district must submit a PEER form and a statement verifying that:
(i) The applicant completed at least 60 hours of a supervised practicum in Integrated Science courses;
(ii) The practicum was supervised by a teacher holding a Professional, Teacher Leader or Legacy Teaching license with an Integrated Science endorsement;
(iii) The applicant has obtained the required pedagogy skills to teach Integrated Science.
Note: The district must indicate in the statement that the supervisory teacher supports the verification of applicant skill level.
(iv) At the Executive Director's or Licensure Director's discretion, other Integrated Science teaching experience such as teaching in at a post-secondary institution or in a private school setting may qualify to satisfy the practicum experience. In these settings, verification from the employer of satisfactory completion of the teaching experience with at least 60 clock hours of Integrated Science instruction is required to qualify as a suitable practicum to add the endorsement.
(c) Submit a complete and correct application to obtain the endorsement in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.
Note: Adding the endorsement at the time of renewal will not require an additional cost to add the licensure renewal process.
(4) Adding Integrated Science Endorsement to Other Licenses: To be eligible to add an Integrated Science endorsement to an existing Professional, Teacher Leader or Legacy teaching license, an applicant must:
(a) Meet one of the following content knowledge requirements:
(A) Provide documentation of a passing score on the Commission-approved subject mastery test for Integrated Science; or
(B) Complete Commission-approved coursework of at least forty-five quarter or thirty semester hours designed to develop competency in Integrated Science that includes:
(a) Astronomy;
(b) Geology;
(c) Meteorology;
(d) Oceanography.
(a) Biology; and
(b) Chemistry or physics.
(C) At least fifty percent (50%) of the Integrated Science coursework must have been completed within five years prior to the date of application for the endorsement.
(b) Submit a complete and correct application to obtain the endorsement in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.
Note: Adding the endorsement at the time of renewal will not require an additional cost to add the licensure renewal process.
Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553
Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-220-0120
Legacy Teaching Endorsements
(1) Purpose: A Legacy teaching endorsement on a license indicates that the educator is eligible for prior-to secondary teaching assignments in prekindergarten through grade twelve as provided by the TSPC Licensure Guide for the specific legacy teaching endorsement provided in subsection (2) of this rule.
(2) The legacy teaching endorsements include the following endorsements:
(a) Legacy Art;
(b) Legacy English to Speakers of Other Languages;
(c) Legacy Health:
(d) Legacy World Language:
(e) Legacy Family and Consumer Science;
(f) Legacy Career Trades Generalist Education;
(g) Legacy Library Media;
(h) Legacy Music;
(i) Legacy Physical Education; and
(j) Legacy Reading.
(3) To be eligible to add a Legacy teaching endorsement to a Legacy, Preliminary, Professional or Teacher Leader Teaching license, an applicant must:
(a) Have held an Oregon Basic or Standard Teaching License prior to January 1, 2016 with a Basic Elementary or Standard Elementary endorsement;
(b) Have had four years of experience teaching the legacy endorsement's subject matter assignment as provided in subsection (2) of this rule in a prekindergarten through grade 8 environment obtained after January 1, 2011 and prior to January 1, 2016; and
(c) Submit a complete and correct application to obtain the endorsement in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.
Note: Adding the endorsement at the time of renewal will not require an additional cost to the licensure renewal process.
(4)(a) If the educator held an Oregon Basic or Standard Teaching License with a Basic or Standard Elementary endorsement prior to January 1, 2016, but does not meet the employment requirements in subsection 3(b) of this rule, the educator may apply and be issued a Licensed for Conditional Assignment for the subject matter of the legacy endorsement to allow the educator time to meet qualifications for the non-legacy endorsement.
(b) Teaching assignments in accordance with the Basic or Standard Elementary endorsement may continue so long as the educator holds the Basic or Standard Elementary endorsement on their license. However, only experience obtained prior to January 2016 will count toward adding a Legacy Endorsement.
Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553
Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-220-0130
Legacy Five Year Elementary
(1) Purpose: (a) A Legacy Five Year Elementary Endorsement on a license indicates that the educator is eligible for prior to secondary assignments in preprimary through grade twelve as provided by the TSPC Licensure Guide for the Elementary-Multiple Subjects teaching endorsement.
(b) A Legacy Five Year Elementary Endorsement is also valid to serve as a vice-principal or school counselor in an elementary, middle, or junior high school.
(c) These endorsements were issued prior to 1965 and are not included in the TSPC Licensure Guide.
(2) To be eligible to add a Legacy Five Year Elementary endorsement to a Legacy, Preliminary, Professional or Teacher Leader Teaching license, an applicant must:
(a) Have held an Oregon Five-Year Teaching License issued prior to January 1, 1965 with an Elementary endorsement; and
(b) Submit a complete and correct application to obtain the endorsement in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.
Note: Adding the endorsement at the time of renewal will not require an additional cost to add the licensure renewal process.
Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553
Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-220-0140
Legacy Five Year Secondary
(1) Purpose: (a) A Legacy Five Year Secondary Endorsement on a license indicates that the educator is eligible for all secondary assignments in preprimary through grade twelve as provided by the TSPC Licensure Guide for any secondary single-subject endorsement.
(b) A Legacy Five Year Secondary Endorsement is also valid to serve as a vice-principal or school counselor in a middle, junior high or high school.
(c) These endorsements were issued prior to 1965 and are not included in the TSPC Licensure Guide.
(2) To be eligible to add a Legacy Five Year Secondary endorsement to a Legacy, Preliminary, Professional or Teacher Leader Teaching license, an applicant must:

(a) Have held an Oregon Five-Year Teaching License issued prior to January 1, 1965 with an Secondary endorsement; and

(b) Submit a complete and correct application to obtain the endorsement in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note: Adding the endorsement at the time of renewal will not require an additional cost to add the licensure renewal process.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553

Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-220-0145

Library Media

(1) Purpose: A Library Media endorsement signifies that an educator is qualified to teach prekindergarten through grade 12 assignments in Library Media as provided by the TSPC Licensure Guide for Library Media.

(2) An educator is not authorized to teach in the endorsed area unless and until the endorsement is officially added to the license, except as provided in OAR 584-210-0170, Atypical Assignments and OAR 584-210-0160, License on Conditional Assignment.

(3) To be eligible to add a Library Media endorsement to an existing Preliminary, Professional, Teacher Leader or Legacy Teaching License, an applicant must:

(a) Be admitted to and complete a Commission-approved Library Media preparation program that meets the standards as provided in OAR 584-420-0415 Library Media Endorsement: Program Standards; and

(b) Submit a complete and correct application to obtain the endorsement in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note: Adding the endorsement at the time of renewal will not require an additional cost to add the licensure renewal process.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553

Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-220-0150

Music

(1) Purpose: A music endorsement indicates that an educator is qualified to teach prekindergarten to grade 12 Music assignments as provided by TSPC Licensure Guide for Music.

(2) An educator is not authorized to teach in the endorsed area unless and until the endorsement is officially added to the license, except as provided in OAR 584-210-0170, Atypical Assignments and OAR 584-210-0160, License on Conditional Assignment.

(3) Eligibility Requirements: To be eligible to add a Music endorsement to an existing Preliminary, Professional, Teacher Leader or Legacy teaching License, an applicant must:

(a) Be admitted to and complete a Commission-approved Music preparation program that meets the program standards pursuant to Chapter 584, Division 420;

(b) Submit a complete and correct application to obtain the endorsement in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note: Adding the endorsement at the time of renewal will not require an additional cost to add the licensure renewal process.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553

Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-220-0155

Physical Education

(1) Purpose: A Physical Education endorsement indicates that an educator is qualified to teach prekindergarten to grade 12 Physical Education assignments as provided by TSPC Licensure Guide for Physical Education.

(2) An educator is not authorized to teach in the endorsed area unless and until the endorsement is officially added to the license, except as provided in OAR 584-210-0170, Atypical Assignments and OAR 584-210-0160, License on Conditional Assignment.

(3) Eligibility Requirements: To be eligible to add a Physical Education endorsement to an existing Preliminary, Professional, Teacher Leader or Legacy teaching License, an applicant must:

(a) Be admitted to and complete a Commission-approved Physical Education preparation program that meets the standards as provided in OAR 584-420-0425 Physical Education Endorsement: Program Standards; and

(b) Submit a complete and correct application to obtain the endorsement in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note: Adding the endorsement at the time of renewal will not require an additional cost to add the licensure renewal process.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553

Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-220-0160

Physics

(1) Purpose: A Physics endorsement indicates that an educator is qualified to teach prekindergarten through grade 12 assignments in Physics as provided by the TSPC Licensure Guide for Physics.

(2) An educator is not authorized to teach in the endorsed area unless and until the endorsement is officially added to the license, except as provided in OAR 584-210-0170, Atypical Assignments and OAR 584-210-0160, License on Conditional Assignment.

(3) Adding to Existing Preliminary Teaching License: An Physics endorsement may be added to an existing Preliminary Teaching license by demonstrating content knowledge and completing Physics pedagogy requirements as defined in this rule. To be eligible to add a Physics endorsement to an existing Preliminary Teaching License, an applicant must:

(a) Meet one of the following Physics content knowledge requirements:

(A) Provide documentation of a passing score on the Commission-approved subject mastery test for Physics; or

(B) Complete Commission-approved coursework of at least twenty-seven quarter or eighteen semester hours designed to develop competency in physics including advanced and modern physics.

(C) At least fifty percent (50%) of the Physics coursework must have been completed within five years prior to the date of application for the endorsement.

(b) Meet one of the following Physics pedagogy requirements:

(A) Admission to and completion of a Commission-approved Physics preparation program; or

(B) Complete a Physics pedagogy course of at least three quarter or two semester hours acceptable to the Commission. The course must include the word pedagogy or methods in the course title or must be acceptable to the Commission upon evaluation of course syllabi or other evidence; or

(C) Complete a supervised practicum in a Physics assignment in a public school setting. To verify the practicum, a school district must submit a PEER form and a statement verifying that:

(i) The applicant completed at least 60 hours of a supervised practicum in Physics courses;

(ii) The practicum was supervised by a teacher holding a Professional, Teacher Leader or Legacy Teaching license with a Physics endorsement;

(iii) The applicant has obtained the required pedagogy skills to teach Physics.

Note: The district must indicate in the statement that the supervisory teacher supports the verification of applicant skill level.

(iv) At the Executive Director's or Licensure Director's discretion, other Physics teaching experience such as teaching in at a post-secondary institution or in a private school setting may qualify to satisfy the practicum experience. In these settings, verification from the employer of satisfactory completion of the teaching experience with at least 60 clock hours of Physics instruction is required to qualify as a suitable practicum to add the endorsement.

(c) Submit a complete and correct application to obtain the endorsement in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note: Adding the endorsement at the time of renewal will not require an additional cost to add the licensure renewal process.

(4) Adding Physics Endorsement to Other Licenses: To be eligible to add a Physics endorsement to an existing Professional, Teacher Leader or Legacy teaching license, an applicant must:

(a) Meet one of the following content knowledge requirements:

(A) Provide documentation of a passing score on the Commission-approved subject mastery test for Physics; or

(B) Complete Commission-approved coursework of at least twenty-seven quarter or eighteen semester hours designed to develop competency in physics including advanced and modern physics.

(C) At least fifty percent (50%) of the Physics coursework must have been completed within five years prior to the date of application for the endorsement.

(b) Submit a complete and correct application to obtain the endorsement in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note: Adding the endorsement at the time of renewal will not require an additional cost to add the licensure renewal process.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553
Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-220-0165
Reading Intervention

(1) Purpose: A Reading Intervention endorsement signifies that an educator is qualified to teach prekindergarten through grade 12 assignments in Reading Intervention as provided by the TSPC Licensure Guide for Reading Intervention.

(2) An educator is not authorized to teach in the endorsed area unless and until the endorsement is officially added to the license, except as provided in OAR 584-210-0170, Atypical Assignments and OAR 584-210-0160, License on Conditional Assignment.

(3) To be eligible to add a Reading Intervention endorsement to an existing Preliminary, Professional, Teacher Leader or Legacy Teaching License, an applicant must:

(a) Be admitted to and complete a Commission-approved Reading Intervention preparation program that meets the standards as provided in OAR 584-420-0440 Reading Intervention Endorsement: Program Standards; and

(b) Submit a complete and correct application to obtain the endorsement in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note: Adding the endorsement at the time of renewal will not require an additional cost to add the licensure renewal process.
Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553
Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-220-0170
Social Studies

(1) Purpose: A Social Studies endorsement indicates that an educator is qualified to teach prekindergarten through grade 12 assignments in Social Studies as provided by the TSPC Licensure Guide for Social Studies.

(2) An educator is not authorized to teach in the endorsed area unless and until the endorsement is officially added to the license, except as provided OAR 584-210-0170 Atypical Assignments and OAR 584-210-0160, License on Conditional Assignment.

(3) Adding to Existing Preliminary Teaching License: A Social Studies endorsement may be added to an existing Preliminary Teaching license by demonstrating content knowledge and completing Social Studies pedagogy requirements as defined in this rule. To be eligible to add a Social Studies endorsement to an existing Preliminary Teaching License, an applicant must:

(a) Meet one of the following Social Studies content knowledge requirements:

(A) Provide documentation of a passing score on the Commission-approved subject mastery test for Social Studies; or

(B) Complete Commission-approved coursework of at least fifty-four quarter or thirty-six semester hours designed to develop competence in social studies, distributed as follows:

(i) World history;
(ii) Geography;
(iii) Political science;
(iv) Sociology;
(v) Psychology;
(vi) Anthropology;
(vii) Economics; and
(viii) U.S. history.

(C) At least fifty percent (50%) of the Social Studies coursework must have been completed within five years prior to the date of application for the endorsement.

(b) Meet one of the following Social Studies pedagogy requirements:

(A) Admission to and Completion of a Commission-approved Social Studies preparation program; or

(B) Complete a Social Studies pedagogy course of at least three quarter or two semester hours acceptable to the Commission. The course must include the word pedagogy or methods in the course title or must be acceptable to the Commission upon evaluation of course syllabi or other evidence; or

(C) Complete a supervised practicum in a Social Studies assignment in a public school setting. To verify the practicum, a school district must submit a PEER form and a statement verifying that:

(i) The applicant completed at least 60 hours of a supervised practicum in Social Studies courses;

(ii) The practicum was supervised by a teacher holding a Professional, Teacher Leader or Legacy Teaching license with a Social Studies endorsement;

(iii) The applicant has obtained the required pedagogy skills to teach Social Studies.

Note: The district must indicate in the statement that the supervisory teacher supports the verification of applicant skill level.

(iv) At the Executive Director's or Licensure Director's discretion, other Social Studies teaching experience such as teaching in at a post-secondary institution or in a private school setting may qualify to satisfy the practicum experience. In these settings, verification from the employer of satisfactory completion of the teaching experience with at least 60 clock hours of Social Studies instruction is required to qualify as a suitable practicum to add the endorsement.

(c) Submit a complete and correct application to obtain the endorsement in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note: Adding the endorsement at the time of renewal will not require an additional cost to add the licensure renewal process.

(4) Adding Social Studies Endorsement to Other Licenses: To be eligible to add a Social Studies endorsement to a Professional, Teacher Leader or Legacy teaching license, an applicant must:

(a) Meet one of the following content knowledge requirements:

(A) Provide documentation of a passing score on the Commission-approved subject mastery test for Social Studies; or

(B) Complete Commission-approved coursework of at least fifty-four quarter or thirty-six semester hours designed to develop competence in social studies, distributed as follows:

(i) World history;
(ii) Geography;
(iii) Political science;
(iv) Sociology;
(v) Psychology,;
(vi) Anthropology;
(vii) Economics; and
(viii) U.S. history.

(C) At least fifty percent (50%) of the Social Studies coursework must have been completed within five years prior to the date of application for the endorsement.

(b) Submit a complete and correct application to obtain the endorsement in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note: Adding the endorsement at the time of renewal will not require an additional cost to add the licensure renewal process.
Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553
Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-220-0175
Speech (Forensics)

(1) Purpose: A Speech endorsement indicates that an educator is qualified to teach prekindergarten through grade 12 assignments in Speech as provided by the TSPC Licensure Guide for Speech (Forensics).

(2) An educator is not authorized to teach in the endorsed area unless and until the endorsement is officially added to the license, except as provided in OAR 584-210-0170 Atypical Assignments and OAR 584-210-0160, License on Conditional Assignment.

(3) Adding to Existing Preliminary Teaching License: A Speech endorsement may be added to an existing Preliminary Teaching license by demonstrating content knowledge and completing Speech pedagogy requirements as defined in this rule. To be eligible to add a Speech endorsement to an existing Preliminary Teaching License, an applicant must:

(a) Meet one of the following Speech content knowledge requirements:

(A) Provide documentation of a passing score on the Commission-approved subject mastery test for Speech (Forensics); or

(B) Complete Commission-approved coursework of at least twenty-four quarter or sixteen semester hours designed to develop competency in Speech that includes:

(i) Discussion techniques;
(ii) Oral interpretation;
(iii) Argumentative speech; and
(iv) Forensics.

(C) At least fifty percent (50%) of the Speech coursework must have been completed within five years prior to the date of application for the endorsement.

(b) Meet one of the following Speech pedagogy requirements:

(A) Admission to and completion of a Commission-approved Speech preparation program; or

(B) Complete a Speech pedagogy course of at least three quarter or two semester hours acceptable to the Commission. The course must include the word pedagogy or methods in the course title or must be acceptable to the Commission upon evaluation of course syllabi or other evidence; or

(C) Complete a supervised practicum in a Speech assignment in a public school setting. To verify the practicum, a school district must submit a PEER form and a statement verifying that:

(i) The applicant completed at least 60 hours of a supervised practicum in Speech courses;

(ii) The practicum was supervised by a teacher holding a Professional, Teacher Leader or Legacy Teaching license with a Speech endorsement;

(iii) The applicant has obtained the required pedagogy skills to teach Speech.

Note: The district must indicate in the statement that the supervisory teacher supports the verification of applicant skill level.

(iv) At the Executive Director's or Licensure Director's discretion, other Speech teaching experience such as teaching in at a post-secondary institution or in a private school setting may qualify to satisfy the practicum experience. In these settings, verification from the employer of satisfactory completion of the teaching experience with at least 60 clock hours of Speech instruction is required to qualify as a suitable practicum to add the endorsement.

(c) Submit a complete and correct application to obtain the endorsement in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note: Adding the endorsement at the time of renewal will not require an additional cost to add the licensure renewal process.

(4) Adding Speech Endorsement to Other Licenses: To be eligible to add a Speech endorsement to an existing Professional, Teacher Leader or Legacy teaching license, an applicant must:

(a) Meet one of the following content knowledge requirements:

(A) Provide documentation of a passing score on the Commission-approved subject mastery test for Speech; or

(B) Complete Commission-approved coursework of at least twenty-four quarter or sixteen semester hours designed to develop competency in Speech that includes:

(i) Discussion techniques;

(ii) Oral interpretation;

(iii) Argumentative speech; and

(iv) Forensics.

(C) At least fifty percent (50%) of the Speech coursework must have been completed within five years prior to the date of application for the endorsement.

(b) Submit a complete and correct application to obtain the endorsement in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note: Adding the endorsement at the time of renewal will not require an additional cost to add the licensure renewal process.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553

Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-220-0180

Special Education: Generalist

(1) Purpose: A Special Education: Generalist endorsement indicates that an educator is qualified to teach prekindergarten to grade 12 assignments in Special Education: Generalist as provided by TSPC Licensure Guide for Special Education: Generalist.

(2) An educator is not authorized to teach in the endorsed area unless and until the endorsement is officially added to the license, except as provided in OAR 584-210-0170 Atypical Assignments and OAR 584-210-0160, License on Conditional Assignment.

(3) To be eligible to add a Special Education: Generalist endorsement to an existing Preliminary Professional, Teacher Leader or Legacy teaching license, an applicant must:

(a) Be admitted to and complete a Commission-approved Special Education: Generalist preparation program that meets the standards provided in OAR 584-420-0460 Special Education Endorsement: Program Standards.

(A) The Commission-approved elementary multiple subjects examination is not required to obtain the license;

(B) However, passage of the Commission-adopted Elementary—Multiple Subjects examination is required in order for special educators licensed to teach general education content in grades prekindergarten through 8 (elementary teachers) and to meet the federal definition of "highly qualified" teacher under the Elementary/Secondary Education Act (ESEA); and

(b) Submit a complete and correct application to obtain the endorsement in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note: Adding the endorsement at the time of renewal will not require an additional cost to add the licensure renewal process.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553

Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-220-0185

Special Education: Early Intervention

(1) Purpose: A Special Education: Early Intervention endorsement indicates that an educator is qualified to teach ages three to grade 12 assignments in Special Education: Early Intervention as provided by TSPC Licensure Guide for Special Education: Early Intervention.

(2) An educator is not authorized to teach in the endorsed area unless and until the endorsement is officially added to the license, except as provided in OAR 584-210-0170 Atypical Assignments and OAR 584-210-0160, License on Conditional Assignment.

(3) To be eligible to add a Special Education: Early Intervention endorsement to an existing Preliminary Professional, Teacher Leader or Legacy teaching license, an applicant must:

(a) Be admitted to and complete a Commission-approved Special Education: Early Intervention preparation program that meets the standards as provided in Chapter 584, Division 420; and

(b) Submit a complete and correct application to obtain the endorsement in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note: Adding the endorsement at the time of renewal will not require an additional cost to the licensure renewal process.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553

Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-220-0190

Special Education: Deaf and Hard of Hearing

(1) Purpose: A Special Education: Deaf and Hard-of-Hearing endorsement indicates that an educator is qualified to teach prekindergarten to grade 12 assignments in Special Education: Deaf and Hard-of-Hearing as provided by TSPC Licensure Guide for Special Education: Deaf and Hard-of-Hearing .

(2) An educator is not authorized to teach in the endorsed area unless and until the endorsement is officially added to the license, except as provided in OAR 584-210-0170 Atypical Assignments and OAR 584-210-0160, License on Conditional Assignment.

(3) To be eligible to add a Special Education: Deaf and Hard-of-Hearing endorsement to an existing Preliminary, Professional, Teacher Leader or Legacy teaching license, an applicant must:

(a) Be admitted to and complete a Commission-approved Special Education: Deaf and Hard-of-Hearing preparation program that meets the standards as provided in OAR 584-420-0475 Special Education: Deaf and Hard-of-Hearing : Program Standards; and

(b) Submit a complete and correct application to obtain the endorsement in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note: Adding the endorsement at the time of renewal will not require an additional cost to add the licensure renewal process.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553

Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-220-0195

Special Education: Vision Impaired

(1) Purpose: A Special Education: Visually Impaired endorsement indicates that an educator is qualified to teach prekindergarten to grade 12 assignments in Special Education: Visually Impaired as provided by TSPC Licensure Guide for Special Education: Visually Impaired.

(2) An educator is not authorized to teach in the endorsed area unless and until the endorsement is officially added to the license, except as provided in OAR 584-210-0170 Atypical Assignments and OAR 584-210-0160, License on Conditional Assignment.

(3) To be eligible to add a Special Education: Visually Impaired endorsement to an existing Preliminary, Professional, Teacher Leader or Legacy teaching license, an applicant must:

(a) Be admitted to and complete a Commission-approved Special Education: Visually Impaired preparation program that meet the standards provided in Chapter 584, Division 420; and

(b) Submit a complete and correct application to obtain the endorsement in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note: Adding the endorsement at the time of renewal will not require an additional cost to add the licensure renewal process.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553

Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-220-0200

World Language: Chinese

(1) A World Language: Chinese endorsement indicates that an educator is qualified to teach prekindergarten to grade 12 assignments in Chinese as provided by TSPC Licensure Guide for World Language: Chinese.

(2) An educator is not authorized to teach in the endorsed area unless and until the endorsement is officially added to the license, except as provided in OAR 584-210-0170, Atypical Assignments and OAR 584-210-0160, License on Conditional Assignment.

(3) Adding to Existing Preliminary Teaching License: A Chinese endorsement may be added to an existing Preliminary Teaching license by demonstrating content knowledge and completing Chinese pedagogy requirements as defined in this rule. To be eligible to add a Chinese endorsement to an existing Preliminary Teaching License, an applicant must:

(a) Meet one of the following World Language: Chinese content knowledge requirements:

(A) Provide documentation of a passing score on the Commission-approved subject mastery test for Chinese; or

(B) Be admitted to and complete a Commission-approved World Language: Chinese program in accordance with OAR 584-420-0490 World Language Endorsements: Program Standards.

(b) Meet one of the following World Language: Chinese pedagogy requirements:

(A) Admission to and completion of a Commission-approved World Language: Chinese preparation program as verified by the approved program in accordance with OAR 584-420-0490 World Language Endorsements: Program Standards; or

(B) Complete a Chinese pedagogy course of at least three quarter or two semester hours acceptable to the Commission. The course must include the word pedagogy or methods in the course title or must be acceptable to the Commission upon evaluation of course syllabi or other evidence; or

(C) Complete a supervised practicum in a Chinese language assignment in a public school setting. To verify the practicum, a school district must submit a PEER form and a statement verifying that:

(i) The applicant completed at least 60 hours of a supervised practicum in Chinese language courses;

(ii) The practicum was supervised by a teacher holding a Professional, Teacher Leader or Legacy Teaching license with a Chinese language endorsement;

(iii) The applicant has obtained the required pedagogy skills to teach Chinese language.

Note: The district must indicate in the statement that the supervisory teacher supports the verification of applicant skill level.

(iv) At the Executive Director's or Licensure Director's discretion, other Chinese teaching experience such as teaching in at a post-secondary institution or in a private school setting may qualify to satisfy the practicum experience. In these settings, verification from the employer of satisfactory completion of the teaching experience with at least 60 clock hours of teaching is required to qualify as a suitable practicum to add the endorsement.

(c) Submit a complete and correct application to obtain the endorsement in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note: Adding the endorsement at the time of renewal will not require an additional cost to the licensure renewal process.

(4) Adding World Language: Chinese Endorsement to Other Licenses: To be eligible to add a World Language: Chinese endorsement to an existing Professional, Teacher Leader or Legacy teaching license, an applicant must:

(a) Meet one of the following Chinese content knowledge requirements:

(A) Provide documentation of a passing score on the Commission-approved subject mastery test for Chinese; or

(B) Be admitted to and complete a Commission-approved World Language: Chinese preparation program in accordance with OAR 584-420-0490 World Language Endorsements: Program Standards; and

(b) Submit a complete and correct application to obtain the endorsement in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note: Adding the endorsement at the time of renewal will not require an additional cost to the licensure renewal process.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553

Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-220-0205

World Language: French

(1) A World Language: French endorsement indicates that an educator is qualified to teach prekindergarten to grade 12 assignments in French as provided by TSPC Licensure Guide for World Language: French.

(2) An educator is not authorized to teach in the endorsed area unless and until the endorsement is officially added to the license, except as provided in OAR 584-210-0170 Atypical Assignments and OAR 584-210-0160, License on Conditional Assignment.

(3) Adding to Existing Preliminary Teaching License: A French endorsement may be added to an existing Preliminary Teaching license by demonstrating content knowledge and completing French pedagogy requirements as defined in this rule. To be eligible to add a French endorsement to an existing Preliminary Teaching License, an applicant must:

(a) Meet one of the following World Language: French content knowledge requirements:

(A) Provide documentation of a passing score on the Commission-approved subject mastery test French; or

(B) Be admitted to and complete a Commission-approved World Language: French preparation program in accordance with OAR 584-420-0490 World Language Endorsements: Program Standards.

(b) Meet one of the following World Language: French pedagogy requirements:

(A) Admission to and completion of a Commission-approved World Language: French preparation program as verified by the approved program in accordance with OAR 584-420-0490 World Language Endorsements: Program Standards; or

(B) Complete a French pedagogy course of at least three quarter or two semester hours acceptable to the Commission. The course must include the word pedagogy or methods in the course title or must be acceptable to the Commission upon evaluation of course syllabi or other evidence; or

(C) Complete a supervised practicum in a French language assignment in a public school setting. To verify the practicum, a school district must submit a PEER form and a statement verifying that:

(i) The applicant completed at least 60 hours of a supervised practicum in French language courses;

(ii) The practicum was supervised by a teacher holding a Professional, Teacher Leader or Legacy Teaching license with a French language endorsement;

(iii) The applicant has obtained the required pedagogy skills to teach the French language.

Note: The district must indicate in the statement that the supervisory teacher supports the verification of applicant skill level.

(iv) At the Executive Director's or Licensure Director's discretion, other World Language: French teaching experience such as teaching in at a post-secondary institution or in a private school setting may qualify to satisfy the practicum experience. In these settings, verification from the employer of satisfactory completion of the teaching experience with at least 60 clock hours of World Language: French instruction is required to qualify as a suitable practicum to add the endorsement.

(c) Submit a complete and correct application to obtain the endorsement in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note: Adding the endorsement at the time of renewal will not require an additional cost to the licensure renewal process.

(4) Adding World Language: French Endorsement to Other Licenses: To be eligible to add a World Language: French endorsement to an existing Professional, Teacher Leader or Legacy teaching license, an applicant must:

(a) Meet one of the following World Language: French content knowledge requirements:

(A) Provide documentation of a passing score on the Commission-approved subject mastery test for World Language: French; or

(B) Be admitted to and complete a Commission-approved World Language: French preparation program in accordance with OAR 584-420-0490 World Language Endorsements: Program Standards.

(b) Submit a complete and correct application to obtain the endorsement in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note: Adding the endorsement at the time of renewal will not require an additional cost to the licensure renewal process.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553
Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-220-0210
World Language: German

(1) A World Language: German endorsement indicates that an educator is qualified to teach prekindergarten to grade 12 assignments in German as provided by TSPC Licensure Guide for World Language: German.

(2) An educator is not authorized to teach in the endorsed area unless and until the endorsement is officially added to the license, except as provided OAR 584-210-0170 Atypical Assignments and OAR 584-210-0160, License on Conditional Assignment.

(3) Adding to Existing Preliminary Teaching License: A German endorsement may be added to an existing Preliminary Teaching license by demonstrating content knowledge and completing German pedagogy requirements as defined in this rule. To be eligible to add a German endorsement to an existing Preliminary Teaching License, an applicant must:

(a) Meet one of the following World Language: German content knowledge requirements:

(A) Provide documentation of a passing score on the Commission-approved subject mastery test for German; or

(B) Be admitted to and complete a Commission-approved World Language: German program in accordance with OAR 584-420-0490 World Language Endorsements: Program Standards.

(b) Meet one of the following World Language: German pedagogy requirements:

(A) Admission to and completion of a Commission-approved World Language: German preparation program as verified by the approved program in accordance with OAR 584-420-0490 World Language Endorsements: Program Standards; or

(B) Complete a German pedagogy course of at least three quarter or two semester hours acceptable to the Commission. The course must include the word pedagogy or methods in the course title or must be acceptable to the Commission upon evaluation of course syllabi or other evidence; or

(C) Complete a supervised practicum in a German language assignment in a public school setting. To verify the practicum, a school district must submit a PEER form and a statement verifying that:

(i) The applicant completed at least 60 hours of a supervised practicum in German language courses;

(ii) The practicum was supervised by a teacher holding a Professional, Teacher Leader or Legacy Teaching license with a German language endorsement;

(iii) The applicant has obtained the required pedagogy skills to teach the German language.

Note: The district must indicate in the statement that the supervisory teacher supports the verification of applicant skill level.

(iv) At the Executive Director's or Licensure Director's discretion, other German teaching experience such as teaching in at a post-secondary institution or in a private school setting may qualify to satisfy the practicum experience. In these settings, verification from the employer of satisfactory completion of the teaching experience with at least 60 clock hours of teaching is required to qualify as a suitable practicum to add the endorsement.

(c) Submit a complete and correct application to obtain the endorsement in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note: Adding the endorsement at the time of renewal will not require an additional cost to the licensure renewal process.

(4) Adding World Language: German Endorsement to Other Licenses: To be eligible to add a World Language: German endorsement to an existing Professional, Teacher Leader or Legacy teaching license, an applicant must:

(a) Meet one of the following German content knowledge requirements:

(A) Provide documentation of a passing score on the Commission-approved subject mastery test for German; or

(B) Be admitted to and complete a Commission-approved World Language: German preparation program in accordance with OAR 584-420-0490 World Language Endorsements: Program Standards; and

(b) Submit a complete and correct application to obtain the endorsement in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note: Adding the endorsement at the time of renewal will not require an additional cost to the licensure renewal process.
Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553
Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-220-0215
World Language: Japanese

(1) A World Language: Japanese endorsement indicates that an educator is qualified to teach prekindergarten to grade 12 assignments in Japanese as provided by TSPC Licensure Guide for World Language: Japanese.

(2) An educator is not authorized to teach in the endorsed area unless and until the endorsement is officially added to the license, except as provided OAR 584-210-0170 Atypical Assignments and OAR 584-210-0160, License on Conditional Assignment.

(3) To be eligible to add a World Language: Japanese endorsement to an existing Preliminary, Professional, Teacher Leader or Legacy teaching license, an applicant must:

(a) Be admitted to and complete a Commission-approved World Language: Japanese preparation program in accordance with OAR 584-420-0490 World Language Endorsements: Program Standards; and

(b) Submit a complete and correct application to obtain the endorsement in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note: Adding the endorsement at the time of renewal will not require an additional cost to the licensure renewal process.
Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553
Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-220-0220
World Language: Latin

(1) A World Language: Latin endorsement indicates that an educator is qualified to teach prekindergarten to grade 12 assignments in Latin as provided by TSPC Licensure Guide for World Language: Latin.

(2) An educator is not authorized to teach in the endorsed area unless and until the endorsement is officially added to the license, except as provided in OAR 584-210-0170 Atypical Assignments and OAR 584-210-0160, License on Conditional Assignment.

(3) To be eligible to add a World Language: Latin endorsement to an existing Preliminary, Professional, Teacher Leader or Legacy teaching license, an applicant must:

(a) Be admitted to and complete a Commission-approved World Language: Latin preparation program in accordance with OAR 584-420-0490 World Language Endorsements: Program Standards; and

(b) Submit a complete and correct application to obtain the endorsement in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note: Adding the endorsement at the time of renewal will not require an additional cost to the licensure renewal process.
Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553
Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-220-0225
World Language: Russian

(1) A World Language: Russian endorsement indicates that an educator is qualified to teach prekindergarten to grade 12 assignments in Russian as provided by TSPC Licensure Guide for World Language: Russian.

(2) An educator is not authorized to teach in the endorsed area unless and until the endorsement is officially added to the license, except as provided in OAR 584-210-0170 Atypical Assignments and OAR 584-210-0160, License on Conditional Assignment.

(3) To be eligible to add a World Language: Russian endorsement to an existing Preliminary, Professional, Teacher Leader or Legacy teaching license, an applicant must:

(a) Be admitted to and complete a Commission-approved World Language: Russian preparation program in accordance with OAR 584-420-0490 World Language Endorsements: Program Standards; and

(b) Submit a complete and correct application to obtain the endorsement in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note: Adding the endorsement at the time of renewal will not require an additional cost to the licensure renewal process.
Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553
Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-220-0230
World Language: Spanish

(1) A World Language: Spanish endorsement indicates that an educator is qualified to teach prekindergarten to grade 12 assignments in Spanish as provided by TSPC Licensure Guide for World Language: Spanish.

(2) An educator is not authorized to teach in the endorsed area unless and until the endorsement is officially added to the license, except as provided in OAR 584-210-0170 Atypical Assignments and OAR 584-210-0160, License on Conditional Assignment.

(3) Adding to Existing Preliminary Teaching License: A Spanish endorsement may be added to an existing Preliminary Teaching license by demonstrating content knowledge and completing Spanish pedagogy requirements as defined in this rule. To be eligible to add a Spanish endorsement to an existing Preliminary Teaching License, an applicant must:

(a) Meet one of the following Spanish content knowledge requirements:

(A) Provide documentation of a passing score on the Commission-approved subject mastery test for Spanish; or

(B) Be admitted to and complete a Commission-approved World Language: Spanish preparation program in accordance with OAR 584-420-0490 World Language Endorsements: Program Standards; and

(b) Meet one of the following World Language: Spanish pedagogy requirements:

(A) Admission to and completion of a Commission-approved World Language: Spanish preparation program as verified by the approved program in accordance with OAR 584-420-0490 World Language Endorsements: Program Standards.; or

(B) Complete a Spanish pedagogy course of at least three quarter or two semester hours acceptable to the Commission. The course must include the word pedagogy or methods in the course title or must be acceptable to the Commission upon evaluation of course syllabi or other evidence; or

(C) Complete a supervised practicum in a Spanish language assignment in a public school setting. To verify the practicum, a school district must submit a PEER form and a statement verifying that:

(i) The applicant completed at least 60 hours of a supervised practicum in Spanish language courses;

(ii) The practicum was supervised by a teacher holding a Professional, Teacher Leader or Legacy Teaching license with a Spanish language endorsement;

(iii) The applicant has obtained the required pedagogy skills to teach the Spanish language.

Note: The district must indicate in the statement that the supervisory teacher supports the verification of applicant skill level.

(iv) At the Executive Director's or Licensure Director's discretion, other Spanish teaching experience such as teaching in at a post-secondary institution or in a private school setting may qualify to satisfy the practicum experience. In these settings, verification from the employer of satisfactory completion of the teaching experience with at least 60 clock hours of World Language: Spanish instruction is required to qualify as a suitable practicum to add the endorsement.

(c) Submit a complete and correct application to obtain the endorsement in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note: Adding the endorsement at the time of renewal will not require an additional cost to the licensure renewal process.

(4) Adding World Language: Spanish Endorsement to Other Licenses: To be eligible to add a World Language: Spanish endorsement to a Professional, Teacher Leader or Legacy teaching license, an applicant must:

(a) Meet one of the following Spanish content knowledge requirements:

(A) Provide documentation of a passing score on the Commission-approved subject mastery test for Spanish; or

(B) Be admitted to and complete a Commission-approved World Language: Spanish preparation program in accordance with OAR 584-420-0490 World Language Endorsements: Program Standards; and

(b) Submit a complete and correct application to obtain the endorsement in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note: Adding the endorsement at the time of renewal will not require an additional cost to the licensure renewal process.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553

Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-225-0010

Purpose of Specialization on a License

(1) A specialization on a TSPC-issued license is an optional indication of specialized expertise or preparation in an area the Commission recognizes as "added value" on a license. A specialization indicates the educator has demonstrated exceptional knowledge, skills and related abilities in that area. A specialization must meet standards or requirements set by the Commission.

(2) A specialization is distinguished from an endorsement in that a specialization is not required to teach or work in the specialized area, whereas an endorsement is required to work in the subject-matter area.

(3) The specialization will be indicated as follows on the license: Example: Specialization: Autism Spectrum Disorder.

(4) An educator may not be labeled as a specialist or call themselves a specialist in any area recognized by the Commission as requiring additional and exceptional preparation without actually holding a specialization on the license.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120–342.430, 342.455-342.495 & 342.553

Hist.: TSPC 13-2015(Temp), f. 11-13-15, cert. ef. 1-1-16 thru 6-28-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-225-0020

Adaptive Physical Education Specialization

(1) Purpose: An Adaptive Physical Education specialization indicates that an educator has obtain additional and specialized preparation to teach prekindergarten through grade 12 assignments in Adaptive Physical Education.

(2) A specialization is an optional indication of specialized expertise or preparation in an area the Commission recognizes as "added value" on a license. A specialization indicates the educator has demonstrated exceptional knowledge, skills and related abilities in that area. A specialization must meet standards set by the Commission. A specialization is not required to teach in the specialization area indicated on the license.

(3) Eligibility Requirements: To be eligible to add an Adaptive Physical Education specialization to a Preliminary, Professional, Teacher Leader or Legacy Teaching License, an applicant must:

(a) Possess an active and valid non-provisional Oregon teaching license with a Physical Education endorsement;

(b) Complete a Commission-approved Adaptive Physical Education specialization program in accordance with 584-420-0610.

(c) At least fifty percent (50%) of the Adaptive Physical Education coursework must have been completed within five years prior to the date of application for the specialization unless the applicant has ever held the Adaptive Physical Education endorsement on an Oregon Teaching License; and

(d) Submit a complete and correct application to obtain the specialization in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note: Adding the specialization at the time of renewal will not require an additional cost to the licensure renewal process.

(4) An adaptive physical education specialization may not be added to a provisional license.

(5) The specialization will appear on a license as follows: Specialization: Adaptive Physical Education.

(6) Once the specialization is noted on a license, it may only be removed at the educator's request.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120–342.430, 342.455-342.495 & 342.553

Hist.: TSPC 13-2015(Temp), f. 11-13-15, cert. ef. 1-1-16 thru 6-28-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-225-0030

American Sign Language Specialization

(1) Purpose: An American Sign Language specialization indicates that an educator has obtained additional and specialized training to communicate and teach prekindergarten through grade 12 students in American Sign Language learning environments.

(2) A specialization is an optional indication of specialized expertise or preparation in an area the Commission recognizes as "added value" on a license. A specialization indicates the educator has demonstrated exceptional knowledge, skills and related abilities in that area. A specialization must meet standards set by the Commission. A specialization is not required to teach in the specialization area indicated on the license.

(3) Eligibility Requirements: To be eligible to add an American Sign Language specialization to an Oregon educator license, an applicant must:

(a) Possess an active and valid non-provisional Oregon educator license;

(b) Hold an American Sign Language Teacher Association (ASLTA) Provisional, Qualified or Professional Certification;

(c) Complete a Bachelor's degree or equivalent in teaching American Sign Language or equivalent preparation that meets the competency standards set forth in this rule. The Executive Director or Director of Licensure

will make the determination if applicant's equivalent preparation is sufficient to meet the competency standards.

(d) Provide evidence of American Sign Language Proficiency Interview (ASLPI) rating of 3 or better; or, an ASLPI rating of Advanced Plus; and

(e) Complete a Commission-approved program for American Sign Language (ASL) specialization as provided in OAR 584-420-0600 or equivalent preparation that meets the competency standards set forth in this rule. The Executive Director or Director of Licensure will make the determination if an applicant's equivalent preparation is sufficient to meet the competency standards.

(f) Submit a complete and correct application to obtain the specialization in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note 2: Adding the specialization at the time of renewal will not require an additional cost to the licensure renewal process.

(4) The specialization will be indicated as follows on the license: World Language Specialization: American Sign Language.

(5) Except for a Limited Teaching License, a World Language: American Sign Language (ASL) specialization may not be added to a provisional license;

(6) Once the specialization is noted on a license, it may only be removed at the educator's request.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120–342.430, 342.455-342.495 & 342.553
Hist.: TSPC 13-2015(Temp), f. 11-13-15, cert. ef. 1-1-16 thru 6-28-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-225-0040
Autism Spectrum Disorder Specialization

(1) Purpose: An Autism Spectrum Disorder specialization indicates that an educator has obtained additional and specialized preparation to teach prekindergarten through grade 12 students with Autism Spectrum Disorder learning variances.

(2) A specialization is an optional indication of specialized expertise or preparation in an area the Commission recognizes as "added value" on a license. A specialization indicates the educator has demonstrated exceptional knowledge, skills and related abilities in that area. A specialization must meet standards set by the Commission. A specialization is not required to teach in the specialization area indicated on the license.

(3) Eligibility Requirements: To be eligible to add an Autism Spectrum Disorder specialization to a Preliminary, Professional, Teacher Leader or Legacy Teaching License, an applicant must:

(a) Possess an active and valid non-provisional Oregon teaching license with any special education endorsement;

(b) Complete a Commission-approved Autism Spectrum Disorder specialization program in accordance with OAR 584-420-0640.

(c) At least fifty percent (50%) of the Autism Spectrum Disorder coursework must have been completed within five years prior to the date of application for the specialization; and

(d) Submit a complete and correct application to obtain the specialization in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note: Adding the specialization at the time of renewal will not require an additional cost to the licensure renewal process.

(4) An Autism Spectrum Disorder specialization may not be added to a provisional license.

(5) The specialization will appear on a license as follows: Specialization: Autism Spectrum Disorder.

(6) Once the specialization is indicated on a license, it may only be removed at the educator's request.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120–342.430, 342.455-342.495 & 342.553
Hist.: TSPC 13-2015(Temp), f. 11-13-15, cert. ef. 1-1-16 thru 6-28-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-225-0050
Bilingual Specialization

(1) Purpose: A Bilingual specialization indicates that an educator has met the oral proficiency interview (OPI) assessment standards by a certified American Council on the Teaching of Foreign Languages (ACTFL) OPI tester for a specific language. The Bilingual specialization does not authorize the holder to teach the language associated with the specialization. An educator must have the appropriate endorsement to teach a language. For example, a teacher must hold a teaching license with a World Language: Spanish endorsement to teach Spanish.

(2) A specialization is an optional indication of specialized expertise or preparation in an area the Commission recognizes as "added value" on a license. A specialization indicates the educator has demonstrated exceptional knowledge, skills and related abilities in that area. A specialization must meet standards set by the Commission. A specialization is not required to teach in the specialization area indicated on the license.

(3) Eligibility Requirements: To be eligible to add a Bilingual specialization to an Oregon educator license, an applicant must:

(a) Submit an original copy of the Official ACTFL Oral Proficiency Certificate stating the applicant has qualified for the Advanced Mid or higher proficiency level in the language the applicant is seeking to add to the license.

(b) Submit a complete and correct application to obtain the specialization in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note 1: The Commission will return the original certification to the applicant upon request when applying for the license or specialization.

Note 2: Adding the specialization at the time of renewal will not require an additional cost to the licensure renewal process.

(4) A Bilingual specialization may not be added to the following licenses:

(a) CTE Restricted Substitute License

(b) Charter School Registry (teacher and administrator);

(c) Emergency teacher, administrator, school counselor, or school nurse;

(d) Restricted substitute, teacher, administrator, or school counselor;

(e) Reciprocal teaching, administrator, superintendent, school counselor, school psychologist, or school social worker; and

(f) Teacher Associate;

(5) The Bilingual Specialization will be indicated as follows on the license: Bilingual Specialization: (Proficient Language), for example: Bilingual Specialization: Spanish.

(6) Once the specialization is indicated on a license, it may only be removed at the educator's request.

(7) All licensees issued an ESOL/Bilingual endorsement prior to January 1, 2016 will be provided with a Bilingual specialization upon renewal of their teaching license.

(8) Effective January 1, 2016, qualified applicants who complete a Commission-approved ESOL/Bilingual program are eligible to receive an ESOL endorsement and a Bilingual specialization.

(a) The program must specifically recommend the applicant for the ESOL endorsement and the Bilingual specialization and must indicate the specialization language.

(b) An applicant who qualifies for the Bilingual specialization under this subsection is not required to obtain the Official ACTFL Oral Proficiency Certificate as provided in subsection (3)(a) of this rule unless obtaining the certificate is a requirement of their ESOL/Bilingual program.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120–342.430, 342.455-342.495 & 342.553
Hist.: TSPC 13-2015(Temp), f. 11-13-15, cert. ef. 1-1-16 thru 6-28-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-225-0070
Early Childhood Education Specialization

(1) Purpose: An Early Childhood Education specialization indicates that an educator has obtained additional and specialized preparation to teach in Early Childhood learning environments in grades pre-kindergarten through grade 3.

(2) A specialization is an optional indication of specialized expertise or preparation in an area the Commission recognizes as "added value" on a license. A specialization indicates the educator has demonstrated exceptional knowledge, skills and related abilities in that area. A specialization must meet standards set by the Commission. A specialization is not required to teach in the specialization area indicated on the license.

(3) Eligibility Requirements: To be eligible to add an Early Childhood Education specialization to a Preliminary, Professional, Teacher Leader or Legacy Teaching License, an applicant must:

(a) Possess an active and valid non-provisional Oregon teaching license with an Elementary-Multiple Subjects endorsement;

(b) Complete a Commission-approved Early Childhood Education specialization program in accordance with 584-420-0620. At least fifty percent (50%) of the Early Childhood Education coursework must have been completed within five years prior to the date of application for the specialization unless the applicant has previously held the Early Childhood authorization or Early Childhood endorsement on any license; and

(d) Submit a complete and correct application to obtain the specialization in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note: Adding the specialization at the time of renewal will not require an additional cost to the licensure renewal process.

(4) An Early Childhood Education specialization may not be added to a provisional license.

(5) The specialization will appear on a license as follows: Specialization: Early Childhood Education

(6) Once the specialization is indicated on a license, it may only be removed at the educator's request.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120–342.430, 342.455-342.495 & 342.553
Hist.: TSPC 13-2015(Temp), f. 11-13-15, cert. ef. 1-1-16 thru 6-28-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-225-0090
Elementary Mathematics Instructional Leader Specialization

(1) Purpose: A Elementary Mathematics Instructional Leader specialization indicates that an educator has obtained additional and specialized preparation to assist other teachers with mathematic content and pedagogy skills for teaching mathematics in grades prekindergarten through grade 8.

(2) A specialization is an optional indication of specialized expertise or preparation in an area the Commission recognizes as "added value" on a license. A specialization indicates the educator has demonstrated exceptional knowledge, skills and related abilities in that area. A specialization must meet standards set by the Commission. A specialization is not required to teach in the specialization area indicated on the license.

(3) Eligibility Requirements: To be eligible to add an Elementary Mathematics Instructional Leader specialization to a Preliminary, Professional, Teacher Leader or Legacy Teaching License, an applicant must:

(a) Possess an active and valid non-provisional Oregon teaching license with an Elementary-Multiple Subjects endorsement;

(b) Possess three years of grade k-8 mathematics experience as verified by a Professional Educator Experience Form (PEER) or other verifiable experience if the experience is obtained out of state; and

(c) Complete a Commission-approved Elementary Mathematics Instructional Leader specialization program in accordance with 584-420-0650. At least fifty percent (50%) of the Elementary Mathematics Instructional Leader program coursework must have been completed within five years prior to the date of application for the specialization; and

(d) Submit a complete and correct application to obtain the specialization in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note: Adding the specialization at the time of renewal will not require an additional cost to the licensure renewal process.

(4) An Elementary Mathematics Instructional Leader specialization may not be added to a provisional license.

(5) The specialization will appear on a license as follows: Specialization: Elementary Mathematics Instructional Leader.

(6) Once the specialization is indicated on a license, it may only be removed at the educator's request.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120–342.430, 342.455-342.495 & 342.553
Hist.: TSPC 13-2015(Temp), f. 11-13-15, cert. ef. 1-1-16 thru 6-28-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-225-0100
Talented and Gifted Specialization

(1) Purpose: A Talented and Gifted specialization indicates that an educator has obtained additional and specialized preparation to teach prekindergarten through grade 12 students with identified as talented and gifted learners.

(2) A specialization is an optional indication of specialized expertise or preparation in an area the Commission recognizes as "added value" on a license. A specialization indicates the educator has demonstrated exceptional knowledge, skills and related abilities in that area. A specialization must meet standards set by the Commission. A specialization is not required to teach in the specialization area indicated on the license.

(3) Eligibility Requirements: To be eligible to add a Talented and Gifted specialization to a Preliminary, Professional, Teacher Leader or Legacy Teaching License, an applicant must:

(a) Possess an active and valid non-provisional Oregon teaching license;

(b) Complete a Commission-approved Talented and Gifted specialization program in accordance with 584-420-0660. At least fifty percent (50%) of the Talented and Gifted program coursework must have been completed within five years prior to the date of application for the specialization; and

(c) Submit a complete and correct application to obtain the specialization in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Note: Adding the specialization at the time of renewal will not require an additional cost to the licensure renewal process.

(4) A Talented and Gifted specialization may not be added to a provisional license.

(5) The specialization will appear on a license as follows: Specialization: Talented and Gifted.

(6) Once the specialization is noted on a license, it may only be removed at the educator's request.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120–342.430, 342.455-342.495 & 342.553
Hist.: TSPC 13-2015(Temp), f. 11-13-15, cert. ef. 1-1-16 thru 6-28-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-255-0010
Professional Development Requirements

(1) The Commission believes that high quality and individualized professional development for educators is essential to promote:

(a) Effective educational practices;

(b) Supportive educational leadership; and

(c) Enriched student learning.

(2) The Commission requires the completion of advanced or continuing professional development units for:

(a) Promotion to the Professional Teaching License (Advanced PDUs);

(b) Renewal of most active educator licenses (Continuing PDUs); and

(c) Renewal of School Nurses Certificates (Continuing PDUs).

(3) Professional Development Units (PDUs) are calculated as follows:

(a) One (1) hour of advanced or continuing professional development activity equals one (1) PDU;

(b) One (1) semester hour of college credit equals thirty (30) PDUs; or

(c) One (1) quarter hour of college credit equals twenty (20) PDUs.

(4) Advanced Professional Development (Advanced PDUs): The Commission requires completion of an advanced professional education program for promotion to the Professional Teaching License. The Commission has approved the completion of an Advanced Professional Development Program as one method to meet the requirement for an advanced professional education program. An Advanced Professional Development Program must include 150 advanced professional development units (advanced PDUs) that are:

(a) Tailored to the performance goals of the teacher in accordance with ORS 342.815 to 342.856;

(b) Based on the core teaching standards as provided in OAR 584-255-0020, Standards for Professional Development; and

(c) Calculated as provided in subsection (3) of this rule; and

(d) Completed while the applicant holds the Preliminary Teaching License.

Note: See OAR 584-210-0040 Professional Teaching License for other methods to meet the advanced professional program requirements to qualify for the Professional Teaching License.

(5) Continuing Professional Development: The Commission requires continuing professional development for renewal of most active licenses and certificates that do not require advancement to another license.

(a) To qualify for renewal of a license, the applicant must complete 25 Continuing PDUs per year of licensure term, as follows:

(A) 75 PDUs during the life of a three (3) year license; and

(B) 125 PDUs during the life of a five (5) year license.

(b) Completing any of the following advanced certifications will waive continuing professional development requirements only for the renewal period during which the certification is completed and the following licensure renewal cycle:

(A) National Board of Professional Teaching Standards (NBPTS) certification;

(B) National Association of School Psychologists (NASP) certification;

(C) National School Counselor Certification (NSCC);

(D) National Association of Social Workers (C-SSWS) certification; or

(E) Association of Speech, Hearing and Audiology (ASHA) certification.

(c) Licensed educators may carry-over 25 PDUs of excess Continuing PDUs obtained only in the previous reporting period.

(d) Educators who hold dual licensure with other state professional licensing boards are encouraged to fulfill their continuing professional development requirements by completing the PDUs provided by those professional licensure areas (for example: Speech Language Pathologists).

(e) Educators who are employed as faculty at university or colleges may use their course presentation hours to fulfill their continuing PDU requirement. One (1) hour of course presentation is equal to one (1) PDU.

(f) The requirement for continuing professional development applies to the renewal of the following teaching, administrative, and personnel service licenses:

(A) Preliminary Teaching License

Note: If the applicant is renewing the Preliminary Teaching License with Advanced PDUs, Continuing PDUs are not required;

(B) Professional Teaching License;

(C) Teacher Leader License;

(D) Legacy Teaching License;

(E) Limited Teaching License;

(F) American Indian Language Teaching License;

(G) Career and Technical Education II Teaching License;

(H) Professional Administrator License;

(I) Legacy Administrator;

(J) Distinguished Administrator;

(K) Exceptional administrator;

(L) Preliminary School Counselor

Note: If the applicant is renewing with requirements to move to Professional School Counselor license, Continuing PDUs are not required;

(M) Professional School Counselor;

(N) Legacy School Counselor;

(O) Preliminary School Psychologist;

(P) Professional School Psychologist;

(Q) Legacy School Psychologist;

(R) Limited Student Services;

(S) Preliminary School Social Worker; and

(T) Professional School Social Worker;

(6) Continuing Professional Development for School Nurse Certificates: To qualify for renewal of a School Nurse Certificate pursuant to OAR Chapter 584, Division 021, an applicant must:

(a) Meet the professional development requirements provided in OAR 584-021-0150 (Renewal of Professional School Nurse Certification); or

(b) Meet the professional development requirement provided in OAR 584-021-0155 (Emergency School Nurse Certification Renewal).

(7) It is the sole responsibility of the licensed educator to ensure accurate completion of professional development upon renewal or issue of a subsequent license. Generally, failure to complete advanced professional development or continuing professional development does not constitute an "emergency" for the purposes of receiving an Emergency License.

(8) If employed during the life of the license, the supervisor or professional development advisor will verify that the educator has successfully completed all continuing professional development requirements to the district superintendent or designee on the TSPC Professional Educational Experience Report (PEER) form prior to renewal of licensure.

(9) The following licenses and registrations do not have continuing professional development requirements because the licenses require the completion of additional specific coursework or other licensure requirements to move to the next stage license or the licenses or registrations do not require continuing professional development:

(a) All reciprocal licenses;

(b) All substitute licenses;

(c) Preliminary Administrator license;

(d) Career and Technical Education I Teaching license;

(e) International Visiting Teacher License;

(f) All restricted licenses;

(g) All emergency licenses;

(h) License for Conditional Assignment;

(i) Teacher Associate License; and

(j) All charter school registrations.

(10) Substitute teaching licenses do not have continuing professional development requirements due to a shortage in the profession. The Commission has reserved the right to reconsider this continuing professional development waiver at any time in the future.

(11)(a) Educators holding a Career and Technical I Education teaching license may be subject to other continuing professional development requirements consistent with their formal professional development plan. See, OAR 584-042-0051 Career and Technical Education (CTE) Professional Development Plan to determine whether additional continuing professional development requirements apply upon licensure renewal.

(b) Educators holding a Five-Year Career and Technical Education Teaching License or a Career and Technical Education II Teaching License are subject to the continuing professional development requirements in subsection (5) of this rule.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553

Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-255-0030

Verification of Professional Development

(1) Licensed educators employed in a public school, education service district or public charter school must supply to their employer or qualified Education Service District evidence of their completion of Advanced or Continuing professional development units (PDUs) in accordance with Chapter 584, Division 255.

(2) Continuing PDUs: To verify Continuing PDUs for licensure renewal, educators must do one of the following:

(a) Educators who are employed at the time of renewal, under contract with a public school district, may verify Continuing PDUs through their employing public school district or school. School districts must verify completion of the Continuing PDUs by submitting a Professional Educator Experience Report (PEER form);

(b) Educators who are employed at the time of renewal by a prek-12 private school may verify Continuing PDUs through their employing private school. Private schools must verify completion of the Continuing PDUs by submitting a Professional Educator Experience Report (PEER form). The Director of Licensure may evaluate a private school for eligibility to verify professional development units;

(c) Educators who are not employed by a school or district or who are employed by a school or district that does not verify PDUs must supply evidence of their completion of Continuing PDUs to an education service district (ESD) participating in a professional development approval agreement with the Commission; or

(d) Educators holding an American Indian Language Teaching License may verify continuing PDUs through their sponsoring tribe. The tribe must verify the completion of the continuing PDUs by submitting the Professional Educator Experience Report (PEER form).

(4) Advanced PDUs: To verify advanced PDUs for renewal of the Preliminary Teaching License or promotion to the Professional Teaching License, an educator must:

(a) Obtain verification of the advanced PDUs from their employing public school district or charter school. School districts or public schools must verify the completion of the advanced PDUs by submitting the Professional Educator Experience Report (PEER form); or

(b) Obtain verification of the Advanced PDUs from their employing Education Service District. The Education Service District must verify the completion of the advanced PDUs by submitting the Professional Educator Experience Report (PEER form). Educators may not obtain verification from an ESD unless they are directly employed by the ESD.

(5) To verify enrollment and completion of advanced professional education program for renewal of the Preliminary Teaching License or promotion to the Professional Teaching License, an educator must provide:

(a) Official evidence of enrollment in a Commission-approved program; and

(b) Official transcripts.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553

Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-420-0010

English Language Learner (ELL): Standards for All Licensure, Endorsement and Specialization Programs

(1) Purpose of the Standards: It is the Commission's policy that every p-12 educator has a responsibility to meet the needs of Oregon's English Language Learner students. As such, accreditation and educator preparation requirements must support the demand for well-prepared educators to work with second language learners of all ages.

(2) These standards apply to pre-service candidates working to become teachers, administrators, personnel service educators and educator preparation program (EPP) faculty.

(3) The ELL Knowledge, Skills, Abilities and Dispositions:

(a) Language: Candidates, and higher education faculty know, understand, and use the major concepts, theories, and research related to the nature and acquisition of language to construct learning environments that support English Language Learners (ELL) and bilingual students' language and literacy development and content area achievement. Candidates and higher education faculty:

(A) Understand concepts related to academic versus social language, oracy versus literacy, and grammatical forms and linguistic functions;

(B) Are familiar with characteristics of students at different stages of second language acquisition and English Language Proficiency (ELP) levels;

(C) Recognize the role of first language (L1) in learning the second language (L2); and

(D) Are aware of personal, affective and social variables influencing second language acquisition.

(b) Culture: Candidates, and higher education faculty know and understand the major concepts, principles, theories, and research related to the nature and role of culture and cultural groups to construct learning environments that support ELL students' cultural identities, language and literacy development, and content area achievement. Candidates, and higher education faculty:

(A) Understand the impact of culture on language learning;

(B) Recognize and combat deficit perspectives and views on second language learner students;

(C) Understand that learners' skills, knowledge and experiences should be used as resources for learning; and

(D) Understand how one's own culture impacts one's teaching practice.

(c) Planning, Implementing, and Managing Instruction: Candidates and higher education faculty know and understand the use of standards-based practices and strategies related to planning, implementing, and managing ESL and content instruction, including classroom organization, teaching strategies for developing and integrating language skills, and choosing and adapting classroom resources. Candidates and higher education faculty:

(A) Are familiar with different ELL program models for language acquisition English Language Development (ELD) and content pedagogy (sheltered & bilingual models);

(B) Incorporate basic sheltered strategies (e.g., visuals, grouping strategies, frontloading, and explicit vocabulary) appropriate to learners at different levels of English language proficiency within a gradual release of responsibility model;

(C) Are familiar with state-adopted English Language Proficiencies standards, and are able to develop lessons that include both content and language objectives related to those standards; and

(D) Incorporate primary language support within instruction.

(d) Assessment: Candidates and higher education faculty understand issues of assessment and use standards-based assessment measures with ELL and bilingual learners of all ages. Candidates and higher education faculty:

(A) Understand the role of language in content assessments; and

(B) Implement multiple and varied assessments that allow learners to demonstrate knowledge of content regardless of language proficiency level.

(e) Professionalism: Candidates and higher education faculty demonstrate knowledge of the history of ESL teaching. Candidates keep current with new instructional techniques, research results, advances in the ESL field, and public policy issues. Candidates use such information to reflect upon and improve their instructional practices. Candidates provide support and advocate for ELL and bilingual students and their families and work collaboratively to improve the learning environment. Candidates and higher education faculty:

(A) Understand the importance of fostering family and school partnerships; and

(B) Understand the importance of collaborating and consulting with English Language Development specialists.

(f) Technology: Candidates and higher education faculty use information technology to enhance learning and to enhance personal and professional productivity. Candidates and higher education faculty:

(A) Demonstrate knowledge of current technologies and application of technology with ELL students;

(B) Design, develop, and implement student learning activities that integrate information technology; and

(C) Use technologies to communicate, network, locate resources, and enhance continuing professional development.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 – 342.430; 342.455-342.495 & 342.553

Hist.: TSPC 13-2015(Temp), f. 11-13-15, cert. ef. 1-1-16 thru 6-28-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-420-0020

Preliminary Teaching License: Licensure Program Standards

(1) Candidates who are prepared for the Preliminary Teaching License will demonstrate the knowledge, skills, professional dispositions and cultural competencies necessary to promote the academic, career, personal and social development of pre-kindergarten to grade 12 students within the endorsement areas on the license.

(2) The Commission may provide approval to an educator preparation program that prepares candidates for a Preliminary Teaching License only if it includes:

(a) Content that will enable candidates to gain the knowledge, skills, abilities, professional dispositions, and cultural competencies to meet the standards set forth in this rule and the TSPC Program Review and Standards Handbook;

(b) A requirement for students to complete the edTPA teacher performance prior to recommending the candidate for licensure;

(c) Field experiences that include supervised teaching or internships; and

(d) Integration of principles of cultural competency and equitable practice in each competency standard through the entire Preliminary Teaching License program.

(3) Standard 1: The Learner and Learning:

(a) Learner Development: The teacher understands how children learns grow and develop, recognizing that patterns of learning and development vary individually within and across the cognitive, linguistic, social, emotional, and physical areas, and designs and implements developmentally appropriate and challenging learning experiences. [InTASC Standard #1]

(b) Learning Differences: The teacher uses understanding of individual differences and diverse cultures and communities to ensure inclusive learning environments that enable each learner to meet high standards. [InTASC Standard #2]

(c) Learning Environments: The teacher works with others to create environments that support individual and collaborative learning, and that encourage positive social interaction, active engagement in learning, and self-motivation. [InTASC Standard #3]

(4) Standard 2: Content

(a) Content Knowledge: The teacher understands the central concepts, tools of inquiry, and structures of the discipline(s) he or she teaches and creates learning experiences that make these aspects of the discipline accessible and meaningful for learners to assure mastery of the content. [InTASC Standard #4]

(b) Application of Content: The teacher understands how to connect concepts and use differing perspectives to engage learners in critical thinking, creativity, and collaborative problem solving related to authentic local and global issues. [InTASC Standard #5]

(5) Standard 3: Instructional Practice

(a) Assessment: The teacher understands and uses multiple methods of assessment to engage learners in their own growth, to monitor learner progress, and to guide the teacher's and learner's decision making. [InTASC Standard #6]

(b) Planning for Instruction: The teacher plans instruction that supports every student in meeting rigorous learning goals by drawing upon knowledge of content areas, curriculum, cross-disciplinary skills and pedagogy, as well as learners and the community context. [InTASC Standard #7]

(c) Instructional Strategies: The teacher understands and uses a variety of instructional strategies to encourage learners to develop deep understanding of content areas and their connections, and to build skills to apply knowledge in meaningful ways. [InTASC Standard #8]

(6) Standard 4: Professional Responsibility

(a) Professional Learning and Ethical Practice: The teacher engages in ongoing professional learning and uses evidence to continually evaluate his or her practice, particularly the effects of his/her choices and actions on others (learners, families, other professionals, and the community), and adapts practice to meet the needs of each learner. [InTASC Standard #9]

(b) Leadership and Collaboration: The teacher demonstrates leadership by taking responsibility for student learning and by collaborating with learners, families, colleagues, other school professionals, and community members to ensure learner growth and development, learning, and well-being. [InTASC Standard #10]

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 – 342.430; 342.455-342.495 & 342.553

Hist.: TSPC 13-2015(Temp), f. 11-13-15, cert. ef. 1-1-16 thru 6-28-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-420-0030

Professional Teaching License: Program Standards

(1) On March 1, 2016, the Commission rescinds state approval of all Continuing Teaching License programs. If an educator preparation program would like to convert its Continuing Teaching License program to a Professional Teaching License program, it must resubmit its program for

Commission approval in accordance with the standards of this rule and in the manner required by the Commission.

(2) Candidates who are prepared for the Professional Teaching License will demonstrate an advanced level of knowledge, skills, professional dispositions and cultural competencies necessary to promote the academic, career, personal and social development of pre-kindergarten to grade 12 students within the endorsement areas on the license.

(3) The Commission may provide approval to an educator preparation program that prepares candidates for a Professional Teaching License only if it includes:

(a) Content that will enable candidates to gain an advanced level of knowledge, skills, abilities, professional dispositions, and cultural competencies to meet the standards set forth in this rule and the TSPC Program Review and Standards Handbook;

(c) Field experiences that include supervised teaching or internships; and

(d) Integration of principles of cultural competency and equitable practice in each competency standard through the entire Professional Teaching License program.

(4) Standard 1: The Learner and Learning (Advanced Level):

(a) Learner Development: The teacher understands how children learns grow and develop, recognizing that patterns of learning and development vary individually within and across the cognitive, linguistic, social, emotional, and physical areas, and designs and implements developmentally appropriate and challenging learning experiences. [InTASC Standard #1]

(b) Learning Differences: The teacher uses understanding of individual differences and diverse cultures and communities to ensure inclusive learning environments that enable each learner to meet high standards. [InTASC Standard #2]

(c) Learning Environments: The teacher works with others to create environments that support individual and collaborative learning, and that encourage positive social interaction, active engagement in learning, and self motivation. [InTASC Standard #3]

(5) Standard 2: Content (Advanced Level)

(a) Content Knowledge: The teacher understands the central concepts, tools of inquiry, and structures of the discipline(s) he or she teaches and creates learning experiences that make these aspects of the discipline accessible and meaningful for learners to assure mastery of the content. [InTASC Standard #4]

(b) Application of Content: The teacher understands how to connect concepts and use differing perspectives to engage learners in critical thinking, creativity, and collaborative problem solving related to authentic local and global issues. [InTASC Standard #5]

(6) Standard 3: Instructional Practice (Advanced Level)

(a) Assessment: The teacher understands and uses multiple methods of assessment to engage learners in their own growth, to monitor learner progress, and to guide the teacher's and learner's decision making. [InTASC Standard #6]

(b) Planning for Instruction: The teacher plans instruction that supports every student in meeting rigorous learning goals by drawing upon knowledge of content areas, curriculum, cross-disciplinary skills and pedagogy, as well as learners and the community context. [InTASC Standard #7]

(c) Instructional Strategies: The teacher understands and uses a variety of instructional strategies to encourage learners to develop deep understanding of content areas and their connections, and to build skills to apply knowledge in meaningful ways. [InTASC Standard #8]

(7) Standard 4: Professional Responsibility (Advanced Level)

(a) Professional Learning and Ethical Practice: The teacher engages in ongoing professional learning and uses evidence to continually evaluate his or her practice, particularly the effects of his/her choices and actions on others (learners, families, other professionals, and the community), and adapts practice to meet the needs of each learner. [InTASC Standard #9]

(b) Leadership and Collaboration: The teacher demonstrates leadership by taking responsibility for student learning and by collaborating with learners, families, colleagues, other school professionals, and community members to ensure learner growth and development, learning, and well-being. [InTASC Standard #10]

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 – 342.430; 342.455-342.495 & 342.553
Hist.: TSPC 13-2015(Temp), f. 11-13-15, cert. ef. 1-1-16 thru 6-28-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-420-0040
Teacher Leader: Program Standards

(1) Candidates in Teacher Leader programs will be prepared to meet the following (7) domains of Teacher Leader knowledge and skills. The completion of the program does not qualify a teacher for the Teacher Leader license. The teacher must qualify for the license under the educational leadership requirements of the Teacher Leader License as provided in OAR 584-210-0050.

(2) Domain 1: Understanding Adults as Learners to Support Professional Learning Communities: The teacher leader understands how adults acquire and apply knowledge and uses this information to promote a culture of shared accountability for school outcomes that maximizes teacher effectiveness, promotes collaboration, enlists colleagues to be part of a leadership team, and drives continuous improvement in instruction and student learning.

(3) Domain 2: Accessing and Using Research to Improve Practice and Student Learning: The teacher leader understands how research creates new knowledge, informs policies and practices and improves teaching and learning. The teacher leader models and facilitates the use of systematic inquiry as a critical component of teachers' ongoing learning and development.

(4) Domain 3: Promoting Professional Learning for Continuous Improvement: The teacher leader understands the constantly evolving nature of teaching and learning, established and emerging technologies, and the school community. The teacher leader uses this knowledge to promote, design, and facilitate job-embedded professional learning aligned with school improvement goals.

(5) Domain 4: Facilitating Improvements in Instruction and Student Learning: The teacher leader demonstrates a deep understanding of the teaching and learning processes and uses this knowledge to advance the professional skills of colleagues by being a continuous learner, modeling reflective practice based on student results, and working collaboratively with colleagues to ensure instructional practices are aligned to a shared vision, mission, and goals.

(6) Domain 5: Using Assessments and Data for School and District Improvement: The teacher leader is knowledgeable about current research on assessment methods, designing and/or selecting effective formative and summative assessment practices and use of assessment data to make informed decisions that improve student learning; and uses this knowledge to promote appropriate strategies that support continuous and sustainable organizational improvement.

(7) Domain 6: Improving Outreach and Collaboration with Families and Community: The teacher leader understands that families, cultures, and communities have a significant impact on educational processes and student achievement and uses this knowledge to promote frequent and more effective outreach with families, community members, business and community leaders and other stakeholders in the education system.

(8) Domain 7: Advocating for Student Learning and the Profession. The teacher leader understands how educational policy is made at the local, state, and national level as well as the roles of school leaders, boards of education, legislators, and other stakeholders in formulating those policies; and uses this knowledge to advocate for student needs and for practices that support effective teaching and increase student learning and to serve as an individual of influence and respect within the school, community and profession.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 – 342.430; 342.455-342.495 & 342.553
Hist.: TSPC 13-2015(Temp), f. 11-13-15, cert. ef. 1-1-16 thru 6-28-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-420-0300
Advanced Mathematics Endorsement: Program Standards

(1) Candidates who are prepared for the Advanced Mathematics endorsement will demonstrate the knowledge, skills, professional dispositions and cultural competencies necessary to promote the academic, career, personal and social development of students in Advanced Mathematics learning environments.

(2) The Commission may provide approval to an educator preparation program that prepares candidates for an Advanced Mathematics endorsement only if it includes:

(a) Content that will enable candidates to gain the knowledge, skills, abilities, professional dispositions, and cultural competencies to meet the standards set forth in this rule and the TSPC Program Review and Standards Handbook;

(b) A requirement for students to complete the Commission-approved test for Advanced Mathematics;

(c) A requirement for students to complete a teacher performance assessment in accordance with OAR 584-017-1100 Teacher Candidate Performance Assessments if the candidate is being recommended for Preliminary Teaching License; and

(d) Field experiences that include supervised teaching or internships in Advanced Mathematics classrooms; and

(e) Integration of principles of cultural competency and equitable practice in each competency standard through the entire Advanced Mathematics endorsement program.

(3) Standard 1: Candidates demonstrate knowledge in numbers, operations and algebra, geometry, functions, discrete mathematics and computer science, probability and statistics, calculus, limits of sequences and series and demonstrate the convergence or divergence of series.

(4) Standard 2: Candidates demonstrate the ability to facilitate mathematical inquiry through understanding a problem, exploring, recognizing patterns, conjecturing, experimenting and justifying.

(5) Standard 3: Candidates demonstrate knowledge and skill In Mathematics pedagogy and assessments.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 – 342.430; 342.455-342.495 & 342.553

Hist.: TSPC 13-2015(Temp), f. 11-13-15, cert. ef. 1-1-16 thru 6-28-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-420-0310

Art Endorsement: Program Standards

(1) Candidates who are prepared for the Art endorsement will demonstrate the knowledge, skills, professional dispositions and cultural competencies necessary to promote the academic, career, personal and social development of students in art learning environments.

(2) The Commission may provide approval to an educator preparation program that prepares candidates for an Art endorsement only if it includes:

(a) Content that will enable candidates to gain the knowledge, skills, abilities, professional dispositions, and cultural competencies to meet the standards set forth in this rule and the TSPC Program Review and Standards Handbook;

(b) A requirement for students to complete the Commission-approved test for Art;

(c) A requirement for students to complete a teacher performance assessment in accordance with OAR 584-017-1100 Teacher Candidate Performance Assessments if the candidate is being recommended for Preliminary Teaching License; and

(d) Field experiences that include supervised teaching or internships in Art classrooms; and

(e) Integration of principles of cultural competency and equitable practice in each competency standard through the entire Art endorsement program.

(3) Standard 1: Content of the Visual Arts: Candidates must demonstrate proficiency in:

(a) Process of artmaking involving traditional and contemporary studio approaches;

(b) One or more studio areas;

(c) History of art, knowledge of the context in which works of art have been created, and fostering respect for all forms of art; and

(d) Providing exposure to a diverse set of traditional and contemporary artists.

(4) Standard 2: Theory and Practice in Art Education: Candidates must demonstrate proficiency in:

(a) Historical developments and prevailing theories of art education;

(b) Philosophical and social foundations underlying the inclusion of art in general education;

(c) Artistic, cognitive, emotional, moral, physical, and social development of children, adolescents and young adults;

(d) Theories of curriculum and instruction that make it possible for candidates to reflect on and refine their practice of art education;

(e) Developing curricula in a variety of instructional formats;

(f) Current teaching methods, materials and resources appropriate for various educational settings, populations, and levels of art education;

(g) Creating classroom environments in which effective art instruction can take place;

(h) Developing of interdisciplinary curricula;

(i) Assessment methods appropriate to the evaluation of student work, their own teaching, and the art program; and

(j) Self-evaluation and professional development.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120-342.143, 342.153, 342.165 & 342.223-342.232

Hist.: TSPC 1-2016, f. & cert. ef. 2-10-16

584-420-0345

Elementary Education: Multiple Subjects Endorsement: Program Standards

(1) Candidates who are prepared for the Elementary Education: Multiple Subjects endorsement will demonstrate the knowledge, skills, professional dispositions and cultural competencies necessary to promote the academic, career, personal and social development of students in elementary education learning environments.

(2) The Commission may provide approval to an educator preparation program that prepares candidates for an Elementary Education: Multiple Subjects endorsement only if it includes:

(a) Content that will enable candidates to gain the knowledge, skills, abilities, professional dispositions, and cultural competencies to meet the standards set forth in this rule and the TSPC Program Review and Standards Handbook;

(b) Content courses and pedagogy courses especially designed to ensure that the educator is able to provide high quality reading instruction that enables pupils to meet or exceed third-grade reading standards adopted by the State Board of Education to become proficient readers by the end of the third grade;

(c) Instruction on dyslexia that is consistent with the knowledge and practice standards of an international organization on dyslexia;

(d) A requirement for students to complete the Commission-approved test for Elementary-Multiple Subjects;

(e) A requirement for students to complete a teacher performance assessment in accordance with OAR 584-017-1100 Teacher Candidate Performance Assessments if the candidate is being recommended for Preliminary Teaching License; and

(f) Field experiences that include supervised teaching or internships in elementary education classrooms; and

(g) Integration of principles of cultural competency and equitable practice in each competency standard through the entire Elementary Education: Multiple Subjects Endorsement program.

(3) DEVELOPMENT, LEARNING, AND MOTIVATION. Standard 1: Development, Learning, and Motivation — Candidates know, understand, and use the major concepts, principles, theories, and research related to development of children and young adolescents to construct learning opportunities that support individual students' development, acquisition of knowledge, and motivation.

(4) CURRICULUM. Standard 2: Reading, Writing, and Oral Language — Candidates demonstrate a high level of competence in use of English language arts and they know, understand, and use concepts from reading, language and child development, to teach reading, writing, speaking, viewing, listening, and thinking skills and to help students successfully apply their developing skills to many different situations, materials, and ideas;

(5) Standard 3: Science — Candidates know, understand, and use fundamental concepts of physical, life, and earth/space sciences. Candidates can design and implement age-appropriate inquiry lessons to teach science, to build student understanding for personal and social applications, and to convey the nature of science;

(6) Standard 4: Mathematics — Candidates know, understand, and use the major concepts and procedures that define number and operations, algebra, geometry, measurement, and data analysis and probability. In doing so they consistently engage problem solving, reasoning and proof, communication, connections, and representation;

(7) Standard 5: Social studies — Candidates know, understand, and use the major concepts and modes of inquiry from the social studies — the integrated study of history, geography, the social sciences, and other related areas — to promote elementary students' abilities to make informed decisions as citizens of a culturally diverse democratic society and interdependent world;

(8) Standard 6: The arts — Candidates know, understand, and use — as appropriate to their own understanding and skills — the content, functions, and achievements of the performing arts (dance, music, theater) and the visual arts as primary media for communication, inquiry, and engagement among elementary students;

(9) Standard 7: Health education — Candidates know, understand, and use the major concepts in the subject matter of health education to create opportunities for student development and practice of skills that contribute to good health;

(10) Standard 8: Physical education — Candidates know, understand, and use — as appropriate to their own understanding and skills—human movement and physical activity as central elements to foster active, healthy life styles and enhanced quality of life for elementary students.

(11) INSTRUCTION. Standard 9: Integrating and applying knowledge for instruction — Candidates plan and implement instruction based on knowledge of students, learning theory, connections across the curriculum, curricular goals, and community;

(12) Standard 10: Adaptation to diverse students — Candidates understand how elementary students differ in their development and approaches to learning, and create instructional opportunities that are adapted to diverse students;

(13) Standard 11: Development of critical thinking and problem solving — Candidates understand and use a variety of teaching strategies that encourage elementary students' development of critical thinking and problem solving;

(14) Standard 12: Active engagement in learning — Candidates use their knowledge and understanding of individual and group motivation and behavior among students at the K–6 level to foster active engagement in learning, self-motivation, and positive social interaction and to create supportive learning environments;

(15) Standard 13: Communication to foster collaboration — Candidates use their knowledge and understanding of effective verbal, nonverbal, and media communication techniques to foster active inquiry, collaboration, and supportive interaction in the elementary classroom.

(16) ASSESSMENT. Standard 14: Assessment for instruction — Candidates know, understand, and use formal and informal assessment strategies to plan, evaluate and strengthen instruction that will promote continuous intellectual, social, emotional, and physical development of each elementary student.

(17) PROFESSIONALISM, Standard 15: Professional growth, reflection, and evaluation — Candidates are aware of and reflect on their practice in light of research on teaching, professional ethics, and resources available for professional learning; they continually evaluate the effects of their professional decisions and actions on students, families and other professionals in the learning community and actively seek out opportunities to grow professionally.

(18) Standard 16: Collaboration with families, colleagues, and community agencies— Candidates know the importance of establishing and maintaining a positive collaborative relationship with families, school colleagues, and agencies in the larger community to promote the intellectual, social, emotional, physical growth and well-being of children.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 – 342.430; 342.455-342.495 & 342.553
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584-420-0360
English for Speakers of Other Languages Endorsement (ESOL): Program Standards

(1) Candidates who are prepared for the ESOL endorsement will demonstrate the knowledge, skills, professional dispositions and cultural competencies necessary to promote the academic, career, personal and social development of students in ESOL learning environments.

(2) The Commission may provide approval to an educator preparation program that prepares candidates for an ESOL endorsement only if it includes:

(a) Content that will enable candidates to gain the knowledge, skills, abilities, professional dispositions, and cultural competencies to meet the standards set forth in this rule and the TSPC Program Review and Standards Handbook;

(b) A requirement for students to complete the Commission-approved test for ESOL;

(c) A requirement for students to complete a teacher performance assessment in accordance with OAR 584-017-1100 Teacher Candidate Performance Assessments if the candidate is being recommended for Preliminary Teaching License; and

(d) Field experiences that include supervised teaching or internships in ESOL classrooms; and

(e) Integration of principles of cultural competency and equitable practice in each competency standard through the entire ESOL endorsement program.

3) Standard 1: Language: Candidates demonstrate the ability to know, understand, and use the major concepts, theories, and research related to the nature and acquisition of language to construct learning environments that support English Speakers of Other Languages (ESOL) and bilingual students' language and literacy development and content area achievement.

(4) Standard 2: Culture: Candidates demonstrate the ability to know, understand, and use the major concepts, principles, theories, and research related to the nature and role of culture and cultural groups to construct learning environments that support ESOL and bilingual students' cultural identities, language and literacy development, and content area achievement.

(5) Standard 3: Planning, Implementing, and Managing Instruction: Candidates demonstrate the ability to know, understand, and use standards-based practices and strategies related to planning, implementing, and managing ESOL and content instruction, including classroom organization, teaching strategies for developing and integrating language skills, and choosing and adapting classroom resources.

(6) Standard 4: Assessment: Candidates understand issues of assessment and use standards-based assessment measures with ESOL and bilingual students.

(7) Standard 5: Candidates demonstrate knowledge of the history of ESL teaching. Candidates demonstrate the ability to keep current with new instructional techniques, research results, advances in the ESL field, and public policy issues. Candidates demonstrate the ability to use such information to reflect upon and improve their instructional practices. Candidates demonstrate the ability to provide support and advocate for ESOL and bilingual students and their families and work collaboratively to improve the learning environment.

(8) Standard 6: Candidates demonstrate the ability to use information technology to enhance learning and to enhance personal and professional productivity.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 – 342.430; 342.455-342.495 & 342.553
Hist.: TSPC 13-2015(Temp), f. 11-13-15, cert. ef. 1-1-16 thru 6-28-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-420-0365
Drama: Program Standards

(1) Candidates who are prepared for the Drama endorsement will demonstrate the knowledge, skills, professional dispositions and cultural competencies necessary to promote the academic, career, personal and social development of students in drama education learning environments.

(2) The Commission may provide approval to a program that prepares candidates for a Drama endorsement only if it includes:

(a) At least twenty-four quarter hours designed to develop competence in Drama education that includes:

(A) Acting;

(B) Directing; and

(C) Technical theater.

(b) A requirement for students to complete a teacher performance assessment in accordance with OAR 584-017-1100 Teacher Candidate Performance Assessments if the candidate is being recommended for Preliminary Teaching License; and

(c) Integration of principles of cultural competency and equitable practice in each competency standard through the entire Drama endorsement program.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 – 342.430; 342.455-342.495 & 342.553
Hist.: TSPC 13-2015(Temp), f. 11-13-15, cert. ef. 1-1-16 thru 6-28-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-420-0375
Foundational Math Endorsement: Program Standards

(1) Candidates who are prepared for the Foundational Mathematics endorsement will demonstrate the knowledge, skills, professional dispositions and cultural competencies necessary to promote the academic, career, personal and social development of students in Foundational Mathematics learning environments.

(2) The Commission may provide approval to an educator preparation program that prepares candidates for a Foundational Mathematics endorsement only if it includes:

(a) Content that will enable candidates to gain the knowledge, skills, abilities, professional dispositions, and cultural competencies to meet the standards set forth in this rule and the TSPC Program Review and Standards Handbook;

(b) A requirement for students to complete the Commission-approved test for Foundational Mathematics;

(c) A requirement for students to complete a teacher performance assessment in accordance with OAR 584-017-1100 Teacher Candidate Performance Assessments if the candidate is being recommended for Preliminary Teaching License; and

(d) Field experiences that include supervised teaching or internships in Foundational Mathematics classrooms; and

(e) Integration of principles of cultural competency and equitable practice in each competency standard through the entire Foundational Mathematics endorsement program.

(3) Standard 1: Candidates demonstrate knowledge of numbers, operations, algebra, functions, geometry, measurement, data analysis, probability and statistic and calculus;

(4) Standard 2: Candidate demonstrate the ability to create mathematical inquiry through understanding a problem, exploring, conjecturing, experimenting and justifying;

(5) Standard 3: Candidate demonstrate the ability to use multiple forms of representation including concrete models, pictures, diagrams, tables and graphs; and

(6) Standard 4: Candidates demonstrate the ability to understand how mathematical ideas interconnect and build on one another to produce a coherent whole;

(7) Standard 5: Candidates demonstrate the ability to set high expectations and provide strong support for all students to learn mathematics.

(8) Standard 6: Candidates demonstrate the ability to create classroom environment conducive to mathematical learning:

(9) Standard 7: Candidates demonstrate the ability to use assessments.

(10) Standard 8: Candidates demonstrate knowledge and skill in instructional technology.

(11) Standard 9: Candidates demonstrate knowledge related to the historical and cultural influences in mathematics including contributions of underrepresented groups.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 – 342.430; 342.455-342.495 & 342.553

Hist.: TSPC 13-2015(Temp), f. 11-13-15, cert. ef. 1-1-16 thru 6-28-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-420-0390

Health: Program Standards

(1) Candidates who are prepared for the Health endorsement will demonstrate the knowledge, skills, professional dispositions and cultural competencies necessary to promote the academic, career, personal and social development of students in Health learning environments.

(2) The Commission may provide approval to an educator preparation program that prepares candidates for a Health endorsement only if it includes:

(a) Content that will enable candidates to gain the knowledge, skills, abilities, professional dispositions, and cultural competencies to meet the standards set forth in this rule and the TSPC Program Review and Standards Handbook;

(b) A requirement for students to complete the Commission-approved test for Health;

(c) A requirement for students to complete a teacher performance assessment in accordance with OAR 584-017-1100 Teacher Candidate Performance Assessments if the candidate is being recommended for Preliminary Teaching License; and

(d) Field experiences that include supervised teaching or internships in Health classrooms; and

(e) Integration of principles of cultural competency and equitable practice in each competency standard through the entire Health endorsement program.

(3) Standard 1: Candidates demonstrate the ability to assess individual and community needs for health education.

(4) Standard 2: Candidates demonstrate the ability to develop and implement health Education programs.

(5) Standard 3: Candidates demonstrate the ability to coordinate provision of health education programs and services among health educators, other teachers and appropriate school staff.

(6) Standard 4: Candidates demonstrate the ability to communicate health and health education needs, concerns, and resources.

(7) Standard 5: Candidates demonstrate the ability to apply appropriate research principles and methods in health education.

(8) Standard 6: Candidates demonstrate the ability to administer Health Education programs.

(9) Standard 7: Candidates demonstrate the ability to advance the Profession of Health Education.

(10) Standard 8: Candidates demonstrate the ability to differentiate instruction in a Health education learning environment.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 – 342.430; 342.455-342.495 & 342.553

Hist.: TSPC 13-2015(Temp), f. 11-13-15, cert. ef. 1-1-16 thru 6-28-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-420-0415

Library Media: Program Standards

(1) Candidates who are prepared for the Library Media endorsement will demonstrate the knowledge, skills, professional dispositions and cultural competencies necessary to promote the academic, career, personal and social development of students in Library Media learning environments.

(2) The Commission may provide approval to an educator preparation program that prepares candidates for a Library Media endorsement only if it includes:

(a) Content that will enable candidates to gain the knowledge, skills, abilities, professional dispositions, and cultural competencies to meet the standards set forth in this rule and the TSPC Program Review and Standards Handbook;

(b) A requirement for students to complete the Commission-approved test for Library Media;

(c) A requirement for students to complete a teacher performance assessment in accordance with OAR 584-017-1100 Teacher Candidate Performance Assessments if the candidate is being recommended for Preliminary Teaching License; and

(d) Field experiences that include supervised teaching or internships in Library Media classrooms; and

(e) Integration of principles of cultural competency and equitable practice in each competency standard through the entire Library Media endorsement program.

(3) Standard 1: Candidates demonstrate the ability to encourage reading and lifelong learning by stimulating interests and fostering competencies in the effective use of ideas and information.

(4) Standard 2: Candidates demonstrate the ability to promote efficient and ethical information-seeking behavior as part of the school library program and its services.

(5) Standard 3: Candidates demonstrate the ability to create a positive educational environment which promotes reading, literacy, and use of appropriate technology for diverse learners.

(6) Standard 4: Candidates demonstrate the ability to work with classroom teachers to co-plan, co-teach, and co-assess information skills.

(7) Standard 5: Candidates demonstrate the ability to support the learning of all students and other members of the learning community, including those with diverse learning styles, abilities and needs.

(8) Standard 6: Candidates demonstrate the ability to develop professional collaboration and leadership.

(9) Standard 7: Candidates demonstrate the ability to articulate the relationship of the library media program with current educational trends and important issues.

(10) Standard 8: Candidates demonstrate the ability to administer the library media program in order to support the mission of the school, and according to the principles of best practice in library science and program administration.

(11) Standard 9: Candidates demonstrate the ability to adhere to the principles of the school library profession which include selecting, organizing, managing, and developing procedures and policies for print and electronic information resources.

(12) Standard 10: Candidates demonstrate the ability to assess and manage financial, physical, and human resources.

(13) Standard 11: Candidates demonstrate the ability to use instructional technology.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 – 342.430; 342.455-342.495 & 342.553

Hist.: TSPC 13-2015(Temp), f. 11-13-15, cert. ef. 1-1-16 thru 6-28-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-420-0420

Music Endorsement: Program Standards

(1) Candidates who are prepared for the Music endorsement will demonstrate the knowledge, skills, professional dispositions and cultural competencies necessary to promote the academic, career, personal and social development of students in music learning environments.

(2) The Commission may provide approval to an educator preparation program that prepares candidates for a Music endorsement only if it includes:

(a) Content that will enable candidates to gain the knowledge, skills, abilities, professional dispositions, and cultural competencies to meet the standards set forth in this rule and the TSPC Program Review and Standards Handbook;

(b) A requirement for students to complete the Commission-approved test for Music;

(c) A requirement for students to complete a teacher performance assessment in accordance with OAR 584-017-1100 Teacher Candidate Performance Assessments if the candidate is being recommended for Preliminary Teaching License; and

(d) Field experiences that include supervised teaching or internships in Music classrooms; and

(e) Integration of principles of cultural competency and equitable practice in each competency standard through the entire Music endorsement program.

(3) Standard 1: Technical Skills: Candidates must demonstrate proficiency in:

(a) At least one major performance area at a level appropriate for the particular music concentration;

(b) Understanding the repertory in their major performance area and the ability to perform from a cross-section of that repertory;

(c) The ability to read at sight with fluency demonstrating both general musicianship and, in the major performance area, a level of skill relevant to professional standards appropriate for the particular music concentration;

(d) Knowledge and skills sufficient to work as a leader and in collaboration on matters of musical interpretation. Rehearsal and conducting skills are required as appropriate to the particular music concentration;

(e) Keyboard competency; and

(f) Participating in ensemble experiences. Ensembles should be varied both in size and nature.

(4) Standard 2: Musicianship Skills and Analysis. Candidate must demonstrate proficiency in:

(a) Understanding the common elements and organizational patterns of music and their interaction, the ability to employ this understanding in aural, verbal, and visual analyses, and the ability to take aural dictation.

(b) Musical forms, processes, and structures to use this knowledge and skill in compositional, performance, analytical, scholarly, and pedagogical applications according to the requisites of their specializations.

(c) Placing music in historical, cultural, and stylistic contexts.

(5) Standard 3: Composition/Improvisation: Candidates must demonstrate proficiency in the ability to create original or derivative music.

(6) Standard 4: History and Repertory: Candidates must acquire basic knowledge of music history and repertories through the present time, including study and experience of musical language and achievement in addition to that of the primary culture encompassing the area of specialization

(7) Standard 5: Synthesis. Students must be able to work on musical problems by combining, as appropriate to the issue, their capabilities in performance; aural, verbal, and visual analysis; composition/improvisation; and history and repertory.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120-342.143, 342.153, 342.165 & 342.223-342.232
Hist.: ; TSPC 1-2016, f. & cert. ef. 2-10-16

584-420-0425
Physical Education: Program Standards

(1) Candidates who are prepared for the Physical Education Endorsement will demonstrate the knowledge, skills, professional dispositions and cultural competencies necessary to promote the academic, career, personal and social development of students in physical education learning environments.

(2) The Commission may provide approval to an educator preparation program or course of study that prepares candidates for a Physical Education Endorsement only if it includes:

(a) Content that will enable candidates to meet the competency standards set forth in this rule and the TSPC Program Review and Standards Handbook;

(b) Field experiences that include supervised teaching or internships in Physical Education classroom settings; and

(c) Integration of principles of cultural competency and equitable practice in each competency standard through the entire Physical Education Endorsement program.

(3) Standard 1: Candidates demonstrate an understanding of physical education content, disciplinary concepts, and tools of inquiry related to the development of a physically educated person.

(4) Standard 2: Candidates demonstrate an understanding of how individuals learn and develop, and can provide opportunities that support their physical, cognitive, social and emotional development.

(5) Standard 3: Candidates demonstrate the ability to use differentiated instruction for diverse learners by demonstrating an understanding of how individuals differ in their approaches to learning and create appropriate instruction opportunities adapted to individual differences.

(6) Standard 4: Candidates demonstrate the ability to understand individual and group motivation and behavior to create a learning environment that encourages positive social interaction, active engagement in learning and self-motivation.

(7) Standard 5: Candidates demonstrate the ability to use effective verbal, nonverbal and media communication techniques to foster inquiry, collaboration and engagement in physical activity settings

(8) Standard 6: Candidates demonstrate the ability to use a variety of developmentally appropriate instructional strategies to develop physically educated individuals.

(9) Standard 7: Candidates demonstrate the ability to use formal and informal assessment strategies to foster physical, cognitive, social and emotional development of learners in physical activity.

(10) Standard 8: Candidates demonstrate the ability to reflect and evaluate the effects of her or his actions on others.

(11) Standard 9: Candidates demonstrate the ability to use information technology to enhance learning and to enhance personal and professional productivity.

(12) Standard 10 Candidates demonstrate the ability to foster relationships with colleagues, parents and guardians and community agencies to support learners' growth and well-being.

Stat. Auth.: ORS 342
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Hist.: TSPC 13-2015(Temp), f. 11-13-15, cert. ef. 1-1-16 thru 6-28-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-420-0440
Reading Interventionist: Program Standards

(1) Candidates who are prepared for the Reading Interventionist endorsement will demonstrate the knowledge, skills, professional dispositions and cultural competencies necessary to promote the academic, career, personal and social development of students in a reading invention learning environment.

(2) The Commission may provide approval to an educator preparation program that prepares candidates for a Reading Interventionist endorsement only if it includes:

(a) Content that will enable candidates to gain the knowledge, skills, abilities, professional dispositions, and cultural competencies to meet the standards set forth in this rule and the TSPC Program Review and Standards Handbook;

(b) Content courses and pedagogy courses especially designed to ensure that the educator is able to provide high quality reading instruction that enables pupils to meet or exceed third-grade reading standards adopted by the State Board of Education to become proficient readers by the end of the third grade;

(c) Instruction on dyslexia that is consistent with the knowledge and practice standards of an international organization on dyslexia;

(d) A requirement for students to complete the Commission-approved test for Reading Interventionists;

(e) A requirement for students to complete the edTPA teacher performance assessment if candidate is being recommended for the Preliminary Teaching License.

(f) Field experiences that include supervised teaching or internships in reading intervention learning environments; and

(g) Integration of principles of cultural competency and equitable practice in each competency standard through the entire Reading Interventionist Endorsement program.

(3) Standard 1: Candidates demonstrate the knowledge and skills related to foundational reading knowledge and dispositions.

(4) Standard 2: Candidates demonstrate the knowledge and skills related to Instructional reading Strategies and Curriculum Materials,

(5) Standard 3: Candidates demonstrate the knowledge and skills related to reading assessment, diagnosis and evaluation.

(6) Standard 4: Candidates demonstrate the ability and understand the importance of creating a Literate Environment

(7) Standard 5: Candidates understand the importance on participation in professional development related to reading instructional skills.

(8) Standard 6: Candidates demonstrate the ability to provide leadership, guidance and supervision of paraprofessionals.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 – 342.430; 342.455-342.495 & 342.553
Hist.: TSPC 13-2015(Temp), f. 11-13-15, cert. ef. 1-1-16 thru 6-28-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-420-0460
Special Education: Program Standards

(1) Candidates who are prepared for the Special Education endorsements will demonstrate the knowledge, skills, professional dispositions and cultural competencies necessary to promote the academic, career, personal and social development of students in the Special Education population.

(2) The Commission may provide approval to an educator preparation program or course of study that prepares candidates for a Special Education endorsement only if it includes:

(a) Content that will enable candidates to gain the knowledge, skills, abilities, professional dispositions, and cultural competencies to meet the standards set forth in this rule and the TSPC Program Review and Standards Handbook;

(b) Instruction on dyslexia and that the instruction be consistent with the knowledge and practice standards of an international organization on dyslexia;

(c) A requirement for students to complete the Commission-approved subject-matter test for Special Education;

(d) Field experiences that include supervised teaching or internships in classroom environments with students who are "individuals with exceptionalities" across the full range of disabilities. Field and clinical experiences must be supervised by qualified professionals who are either licensed as special educators or eligible for licensure as special educators; and

(e) Integration of principles of cultural competency, cultural responsive pedagogy and equitable practices are imbedded in each competency standard through the entire Special Education endorsement program.

(3) The Commission-approved elementary multiple subjects examination is not required to obtain the license. However, passage of the Commission-adopted Elementary-- Multiple Subjects examination is required in order for special educators licensed to teach general education content in grades prekindergarten through 8 (elementary teachers) and to meet the federal definition of "highly qualified" teacher under the Elementary/Secondary Education Act (ESEA).

(4) Standard 1: Candidates demonstrate the ability to understand how exceptionalities may interact with development and learning and use this knowledge to provide meaningful and challenging learning experiences for individuals with exceptionalities.

(5) Standard 2: Candidates demonstrate the ability to create safe, inclusive, culturally responsive learning environments so that individuals with exceptionalities become active and effective learners and develop emotional well-being, positive social interactions, and self-determination

(6) Standard 3: Candidates demonstrate the ability to use knowledge of general and specialized curricula to individualize learning for individuals with exceptionalities

(7) Standard 4: Candidates demonstrate the ability to use multiple methods of assessment and data-sources in making educational decisions.

(8) Standard 5: Candidates demonstrate the ability to select, adapt, and use a repertoire of evidence-based instructional strategies to advance learning of individuals with exceptionalities.

(9) Standard 6: Candidates demonstrate the ability to use foundational knowledge of the field and the their professional Ethical Principles and Practice Standards to inform special education practice, to engage in lifelong learning, and to advance the profession.

(10) Standard 7: Candidates demonstrate the ability to collaborate with families, other educators, related service providers, individuals with exceptionalities, and personnel from community agencies in culturally responsive ways to address the needs of individuals with exceptionalities across a range of learning experiences.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 – 342.430; 342.455-342.495 & 342.553
Hist.: TSPC 13-2015(Temp), f. 11-13-15, cert. ef. 1-1-16 thru 6-28-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-420-0475
Special Education: Deaf and Hard of Hearing: Program Standards

(1) Candidates who are prepared for the Special Education: Deaf and Hard-of-Hearing endorsement will demonstrate the knowledge, skills, professional dispositions and cultural competencies necessary to promote the academic, career, personal and social development of students in the deaf and Hard-of-Hearing population.

(2) The Commission may provide approval to an educator preparation program or course of study that prepares candidates for a Special Education: Deaf and Hard-of-Hearing endorsement only if it includes:

(a) Content that will enable candidates to meet the standards set forth in this rule and the TSPC Program Review and Standards Handbook;

(b) Field experiences that include supervised teaching or internships in classrooms with deaf and hard-of-hearing learners; and

(c) Integration of principles of cultural competency and equitable practice in each competency standard through the entire Special Education: Deaf and Hard-of-Hearing Endorsement program.

(d) A requirement for students to complete the Commission-approved test for Deaf and Hard of Hearing;

(3) Standard 1: American Sign Language Competency: Candidates can demonstrate proficiency in American Sign Language to meet the rating of 3.0 or above on the American Sign Language Proficiency Interview (ASLPI), or the rating of Advanced on the Sign Language Proficiency Interview (SLPI).

(4) Standard 2: Candidates demonstrate knowledge and skills related to philosophical, historical, and legal foundations of special education for individuals who are deaf or hard-of-hearing and be able to incorporate this knowledge within the context of the educational system.

(5) Standard 3: Candidates demonstrate knowledge and skills related to models of practice, and growth and improvement indicators for students who are deaf or hard-of-hearing.

(6) Standard 4: Candidates demonstrate knowledge and skills related to the impact that disabilities have on the cognitive, physical, emotional, social, and communication development of an individual and to create opportunities that support the communication, intellectual, social, and personal development of all students.

(7) Standard 5: Candidates demonstrate knowledge and skills related to the educational assessment process and to utilize various assessment strategies to support the continuous development of all students.

(8) Standard 6: Candidates demonstrate knowledge and skills related to how students differ in their approaches to learning and to create instructional opportunities that are adapted to diverse learners.

(9) Standard 7: Candidates demonstrate knowledge and skills related to proficiency in the languages used for instructing students who are deaf or hard-of-hearing ;

(10) Standard 8: Candidates demonstrate knowledge and skills related to individual and group motivation and behavior to create a learning environment that encourages positive social interaction, active engagement in learning, and self-motivation.

(11) Standard 9: Candidates demonstrate the ability to interact in a variety of communication situations.

(12) Standard 10: Candidates demonstrate the ability to use effective written, verbal, nonverbal, and visual communication techniques to foster active inquiry, collaboration, and supportive interaction among professionals, parents, paraprofessionals, and students.

(13) Standard 11: Candidates demonstrate knowledge related to the teaching profession, standards of professional conduct, and to providing leadership to improve student learning and well-being.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 – 342.430; 342.455-342.495 & 342.553
Hist.: TSPC 13-2015(Temp), f. 11-13-15, cert. ef. 1-1-16 thru 6-28-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-420-0490
World Language: Program Standards

(1) Candidates who are prepared for the World Language endorsement will demonstrate the knowledge, skills, professional dispositions and cultural competencies necessary to promote the academic, career, personal and social development of students in World Language learning environments.

(2) The Commission may provide approval to an educator preparation program that prepares candidates for a World Language endorsement only if it includes:

(a) Content that will enable candidates to meet the standards set forth in this rule and the TSPC Program Review and Standards Handbook;

(b) A requirement for students to complete the Commission-approved subject-matter test for World Languages;

(c) A requirement for students to complete a teacher performance assessment in accordance with OAR 584-017-1100 Teacher Candidate Performance Assessments if the candidate is being recommended for Preliminary Teaching License; and

(d) Field experiences that include supervised teaching or internships in World Language classroom through one of the followings;

(A) Field experiences prior to student teaching that include experiences in world language classrooms;

(B) Field experiences, including student teaching, that are supervised by a qualified world language educator who is knowledgeable about current

instructional approaches and issues in the field of world language education; and

(C) Opportunities for candidates to participate in a structured study abroad program or intensive immersion experience in a target language community.

(e) Integration of principles of cultural competency and equitable practice in each competency standard through the entire World Language endorsement program.

(3) Standard 1: Candidates must demonstrate knowledge and skills related to technology-enhanced instruction and the use of technology in their own teaching.

(4) Standard 2: Candidates must demonstrate knowledge and skills related to language, linguistics and comparison.

(5) Standard 3: Candidates must demonstrate knowledge and skills related to cultures, literatures, and cross-disciplinary concepts.

(6) Standard 4: Candidates must demonstrate knowledge and skills related to language acquisition theories and instructional practices.

(7) Standard 5: Candidates must demonstrate knowledge and skills related to integration of standards into curriculum and instruction.

(8) Standard 6: Candidates must demonstrate knowledge and skills related to assessment of languages and cultures.

(9) Standard 7: Candidates must demonstrate knowledge and skills related to professionalism, cultural competency, and community advocacy.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 – 342.430; 342.455-342.495 & 342.553
Hist.: TSPC 13-2015(Temp), f. 11-13-15, cert. ef. 1-1-16 thru 6-28-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-420-0600
American Sign Language Specialization: Program Standards

(1) Candidates who are prepared for the American Sign Language specialization will demonstrate the knowledge, skills, professional dispositions and cultural competencies necessary to promote the academic, career, personal and social development of students in American Sign Language learning environments.

(2) The Commission may provide approval to an educator preparation program or course of study that prepares candidates for a World Language: American Sign Language specialization only if it includes:

(a) Content that will enable candidates to meet the competency standards set forth in this rule and the TSPC Program Review and Standards Handbook;

(b) Field experiences that include supervised teaching or internships in classrooms with American Sign Language learners; and

(c) Integration of principles of cultural competency and equitable practice in each competency standard through the entire American Sign Language Specialization program.

(3) Standard 1: Candidates demonstrate knowledge and skills related to first and second language acquisition;

(4) Standard 2: Candidates demonstrate knowledge and skills related to linguistics of American Sign Language;

(5) Standard 3: Candidates demonstrate knowledge and skills related to aspects of the deaf culture and community;

(6) Standard 4: Candidates demonstrate knowledge and skills related to methods of teaching American Sign Language;

(7) Standard 5: Candidates demonstrate knowledge and skills related to American Sign Language Literature.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 – 342.430; 342.455-342.495 & 342.553
Hist.: TSPC 13-2015(Temp), f. 11-13-15, cert. ef. 1-1-16 thru 6-28-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-420-0610
Adaptive Physical Education Specialization: Program Standards

(1) Candidates who are prepared for the Adaptive Physical Education specialization will demonstrate the knowledge, skills, professional dispositions and cultural competencies necessary to promote the academic, career, personal and social development of students in adaptive physical education learning environments.

(2) The Commission may provide approval to an Adaptive Physical Education Specialization program only if it includes:

(a) Content that will enable candidates to meet the competency standards set forth in this rule and the TSPC Program Review and Standards Handbook;

(b) Field experiences that include supervised teaching or internships in classrooms with adaptive physical education learners; and

(c) Integration of principles of cultural competency and equitable practice in each competency standard through the entire Adaptive Physical Education specialization program.

(3) Standard 1: Candidates demonstrate knowledge and skills related to specific teaching methodology for students with disabilities;

(4) Standard 2: Candidates demonstrate knowledge and skills related to assessment and evaluation of students with disabilities in physical education;

(5) Standard 3: Candidates demonstrate knowledge and skills related to adapting instruction, behavior management techniques in physical education for students with disabilities;

(6) Standard 4: Candidates demonstrate knowledge and skills related to utilizing community resources to improve program effectiveness.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 – 342.430; 342.455-342.495 & 342.553
Hist.: TSPC 13-2015(Temp), f. 11-13-15, cert. ef. 1-1-16 thru 6-28-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-420-0620
Early Childhood Education Specialization: Program Standards

(1) Candidates who are prepared for the Early Childhood Education specialization will demonstrate the knowledge, skills, professional dispositions and cultural competencies necessary to promote the academic, career, personal and social development of students in early childhood education learning environments.

(2) The Commission may provide approval to an Early Childhood Education Specialization program only if it includes:

(a) Content that will enable candidates to meet the competency standards set forth in this rule and the TSPC Program Review and Standards Handbook;

(b) Field experiences that include supervised teaching or internships in classrooms with Early Childhood Education learners; and

(c) Integration of principles of cultural competency and equitable practice in each competency standard through the entire Early Childhood Education Specialization program.

(3) Standard 1: Candidates demonstrate knowledge and skills related to human development with special emphasis on cognitive, physical, language, social, emotional, and aesthetic development from birth through age eight;

(4) Standard 2: Candidates demonstrate knowledge and skills related to foundations of early childhood education, to include familial, social, and cultural contexts and diversity;

(5) Standard 3: Candidates demonstrate knowledge and skills related to curriculum for young children, to include developmentally appropriate objectives, teaching materials, and learning experiences for integrating instruction in language, mathematics, science, social studies, health, safety, nutrition, art, music, drama, and movement;

(6) Standard 4: Candidates demonstrate knowledge and skills related to instruction on dyslexia that is consistent with the knowledge and practice standards of an international organization on dyslexia;

(7) Standard 5: Candidates demonstrate knowledge and skills related to classroom management to meet the individual needs of young children, to include children with disabilities and special abilities;

(8) Standard 6: Candidates demonstrate knowledge and skills related to observation and evaluation of children's behavior and achievement and use of these data in planning instruction, guiding children, and collaborating with parents and resource persons;

(9) Standard 7: Candidates demonstrate knowledge and skills related to instruction on communicating and conferencing with parents, regular and special educators, and other professional resources to achieve educational objectives with each child; and

(10) Standard 8: Candidates demonstrate knowledge and skills related to supervised practicum integrated with instruction in all of the above, to include experiences in prekindergarten and kindergarten programs.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 – 342.430; 342.455-342.495 & 342.553
Hist.: TSPC 13-2015(Temp), f. 11-13-15, cert. ef. 1-1-16 thru 6-28-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-420-0630
Dual Language Specialization: Program Standards

(1) Candidates who are prepared for the Dual Language specialization will demonstrate the knowledge, skills, professional dispositions and cultural competencies necessary to promote the academic, career, personal and social development of students in dual language learning environments.

(a) Content that will enable candidates to meet the competency standards set forth in this rule and the TSPC Program Review and Standards Handbook;

(b) Field experiences that include supervised teaching or internships in classrooms with dual language learners; and

(c) Integration of principles of cultural competency and equitable practice in each competency standard through the entire Dual Language Specialization program.

(2) Standard 1: Language: The dual language teacher knows, understands, and applies theories of first and second language acquisition to their practice and communicates in two languages at a highly proficiency level.

(3) Standard 2: Culture: The dual language teacher knows, understands, and uses major concepts, principles, theories, and research related to the role of culture, cultural groups, and identity to construct a supportive learning environment for all dual language students. The dual language teacher:

(4) Standard 3: Planning, Implementing, and Managing Instruction: The dual language teacher knows, understands, and uses evidence-based practices and strategies related to planning, implementing, and managing instruction in dual language classrooms.

(5) Standard 4 Assessment: The dual language teacher should understand the complexity of assessment to inform instruction for students' learning in multiple languages. Dual language teachers know how to assess language skills, literacy and content in both languages of instruction.

(6) Standard 5: Professionalism: The dual language teacher knows and understands current and emerging trends in educational research. The dual language teacher acts as a resource and advocate for multilingualism and collaborates with students, their families, the school community and educational professionals in order to meet the needs of multilingual students. The dual language teacher:

(7) Standard 6: Community and Family Engagement: The dual language teacher knows, understands and uses principles, theories, research and applications related to the role of family and community engagement to construct a supportive and inclusive learning environment for all students.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 – 342.430; 342.455-342.495 & 342.553
Hist.: TSPC 13-2015(Temp), f. 11-13-15, cert. ef. 1-1-16 thru 6-28-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-420-0640
Autism Spectrum Disorder Specialization: Program Standards

(1) Candidates who are prepared for the Autism Spectrum Disorder specialization will demonstrate the knowledge, skills, professional dispositions and cultural competencies necessary to promote the academic, career, personal and social development of students with autism spectrum disorders.

(a) Content that will enable candidates to gain the knowledge, skills, abilities, professional dispositions, and cultural competencies to meet the competency standards set forth in this rule and the TSPC Program Review and Standards Handbook;

(b) Field experiences that include supervised teaching or internships in classrooms with children with Autism Spectrum Disorders; and

(c) Integration of principles of cultural competency and equitable practice in each competency standard through the entire Autism Spectrum Disorder Specialization program.

(2) Standard 1: Candidates indicate knowledge of autism spectrum disorders including development and characteristics of learners.

(3) Standard 2: Candidates demonstrate knowledge of Assessments for Development and Educational Impact on Autism Spectrum Disorder service needs.

(4) Standard 3: Candidates demonstrate knowledge of system-wide considerations.

(5) Standard 4: Candidates demonstrate knowledge of evidence-based interventions to promote focused, engaged time for learners with Autism Spectrum Disorder.

(6) Standard 5: Candidates demonstrate knowledge and skills related to training and coaching of adults serving individuals with Autism Spectrum Disorder.

(7) Standard 6: Candidates demonstrate knowledge and skills related to professional practices for Autism Spectrum Disorder Specialists.

(8) Standard 7: Candidates demonstrate knowledge and skills related to effective collaboration with families and communities.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 – 342.430; 342.455-342.495 & 342.553
Hist.: TSPC 13-2015(Temp), f. 11-13-15, cert. ef. 1-1-16 thru 6-28-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-420-0650
Elementary Mathematics Instructional Leader Specialization: Program Standards

(1) Candidates who are prepared for the Elementary Mathematics Instruction Leader will demonstrate the knowledge, skills, professional dispositions and cultural competencies necessary to promote the academic, career, personal and social development of students in mathematics education learning environments.

(2) The Commission may provide approval to a Elementary Mathematics Instructional Leadership Specialization program only if it includes:

(a) Twenty-four quarter or sixteen semester hours of a TSPC-approved Elementary Mathematics Instructional Leader program that includes content that will enable candidates to meet the competency standards set forth in this rule and the TSPC Program Review and Standards Handbook.

(b) An EMIL practicum working with a range of students and teachers; and

(c) Integration of principles of cultural competency and equitable practice in each competency standard through the entire Elementary Mathematics Instructions Leader Specialization program.

(3) Standard 1: Content Knowledge: EMIL professionals must know and understand deeply the mathematics of elementary school as well as how mathematics concepts and skills develop through middle school. This knowledge includes specialized knowledge that teachers need in order to understand and support student learning of elementary mathematics.

(4) Standard 2: Pedagogical Knowledge for Teaching Mathematic: EMIL professionals are expected to have a foundation in pedagogical content knowledge. This section is informed by and draws upon the 2003 NCATE/NCTM Program Standards: Standards for Elementary Mathematics Specialists.

(5) Standard 3: Leadership Knowledge and Skills: EMIL professionals need to be prepared to take on collegial non-evaluative leadership roles within their schools and districts. They must have a broad view of many aspects and resources needed to support and facilitate effective instruction and professional growth.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 – 342.430; 342.455-342.495 & 342.553
Hist.: TSPC 13-2015(Temp), f. 11-13-15, cert. ef. 1-1-16 thru 6-28-16; TSPC 1-2016, f. & cert. ef. 2-10-16

584-420-0660
Talented and Gifted Specialization: Program Standards

(1) Candidates who are prepared for the Talented and Gifted Specialization will demonstrate the knowledge, skills, professional dispositions and cultural competencies necessary to promote the academic, career, personal and social development of talented and gifted students.

(2) The Commission may provide approval to a Talented and Gifted Specialization program only if it includes:

(a) Content that will enable candidates to meet the competency standards set forth in this rule and the TSPC Program Review and Standards Handbook;

(b) Field experiences that include supervised teaching or internships in classrooms with talented and gifted learners; and

(c) Integration of principles of cultural competency and equitable practice in each competency standard through the entire Talented and Gifted Specialization program.

(3) Standard 1: Learner Development and Individual Learning Differences: Talented and Gifted Specialists understand the variations in learning and development in cognitive and affective areas between and among Talented and Gifted Learners and apply this understanding to provide meaningful and challenging learning experiences for children identified as Talented and Gifted.

(4) Standard 2: Learning Environments: Talented and Gifted Specialists create safe, inclusive, and culturally responsive learning environments so that talented and gifted learners become effective learners and develop social and emotional well-being.

(5) Standard 3: Curricular Content Knowledge: Talented and Gifted Specialists use knowledge of general and specialized curricula to advance learning for talented and gifted learners.

(6) Standard 4: Cultural Competency and Equity in the Classroom: Talented and Gifted Specialists demonstrate the cultural competency and proficiencies necessary to provide equitable outcomes for all students.

(7) Standard 5: Assessment: Talented and Gifted Specialists use multiple methods of assessment and data sources in making educational deci-

sions about identification of talented and gifted Learners and student learning.

(8) Standard 6: Instructional Planning and Strategies: Talented and Gifted Specialists select, adapt, and use a repertoire of evidence-based instructional strategies to advance the learning of talented and gifted learners.

(9) Standard 7: Professional Learning and Ethical Practices: Talented and Gifted Specialists use foundational knowledge of the field and professional ethical principles and programming standards to inform gifted education practice, to engage in lifelong learning, and to advance the profession.

(10) Standard 8: Collaboration: Talented and Gifted Specialists collaborate with families, other educators, related service providers, talented and gifted learners, and personnel from community agencies in culturally responsive ways to address the needs of talented and gifted Learners across a range of learning experiences.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 – 342.430; 342.455-342.495 & 342.553
Hist.: TSPC 13-2015(Temp), f. 11-13-15, cert. ef. 1-1-16 thru 6-28-16; TSPC 1-2016, f. & cert. ef. 2-10-16

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125-247-0185	1-1-2016	Adopt	2-1-2016
125-247-0260	1-1-2016	Amend	2-1-2016
125-247-0270	1-1-2016	Amend	2-1-2016
125-247-0500	1-1-2016	Amend	2-1-2016
125-247-0640	1-1-2016	Amend	2-1-2016
125-248-0100	1-1-2016	Amend	2-1-2016
125-248-0220	1-1-2016	Amend	2-1-2016
125-249-0100	1-1-2016	Amend	2-1-2016
125-249-0120	1-1-2016	Amend	2-1-2016
125-249-0370	1-1-2016	Amend	2-1-2016
125-249-0390	1-1-2016	Amend	2-1-2016
125-249-0440	1-1-2016	Amend	2-1-2016
137-003-0640	2-1-2016	Amend	3-1-2016
137-020-0020	1-1-2016	Amend	2-1-2016

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137-046-0140	1-1-2016	Adopt	2-1-2016
137-046-0200	1-1-2016	Amend	2-1-2016
137-046-0210	1-1-2016	Amend	2-1-2016
137-047-0260	1-1-2016	Amend	2-1-2016
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137-049-0370	1-1-2016	Amend	2-1-2016
137-049-0390	1-1-2016	Amend	2-1-2016
137-049-0440	1-1-2016	Amend	2-1-2016
137-050-0735	1-29-2016	Amend(T)	3-1-2016
137-050-0745	1-1-2016	Amend	2-1-2016
137-055-1140	2-1-2016	Amend	3-1-2016
137-055-1160	2-1-2016	Amend	3-1-2016
137-055-3240	1-1-2016	Amend	2-1-2016
137-055-3300	2-1-2016	Amend	3-1-2016
137-055-3490	1-1-2016	Amend	2-1-2016
137-055-3660	1-1-2016	Amend	2-1-2016
137-055-5035	1-1-2016	Amend	2-1-2016
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137-055-6240	1-1-2016	Amend	2-1-2016
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137-085-0090	2-3-2016	Adopt	3-1-2016
141-089-0820	1-2-2016	Amend(T)	2-1-2016
141-089-0825	1-2-2016	Amend(T)	2-1-2016
141-089-0835	1-2-2016	Amend(T)	2-1-2016
141-093-0185	2-8-2016	Amend	3-1-2016
141-093-0190	2-8-2016	Amend	3-1-2016
141-125-0170	12-29-2015	Amend	2-1-2016
150-118.140	1-1-2016	Amend	2-1-2016
150-118.NOTE	1-1-2016	Repeal	2-1-2016
150-183.330(1)	1-1-2016	Am. & Ren.	2-1-2016
150-192.440	1-1-2016	Amend	2-1-2016
150-285C.420-(A)	1-1-2016	Adopt	2-1-2016
150-294.175(1)(c)	1-1-2016	Am. & Ren.	2-1-2016
150-294.175(2)	1-1-2016	Am. & Ren.	2-1-2016
150-305.100(C)	1-1-2016	Repeal	2-1-2016
150-305.120	1-1-2016	Adopt	2-1-2016
150-305.145(5)	1-1-2016	Renumber	2-1-2016
150-305.155-(A)	1-1-2016	Adopt	2-1-2016
150-305.612	1-1-2016	Amend	2-1-2016
150-305.792	12-7-2015	Adopt(T)	1-1-2016
150-306.125	1-1-2016	Repeal	2-1-2016
150-306.126(1)	1-1-2016	Am. & Ren.	2-1-2016
150-306.126(2)	1-1-2016	Am. & Ren.	2-1-2016
150-306.126(3)-(A)	1-1-2016	Am. & Ren.	2-1-2016
150-307.242(2)	1-1-2016	Am. & Ren.	2-1-2016
150-307.405(3)	1-1-2016	Repeal	2-1-2016
150-308.010	1-1-2016	Amend	2-1-2016
150-308.205-(A)	1-1-2016	Amend	2-1-2016
150-308.205-(D)	1-1-2016	Amend	2-1-2016
150-308.205(2)	1-1-2016	Am. & Ren.	2-1-2016
150-308.290-(A)	1-1-2016	Repeal	2-1-2016
150-308.290-(B)	1-1-2016	Amend	2-1-2016
150-309.026(2)-(A)	1-1-2016	Am. & Ren.	2-1-2016
150-309.110-(A)	1-1-2016	Amend	2-1-2016
150-310.110(1)	1-1-2016	Repeal	2-1-2016
150-311.234	1-1-2016	Amend	2-1-2016
150-314.280-(O)	1-1-2016	Adopt	2-1-2016
150-314.280-(O)	1-26-2016	Amend(T)	3-1-2016
150-314.297(6)	1-1-2016	Am. & Ren.	2-1-2016
150-314.380(2)(B)	1-1-2016	Am. & Ren.	2-1-2016
150-314.400(1)	1-1-2016	Am. & Ren.	2-1-2016
150-314.402	1-1-2016	Repeal	2-1-2016
150-314.402(1)	1-1-2016	Am. & Ren.	2-1-2016
150-314.402(6)	1-1-2016	Am. & Ren.	2-1-2016
150-314.415(2)(f)-(B)	1-1-2016	Amend	2-1-2016
150-314.515(2)	1-1-2016	Am. & Ren.	2-1-2016
150-314.665(1)-(A)	1-1-2016	Amend	2-1-2016
150-314.665(2)-(C)	1-1-2016	Repeal	2-1-2016
150-315.144	1-1-2016	Amend	2-1-2016
150-315.521	1-1-2016	Repeal	2-1-2016
150-316.583(2)	1-1-2016	Am. & Ren.	2-1-2016
150-317.152	1-1-2016	Adopt	2-1-2016
150-317.717	1-1-2016	Adopt	2-1-2016
150-321.207(1)	1-1-2016	Am. & Ren.	2-1-2016
150-358.505	1-1-2016	Amend	2-1-2016
150-401.794	1-1-2016	Renumber	2-1-2016
150-475B.710-(A)	1-4-2016	Adopt(T)	1-1-2016
150-475B.710-(B)	1-4-2016	Adopt(T)	1-1-2016
150-475B.710-(C)	1-4-2016	Adopt(T)	1-1-2016
165-001-0016	1-1-2016	Amend	2-1-2016
165-001-0025	1-1-2016	Amend	2-1-2016
165-001-0034	1-1-2016	Amend	2-1-2016
165-001-0050	1-1-2016	Amend	2-1-2016
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165-005-0055	1-1-2016	Amend	2-1-2016
165-005-0065	1-1-2016	Amend	2-1-2016
165-005-0070	1-1-2016	Amend	2-1-2016
165-005-0170	1-1-2016	Adopt	2-1-2016
165-007-0030	12-11-2015	Amend	1-1-2016
165-007-0035	1-1-2016	Amend	2-1-2016
165-010-0005	1-1-2016	Amend	2-1-2016
165-012-0005	1-1-2016	Amend	2-1-2016
165-012-0240	1-1-2016	Amend	2-1-2016
165-013-0010	1-1-2016	Amend	2-1-2016

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165-014-0100	1-1-2016	Amend	2-1-2016
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170-063-0000	2-12-2016	Amend(T)	3-1-2016
177-010-0094	1-1-2016	Adopt	2-1-2016
250-030-0010	2-1-2016	Repeal	2-1-2016
250-030-0020	2-1-2016	Repeal	2-1-2016
250-030-0030	2-1-2016	Repeal	2-1-2016
250-030-0041	2-1-2016	Repeal	2-1-2016
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259-008-0025	1-1-2016	Amend	2-1-2016
259-008-0040	1-1-2016	Amend	2-1-2016
259-008-0060	1-1-2016	Amend	2-1-2016
259-008-0100	1-1-2016	Amend	2-1-2016
259-009-0059	1-1-2016	Amend	2-1-2016
259-009-0062	12-22-2015	Amend	2-1-2016
259-009-0070	1-1-2016	Amend	2-1-2016
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259-061-0120	12-22-2015	Amend	2-1-2016
274-005-0040	12-28-2015	Amend	2-1-2016
274-005-0046	12-28-2015	Adopt	2-1-2016
291-205-0020	1-21-2016	Amend	3-1-2016
291-205-0030	1-21-2016	Amend	3-1-2016
291-205-0050	1-21-2016	Amend	3-1-2016
291-209-0010	1-1-2016	Amend(T)	2-1-2016
291-209-0020	1-1-2016	Amend(T)	2-1-2016
291-209-0030	1-1-2016	Amend(T)	2-1-2016
291-209-0040	1-1-2016	Amend(T)	2-1-2016
291-209-0050	1-1-2016	Suspend	2-1-2016
291-209-0060	1-1-2016	Suspend	2-1-2016
291-209-0070	1-1-2016	Amend(T)	2-1-2016
309-012-0130	11-25-2015	Amend(T)	1-1-2016
309-012-0210	11-25-2015	Amend(T)	1-1-2016
309-012-0220	11-25-2015	Amend(T)	1-1-2016
309-114-0005	11-24-2015	Amend(T)	1-1-2016
325-005-0015	1-29-2016	Amend	3-1-2016
325-010-0025	1-29-2016	Amend	3-1-2016
330-135-0055	1-1-2016	Amend	2-1-2016
330-140-0020	12-23-2015	Amend	2-1-2016
330-140-0060	12-23-2015	Amend	2-1-2016
330-140-0070	12-23-2015	Amend	2-1-2016
330-140-0140	12-23-2015	Amend	2-1-2016
331-710-0050	1-1-2016	Amend	2-1-2016
333-007-0010	2-8-2016	Amend(T)	3-1-2016
333-007-0200	2-8-2016	Amend(T)	3-1-2016
333-008-0499	1-1-2016	Adopt(T)	2-1-2016
333-008-0500	1-1-2016	Adopt(T)	2-1-2016
333-008-0510	1-1-2016	Adopt(T)	2-1-2016
333-008-0520	1-1-2016	Adopt(T)	2-1-2016
333-008-0530	1-1-2016	Adopt(T)	2-1-2016
333-008-9000	1-1-2016	Adopt(T)	2-1-2016
333-012-0500	1-1-2016	Am. & Ren.	2-1-2016
333-015-0030	1-1-2016	Amend	2-1-2016
333-015-0035	1-1-2016	Amend	2-1-2016
333-015-0040	1-1-2016	Amend	2-1-2016
333-015-0045	1-1-2016	Amend	2-1-2016
333-015-0064	1-1-2016	Amend	2-1-2016
333-015-0068	1-1-2016	Amend	2-1-2016
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333-015-0078	1-1-2016	Amend	2-1-2016
333-015-0085	1-1-2016	Amend	2-1-2016
333-015-0200	1-1-2016	Adopt(T)	2-1-2016
333-015-0205	1-1-2016	Adopt(T)	2-1-2016
333-015-0210	1-1-2016	Adopt(T)	2-1-2016
333-015-0215	1-1-2016	Adopt(T)	2-1-2016
333-015-0220	1-1-2016	Adopt(T)	2-1-2016
333-016-2000	1-1-2016	Adopt	2-1-2016
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333-016-2020	1-1-2016	Adopt	2-1-2016
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333-050-0095(T)	1-20-2016	Repeal	3-1-2016
333-050-0100	1-20-2016	Amend	3-1-2016
333-050-0100(T)	1-20-2016	Repeal	3-1-2016
333-050-0110	1-20-2016	Amend	3-1-2016

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333-052-0043	1-1-2016	Amend	1-1-2016
333-052-0080	1-1-2016	Amend	1-1-2016
333-052-0120	1-1-2016	Amend	1-1-2016
333-053-0040	1-1-2016	Amend	1-1-2016
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333-053-0080	1-1-2016	Amend	1-1-2016
333-054-0010	1-1-2016	Amend	1-1-2016
333-054-0020	1-1-2016	Amend	1-1-2016
333-054-0050	1-1-2016	Amend	1-1-2016
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333-055-0000	2-8-2016	Amend	3-1-2016
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333-055-0015	2-8-2016	Amend	3-1-2016
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333-055-0035	2-8-2016	Amend	3-1-2016
333-061-0020	4-1-2016	Amend	3-1-2016
333-061-0030	4-1-2016	Amend	3-1-2016
333-061-0031	4-1-2016	Amend	3-1-2016
333-061-0032	4-1-2016	Amend	3-1-2016
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333-061-0040	4-1-2016	Amend	3-1-2016
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333-061-0043	4-1-2016	Amend	3-1-2016
333-061-0045	4-1-2016	Amend	3-1-2016
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333-061-0060	1-1-2016	Amend	1-1-2016
333-061-0060	4-1-2016	Amend	3-1-2016
333-061-0063	4-1-2016	Amend	3-1-2016
333-061-0065	4-1-2016	Amend	3-1-2016
333-061-0070	4-1-2016	Amend	3-1-2016
333-061-0071	4-1-2016	Amend	3-1-2016
333-061-0072	1-1-2016	Amend	1-1-2016
333-061-0073	1-1-2016	Amend	1-1-2016
333-061-0075	4-1-2016	Amend	3-1-2016
333-061-0076	1-1-2016	Amend	1-1-2016
333-061-0076	4-1-2016	Amend	3-1-2016
333-061-0077	4-1-2016	Amend	3-1-2016
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333-061-0090	4-1-2016	Amend	3-1-2016
333-061-0097	4-1-2016	Amend	3-1-2016
333-061-0235	4-1-2016	Amend	3-1-2016
333-061-0265	1-1-2016	Amend	1-1-2016
333-064-0005	1-1-2016	Amend(T)	2-1-2016
333-064-0010	1-1-2016	Amend(T)	2-1-2016
333-064-0025	1-1-2016	Amend(T)	2-1-2016
333-064-0060	1-1-2016	Amend(T)	2-1-2016
333-103-0025	1-1-2016	Amend	2-1-2016
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333-200-0030	1-1-2016	Amend	1-1-2016
333-200-0035	1-1-2016	Amend	1-1-2016
333-200-0040	1-1-2016	Amend	1-1-2016
333-200-0050	1-1-2016	Amend	1-1-2016
333-200-0060	1-1-2016	Amend	1-1-2016
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333-200-0080	1-1-2016	Amend	1-1-2016
333-200-0090	1-1-2016	Amend	1-1-2016
333-200-0235	1-1-2016	Adopt	1-1-2016
333-200-0245	1-1-2016	Adopt	1-1-2016
333-200-0250	1-1-2016	Adopt	1-1-2016
333-200-0255	1-1-2016	Adopt	1-1-2016
333-200-0265	1-1-2016	Adopt	1-1-2016
333-200-0275	1-1-2016	Adopt	1-1-2016
333-200-0285	1-1-2016	Adopt	1-1-2016
333-200-0295	1-1-2016	Adopt	1-1-2016
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340-083-0500	2-4-2016	Adopt	3-1-2016
340-083-0510	2-4-2016	Adopt	3-1-2016
340-083-0520	2-4-2016	Adopt	3-1-2016
340-083-0530	2-4-2016	Adopt	3-1-2016
340-097-0001	2-4-2016	Amend	3-1-2016
340-097-0110	2-4-2016	Amend	3-1-2016
340-097-0120	2-4-2016	Amend	3-1-2016
340-200-0040	12-10-2015	Amend	1-1-2016
340-215-0010	12-10-2015	Amend	1-1-2016
340-215-0020	12-10-2015	Amend	1-1-2016

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340-215-0030	12-10-2015	Amend	1-1-2016
340-215-0040	12-10-2015	Amend	1-1-2016
340-215-0060	12-10-2015	Amend	1-1-2016
340-248-0250	1-1-2016	Amend(T)	1-1-2016
340-248-0270	1-1-2016	Amend(T)	1-1-2016
340-253-0000	1-1-2016	Amend	1-1-2016
340-253-0040	1-1-2016	Amend	1-1-2016
340-253-0060	1-1-2016	Amend	1-1-2016
340-253-0100	1-1-2016	Amend	1-1-2016
340-253-0200	1-1-2016	Amend	1-1-2016
340-253-0250	1-1-2016	Amend	1-1-2016
340-253-0310	1-1-2016	Amend	1-1-2016
340-253-0320	1-1-2016	Amend	1-1-2016
340-253-0330	1-1-2016	Amend	1-1-2016
340-253-0340	1-1-2016	Amend	1-1-2016
340-253-0400	1-1-2016	Amend	1-1-2016
340-253-0450	1-1-2016	Amend	1-1-2016
340-253-0500	1-1-2016	Amend	1-1-2016
340-253-0600	1-1-2016	Amend	1-1-2016
340-253-0620	1-1-2016	Amend	1-1-2016
340-253-0630	1-1-2016	Amend	1-1-2016
340-253-0650	1-1-2016	Amend	1-1-2016
340-253-1000	1-1-2016	Amend	1-1-2016
340-253-1010	1-1-2016	Amend	1-1-2016
340-253-1020	1-1-2016	Amend	1-1-2016
340-253-1030	1-1-2016	Amend	1-1-2016
340-253-1050	1-1-2016	Amend	1-1-2016
340-253-2000	1-1-2016	Amend	1-1-2016
340-253-2100	1-1-2016	Amend	1-1-2016
340-253-2200	1-1-2016	Amend	1-1-2016
340-253-8010	1-1-2016	Amend	1-1-2016
340-253-8020	1-1-2016	Amend	1-1-2016
340-253-8030	1-1-2016	Amend	1-1-2016
340-253-8040	1-1-2016	Amend	1-1-2016
340-253-8050	1-1-2016	Amend	1-1-2016
340-253-8060	1-1-2016	Amend	1-1-2016
340-253-8070	1-1-2016	Amend	1-1-2016
340-253-8080	1-1-2016	Amend	1-1-2016
407-007-0000	1-14-2016	Amend(T)	2-1-2016
407-007-0010	1-14-2016	Amend(T)	2-1-2016
407-007-0020	1-14-2016	Amend(T)	2-1-2016
407-007-0030	1-14-2016	Amend(T)	2-1-2016
407-007-0050	1-14-2016	Amend(T)	2-1-2016
407-007-0060	1-14-2016	Amend(T)	2-1-2016
407-007-0065	1-14-2016	Amend(T)	2-1-2016
407-007-0070	1-14-2016	Amend(T)	2-1-2016
407-007-0075	1-14-2016	Suspend	2-1-2016
407-007-0080	1-14-2016	Amend(T)	2-1-2016
407-007-0090	1-14-2016	Amend(T)	2-1-2016
407-007-0200	1-14-2016	Amend(T)	2-1-2016
407-007-0210	1-14-2016	Amend(T)	2-1-2016
407-007-0220	1-14-2016	Amend(T)	2-1-2016
407-007-0230	1-14-2016	Amend(T)	2-1-2016
407-007-0240	1-14-2016	Amend(T)	2-1-2016
407-007-0250	1-14-2016	Amend(T)	2-1-2016
407-007-0275	1-14-2016	Amend(T)	2-1-2016
407-007-0277	1-14-2016	Amend(T)	2-1-2016
407-007-0280	1-14-2016	Suspend	2-1-2016
407-007-0290	1-14-2016	Amend(T)	2-1-2016
407-007-0300	1-14-2016	Amend(T)	2-1-2016
407-007-0315	1-14-2016	Amend(T)	2-1-2016
407-007-0320	1-14-2016	Amend(T)	2-1-2016
407-007-0325	1-14-2016	Suspend	2-1-2016
407-007-0330	1-14-2016	Amend(T)	2-1-2016
407-007-0350	1-14-2016	Amend(T)	2-1-2016
407-007-0370	1-14-2016	Amend(T)	2-1-2016
407-007-0400	1-14-2016	Suspend	2-1-2016
407-045-0260	2-3-2016	Amend	3-1-2016
407-045-0350	2-3-2016	Amend	3-1-2016
409-025-0100	1-5-2016	Amend	2-1-2016
409-025-0110	1-5-2016	Amend	2-1-2016
409-025-0120	1-5-2016	Amend	2-1-2016
409-025-0130	1-5-2016	Amend	2-1-2016
409-025-0140	1-5-2016	Amend	2-1-2016
409-025-0150	1-5-2016	Amend	2-1-2016
409-025-0160	1-5-2016	Amend	2-1-2016
409-025-0170	1-5-2016	Amend	2-1-2016
409-026-0100	2-8-2016	Amend(T)	3-1-2016
409-026-0110	2-8-2016	Amend(T)	3-1-2016
409-026-0120	2-8-2016	Amend(T)	3-1-2016
409-026-0130	2-8-2016	Amend(T)	3-1-2016
409-026-0140	2-8-2016	Amend(T)	3-1-2016
409-035-0020	11-24-2015	Amend	1-1-2016
409-035-0020(T)	11-24-2015	Repeal	1-1-2016
409-055-0010	1-1-2016	Amend(T)	2-1-2016
409-055-0030	1-1-2016	Amend(T)	2-1-2016
409-055-0040	1-1-2016	Amend(T)	2-1-2016
409-055-0060	1-1-2016	Amend(T)	2-1-2016
409-055-0070	1-1-2016	Amend(T)	2-1-2016
410-120-0006	1-1-2016	Amend	1-1-2016
410-120-1340	1-1-2016	Amend(T)	2-1-2016
410-121-0000	1-1-2016	Amend	2-1-2016
410-121-0030	12-27-2015	Amend	2-1-2016
410-121-0030	1-1-2016	Amend(T)	2-1-2016
410-121-0030(T)	12-27-2015	Repeal	2-1-2016
410-121-0040	12-27-2015	Amend	2-1-2016
410-121-0040	1-1-2016	Amend(T)	2-1-2016
410-121-0040	2-12-2016	Amend(T)	3-1-2016
410-121-0040(T)	12-27-2015	Repeal	2-1-2016
410-121-0135	1-1-2016	Amend	2-1-2016
410-121-0146	1-1-2016	Amend	2-1-2016
410-121-4000	1-1-2016	Am. & Ren.	2-1-2016
410-121-4005	1-1-2016	Am. & Ren.	2-1-2016
410-121-4010	1-1-2016	Am. & Ren.	2-1-2016
410-121-4015	1-1-2016	Renumber	2-1-2016
410-121-4020	1-1-2016	Renumber	2-1-2016
410-122-0186	2-3-2016	Amend	3-1-2016
410-123-1240	12-1-2015	Amend	1-1-2016
410-123-1240(T)	12-1-2015	Repeal	1-1-2016
410-123-1260	1-1-2016	Amend(T)	2-1-2016
410-123-1260	2-9-2016	Amend(T)	3-1-2016
410-123-1510	1-1-2016	Adopt(T)	2-1-2016

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410-130-0200	1-1-2016	Amend	2-1-2016
410-130-0200(T)	1-1-2016	Repeal	2-1-2016
410-136-3040	1-1-2016	Amend	2-1-2016
410-141-0000	12-10-2015	Amend	1-1-2016
410-141-0080	12-10-2015	Amend	1-1-2016
410-141-0085	12-10-2015	Repeal	1-1-2016
410-141-0160	12-10-2015	Amend	1-1-2016
410-141-0220	12-10-2015	Amend	1-1-2016
410-141-0320	12-10-2015	Amend	1-1-2016
410-141-0340	12-10-2015	Amend	1-1-2016
410-141-0410	12-10-2015	Repeal	1-1-2016
410-141-0420	12-10-2015	Amend	1-1-2016
410-141-0520	1-1-2016	Amend(T)	2-1-2016
410-141-0660	12-10-2015	Repeal	1-1-2016
410-141-0680	12-10-2015	Repeal	1-1-2016
410-141-0700	12-10-2015	Repeal	1-1-2016
410-141-0720	12-10-2015	Repeal	1-1-2016
410-141-0740	12-10-2015	Repeal	1-1-2016
410-141-0760	12-10-2015	Repeal	1-1-2016
410-141-0780	12-10-2015	Repeal	1-1-2016
410-141-0800	12-10-2015	Repeal	1-1-2016
410-141-0820	12-10-2015	Repeal	1-1-2016
410-141-0840	12-10-2015	Repeal	1-1-2016
410-141-0860	12-10-2015	Amend	1-1-2016
410-141-3040	1-7-2016	Adopt	2-1-2016
410-141-3040(T)	1-7-2016	Repeal	2-1-2016
410-141-3060	1-1-2016	Amend(T)	2-1-2016
410-141-3080	12-10-2015	Amend	1-1-2016
410-141-3080	1-1-2016	Amend(T)	2-1-2016
410-141-3150	1-1-2016	Adopt	2-1-2016
410-141-3150(T)	1-1-2016	Repeal	2-1-2016
410-141-3267	12-27-2015	Adopt	2-1-2016
410-141-3267(T)	12-27-2015	Repeal	2-1-2016
410-141-3345	1-1-2016	Amend(T)	2-1-2016
410-141-3345	3-1-2016	Amend	3-1-2016
410-141-3345(T)	3-1-2016	Repeal	3-1-2016
410-141-3440	1-1-2016	Amend	2-1-2016
410-170-0110	2-7-2016	Amend(T)	3-1-2016
410-200-0015	12-22-2015	Amend(T)	2-1-2016
410-200-0100	12-22-2015	Amend(T)	2-1-2016
410-200-0105	12-22-2015	Amend(T)	2-1-2016
410-200-0110	12-22-2015	Amend(T)	2-1-2016
410-200-0111	12-22-2015	Amend(T)	2-1-2016
410-200-0115	12-22-2015	Amend(T)	2-1-2016
410-200-0120	12-22-2015	Amend(T)	2-1-2016
410-200-0125	12-22-2015	Amend(T)	2-1-2016
410-200-0130	12-22-2015	Amend(T)	2-1-2016
410-200-0135	12-22-2015	Amend(T)	2-1-2016
410-200-0140	12-22-2015	Amend(T)	2-1-2016
410-200-0200	12-22-2015	Amend(T)	2-1-2016
410-200-0215	12-22-2015	Amend(T)	2-1-2016
410-200-0230	12-22-2015	Amend(T)	2-1-2016
410-200-0235	12-22-2015	Amend(T)	2-1-2016
410-200-0240	12-22-2015	Amend(T)	2-1-2016
410-200-0310	12-22-2015	Amend(T)	2-1-2016
410-200-0407	12-18-2015	Adopt(T)	2-1-2016
410-200-0415	12-22-2015	Amend(T)	2-1-2016
410-200-0425	12-22-2015	Amend(T)	2-1-2016
410-200-0440	12-22-2015	Amend(T)	2-1-2016
410-200-0500	12-22-2015	Suspend	2-1-2016
410-200-0505	12-22-2015	Amend(T)	2-1-2016
410-200-0510	12-22-2015	Amend(T)	2-1-2016
411-004-0000	1-1-2016	Adopt	1-1-2016
411-004-0010	1-1-2016	Adopt	1-1-2016
411-004-0020	1-1-2016	Adopt	1-1-2016
411-004-0020	1-1-2016	Amend	2-1-2016
411-004-0030	1-1-2016	Adopt	1-1-2016
411-004-0040	1-1-2016	Adopt	1-1-2016
411-020-0002	1-1-2016	Amend(T)	2-1-2016
411-032-0050	12-27-2015	Amend	1-1-2016
411-032-0050(T)	12-27-2015	Repeal	1-1-2016
411-050-0602	1-1-2016	Amend(T)	2-1-2016
411-050-0615	1-1-2016	Amend(T)	2-1-2016
411-050-0630	1-1-2016	Amend(T)	2-1-2016
411-050-0632	1-1-2016	Amend(T)	2-1-2016
411-050-0635	1-1-2016	Amend(T)	2-1-2016
411-050-0642	1-1-2016	Amend(T)	2-1-2016
411-050-0645	1-1-2016	Amend(T)	2-1-2016
411-050-0650	1-1-2016	Amend(T)	2-1-2016
411-050-0655	1-1-2016	Amend(T)	2-1-2016
411-050-0662	1-1-2016	Amend(T)	2-1-2016
411-050-0665	1-1-2016	Amend(T)	2-1-2016
411-050-0670	1-1-2016	Amend(T)	2-1-2016
411-050-0685	1-1-2016	Amend(T)	2-1-2016
411-054-0000	1-1-2016	Amend(T)	2-1-2016
411-054-0005	1-1-2016	Amend(T)	2-1-2016
411-054-0012	1-1-2016	Amend(T)	2-1-2016
411-054-0025	1-1-2016	Amend(T)	2-1-2016
411-054-0027	1-1-2016	Amend(T)	2-1-2016
411-054-0036	1-1-2016	Amend(T)	2-1-2016
411-054-0038	1-1-2016	Adopt(T)	2-1-2016
411-300-0110	1-1-2016	Amend(T)	2-1-2016
411-300-0130	1-1-2016	Amend(T)	2-1-2016
411-300-0150	1-1-2016	Amend(T)	2-1-2016
411-300-0155	1-1-2016	Amend(T)	2-1-2016
411-300-0170	1-1-2016	Amend(T)	2-1-2016
411-308-0020	1-1-2016	Amend(T)	2-1-2016
411-308-0050	1-1-2016	Amend(T)	2-1-2016
411-308-0080	1-1-2016	Amend(T)	2-1-2016
411-308-0100	1-1-2016	Amend(T)	2-1-2016
411-308-0110	1-1-2016	Amend(T)	2-1-2016
411-308-0120	1-1-2016	Amend(T)	2-1-2016
411-308-0130	1-1-2016	Amend(T)	2-1-2016
411-317-0000	1-1-2016	Amend(T)	2-1-2016
411-318-0000	1-1-2016	Amend(T)	2-1-2016
411-318-0005	1-1-2016	Amend(T)	2-1-2016
411-318-0010	1-1-2016	Amend(T)	2-1-2016
411-320-0020	1-1-2016	Amend(T)	2-1-2016
411-320-0040	1-1-2016	Amend(T)	2-1-2016
411-320-0060	1-1-2016	Amend(T)	2-1-2016
411-320-0080	1-1-2016	Amend(T)	2-1-2016

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411-320-0110	1-1-2016	Amend(T)	2-1-2016
411-320-0120	1-1-2016	Amend(T)	2-1-2016
411-323-0010	1-1-2016	Amend(T)	2-1-2016
411-323-0020	1-1-2016	Amend(T)	2-1-2016
411-323-0030	1-1-2016	Amend(T)	2-1-2016
411-323-0035	1-1-2016	Amend(T)	2-1-2016
411-323-0060	1-1-2016	Amend(T)	2-1-2016
411-325-0010	1-1-2016	Amend(T)	2-1-2016
411-325-0020	1-1-2016	Amend(T)	2-1-2016
411-325-0040	1-1-2016	Amend(T)	2-1-2016
411-325-0130	1-1-2016	Amend(T)	2-1-2016
411-325-0140	1-1-2016	Amend(T)	2-1-2016
411-325-0150	1-1-2016	Amend(T)	2-1-2016
411-325-0170	1-1-2016	Amend(T)	2-1-2016
411-325-0220	1-1-2016	Amend(T)	2-1-2016
411-325-0300	1-1-2016	Amend(T)	2-1-2016
411-325-0390	1-1-2016	Amend(T)	2-1-2016
411-325-0430	1-1-2016	Amend(T)	2-1-2016
411-328-0550	1-1-2016	Amend(T)	2-1-2016
411-328-0560	1-1-2016	Amend(T)	2-1-2016
411-328-0625	1-1-2016	Adopt(T)	2-1-2016
411-328-0630	1-1-2016	Amend(T)	2-1-2016
411-328-0650	1-1-2016	Amend(T)	2-1-2016
411-328-0720	1-1-2016	Amend(T)	2-1-2016
411-328-0750	1-1-2016	Amend(T)	2-1-2016
411-328-0790	1-1-2016	Amend(T)	2-1-2016
411-330-0020	1-1-2016	Amend(T)	2-1-2016
411-330-0050	1-1-2016	Amend(T)	2-1-2016
411-330-0060	1-1-2016	Amend(T)	2-1-2016
411-330-0070	1-1-2016	Amend(T)	2-1-2016
411-330-0080	1-1-2016	Amend(T)	2-1-2016
411-330-0110	1-1-2016	Amend(T)	2-1-2016
411-340-0020	1-1-2016	Amend(T)	2-1-2016
411-340-0030	1-1-2016	Amend(T)	2-1-2016
411-340-0120	1-1-2016	Amend(T)	2-1-2016
411-340-0130	1-1-2016	Amend(T)	2-1-2016
411-340-0140	1-1-2016	Amend(T)	2-1-2016
411-340-0150	1-1-2016	Amend(T)	2-1-2016
411-340-0160	1-1-2016	Amend(T)	2-1-2016
411-340-0170	1-1-2016	Amend(T)	2-1-2016
411-345-0010	1-1-2016	Amend(T)	2-1-2016
411-345-0020	1-1-2016	Amend(T)	2-1-2016
411-345-0025	1-1-2016	Amend(T)	2-1-2016
411-345-0030	1-1-2016	Amend(T)	2-1-2016
411-345-0085	1-1-2016	Amend(T)	2-1-2016
411-345-0110	1-1-2016	Amend(T)	2-1-2016
411-345-0160	1-1-2016	Amend(T)	2-1-2016
411-350-0020	1-1-2016	Amend(T)	2-1-2016
411-350-0030	1-1-2016	Amend(T)	2-1-2016
411-350-0040	1-1-2016	Amend(T)	2-1-2016
411-350-0050	1-1-2016	Amend(T)	2-1-2016
411-350-0055	1-1-2016	Adopt(T)	2-1-2016
411-350-0080	1-1-2016	Amend(T)	2-1-2016
411-350-0100	1-1-2016	Amend(T)	2-1-2016
411-355-0000	12-28-2015	Amend	1-1-2016
411-355-0000(T)	12-28-2015	Repeal	1-1-2016
411-355-0010	12-28-2015	Amend	1-1-2016
411-355-0010	1-1-2016	Amend(T)	2-1-2016
411-355-0010(T)	12-28-2015	Repeal	1-1-2016
411-355-0020	12-28-2015	Amend	1-1-2016
411-355-0020(T)	12-28-2015	Repeal	1-1-2016
411-355-0030	12-28-2015	Amend	1-1-2016
411-355-0030	1-1-2016	Amend(T)	2-1-2016
411-355-0030(T)	12-28-2015	Repeal	1-1-2016
411-355-0040	12-28-2015	Amend	1-1-2016
411-355-0040	1-1-2016	Amend(T)	2-1-2016
411-355-0040(T)	12-28-2015	Repeal	1-1-2016
411-355-0045	12-28-2015	Adopt	1-1-2016
411-355-0045(T)	12-28-2015	Repeal	1-1-2016
411-355-0050	12-28-2015	Amend	1-1-2016
411-355-0050	1-1-2016	Amend(T)	2-1-2016
411-355-0050(T)	12-28-2015	Repeal	1-1-2016
411-355-0060	12-28-2015	Repeal	1-1-2016
411-355-0070	12-28-2015	Repeal	1-1-2016
411-355-0075	12-28-2015	Adopt	1-1-2016
411-355-0075(T)	12-28-2015	Repeal	1-1-2016
411-355-0080	12-28-2015	Amend	1-1-2016
411-355-0080(T)	12-28-2015	Repeal	1-1-2016
411-355-0090	12-28-2015	Amend	1-1-2016
411-355-0090(T)	12-28-2015	Repeal	1-1-2016
411-355-0100	12-28-2015	Amend	1-1-2016
411-355-0100(T)	12-28-2015	Repeal	1-1-2016
411-355-0110	12-28-2015	Repeal	1-1-2016
411-355-0120	12-28-2015	Repeal	1-1-2016
411-360-0010	1-1-2016	Amend(T)	2-1-2016
411-360-0020	1-1-2016	Amend(T)	2-1-2016
411-360-0050	1-1-2016	Amend(T)	2-1-2016
411-360-0055	1-1-2016	Amend(T)	2-1-2016
411-360-0060	1-1-2016	Amend(T)	2-1-2016
411-360-0130	1-1-2016	Amend(T)	2-1-2016
411-360-0140	1-1-2016	Amend(T)	2-1-2016
411-360-0170	1-1-2016	Amend(T)	2-1-2016
411-360-0190	1-1-2016	Amend(T)	2-1-2016
411-370-0010	1-1-2016	Amend(T)	2-1-2016
411-375-0010	1-1-2016	Amend(T)	2-1-2016
411-375-0050	1-1-2016	Amend(T)	2-1-2016
411-375-0055	1-1-2016	Adopt(T)	2-1-2016
411-375-0070	1-1-2016	Amend(T)	2-1-2016
411-375-0080	1-1-2016	Amend(T)	2-1-2016
411-380-0010	1-1-2016	Adopt(T)	2-1-2016
411-380-0020	1-1-2016	Adopt(T)	2-1-2016
411-380-0030	1-1-2016	Adopt(T)	2-1-2016
411-380-0040	1-1-2016	Adopt(T)	2-1-2016
411-380-0050	1-1-2016	Adopt(T)	2-1-2016
411-380-0060	1-1-2016	Adopt(T)	2-1-2016
411-380-0070	1-1-2016	Adopt(T)	2-1-2016
411-380-0080	1-1-2016	Adopt(T)	2-1-2016
411-380-0090	1-1-2016	Adopt(T)	2-1-2016
413-010-0000	2-1-2016	Amend	3-1-2016
413-010-0035	2-1-2016	Amend	3-1-2016
413-015-0115	1-1-2016	Amend	2-1-2016

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413-015-0205	1-1-2016	Amend	2-1-2016
413-015-0211	1-1-2016	Amend	2-1-2016
413-015-0211(T)	1-1-2016	Repeal	2-1-2016
413-015-0415	1-1-2016	Amend	2-1-2016
413-015-0415(T)	1-1-2016	Repeal	2-1-2016
413-015-0460	1-1-2016	Amend	2-1-2016
413-015-0470	1-1-2016	Amend	2-1-2016
413-015-1220	1-1-2016	Amend	2-1-2016
413-015-9000	1-1-2016	Amend	2-1-2016
413-015-9000(T)	1-1-2016	Repeal	2-1-2016
413-030-0400	11-24-2015	Amend(T)	1-1-2016
413-030-0400	2-1-2016	Amend	3-1-2016
413-030-0400(T)	2-1-2016	Repeal	3-1-2016
413-040-0000	1-1-2016	Amend(T)	2-1-2016
413-040-0010	11-24-2015	Amend(T)	1-1-2016
413-040-0010	2-1-2016	Amend	3-1-2016
413-040-0010(T)	2-1-2016	Repeal	3-1-2016
413-040-0145	1-1-2016	Amend(T)	2-1-2016
413-040-0150	1-1-2016	Amend(T)	2-1-2016
413-070-0551	11-24-2015	Amend(T)	1-1-2016
413-070-0551	2-1-2016	Amend	3-1-2016
413-070-0551(T)	2-1-2016	Repeal	3-1-2016
413-080-0050	11-24-2015	Amend(T)	1-1-2016
413-080-0050	1-1-2016	Amend	2-1-2016
413-080-0050(T)	11-24-2015	Suspend	1-1-2016
413-080-0050(T)	1-1-2016	Repeal	2-1-2016
413-080-0053	1-1-2016	Adopt	2-1-2016
413-080-0053(T)	1-1-2016	Repeal	2-1-2016
413-080-0054	1-1-2016	Amend	2-1-2016
413-080-0054(T)	1-1-2016	Repeal	2-1-2016
413-090-0085	1-1-2016	Amend	2-1-2016
413-090-0085(T)	1-1-2016	Repeal	2-1-2016
413-090-0087	1-1-2016	Adopt	2-1-2016
413-090-0087(T)	1-1-2016	Repeal	2-1-2016
413-090-0400	2-1-2016	Amend	3-1-2016
413-090-0410	2-1-2016	Repeal	3-1-2016
413-090-0420	2-1-2016	Repeal	3-1-2016
413-090-0430	2-1-2016	Repeal	3-1-2016
413-100-0400	12-21-2015	Amend	2-1-2016
413-100-0410	12-21-2015	Amend	2-1-2016
413-100-0420	12-21-2015	Amend	2-1-2016
413-100-0435	12-21-2015	Amend	2-1-2016
413-100-0457	12-21-2015	Repeal	2-1-2016
413-120-0925	1-1-2016	Amend(T)	2-1-2016
413-130-0000	1-1-2016	Amend(T)	2-1-2016
413-130-0300	1-1-2016	Amend(T)	2-1-2016
413-130-0310	1-1-2016	Amend(T)	2-1-2016
413-130-0320	1-1-2016	Amend(T)	2-1-2016
413-130-0330	1-1-2016	Amend(T)	2-1-2016
413-130-0340	1-1-2016	Amend(T)	2-1-2016
413-130-0350	1-1-2016	Amend(T)	2-1-2016
413-130-0355	1-1-2016	Amend(T)	2-1-2016
413-130-0360	1-1-2016	Amend(T)	2-1-2016
413-130-0365	1-1-2016	Adopt(T)	2-1-2016
413-130-0400	1-1-2016	Suspend	2-1-2016
413-130-0420	1-1-2016	Suspend	2-1-2016
413-130-0430	1-1-2016	Suspend	2-1-2016
413-130-0440	1-1-2016	Suspend	2-1-2016
413-130-0450	1-1-2016	Suspend	2-1-2016
413-130-0455	1-1-2016	Suspend	2-1-2016
413-130-0460	1-1-2016	Suspend	2-1-2016
413-130-0480	1-1-2016	Suspend	2-1-2016
413-130-0490	1-1-2016	Suspend	2-1-2016
413-130-0500	1-1-2016	Suspend	2-1-2016
413-130-0510	1-1-2016	Suspend	2-1-2016
413-130-0520	1-1-2016	Suspend	2-1-2016
414-150-0050	1-25-2016	Amend	3-1-2016
414-150-0055	1-25-2016	Amend	3-1-2016
414-150-0060	1-25-2016	Amend	3-1-2016
414-150-0070	1-25-2016	Amend	3-1-2016
414-150-0080	1-25-2016	Repeal	3-1-2016
414-150-0090	1-25-2016	Repeal	3-1-2016
414-150-0100	1-25-2016	Repeal	3-1-2016
414-150-0110	1-25-2016	Amend	3-1-2016
414-150-0120	1-25-2016	Amend	3-1-2016
414-150-0130	1-25-2016	Amend	3-1-2016
414-150-0140	1-25-2016	Adopt	3-1-2016
414-150-0150	1-25-2016	Adopt	3-1-2016
414-150-0160	1-25-2016	Adopt	3-1-2016
414-150-0170	1-25-2016	Adopt	3-1-2016
415-060-0010	1-5-2016	Suspend	2-1-2016
415-060-0020	1-5-2016	Suspend	2-1-2016
415-060-0030	1-5-2016	Suspend	2-1-2016
415-060-0040	1-5-2016	Suspend	2-1-2016
415-060-0050	1-5-2016	Suspend	2-1-2016
418-040-0000	1-1-2016	Adopt(T)	2-1-2016
418-040-0010	1-1-2016	Adopt(T)	2-1-2016
418-040-0020	1-1-2016	Adopt(T)	2-1-2016
418-040-0030	1-1-2016	Adopt(T)	2-1-2016
418-040-0040	1-1-2016	Adopt(T)	2-1-2016
418-040-0050	1-1-2016	Adopt(T)	2-1-2016
418-040-0060	1-1-2016	Adopt(T)	2-1-2016
418-040-0070	1-1-2016	Adopt(T)	2-1-2016
418-040-0080	1-1-2016	Adopt(T)	2-1-2016
418-040-0090	1-1-2016	Adopt(T)	2-1-2016
431-121-2005	12-7-2015	Amend	1-1-2016
436-001-0003	1-1-2016	Amend	1-1-2016
436-001-0004	1-1-2016	Amend	1-1-2016
436-001-0009	1-1-2016	Amend	1-1-2016
436-001-0019	1-1-2016	Amend	1-1-2016
436-001-0027	1-1-2016	Amend	1-1-2016
436-001-0030	1-1-2016	Amend	1-1-2016
436-001-0170	1-1-2016	Amend	1-1-2016
436-001-0240	1-1-2016	Amend	1-1-2016
436-001-0246	1-1-2016	Amend	1-1-2016
436-001-0259	1-1-2016	Amend	1-1-2016
436-001-0410	1-1-2016	Amend	1-1-2016
436-001-0420	1-1-2016	Amend	1-1-2016
436-001-0435	1-1-2016	Adopt	1-1-2016
436-001-0500	1-1-2016	Adopt	1-1-2016
436-009-0004	1-1-2016	Amend(T)	1-1-2016

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436-050-0003	1-1-2016	Amend	2-1-2016
436-050-0175	1-1-2016	Amend	2-1-2016
438-005-0035	1-1-2016	Amend	2-1-2016
438-015-0010	1-1-2016	Amend	2-1-2016
438-015-0019	1-1-2016	Amend	2-1-2016
438-015-0025	1-1-2016	Amend	2-1-2016
438-015-0033	1-1-2016	Adopt	2-1-2016
438-015-0045	1-1-2016	Amend	2-1-2016
438-015-0048	1-1-2016	Adopt	2-1-2016
438-015-0055	1-1-2016	Amend	2-1-2016
438-015-0065	1-1-2016	Amend	2-1-2016
438-015-0070	1-1-2016	Amend	2-1-2016
438-015-0110	1-1-2016	Amend	2-1-2016
440-001-9000	1-1-2016	Adopt(T)	2-1-2016
441-710-0305	1-1-2016	Adopt	2-1-2016
441-855-0114	1-1-2016	Adopt	1-1-2016
441-865-0060	12-14-2015	Amend	1-1-2016
459-001-0000	1-29-2016	Amend	3-1-2016
459-005-0001	11-20-2015	Amend	1-1-2016
459-005-0310	11-20-2015	Amend	1-1-2016
459-005-0350	11-20-2015	Amend	1-1-2016
459-005-0605	1-29-2016	Adopt	3-1-2016
459-010-0012	11-20-2015	Amend	1-1-2016
459-011-0500	11-20-2015	Amend	1-1-2016
459-013-0060	11-20-2015	Amend	1-1-2016
459-013-0310	11-20-2015	Amend	1-1-2016
459-080-0150	1-1-2016	Amend	1-1-2016
461-001-0000	1-1-2016	Amend	2-1-2016
461-001-0000(T)	1-1-2016	Repeal	2-1-2016
461-001-0025	12-28-2015	Amend	2-1-2016
461-115-0016	1-1-2016	Amend(T)	2-1-2016
461-115-0651	1-1-2016	Amend	2-1-2016
461-115-0700	1-1-2016	Amend	2-1-2016
461-120-0125	1-1-2016	Amend	2-1-2016
461-125-0830(T)	1-1-2016	Repeal	2-1-2016
461-130-0310	1-1-2016	Amend	2-1-2016
461-130-0310	1-1-2016	Amend(T)	2-1-2016
461-130-0330	1-1-2016	Amend	2-1-2016
461-135-0400	1-1-2016	Amend	2-1-2016
461-135-0405	1-1-2016	Amend	2-1-2016
461-135-0405(T)	1-1-2016	Repeal	2-1-2016
461-135-0407	1-1-2016	Amend	2-1-2016
461-135-0407(T)	1-1-2016	Repeal	2-1-2016
461-135-0506	1-1-2016	Amend(T)	2-1-2016
461-135-0520	1-1-2016	Amend	2-1-2016
461-135-0520	2-5-2016	Amend(T)	3-1-2016
461-135-0750	12-15-2015	Amend(T)	1-1-2016
461-135-0780	2-3-2016	Amend	3-1-2016
461-140-0020	1-1-2016	Amend	2-1-2016
461-140-0120	1-1-2016	Amend	2-1-2016
461-140-0250	1-1-2016	Amend	2-1-2016
461-145-0010	1-1-2016	Amend	2-1-2016
461-145-0020	1-1-2016	Amend	2-1-2016
461-145-0040	1-1-2016	Amend	2-1-2016
461-145-0050	1-1-2016	Amend	2-1-2016
461-145-0080	1-1-2016	Amend	2-1-2016
461-145-0089	1-1-2016	Amend	2-1-2016
461-145-0220	1-1-2016	Amend	2-1-2016
461-145-0240	1-1-2016	Amend	2-1-2016
461-145-0252	1-1-2016	Amend	2-1-2016
461-145-0259	1-1-2016	Adopt	2-1-2016
461-145-0260	1-1-2016	Amend	2-1-2016
461-145-0280	1-1-2016	Amend	2-1-2016
461-145-0300	1-1-2016	Amend	2-1-2016
461-145-0310	1-1-2016	Amend	2-1-2016
461-145-0320	1-1-2016	Amend	2-1-2016
461-145-0330	1-1-2016	Amend	2-1-2016
461-145-0360	1-1-2016	Amend	2-1-2016
461-145-0365	1-1-2016	Amend	2-1-2016
461-145-0380	1-1-2016	Amend	2-1-2016
461-145-0410	1-1-2016	Amend	2-1-2016
461-145-0420	1-1-2016	Amend	2-1-2016
461-145-0430	1-1-2016	Amend	2-1-2016
461-145-0460	1-1-2016	Amend	2-1-2016
461-145-0490	1-1-2016	Amend	2-1-2016
461-145-0510	1-1-2016	Amend	2-1-2016
461-145-0540	1-1-2016	Amend	2-1-2016
461-145-0600	1-1-2016	Amend	2-1-2016
461-145-0910	1-1-2016	Amend	2-1-2016
461-145-0910(T)	1-1-2016	Repeal	2-1-2016
461-150-0050	1-1-2016	Amend	2-1-2016
461-150-0090	1-1-2016	Amend	2-1-2016
461-155-0030	1-1-2016	Amend	2-1-2016
461-155-0035	1-1-2016	Amend	2-1-2016
461-155-0150	1-1-2016	Amend(T)	2-1-2016
461-155-0575	1-1-2016	Amend	2-1-2016
461-160-0010	1-1-2016	Amend	2-1-2016
461-160-0015	1-1-2016	Amend	2-1-2016
461-160-0040	1-1-2016	Amend	2-1-2016
461-160-0040(T)	1-1-2016	Repeal	2-1-2016
461-160-0300	1-1-2016	Amend	2-1-2016
461-160-0300(T)	1-1-2016	Repeal	2-1-2016
461-160-0550	1-1-2016	Amend	2-1-2016
461-160-0551	1-1-2016	Amend	2-1-2016
461-160-0552	1-1-2016	Amend	2-1-2016
461-165-0030	1-1-2016	Amend	2-1-2016
461-165-0180	1-20-2016	Amend(T)	3-1-2016
461-170-0011	1-1-2016	Amend	2-1-2016
461-170-0101	1-1-2016	Amend	2-1-2016
461-170-0103	1-1-2016	Amend	2-1-2016
461-170-0103(T)	1-1-2016	Repeal	2-1-2016
461-170-0150	1-1-2016	Amend	2-1-2016
461-170-0150(T)	1-1-2016	Repeal	2-1-2016
461-170-0160	1-1-2016	Amend	2-1-2016
461-170-0160(T)	1-1-2016	Repeal	2-1-2016
461-175-0200	1-1-2016	Amend	2-1-2016
461-175-0200(T)	1-1-2016	Repeal	2-1-2016
461-175-0220	1-1-2016	Amend	2-1-2016
461-175-0222	1-1-2016	Amend	2-1-2016
461-175-0222(T)	1-1-2016	Repeal	2-1-2016
461-175-0250	1-1-2016	Amend	2-1-2016

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461-175-0305	1-1-2016	Amend	2-1-2016
461-175-0310	1-1-2016	Amend	2-1-2016
461-175-0340	1-1-2016	Amend	2-1-2016
461-180-0010	12-15-2015	Amend(T)	1-1-2016
461-180-0010	1-22-2016	Amend(T)	3-1-2016
461-180-0010(T)	1-22-2016	Suspend	3-1-2016
461-180-0090	12-15-2015	Amend(T)	1-1-2016
461-180-0090	1-22-2016	Amend(T)	3-1-2016
461-180-0090(T)	1-22-2016	Suspend	3-1-2016
461-180-0140	12-15-2015	Amend(T)	1-1-2016
461-180-0140	1-22-2016	Amend(T)	3-1-2016
461-180-0140(T)	1-22-2016	Suspend	3-1-2016
461-190-0211	12-28-2015	Amend	2-1-2016
461-190-0360	11-30-2015	Amend(T)	1-1-2016
461-190-0500	2-5-2016	Adopt(T)	3-1-2016
461-195-0521	1-1-2016	Amend	2-1-2016
461-195-0621	1-1-2016	Amend	2-1-2016
462-220-0080	1-27-2016	Amend	3-1-2016
471-010-0080	1-29-2016	Amend(T)	3-1-2016
543-001-0010	1-11-2016	Amend(T)	2-1-2016
543-010-0003	1-11-2016	Amend(T)	2-1-2016
543-010-0016	1-11-2016	Amend(T)	2-1-2016
543-010-0021	1-11-2016	Amend(T)	2-1-2016
543-010-0022	1-11-2016	Suspend	2-1-2016
543-010-0026	1-11-2016	Adopt(T)	2-1-2016
543-010-0030	1-11-2016	Amend(T)	2-1-2016
543-010-0032	1-11-2016	Suspend	2-1-2016
543-020-0010	1-11-2016	Suspend	2-1-2016
543-020-0025	1-11-2016	Suspend	2-1-2016
543-020-0026	1-11-2016	Suspend	2-1-2016
543-020-0030	1-11-2016	Suspend	2-1-2016
543-020-0050	1-11-2016	Adopt(T)	2-1-2016
543-020-0055	1-11-2016	Adopt(T)	2-1-2016
543-020-0060	1-11-2016	Adopt(T)	2-1-2016
543-020-0070	1-11-2016	Adopt(T)	2-1-2016
543-020-0080	1-11-2016	Adopt(T)	2-1-2016
543-060-0020	1-11-2016	Amend(T)	2-1-2016
543-060-0030	1-11-2016	Amend(T)	2-1-2016
543-060-0040	1-11-2016	Amend(T)	2-1-2016
543-060-0070	1-11-2016	Amend(T)	2-1-2016
575-001-0000	12-18-2015	Amend	2-1-2016
575-001-0005	12-18-2015	Amend	2-1-2016
575-001-0010	12-18-2015	Amend	2-1-2016
575-001-0015	12-18-2015	Amend	2-1-2016
575-001-0030	12-18-2015	Amend	2-1-2016
575-001-0035	12-18-2015	Amend	2-1-2016
575-007-0210	12-18-2015	Amend	2-1-2016
575-007-0240	12-18-2015	Amend	2-1-2016
575-007-0280	12-18-2015	Amend	2-1-2016
575-007-0310	12-18-2015	Amend	2-1-2016
575-007-0330	12-18-2015	Amend	2-1-2016
575-007-0340	12-18-2015	Amend	2-1-2016
575-007-0380	12-18-2015	Amend	2-1-2016
575-030-0005	12-18-2015	Amend	2-1-2016
575-031-0005	12-18-2015	Amend	2-1-2016
575-031-0010	12-18-2015	Amend	2-1-2016
575-031-0020	12-18-2015	Amend	2-1-2016
575-031-0022	12-18-2015	Amend	2-1-2016
575-031-0023	12-18-2015	Amend	2-1-2016
575-031-0025	12-18-2015	Amend	2-1-2016
575-031-0045	12-18-2015	Amend	2-1-2016
575-035-0005	12-18-2015	Amend	2-1-2016
575-035-0010	12-18-2015	Amend	2-1-2016
575-035-0015	12-18-2015	Amend	2-1-2016
575-035-0020	12-18-2015	Amend	2-1-2016
575-035-0025	12-18-2015	Amend	2-1-2016
575-035-0030	12-18-2015	Amend	2-1-2016
575-035-0040	12-18-2015	Amend	2-1-2016
575-035-0045	12-18-2015	Amend	2-1-2016
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575-035-0051	12-18-2015	Amend	2-1-2016
575-035-0055	12-18-2015	Amend	2-1-2016
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575-060-0020	12-18-2015	Amend	2-1-2016
575-063-0010	12-18-2015	Amend	2-1-2016
575-065-0001	12-18-2015	Amend	2-1-2016
575-065-0045	12-18-2015	Amend	2-1-2016
575-065-0055	12-18-2015	Amend	2-1-2016
575-070-0005	12-18-2015	Amend	2-1-2016
575-070-0010	12-18-2015	Amend	2-1-2016
575-070-0020	12-18-2015	Amend	2-1-2016
575-070-0030	12-18-2015	Amend	2-1-2016
575-070-0040	12-18-2015	Amend	2-1-2016
575-070-0045	12-18-2015	Amend	2-1-2016
575-070-0050	12-18-2015	Amend	2-1-2016
575-070-0060	12-18-2015	Amend	2-1-2016
575-070-0070	12-18-2015	Amend	2-1-2016

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575-071-0000	12-18-2015	Amend	2-1-2016
575-071-0040	12-18-2015	Amend	2-1-2016
575-072-0000	12-18-2015	Amend	2-1-2016
575-072-0010	12-18-2015	Amend	2-1-2016
575-072-0040	12-18-2015	Amend	2-1-2016
575-072-0050	12-18-2015	Amend	2-1-2016
575-072-0060	12-18-2015	Amend	2-1-2016
575-072-0080	12-18-2015	Amend	2-1-2016
575-072-0090	12-18-2015	Amend	2-1-2016
575-073-0000	12-18-2015	Amend	2-1-2016
575-074-0000	12-18-2015	Amend	2-1-2016
575-075-0001	12-18-2015	Amend	2-1-2016
575-075-0005	12-18-2015	Amend	2-1-2016
575-075-0007	12-18-2015	Amend	2-1-2016
575-075-0008	12-18-2015	Amend	2-1-2016
575-075-0010	12-18-2015	Amend	2-1-2016
575-075-0030	12-18-2015	Amend	2-1-2016
575-075-0040	12-18-2015	Amend	2-1-2016
575-075-0043	12-18-2015	Amend	2-1-2016
575-075-0044	12-18-2015	Amend	2-1-2016
575-075-0045	12-18-2015	Amend	2-1-2016
575-075-0046	12-18-2015	Amend	2-1-2016
575-075-0047	12-18-2015	Amend	2-1-2016
575-075-0049	12-18-2015	Amend	2-1-2016
575-075-0050	12-18-2015	Amend	2-1-2016
575-075-0055	12-18-2015	Amend	2-1-2016
575-076-0010	12-18-2015	Amend	2-1-2016
575-080-0100	12-18-2015	Amend	2-1-2016
575-085-0000	12-18-2015	Amend	2-1-2016
575-085-0020	12-18-2015	Amend	2-1-2016
575-085-0030	12-18-2015	Amend	2-1-2016
575-085-0040	12-18-2015	Amend	2-1-2016
575-085-0050	12-18-2015	Amend	2-1-2016
575-085-0060	12-18-2015	Amend	2-1-2016
575-085-0070	12-18-2015	Amend	2-1-2016
575-090-0020	12-18-2015	Amend	2-1-2016
575-090-0030	12-18-2015	Amend	2-1-2016
575-090-0040	12-18-2015	Amend	2-1-2016
575-090-0050	12-18-2015	Amend	2-1-2016
575-095-0005	12-18-2015	Amend	2-1-2016
581-015-2200	12-21-2015	Amend	2-1-2016
581-015-2595	12-18-2015	Amend	2-1-2016
581-015-2930	12-22-2015	Amend	2-1-2016
581-017-0287	12-18-2015	Adopt	2-1-2016
581-017-0291	12-18-2015	Adopt	2-1-2016
581-017-0294	12-18-2015	Adopt	2-1-2016
581-017-0297	12-18-2015	Adopt	2-1-2016
581-017-0301	12-28-2015	Amend(T)	2-1-2016
581-017-0309	12-28-2015	Amend(T)	2-1-2016
581-017-0318	12-28-2015	Amend(T)	2-1-2016
581-017-0321	12-28-2015	Amend(T)	2-1-2016
581-017-0324	12-28-2015	Amend(T)	2-1-2016
581-017-0327	12-28-2015	Amend(T)	2-1-2016
581-017-0330	12-28-2015	Amend(T)	2-1-2016
581-017-0333	12-28-2015	Amend(T)	2-1-2016
581-017-0350	2-5-2016	Amend	3-1-2016
581-017-0353	2-5-2016	Amend	3-1-2016
581-017-0356	2-5-2016	Amend	3-1-2016
581-017-0359	2-5-2016	Amend	3-1-2016
581-017-0362	2-5-2016	Amend	3-1-2016
581-017-0380	2-5-2016	Adopt	3-1-2016
581-017-0383	2-5-2016	Adopt	3-1-2016
581-017-0386	2-5-2016	Adopt	3-1-2016
581-017-0389	2-5-2016	Adopt	3-1-2016
581-017-0392	2-5-2016	Adopt	3-1-2016
581-017-0395	2-5-2016	Adopt	3-1-2016
581-017-0432	2-5-2016	Adopt	3-1-2016
581-017-0435	2-5-2016	Adopt	3-1-2016
581-017-0438	2-5-2016	Adopt	3-1-2016
581-017-0441	2-5-2016	Adopt	3-1-2016
581-017-0444	2-5-2016	Adopt	3-1-2016
581-017-0447	2-5-2016	Adopt	3-1-2016
581-017-0450	2-5-2016	Adopt	3-1-2016
581-017-0453	2-5-2016	Adopt	3-1-2016
581-017-0456	2-5-2016	Adopt	3-1-2016
581-017-0459	2-5-2016	Adopt	3-1-2016
581-017-0462	2-5-2016	Adopt	3-1-2016
581-017-0465	12-28-2015	Adopt(T)	2-1-2016
581-017-0469	12-28-2015	Adopt(T)	2-1-2016
581-017-0473	12-28-2015	Adopt(T)	2-1-2016
581-017-0477	12-28-2015	Adopt(T)	2-1-2016
581-017-0481	12-28-2015	Adopt(T)	2-1-2016
581-017-0485	12-28-2015	Adopt(T)	2-1-2016
581-018-0110	2-5-2016	Amend	3-1-2016
581-018-0120	2-5-2016	Amend	3-1-2016
581-018-0130	12-18-2015	Amend	2-1-2016
581-018-0145	12-18-2015	Amend	2-1-2016
581-018-0148	12-18-2015	Amend	2-1-2016
581-020-0530	12-28-2015	Adopt(T)	2-1-2016
581-020-0533	12-28-2015	Adopt(T)	2-1-2016
581-020-0536	12-28-2015	Adopt(T)	2-1-2016
581-020-0539	12-28-2015	Adopt(T)	2-1-2016
581-020-0541	12-28-2015	Adopt(T)	2-1-2016
581-020-0600	2-5-2016	Adopt	3-1-2016
581-020-0603	2-5-2016	Adopt	3-1-2016
581-020-0606	2-5-2016	Adopt	3-1-2016
581-020-0609	2-5-2016	Adopt	3-1-2016
581-020-0612	2-5-2016	Adopt	3-1-2016
581-020-0615	2-5-2016	Adopt	3-1-2016
581-021-0043	2-5-2016	Adopt	3-1-2016
581-021-0065	2-5-2016	Amend	3-1-2016
581-021-0070	2-5-2016	Amend	3-1-2016
581-021-0077	2-5-2016	Amend	3-1-2016
581-022-0102	12-18-2015	Amend	2-1-2016
581-022-0421	12-22-2015	Amend	2-1-2016
581-022-0610	12-21-2015	Amend	2-1-2016
581-022-1420	12-22-2015	Amend	2-1-2016
581-022-1910	12-18-2015	Amend	2-1-2016
581-023-0006	2-5-2016	Amend	3-1-2016
581-023-0040	2-5-2016	Amend	3-1-2016

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581-023-0250	2-5-2016	Adopt	3-1-2016
581-024-0275	12-22-2015	Amend	2-1-2016
581-026-0210	12-18-2015	Amend	2-1-2016
581-044-0250	12-18-2015	Amend	2-1-2016
584-010-0090	1-1-2016	Suspend	2-1-2016
584-017-1100	2-10-2016	Adopt	3-1-2016
584-018-0110	1-1-2016	Suspend	2-1-2016
584-040-0005	2-10-2016	Repeal	3-1-2016
584-040-0008	2-10-2016	Repeal	3-1-2016
584-040-0010	2-10-2016	Repeal	3-1-2016
584-040-0030	2-10-2016	Repeal	3-1-2016
584-040-0040	2-10-2016	Repeal	3-1-2016
584-040-0050	2-10-2016	Repeal	3-1-2016
584-040-0060	2-10-2016	Repeal	3-1-2016
584-040-0080	2-10-2016	Repeal	3-1-2016
584-040-0090	2-10-2016	Repeal	3-1-2016
584-040-0100	2-10-2016	Repeal	3-1-2016
584-040-0120	2-10-2016	Repeal	3-1-2016
584-040-0130	2-10-2016	Repeal	3-1-2016
584-040-0150	2-10-2016	Repeal	3-1-2016
584-040-0160	2-10-2016	Repeal	3-1-2016
584-040-0165	2-10-2016	Repeal	3-1-2016
584-040-0170	2-10-2016	Repeal	3-1-2016
584-040-0180	2-10-2016	Repeal	3-1-2016
584-040-0200	2-10-2016	Repeal	3-1-2016
584-040-0210	2-10-2016	Repeal	3-1-2016
584-040-0230	2-10-2016	Repeal	3-1-2016
584-040-0240	2-10-2016	Repeal	3-1-2016
584-040-0241	2-10-2016	Repeal	3-1-2016
584-040-0242	2-10-2016	Repeal	3-1-2016
584-040-0243	2-10-2016	Repeal	3-1-2016
584-040-0250	2-10-2016	Repeal	3-1-2016
584-040-0260	2-10-2016	Repeal	3-1-2016
584-040-0265	2-10-2016	Repeal	3-1-2016
584-040-0270	2-10-2016	Repeal	3-1-2016
584-040-0280	2-10-2016	Repeal	3-1-2016
584-040-0290	2-10-2016	Repeal	3-1-2016
584-040-0300	2-10-2016	Repeal	3-1-2016
584-040-0310	2-10-2016	Repeal	3-1-2016
584-040-0315	2-10-2016	Repeal	3-1-2016
584-040-0350	2-10-2016	Repeal	3-1-2016
584-050-0150	2-10-2016	Adopt	3-1-2016
584-052-0005	2-10-2016	Repeal	3-1-2016
584-052-0010	2-10-2016	Repeal	3-1-2016
584-052-0015	2-10-2016	Repeal	3-1-2016
584-052-0021	2-10-2016	Repeal	3-1-2016
584-052-0025	2-10-2016	Repeal	3-1-2016
584-052-0027	2-10-2016	Repeal	3-1-2016
584-065-0001	2-10-2016	Repeal	3-1-2016
584-065-0060	2-10-2016	Repeal	3-1-2016
584-065-0070	2-10-2016	Repeal	3-1-2016
584-065-0080	2-10-2016	Repeal	3-1-2016
584-065-0090	2-10-2016	Repeal	3-1-2016
584-065-0120	2-10-2016	Repeal	3-1-2016
584-065-0125	2-10-2016	Repeal	3-1-2016
584-066-0001	2-10-2016	Repeal	3-1-2016
584-066-0010	2-10-2016	Repeal	3-1-2016
584-066-0015	2-10-2016	Repeal	3-1-2016
584-066-0020	2-10-2016	Repeal	3-1-2016
584-066-0025	2-10-2016	Repeal	3-1-2016
584-066-0030	2-10-2016	Repeal	3-1-2016
584-070-0012	2-10-2016	Amend	3-1-2016
584-070-0014	2-10-2016	Repeal	3-1-2016
584-070-0510	2-10-2016	Adopt	3-1-2016
584-200-0004	1-1-2016	Adopt(T)	2-1-2016
584-200-0005	2-10-2016	Adopt	3-1-2016
584-200-0010	1-1-2016	Amend(T)	2-1-2016
584-200-0010	2-10-2016	Adopt	3-1-2016
584-200-0020	2-10-2016	Adopt	3-1-2016
584-200-0030	2-10-2016	Adopt	3-1-2016
584-200-0040	2-10-2016	Adopt	3-1-2016
584-200-0050	1-1-2016	Amend(T)	2-1-2016
584-200-0050	2-10-2016	Adopt	3-1-2016
584-200-0060	2-10-2016	Adopt	3-1-2016
584-200-0070	2-10-2016	Adopt	3-1-2016
584-200-0080	2-10-2016	Adopt	3-1-2016
584-200-0090	2-10-2016	Adopt	3-1-2016
584-200-0100	2-10-2016	Adopt	3-1-2016
584-210-0030	2-10-2016	Amend	3-1-2016
584-210-0040	2-10-2016	Amend	3-1-2016
584-210-0050	2-10-2016	Amend	3-1-2016
584-210-0060	2-10-2016	Amend	3-1-2016
584-210-0070	2-10-2016	Amend	3-1-2016
584-210-0080	2-10-2016	Amend	3-1-2016
584-210-0090	2-10-2016	Amend	3-1-2016
584-210-0100	2-10-2016	Amend	3-1-2016
584-210-0110	2-10-2016	Amend	3-1-2016
584-210-0130	2-10-2016	Amend	3-1-2016
584-210-0140	2-10-2016	Amend	3-1-2016
584-210-0150	2-10-2016	Amend	3-1-2016
584-210-0160	2-10-2016	Amend	3-1-2016
584-210-0165	2-10-2016	Adopt	3-1-2016
584-210-0190	2-10-2016	Amend	3-1-2016
584-220-0010	2-10-2016	Amend	3-1-2016
584-220-0015	2-10-2016	Amend	3-1-2016
584-220-0020	2-10-2016	Amend	3-1-2016
584-220-0025	2-10-2016	Amend	3-1-2016
584-220-0030	2-10-2016	Amend	3-1-2016
584-220-0035	2-10-2016	Amend	3-1-2016
584-220-0040	2-10-2016	Amend	3-1-2016
584-220-0045	2-10-2016	Amend	3-1-2016
584-220-0050	2-10-2016	Amend	3-1-2016
584-220-0055	2-10-2016	Amend	3-1-2016
584-220-0060	2-10-2016	Amend	3-1-2016
584-220-0065	2-10-2016	Amend	3-1-2016
584-220-0070	2-10-2016	Amend	3-1-2016
584-220-0075	2-10-2016	Amend	3-1-2016
584-220-0080	2-10-2016	Amend	3-1-2016
584-220-0085	2-10-2016	Amend	3-1-2016
584-220-0090	2-10-2016	Amend	3-1-2016
584-220-0095	2-10-2016	Amend	3-1-2016

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584-220-0105	2-10-2016	Amend	3-1-2016
584-220-0110	2-10-2016	Amend	3-1-2016
584-220-0120	2-10-2016	Amend	3-1-2016
584-220-0130	2-10-2016	Amend	3-1-2016
584-220-0140	2-10-2016	Amend	3-1-2016
584-220-0145	2-10-2016	Amend	3-1-2016
584-220-0150	2-10-2016	Amend	3-1-2016
584-220-0155	2-10-2016	Amend	3-1-2016
584-220-0160	2-10-2016	Amend	3-1-2016
584-220-0165	2-10-2016	Amend	3-1-2016
584-220-0170	2-10-2016	Amend	3-1-2016
584-220-0175	2-10-2016	Amend	3-1-2016
584-220-0180	2-10-2016	Amend	3-1-2016
584-220-0185	2-10-2016	Amend	3-1-2016
584-220-0190	2-10-2016	Amend	3-1-2016
584-220-0195	2-10-2016	Amend	3-1-2016
584-220-0200	2-10-2016	Amend	3-1-2016
584-220-0205	2-10-2016	Amend	3-1-2016
584-220-0210	2-10-2016	Amend	3-1-2016
584-220-0215	2-10-2016	Amend	3-1-2016
584-220-0220	2-10-2016	Amend	3-1-2016
584-220-0225	2-10-2016	Amend	3-1-2016
584-220-0230	2-10-2016	Amend	3-1-2016
584-225-0010	2-10-2016	Adopt	3-1-2016
584-225-0020	2-10-2016	Adopt	3-1-2016
584-225-0030	2-10-2016	Adopt	3-1-2016
584-225-0040	2-10-2016	Adopt	3-1-2016
584-225-0050	2-10-2016	Adopt	3-1-2016
584-225-0070	2-10-2016	Adopt	3-1-2016
584-225-0090	2-10-2016	Adopt	3-1-2016
584-225-0100	2-10-2016	Adopt	3-1-2016
584-255-0010	2-10-2016	Amend	3-1-2016
584-255-0030	2-10-2016	Amend	3-1-2016
584-420-0010	2-10-2016	Adopt	3-1-2016
584-420-0020	2-10-2016	Adopt	3-1-2016
584-420-0030	2-10-2016	Adopt	3-1-2016
584-420-0040	2-10-2016	Adopt	3-1-2016
584-420-0300	2-10-2016	Adopt	3-1-2016
584-420-0310	2-10-2016	Adopt	3-1-2016
584-420-0345	2-10-2016	Adopt	3-1-2016
584-420-0360	2-10-2016	Adopt	3-1-2016
584-420-0365	2-10-2016	Adopt	3-1-2016
584-420-0375	2-10-2016	Adopt	3-1-2016
584-420-0390	2-10-2016	Adopt	3-1-2016
584-420-0415	2-10-2016	Adopt	3-1-2016
584-420-0420	2-10-2016	Adopt	3-1-2016
584-420-0425	2-10-2016	Adopt	3-1-2016
584-420-0440	2-10-2016	Adopt	3-1-2016
584-420-0460	2-10-2016	Adopt	3-1-2016
584-420-0475	2-10-2016	Adopt	3-1-2016
584-420-0490	2-10-2016	Adopt	3-1-2016
584-420-0600	2-10-2016	Adopt	3-1-2016
584-420-0610	2-10-2016	Adopt	3-1-2016
584-420-0620	2-10-2016	Adopt	3-1-2016
584-420-0630	2-10-2016	Adopt	3-1-2016
584-420-0640	2-10-2016	Adopt	3-1-2016
584-420-0650	2-10-2016	Adopt	3-1-2016
584-420-0660	2-10-2016	Adopt	3-1-2016
589-002-0120	2-12-2016	Amend	3-1-2016
603-025-0150	2-9-2016	Amend	3-1-2016
603-025-0151	2-9-2016	Adopt	3-1-2016
603-025-0152	2-9-2016	Adopt	3-1-2016
603-025-0190	12-2-2015	Amend	1-1-2016
603-048-0200	1-29-2016	Amend(T)	3-1-2016
603-048-0600	1-29-2016	Amend(T)	3-1-2016
603-052-0052	11-18-2015	Adopt(T)	1-1-2016
603-052-0347	2-12-2016	Amend	3-1-2016
603-052-0385	2-12-2016	Amend	3-1-2016
603-057-0107	1-1-2016	Adopt(T)	1-1-2016
603-057-0155	1-1-2016	Adopt(T)	1-1-2016
603-057-0157	1-1-2016	Adopt(T)	1-1-2016
632-030-0016	1-14-2016	Amend(T)	2-1-2016
632-030-0022	1-14-2016	Amend(T)	2-1-2016
635-001-0030	12-9-2015	Adopt	1-1-2016
635-001-0341	1-6-2016	Adopt	2-1-2016
635-004-0215	1-19-2016	Amend	3-1-2016
635-004-0275	11-25-2015	Amend(T)	1-1-2016
635-004-0275	1-19-2016	Amend	3-1-2016
635-004-0275(T)	11-25-2015	Suspend	1-1-2016
635-004-0295	1-19-2016	Amend	3-1-2016
635-004-0300	1-19-2016	Amend	3-1-2016
635-004-0340	1-19-2016	Amend	3-1-2016
635-004-0350	1-19-2016	Amend	3-1-2016
635-004-0355	1-19-2016	Amend	3-1-2016
635-004-0360	1-19-2016	Amend	3-1-2016
635-005-0290	1-1-2016	Amend	1-1-2016
635-005-0305	1-1-2016	Amend	1-1-2016
635-005-0310	1-1-2016	Amend	1-1-2016
635-005-0350	1-1-2016	Amend	1-1-2016
635-005-0355	1-1-2016	Amend	1-1-2016
635-005-0385	1-1-2016	Amend	1-1-2016
635-005-0387	1-1-2016	Adopt	1-1-2016
635-005-0465	11-20-2015	Amend(T)	1-1-2016
635-005-0465	1-1-2016	Amend(T)	2-1-2016
635-005-0465(T)	1-1-2016	Suspend	2-1-2016
635-006-0210	2-1-2016	Amend(T)	3-1-2016
635-006-0232	1-19-2016	Amend	3-1-2016
635-008-0123	11-25-2015	Amend	1-1-2016
635-008-0123(T)	11-25-2015	Repeal	1-1-2016
635-010-0015	11-25-2015	Amend	1-1-2016
635-011-0100	1-1-2016	Amend	2-1-2016
635-013-0004	1-1-2016	Amend	2-1-2016
635-014-0080	1-1-2016	Amend	2-1-2016
635-014-0090	1-1-2016	Amend	2-1-2016
635-016-0080	1-1-2016	Amend	2-1-2016
635-016-0090	1-1-2016	Amend	2-1-2016
635-017-0080	1-1-2016	Amend	2-1-2016
635-017-0090	1-1-2016	Amend	2-1-2016
635-017-0095	1-1-2016	Amend	2-1-2016
635-018-0080	1-1-2016	Amend	2-1-2016
635-018-0090	1-1-2016	Amend	2-1-2016

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635-019-0090	1-1-2016	Amend	2-1-2016
635-021-0080	1-1-2016	Amend	2-1-2016
635-021-0090	1-1-2016	Amend	2-1-2016
635-023-0080	1-1-2016	Amend	2-1-2016
635-023-0090	1-1-2016	Amend	2-1-2016
635-023-0095	1-1-2016	Amend	2-1-2016
635-023-0095	2-8-2016	Amend(T)	3-1-2016
635-023-0125	1-1-2016	Amend	2-1-2016
635-023-0125	3-1-2016	Amend(T)	3-1-2016
635-023-0128	1-1-2016	Amend	2-1-2016
635-023-0130	1-1-2016	Amend	2-1-2016
635-023-0134	1-1-2016	Amend	2-1-2016
635-023-0140	1-1-2016	Amend	2-1-2016
635-039-0080	1-1-2016	Amend	2-1-2016
635-039-0080	1-19-2016	Amend	3-1-2016
635-039-0090	1-1-2016	Amend	2-1-2016
635-039-0090	1-19-2016	Amend	3-1-2016
635-041-0065	2-1-2016	Amend(T)	3-1-2016
635-041-0065	2-12-2016	Amend(T)	3-1-2016
635-041-0065(T)	2-12-2016	Suspend	3-1-2016
635-042-0130	2-1-2016	Amend(T)	3-1-2016
635-042-0145	2-8-2016	Amend(T)	3-1-2016
635-042-0160	2-8-2016	Amend(T)	3-1-2016
635-042-0170	2-8-2016	Amend(T)	3-1-2016
635-042-0180	2-8-2016	Amend(T)	3-1-2016
635-044-0200	12-9-2015	Repeal	1-1-2016
635-044-0205	12-9-2015	Repeal	1-1-2016
635-044-0210	12-9-2015	Repeal	1-1-2016
635-044-0215	12-9-2015	Repeal	1-1-2016
635-044-0240	12-9-2015	Repeal	1-1-2016
635-044-0245	12-9-2015	Repeal	1-1-2016
635-044-0250	12-9-2015	Repeal	1-1-2016
635-044-0255	12-9-2015	Repeal	1-1-2016
635-044-0280	12-9-2015	Repeal	1-1-2016
635-044-0300	12-9-2015	Repeal	1-1-2016
635-044-0305	12-9-2015	Repeal	1-1-2016
635-044-0310	12-9-2015	Repeal	1-1-2016
635-045-0000	11-25-2015	Amend	1-1-2016
635-045-0002	11-25-2015	Amend	1-1-2016
635-060-0000	11-25-2015	Amend	1-1-2016
635-060-0005	11-25-2015	Amend	1-1-2016
635-060-0018	11-25-2015	Amend	1-1-2016
635-062-0000	12-9-2015	Adopt	1-1-2016
635-062-0005	12-9-2015	Adopt	1-1-2016
635-062-0010	12-9-2015	Adopt	1-1-2016
635-062-0015	12-9-2015	Adopt	1-1-2016
635-062-0020	12-9-2015	Adopt	1-1-2016
635-062-0025	12-9-2015	Adopt	1-1-2016
635-062-0030	12-9-2015	Adopt	1-1-2016
635-062-0035	12-9-2015	Adopt	1-1-2016
635-062-0040	12-9-2015	Adopt	1-1-2016
635-062-0045	12-9-2015	Adopt	1-1-2016
635-062-0050	12-9-2015	Adopt	1-1-2016
635-062-0055	12-9-2015	Adopt	1-1-2016
635-062-0060	12-9-2015	Adopt	1-1-2016
635-067-0027	12-1-2015	Amend(T)	1-1-2016
635-435-0000	12-9-2015	Amend	1-1-2016
635-435-0005	12-9-2015	Amend	1-1-2016
635-435-0010	12-9-2015	Amend	1-1-2016
635-435-0010	12-9-2015	Amend(T)	1-1-2016
635-435-0015	12-9-2015	Amend	1-1-2016
635-435-0020	12-9-2015	Amend	1-1-2016
635-435-0025	12-9-2015	Amend	1-1-2016
635-435-0030	12-9-2015	Repeal	1-1-2016
635-435-0035	12-9-2015	Repeal	1-1-2016
635-435-0040	12-9-2015	Amend	1-1-2016
635-435-0045	12-9-2015	Amend	1-1-2016
635-435-0050	12-9-2015	Amend	1-1-2016
635-435-0055	12-9-2015	Amend	1-1-2016
635-435-0060	12-9-2015	Amend	1-1-2016
660-004-0018	2-10-2016	Amend	3-1-2016
660-006-0005	2-10-2016	Amend	3-1-2016
660-006-0010	2-10-2016	Amend	3-1-2016
660-006-0025	2-10-2016	Amend	3-1-2016
660-006-0026	2-10-2016	Amend	3-1-2016
660-006-0027	2-10-2016	Amend	3-1-2016
660-015-0000	1-1-2016	Amend	2-1-2016
660-023-0115	2-10-2016	Amend	3-1-2016
660-024-0000	1-1-2016	Amend	2-1-2016
660-024-0050	1-1-2016	Amend	2-1-2016
660-024-0060	1-1-2016	Amend	2-1-2016
660-024-0065	1-1-2016	Adopt	2-1-2016
660-024-0067	1-1-2016	Adopt	2-1-2016
660-024-0070	1-1-2016	Amend	2-1-2016
660-025-0020	2-10-2016	Amend	3-1-2016
660-025-0035	2-10-2016	Amend	3-1-2016
660-025-0040	2-10-2016	Amend	3-1-2016
660-025-0060	2-10-2016	Amend	3-1-2016
660-025-0085	2-10-2016	Amend	3-1-2016
660-025-0090	2-10-2016	Amend	3-1-2016
660-025-0130	2-10-2016	Amend	3-1-2016
660-025-0140	2-10-2016	Amend	3-1-2016
660-025-0150	2-10-2016	Amend	3-1-2016
660-025-0160	2-10-2016	Amend	3-1-2016
660-025-0175	2-10-2016	Amend	3-1-2016
660-027-0070	2-10-2016	Amend	3-1-2016
660-033-0030	2-10-2016	Amend	3-1-2016
660-033-0045	2-10-2016	Amend	3-1-2016
660-033-0120	2-10-2016	Amend	3-1-2016
660-033-0130	2-10-2016	Amend	3-1-2016
660-033-0135	2-10-2016	Amend	3-1-2016
660-033-0150	2-10-2016	Repeal	3-1-2016
660-038-0000	1-1-2016	Adopt	2-1-2016
660-038-0010	1-1-2016	Adopt	2-1-2016
660-038-0020	1-1-2016	Adopt	2-1-2016
660-038-0030	1-1-2016	Adopt	2-1-2016
660-038-0040	1-1-2016	Adopt	2-1-2016
660-038-0050	1-1-2016	Adopt	2-1-2016
660-038-0060	1-1-2016	Adopt	2-1-2016
660-038-0070	1-1-2016	Adopt	2-1-2016
660-038-0080	1-1-2016	Adopt	2-1-2016

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660-038-0110	1-1-2016	Adopt	2-1-2016
660-038-0120	1-1-2016	Adopt	2-1-2016
660-038-0130	1-1-2016	Adopt	2-1-2016
660-038-0140	1-1-2016	Adopt	2-1-2016
660-038-0150	1-1-2016	Adopt	2-1-2016
660-038-0160	1-1-2016	Adopt	2-1-2016
660-038-0170	1-1-2016	Adopt	2-1-2016
660-038-0180	1-1-2016	Adopt	2-1-2016
660-038-0190	1-1-2016	Adopt	2-1-2016
660-038-0200	1-1-2016	Adopt	2-1-2016
690-051-0000	1-1-2016	Amend	2-1-2016
690-051-0010	1-1-2016	Amend	2-1-2016
690-051-0020	1-1-2016	Amend	2-1-2016
690-051-0030	1-1-2016	Amend	2-1-2016
690-051-0050	1-1-2016	Amend	2-1-2016
690-051-0060	1-1-2016	Amend	2-1-2016
690-051-0090	1-1-2016	Amend	2-1-2016
690-051-0095	1-1-2016	Amend	2-1-2016
690-051-0130	1-1-2016	Amend	2-1-2016
690-051-0140	1-1-2016	Amend	2-1-2016
690-051-0150	1-1-2016	Amend	2-1-2016
690-051-0160	1-1-2016	Amend	2-1-2016
690-051-0170	1-1-2016	Amend	2-1-2016
690-051-0180	1-1-2016	Amend	2-1-2016
690-051-0190	1-1-2016	Amend	2-1-2016
690-051-0200	1-1-2016	Amend	2-1-2016
690-051-0210	1-1-2016	Amend	2-1-2016
690-051-0220	1-1-2016	Amend	2-1-2016
690-051-0230	1-1-2016	Amend	2-1-2016
690-051-0240	1-1-2016	Amend	2-1-2016
690-051-0250	1-1-2016	Amend	2-1-2016
690-051-0270	1-1-2016	Repeal	2-1-2016
690-051-0280	1-1-2016	Amend	2-1-2016
690-051-0290	1-1-2016	Amend	2-1-2016
690-051-0310	1-1-2016	Repeal	2-1-2016
690-051-0320	1-1-2016	Amend	2-1-2016
690-051-0330	1-1-2016	Repeal	2-1-2016
690-051-0340	1-1-2016	Repeal	2-1-2016
690-051-0350	1-1-2016	Amend	2-1-2016
690-051-0360	1-1-2016	Repeal	2-1-2016
690-051-0370	1-1-2016	Repeal	2-1-2016
690-051-0380	1-1-2016	Amend	2-1-2016
690-051-0400	1-1-2016	Amend	2-1-2016
690-079-0010	12-2-2015	Amend(T)	1-1-2016
690-079-0160	12-2-2015	Adopt(T)	1-1-2016
715-013-0005	12-14-2015	Amend(T)	1-1-2016
731-035-0010	12-17-2015	Amend	2-1-2016
731-035-0020	12-17-2015	Amend	2-1-2016
731-035-0030	12-17-2015	Amend	2-1-2016
731-035-0040	12-17-2015	Amend	2-1-2016
731-035-0050	12-17-2015	Amend	2-1-2016
731-035-0060	12-17-2015	Amend	2-1-2016
731-035-0070	12-17-2015	Amend	2-1-2016
731-035-0080	12-17-2015	Amend	2-1-2016
734-020-0018	11-20-2015	Amend	1-1-2016
734-020-0019	11-20-2015	Amend	1-1-2016
734-074-0027	12-17-2015	Amend	2-1-2016
734-082-0005	12-17-2015	Amend	2-1-2016
734-082-0040	12-17-2015	Amend	2-1-2016
734-082-0045	12-17-2015	Amend	2-1-2016
734-082-0070	12-17-2015	Amend	2-1-2016
735-032-0070	1-1-2016	Adopt	1-1-2016
735-062-0005	1-1-2016	Amend	2-1-2016
735-062-0035	1-1-2016	Amend	2-1-2016
735-062-0110	1-1-2016	Amend	2-1-2016
735-062-0120	1-1-2016	Amend	2-1-2016
735-064-0070	1-1-2016	Amend	2-1-2016
735-070-0080	1-1-2016	Amend	2-1-2016
735-070-0082	1-1-2016	Amend	2-1-2016
735-118-0000	1-1-2016	Amend	2-1-2016
735-118-0050	1-1-2016	Amend	2-1-2016
735-150-0010	1-1-2016	Amend	2-1-2016
735-150-0015	1-1-2016	Amend	2-1-2016
735-150-0017	1-1-2016	Amend	2-1-2016
735-150-0020	1-1-2016	Amend	2-1-2016
735-150-0037	1-1-2016	Amend	2-1-2016
735-150-0047	1-1-2016	Amend	2-1-2016
735-150-0055	1-1-2016	Amend	1-1-2016
735-150-0110	1-1-2016	Amend	2-1-2016
735-150-0110	1-1-2016	Amend	2-1-2016
735-150-0140	1-1-2016	Amend	1-1-2016
738-001-0035	12-15-2015	Amend	1-1-2016
738-010-0025	12-15-2015	Amend	1-1-2016
738-010-0035	12-15-2015	Amend	1-1-2016
738-010-0040	12-15-2015	Repeal	1-1-2016
738-010-0050	12-15-2015	Amend	1-1-2016
738-010-0060	12-15-2015	Amend	1-1-2016
738-080-0010	12-15-2015	Amend	1-1-2016
738-080-0015	12-15-2015	Adopt	1-1-2016
738-080-0020	12-15-2015	Amend	1-1-2016
738-080-0030	12-15-2015	Amend	1-1-2016
738-080-0040	12-15-2015	Repeal	1-1-2016
738-080-0045	12-15-2015	Adopt	1-1-2016
738-140-0005	12-15-2015	Adopt	1-1-2016
738-140-0010	12-15-2015	Adopt	1-1-2016
738-140-0015	12-15-2015	Adopt	1-1-2016
738-140-0020	12-15-2015	Adopt	1-1-2016
738-140-0025	12-15-2015	Adopt	1-1-2016
738-140-0030	12-15-2015	Adopt	1-1-2016
738-140-0035	12-15-2015	Adopt	1-1-2016
738-140-0040	12-15-2015	Adopt	1-1-2016
741-520-0010	11-17-2015	Repeal	1-1-2016
801-001-0035	1-1-2016	Amend(T)	2-1-2016
806-010-0010	12-14-2015	Amend	1-1-2016
806-010-0020	12-14-2015	Amend	1-1-2016
806-010-0035	12-14-2015	Amend	1-1-2016
808-002-0020	1-1-2016	Amend	2-1-2016
808-002-0200	1-1-2016	Amend	2-1-2016
808-002-0250	1-1-2016	Repeal	2-1-2016
808-002-0300	1-1-2016	Amend	2-1-2016

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808-002-0338	1-1-2016	Amend	2-1-2016
808-002-0455	1-1-2016	Amend	2-1-2016
808-002-0480	1-1-2016	Amend	2-1-2016
808-002-0490	1-1-2016	Amend	2-1-2016
808-002-0500	1-1-2016	Amend	2-1-2016
808-002-0730	1-1-2016	Amend	2-1-2016
808-002-0780	1-1-2016	Amend	2-1-2016
808-002-0810	1-1-2016	Repeal	2-1-2016
808-002-0884	1-1-2016	Repeal	2-1-2016
808-002-0920	1-1-2016	Amend	2-1-2016
808-003-0015	1-1-2016	Amend	2-1-2016
808-003-0018	1-1-2016	Amend	2-1-2016
808-003-0040	1-1-2016	Amend	2-1-2016
808-003-0060	1-1-2016	Amend	2-1-2016
808-003-0095	1-1-2016	Amend	2-1-2016
808-003-0125	1-1-2016	Amend	2-1-2016
808-003-0126	1-1-2016	Amend	2-1-2016
808-003-0230	1-1-2016	Amend	2-1-2016
808-003-0610	1-1-2016	Amend	2-1-2016
808-003-0610(T)	1-1-2016	Repeal	2-1-2016
808-003-0611	1-1-2016	Amend	2-1-2016
808-003-0613	1-1-2016	Amend	2-1-2016
808-004-0180	1-1-2016	Amend	2-1-2016
808-004-0211	1-1-2016	Amend	2-1-2016
808-004-0320	1-1-2016	Amend	2-1-2016
808-040-0020	1-1-2016	Amend	2-1-2016
808-040-0080	1-1-2016	Amend	2-1-2016
813-013-0001	11-30-2015	Amend(T)	1-1-2016
813-013-0005	11-30-2015	Amend(T)	1-1-2016
813-013-0010	11-30-2015	Amend(T)	1-1-2016
813-013-0015	11-30-2015	Amend(T)	1-1-2016
813-013-0020	11-30-2015	Amend(T)	1-1-2016
813-013-0035	11-30-2015	Amend(T)	1-1-2016
813-013-0040	11-30-2015	Amend(T)	1-1-2016
813-013-0050	11-30-2015	Amend(T)	1-1-2016
813-013-0054	11-30-2015	Amend(T)	1-1-2016
813-330-0000	2-11-2016	Adopt	3-1-2016
813-330-0010	2-11-2016	Adopt	3-1-2016
813-330-0020	2-11-2016	Adopt	3-1-2016
813-330-0030	2-11-2016	Adopt	3-1-2016
813-330-0040	2-11-2016	Adopt	3-1-2016
813-330-0050	2-11-2016	Adopt	3-1-2016
813-330-0060	2-11-2016	Adopt	3-1-2016
820-010-3020	1-14-2016	Adopt	2-1-2016
820-010-5000	1-15-2016	Amend(T)	2-1-2016
820-020-0040	1-14-2016	Amend	2-1-2016
820-025-0015	1-15-2016	Amend(T)	2-1-2016
830-011-0000	1-1-2016	Amend	2-1-2016
830-011-0020	1-1-2016	Amend	2-1-2016
830-011-0040	1-1-2016	Amend	2-1-2016
830-011-0065	1-1-2016	Adopt	2-1-2016
830-020-0000	1-1-2016	Amend	2-1-2016
830-020-0030	1-1-2016	Amend	2-1-2016
830-020-0040	1-1-2016	Amend	2-1-2016
830-030-0004	1-1-2016	Amend	2-1-2016
830-030-0090	1-1-2016	Amend	2-1-2016
830-040-0095	1-1-2016	Adopt	2-1-2016
836-011-0000	2-3-2016	Amend	3-1-2016
836-051-0150	1-1-2016	Adopt	2-1-2016
836-051-0153	1-1-2016	Adopt	2-1-2016
836-051-0156	1-1-2016	Adopt	2-1-2016
836-052-0142	1-1-2016	Amend	2-1-2016
836-053-0002	12-17-2015	Amend(T)	2-1-2016
836-053-0004	12-17-2015	Adopt(T)	2-1-2016
836-053-0008	12-17-2015	Amend(T)	2-1-2016
836-053-0009	12-17-2015	Amend(T)	2-1-2016
836-053-0012	12-17-2015	Adopt(T)	2-1-2016
836-053-0013	12-17-2015	Adopt(T)	2-1-2016
836-053-0600	1-1-2016	Adopt	2-1-2016
836-053-0600(T)	1-1-2016	Repeal	2-1-2016
836-053-0605	1-1-2016	Adopt	2-1-2016
836-053-0605(T)	1-1-2016	Repeal	2-1-2016
836-053-0610	1-1-2016	Adopt	2-1-2016
836-053-0610(T)	1-1-2016	Repeal	2-1-2016
836-053-0615	1-1-2016	Adopt	2-1-2016
836-053-0615(T)	1-1-2016	Repeal	2-1-2016
836-053-1020	12-17-2015	Amend(T)	2-1-2016
836-053-1404	12-17-2015	Amend(T)	2-1-2016
836-053-1405	12-17-2015	Amend(T)	2-1-2016
836-054-0000	1-1-2016	Amend	2-1-2016
836-054-0000(T)	1-1-2016	Repeal	2-1-2016
836-054-0020	1-1-2016	Adopt	2-1-2016
836-071-0354	1-1-2016	Adopt	2-1-2016
836-071-0354	1-20-2016	Adopt	3-1-2016
836-071-0355	1-1-2016	Amend	2-1-2016
836-071-0355	1-20-2016	Amend	3-1-2016
836-071-0370	1-1-2016	Amend	2-1-2016
836-071-0370	1-20-2016	Amend	3-1-2016
836-071-0380	1-1-2016	Amend	2-1-2016
836-071-0380	1-20-2016	Amend	3-1-2016
837-012-0305	1-1-2016	Amend	2-1-2016
837-012-0310	1-1-2016	Amend	2-1-2016
837-012-0315	1-1-2016	Amend	2-1-2016
837-012-0320	1-1-2016	Amend	2-1-2016
837-012-0325	1-1-2016	Amend	2-1-2016
837-012-0330	1-1-2016	Amend	2-1-2016
837-012-0340	1-1-2016	Amend	2-1-2016
837-012-0350	1-1-2016	Amend	2-1-2016
837-012-0360	1-1-2016	Amend	2-1-2016
837-012-0370	1-1-2016	Amend	2-1-2016
837-012-0500	1-1-2016	Amend	2-1-2016
837-012-0510	1-1-2016	Amend	2-1-2016
837-012-0515	1-1-2016	Amend	2-1-2016
837-012-0520	1-1-2016	Amend	2-1-2016
837-012-0525	1-1-2016	Amend	2-1-2016
837-012-0530	1-1-2016	Amend	2-1-2016
837-012-0535	1-1-2016	Amend	2-1-2016
837-012-0540	1-1-2016	Amend	2-1-2016
837-012-0545	1-1-2016	Amend	2-1-2016
837-012-0550	1-1-2016	Amend	2-1-2016
837-012-0555	1-1-2016	Amend	2-1-2016

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837-012-0565	1-1-2016	Amend	2-1-2016
837-012-0570	1-1-2016	Amend	2-1-2016
837-012-0600	1-1-2016	Amend	2-1-2016
837-012-0610	1-1-2016	Amend	2-1-2016
837-012-0615	1-1-2016	Amend	2-1-2016
837-012-0620	1-1-2016	Amend	2-1-2016
837-012-0625	1-1-2016	Amend	2-1-2016
837-012-0630	1-1-2016	Amend	2-1-2016
837-012-0635	1-1-2016	Amend	2-1-2016
837-012-0640	1-1-2016	Amend	2-1-2016
837-012-0645	1-1-2016	Amend	2-1-2016
837-012-0650	1-1-2016	Amend	2-1-2016
837-012-0655	1-1-2016	Amend	2-1-2016
837-012-0660	1-1-2016	Amend	2-1-2016
837-012-0665	1-1-2016	Amend	2-1-2016
837-012-0670	1-1-2016	Amend	2-1-2016
837-012-0675	1-1-2016	Amend	2-1-2016
837-012-0700	1-1-2016	Amend	2-1-2016
837-012-0710	1-1-2016	Amend	2-1-2016
837-012-0720	1-1-2016	Amend	2-1-2016
837-012-0730	1-1-2016	Amend	2-1-2016
837-012-0740	1-1-2016	Amend	2-1-2016
837-012-0750	1-1-2016	Amend	2-1-2016
837-012-0760	1-1-2016	Amend	2-1-2016
837-012-0770	1-1-2016	Amend	2-1-2016
837-012-0780	1-1-2016	Amend	2-1-2016
837-012-0790	1-1-2016	Amend	2-1-2016
837-012-0800	1-1-2016	Amend	2-1-2016
837-012-0810	1-1-2016	Amend	2-1-2016
837-012-0820	1-1-2016	Amend	2-1-2016
837-012-0830	1-1-2016	Amend	2-1-2016
837-012-0835	1-1-2016	Amend	2-1-2016
837-012-0840	1-1-2016	Amend	2-1-2016
837-012-0850	1-1-2016	Amend	2-1-2016
837-012-0855	1-1-2016	Amend	2-1-2016
837-012-0860	1-1-2016	Amend	2-1-2016
837-012-0865	1-1-2016	Amend	2-1-2016
837-012-0870	1-1-2016	Amend	2-1-2016
837-012-0875	1-1-2016	Amend	2-1-2016
837-012-0880	1-1-2016	Amend	2-1-2016
837-012-0890	1-1-2016	Amend	2-1-2016
837-012-0900	1-1-2016	Amend	2-1-2016
837-012-0910	1-1-2016	Amend	2-1-2016
837-012-0920	1-1-2016	Amend	2-1-2016
837-012-0940	1-1-2016	Amend	2-1-2016
837-012-0950	1-1-2016	Amend	2-1-2016
837-012-0960	1-1-2016	Amend	2-1-2016
837-012-0970	1-1-2016	Amend	2-1-2016
837-012-1000	1-1-2016	Amend	2-1-2016
837-012-1010	1-1-2016	Amend	2-1-2016
837-012-1020	1-1-2016	Amend	2-1-2016
837-012-1030	1-1-2016	Amend	2-1-2016
837-012-1040	1-1-2016	Amend	2-1-2016
837-012-1050	1-1-2016	Amend	2-1-2016
837-012-1060	1-1-2016	Amend	2-1-2016
837-012-1070	1-1-2016	Amend	2-1-2016
837-012-1080	1-1-2016	Amend	2-1-2016
837-012-1090	1-1-2016	Amend	2-1-2016
837-012-1100	1-1-2016	Amend	2-1-2016
837-012-1110	1-1-2016	Amend	2-1-2016
837-012-1120	1-1-2016	Amend	2-1-2016
837-012-1130	1-1-2016	Amend	2-1-2016
837-012-1140	1-1-2016	Amend	2-1-2016
837-012-1150	1-1-2016	Amend	2-1-2016
837-012-1160	1-1-2016	Amend	2-1-2016
839-005-0003	1-1-2016	Amend	2-1-2016
839-005-0400	1-1-2016	Amend	2-1-2016
839-007-0000	1-1-2016	Adopt	1-1-2016
839-007-0005	1-1-2016	Adopt	1-1-2016
839-007-0007	1-1-2016	Adopt	1-1-2016
839-007-0010	1-1-2016	Adopt	1-1-2016
839-007-0012	1-1-2016	Adopt	1-1-2016
839-007-0015	1-1-2016	Adopt	1-1-2016
839-007-0020	1-1-2016	Adopt	1-1-2016
839-007-0025	1-1-2016	Adopt	1-1-2016
839-007-0030	1-1-2016	Adopt	1-1-2016
839-007-0032	1-1-2016	Adopt	1-1-2016
839-007-0035	1-1-2016	Adopt	1-1-2016
839-007-0040	1-1-2016	Adopt	1-1-2016
839-007-0045	1-1-2016	Adopt	1-1-2016
839-007-0050	1-1-2016	Adopt	1-1-2016
839-007-0055	1-1-2016	Adopt	1-1-2016
839-007-0060	1-1-2016	Adopt	1-1-2016
839-007-0065	1-1-2016	Adopt	1-1-2016
839-007-0100	1-1-2016	Adopt	1-1-2016
839-007-0120	1-1-2016	Adopt	1-1-2016
839-009-0270	1-1-2016	Amend	2-1-2016
839-020-0030	1-1-2016	Amend	2-1-2016
839-020-0042	1-1-2016	Amend	2-1-2016
839-020-0052	1-1-2016	Adopt	2-1-2016
839-020-0125	1-1-2016	Amend	2-1-2016
839-020-1010	1-1-2016	Amend	2-1-2016
839-025-0700	1-1-2016	Amend	1-1-2016
845-004-0101	2-1-2016	Amend	2-1-2016
845-004-0105	2-1-2016	Repeal	2-1-2016
845-005-0413	2-1-2016	Amend	2-1-2016
845-005-0417	1-1-2016	Amend(T)	2-1-2016
845-005-0420	1-1-2016	Suspend	2-1-2016
845-005-0431	2-1-2016	Amend	2-1-2016
845-006-0392	1-1-2016	Amend(T)	2-1-2016
845-006-0396	1-1-2016	Amend(T)	2-1-2016
845-006-0452	2-1-2016	Amend	2-1-2016
845-025-1000	1-1-2016	Adopt(T)	1-1-2016
845-025-1015	1-1-2016	Adopt(T)	1-1-2016
845-025-1030	1-1-2016	Adopt(T)	1-1-2016
845-025-1045	1-1-2016	Adopt(T)	1-1-2016
845-025-1060	1-1-2016	Adopt(T)	1-1-2016
845-025-1070	1-1-2016	Adopt(T)	1-1-2016
845-025-1080	1-1-2016	Adopt(T)	1-1-2016
845-025-1090	1-1-2016	Adopt(T)	1-1-2016
845-025-1100	1-1-2016	Adopt(T)	1-1-2016

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845-025-1115	1-1-2016	Amend(T)	2-1-2016
845-025-1130	1-1-2016	Adopt(T)	1-1-2016
845-025-1145	1-1-2016	Adopt(T)	1-1-2016
845-025-1160	1-1-2016	Adopt(T)	1-1-2016
845-025-1175	1-1-2016	Adopt(T)	1-1-2016
845-025-1190	1-1-2016	Adopt(T)	1-1-2016
845-025-1200	1-1-2016	Adopt(T)	1-1-2016
845-025-1215	1-1-2016	Adopt(T)	1-1-2016
845-025-1230	1-1-2016	Adopt(T)	1-1-2016
845-025-1245	1-1-2016	Adopt(T)	1-1-2016
845-025-1260	1-1-2016	Adopt(T)	1-1-2016
845-025-1275	1-1-2016	Adopt(T)	1-1-2016
845-025-1290	1-1-2016	Adopt(T)	1-1-2016
845-025-1295	1-1-2016	Adopt(T)	1-1-2016
845-025-1300	1-1-2016	Adopt(T)	1-1-2016
845-025-1400	1-1-2016	Adopt(T)	1-1-2016
845-025-1410	1-1-2016	Adopt(T)	1-1-2016
845-025-1420	1-1-2016	Adopt(T)	1-1-2016
845-025-1430	1-1-2016	Adopt(T)	1-1-2016
845-025-1440	1-1-2016	Adopt(T)	1-1-2016
845-025-1450	1-1-2016	Adopt(T)	1-1-2016
845-025-1460	1-1-2016	Adopt(T)	1-1-2016
845-025-1470	1-1-2016	Adopt(T)	1-1-2016
845-025-1600	1-1-2016	Adopt(T)	1-1-2016
845-025-1620	1-1-2016	Adopt(T)	1-1-2016
845-025-2000	1-1-2016	Adopt(T)	1-1-2016
845-025-2020	1-1-2016	Adopt(T)	1-1-2016
845-025-2030	1-1-2016	Adopt(T)	1-1-2016
845-025-2040	1-1-2016	Adopt(T)	1-1-2016
845-025-2050	1-1-2016	Adopt(T)	1-1-2016
845-025-2060	1-1-2016	Adopt(T)	1-1-2016
845-025-2070	1-1-2016	Adopt(T)	1-1-2016
845-025-2080	1-1-2016	Adopt(T)	1-1-2016
845-025-2400	1-1-2016	Adopt(T)	1-1-2016
845-025-2800	1-1-2016	Adopt(T)	1-1-2016
845-025-2820	1-1-2016	Adopt(T)	1-1-2016
845-025-2840	1-1-2016	Adopt(T)	1-1-2016
845-025-2860	1-1-2016	Adopt(T)	1-1-2016
845-025-2880	1-1-2016	Adopt(T)	1-1-2016
845-025-2890	1-1-2016	Adopt(T)	1-1-2016
845-025-3200	1-1-2016	Adopt(T)	1-1-2016
845-025-3210	1-1-2016	Adopt(T)	1-1-2016
845-025-3220	1-1-2016	Adopt(T)	1-1-2016
845-025-3230	1-1-2016	Adopt(T)	1-1-2016
845-025-3240	1-1-2016	Adopt(T)	1-1-2016
845-025-3250	1-1-2016	Adopt(T)	1-1-2016
845-025-3260	1-1-2016	Adopt(T)	1-1-2016
845-025-3280	1-1-2016	Adopt(T)	1-1-2016
845-025-3290	1-1-2016	Adopt(T)	1-1-2016
845-025-3500	1-1-2016	Adopt(T)	1-1-2016
845-025-5000	1-1-2016	Adopt(T)	1-1-2016
845-025-5030	1-1-2016	Adopt(T)	1-1-2016
845-025-5045	1-1-2016	Adopt(T)	1-1-2016
845-025-5060	1-1-2016	Adopt(T)	1-1-2016
845-025-5075	1-1-2016	Adopt(T)	1-1-2016
845-025-5300	1-1-2016	Adopt(T)	1-1-2016
845-025-5350	1-1-2016	Adopt(T)	1-1-2016
845-025-5500	1-1-2016	Adopt(T)	1-1-2016
845-025-5520	1-1-2016	Adopt(T)	1-1-2016
845-025-5540	1-1-2016	Adopt(T)	1-1-2016
845-025-5560	1-1-2016	Adopt(T)	1-1-2016
845-025-5580	1-1-2016	Adopt(T)	1-1-2016
845-025-5590	1-1-2016	Adopt(T)	1-1-2016
845-025-5700	1-1-2016	Adopt(T)	1-1-2016
845-025-5720	1-1-2016	Adopt(T)	1-1-2016
845-025-5740	1-1-2016	Adopt(T)	1-1-2016
845-025-5760	1-1-2016	Adopt(T)	1-1-2016
845-025-7000	1-1-2016	Adopt(T)	1-1-2016
845-025-7020	1-1-2016	Adopt(T)	1-1-2016
845-025-7040	1-1-2016	Adopt(T)	1-1-2016
845-025-7060	1-1-2016	Adopt(T)	1-1-2016
845-025-7500	1-1-2016	Adopt(T)	1-1-2016
845-025-7520	1-1-2016	Adopt(T)	1-1-2016
845-025-7540	1-1-2016	Adopt(T)	1-1-2016
845-025-7560	1-1-2016	Adopt(T)	1-1-2016
845-025-7580	1-1-2016	Adopt(T)	1-1-2016
845-025-7590	1-1-2016	Adopt(T)	1-1-2016
845-025-7700	1-1-2016	Adopt(T)	1-1-2016
845-025-7750	1-1-2016	Adopt(T)	1-1-2016
845-025-8000	1-1-2016	Adopt(T)	1-1-2016
845-025-8020	1-1-2016	Adopt(T)	1-1-2016
845-025-8040	1-1-2016	Adopt(T)	1-1-2016
845-025-8060	1-1-2016	Adopt(T)	1-1-2016
845-025-8080	1-1-2016	Adopt(T)	1-1-2016
845-025-8500	1-1-2016	Adopt(T)	1-1-2016
845-025-8520	1-1-2016	Adopt(T)	1-1-2016
845-025-8540	1-1-2016	Adopt(T)	1-1-2016
845-025-8560	1-1-2016	Adopt(T)	1-1-2016
845-025-8580	1-1-2016	Adopt(T)	1-1-2016
845-025-8590	1-1-2016	Adopt(T)	1-1-2016
847-001-0015	1-8-2016	Amend	2-1-2016
847-005-0005	1-8-2016	Amend	2-1-2016
847-008-0020	1-8-2016	Amend	2-1-2016
847-008-0022	1-8-2016	Amend	2-1-2016
847-008-0023	1-8-2016	Amend	2-1-2016
847-008-0025	1-8-2016	Amend	2-1-2016
847-008-0030	1-8-2016	Amend	2-1-2016
847-008-0035	1-8-2016	Amend	2-1-2016
847-008-0037	1-8-2016	Amend	2-1-2016
847-008-0050	1-8-2016	Amend	2-1-2016
847-008-0055	1-8-2016	Amend	2-1-2016
847-008-0056	1-8-2016	Repeal	2-1-2016
847-010-0073	1-8-2016	Amend	2-1-2016
847-020-0135	1-1-2016	Adopt	1-1-2016
847-050-0025	1-8-2016	Amend	2-1-2016
847-050-0025(T)	1-8-2016	Repeal	2-1-2016
847-050-0043	1-8-2016	Amend	2-1-2016
847-050-0063	1-8-2016	Repeal	2-1-2016
847-050-0065	1-8-2016	Repeal	2-1-2016
847-070-0045	1-8-2016	Amend	2-1-2016
850-005-0190	12-30-2015	Amend	2-1-2016

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850-060-0226	12-30-2015	Amend	2-1-2016
851-031-0005	1-1-2016	Amend	1-1-2016
851-031-0086	1-1-2016	Amend	1-1-2016
851-050-0138	11-24-2015	Amend(T)	1-1-2016
851-056-0000	11-30-2015	Amend(T)	1-1-2016
851-056-0020	11-30-2015	Amend(T)	1-1-2016
855-006-0005	12-23-2015	Amend	2-1-2016
855-019-0110	12-23-2015	Amend	2-1-2016
855-019-0200	12-23-2015	Amend	2-1-2016
855-019-0264	12-23-2015	Adopt	2-1-2016
855-019-0270	12-23-2015	Amend	2-1-2016
855-019-0280	12-23-2015	Amend	2-1-2016
855-025-0015	12-23-2015	Amend	2-1-2016
855-025-0015(T)	12-23-2015	Repeal	2-1-2016
855-041-1120	7-1-2016	Amend	2-1-2016
855-043-0130	12-23-2015	Amend	2-1-2016
855-043-0130(T)	12-23-2015	Repeal	2-1-2016
855-062-0040	12-23-2015	Amend	2-1-2016
855-062-0040(T)	12-23-2015	Repeal	2-1-2016
855-090-0005	12-23-2015	Repeal	2-1-2016
856-010-0012	1-25-2016	Amend	3-1-2016
856-010-0012	2-10-2016	Amend	3-1-2016
858-010-0007	2-1-2016	Amend	3-1-2016
858-010-0020	2-1-2016	Amend	3-1-2016
858-010-0036	2-2-2016	Amend	3-1-2016
858-040-0035	2-1-2016	Amend	3-1-2016
858-040-0055	2-1-2016	Amend	3-1-2016
858-040-0065	2-1-2016	Amend	3-1-2016
859-010-0005	12-3-2015	Amend(T)	1-1-2016
877-001-0020	1-1-2016	Amend	2-1-2016
877-020-0005	12-15-2015	Amend	1-1-2016
877-020-0021	12-15-2015	Adopt	1-1-2016
877-030-0110	1-1-2016	Adopt	2-1-2016
918-020-0090	1-1-2016	Amend	1-1-2016
918-020-0090(T)	1-1-2016	Repeal	1-1-2016
918-098-1010	1-26-2016	Amend(T)	3-1-2016
918-098-1025	1-26-2016	Amend(T)	3-1-2016
918-098-1470	1-26-2016	Amend(T)	3-1-2016
918-098-1480	1-26-2016	Amend(T)	3-1-2016
918-098-1900	1-26-2016	Amend(T)	3-1-2016
918-271-0040	1-1-2016	Amend	1-1-2016
918-460-0015	2-1-2016	Amend	3-1-2016
918-480-0010	2-1-2016	Amend	3-1-2016